

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MITEL NETWORKS CORPORATION and MITEL
(DELAWARE), INC.,

Plaintiffs,

v.

FACEBOOK, INC.,

Defendant.

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Mitel Networks Corporation and Mitel (Delaware), Inc. (collectively referred to as “Plaintiffs” or “Mitel”), by and through the undersigned attorneys, file this Complaint for patent infringement against Defendant Facebook, Inc. (“Facebook”), requesting damages and other relief based upon their personal knowledge as to their own facts and circumstances, and based upon information and belief as to the acts and circumstances of others.

THE PARTIES

1. Plaintiff Mitel Networks Corporation is a Canadian corporation with its principal place of business at 350 Leggett Drive, Ottawa, Ontario Canada, K2K 2W7.

2. Plaintiff Mitel (Delaware), Inc. is a Delaware corporation with its principal place of business at 7300 W. Boston Street, Chandler, Arizona 85226. Mitel (Delaware), Inc. is a subsidiary of Mitel Networks Corporation and responsible for U.S. operations, including sales and marketing, for Mitel Networks Corporation.

3. On information and belief, Defendant Facebook, Inc. is a Delaware corporation with its principal place of business at 1601 Willow Rd., Menlo Park, California

94025. On information and belief, Facebook's registered agent for service of process is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington DE, 19808.

JURISDICTION AND VENUE

4. This is a civil action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code. Subject matter jurisdiction over the asserted causes of actions before this Court is proper and founded upon 28 U.S.C. §§ 1331 and 1338.

5. This Court has personal jurisdiction over Facebook because, among other things, Facebook regularly does business in Delaware and this judicial district and has infringed and caused infringement of Mitel's patents in Delaware and this judicial district. In addition, Facebook is a corporation organized and existing under the laws of the State of Delaware and has sought protection and benefits from the laws of the State of Delaware.

6. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400 because acts of infringement have been committed in this judicial district, injuries complained of herein occurred in this judicial district, and Facebook is subject to personal jurisdiction in this judicial district.

THE PATENTS-IN-SUIT

7. Mitel Networks Corporation is the owner by assignment of all right, title, and interest in and to United States Patent No. 5,940,834 ("the '834 patent"), entitled "Automatic Web Page Generator." The '834 patent was issued on August 17, 1999, from U.S. Patent Application No. 08/816,270, which was filed on March 13, 1997. A true and correct copy of the '834 patent is attached hereto as Exhibit A.

8. Mitel Networks Corporation is the owner by assignment of all right, title, and interest in and to United States Patent No. 7,292,685 (“the ’685 patent”), entitled “Pro-Active Features for Telephony.” The ’685 patent was issued on November 6, 2007, from U.S. Patent Application No. 10/310,558, which was filed on December 5, 2002. A true and correct copy of the ’685 patent is attached hereto as Exhibit B.

COUNT I

Infringement of the ’834 Patent Under 35 U.S.C. § 271 *et seq.*

9. Mitel realleges and incorporates herein by reference the allegations in paragraphs 1-8 above. As described below, Facebook has infringed and continues to infringe the ’834 patent.

10. Facebook has infringed and continues to infringe, for example, at least claim 5 of the ’834 patent under 35 U.S.C. § 271(a), by making, using, offering for sale or selling within the United States or importing into the United States, web-based services and products via operation of its website www.facebook.com and its mobile applications, including, without limitation, the Facebook user pages and groups features, that infringe the ’834 patent either literally or under the doctrine of equivalents.

11. Facebook has actual knowledge of Mitel’s patents and has been aware of the ’834 patent since at least as early as July 2011, when Mitel sent Facebook a letter identifying the ’834 patent. Mitel sent Facebook a letter dated July 14, 2011 and a second letter dated September 16, 2011, offering to discuss possible licensing arrangements regarding the Mitel patents. Facebook never responded to Mitel’s letters. Facebook also has received notice of its infringement of the ’834 patent by virtue of the filing of this Complaint.

12. Facebook has actively induced and continues to induce the infringement by others, including its users, of the '834 patent under 35 U.S.C. § 271(b) by, among other things, making, using, offering for sale or selling within the United States or importing into the United States, web-based services and products via operation of its website www.facebook.com and its mobile applications, including without limitation, the Facebook user pages and groups features, and providing materials and instructions for operation of the same, with the specific intent and knowledge that the web-based services and products, materials and instructions direct, teach or assist others to infringe the '834 patent by using or operating the web-based services and products in a manner that directly infringes the '834 patent.

13. Facebook has contributed and continues to contribute to the infringement by others, including its users, of the '834 patent under 35 U.S.C. § 271(c) by, among other things, making, using, offering for sale or selling within the United States or importing into the United States web-based services and products via operation of its website www.facebook.com and its mobile applications, including without limitation, the Facebook user pages and groups features, for use in practicing the patented inventions of the '834 patent, knowing that the web-based services and products are especially made or adapted for use in infringement of the '834 patent, embody a material part of the inventions claimed in the '834 patent, and are not staple articles of commerce suitable for substantial non-infringing use.

14. As a result of Facebook's past and continued unlawful infringement of the '834 patent, Mitel has suffered and will continue to suffer damage. Mitel is entitled to recover damages adequate to compensate for that infringement in an amount that will be ascertained at trial, but in no event less than a reasonable royalty.

15. Facebook's acts of infringement have been willful and are made with knowledge of Mitel's rights in the '834 patent. Such acts constitute willful and deliberate infringement, entitling Mitel to enhanced damages and reasonable attorney fees.

COUNT II

Infringement of the '685 Patent Under 35 U.S.C. § 271 *et seq.*

16. Mitel realleges and incorporates herein by reference the allegations in paragraphs 1-15 above. As described below, Facebook has infringed and continues to infringe the '685 patent.

17. Facebook has infringed and continues to infringe, for example, at least claim 2 of the '685 patent under 35 U.S.C. § 271(a), by making, using, offering for sale or selling within the United States or importing into the United States web-based services and products via operation of its website www.facebook.com and its mobile applications, including without limitation, the Facebook user pages, groups and chat features, that infringe the '685 patent either literally or under the doctrine of equivalents.

18. Facebook has actual knowledge of Mitel's patents and has been aware of the '685 patent since at least as early as July 2011, when Mitel sent Facebook a letter identifying the '685 patent. Mitel sent Facebook a letter dated July 14, 2011 and a second letter dated September 16, 2011, offering to discuss possible licensing arrangements regarding the Mitel patents. Facebook never responded to Mitel's letters. Facebook also has received notice of its infringement of the '685 patent by virtue of the filing of this Complaint.

19. Facebook has actively induced and continues to induce the infringement by others, including its users, of the '685 patent under 35 U.S.C. § 271(b) by, among other things, making, using, offering for sale or selling within the United States or importing into the United

States web-based services and products via operation of its website www.facebook.com and its mobile applications, including without limitation, the Facebook user pages, groups and chat features, and providing materials and instructions for operation of the same, with the specific intent and knowledge that the web-based services and products, materials and instructions direct, teach or assist others to infringe the '685 patent by using or operating the web-based services and products in a manner that directly infringes the '685 patent.

20. Facebook has contributed and continues to contribute to the infringement by others, including its users, of the '685 patent under 35 U.S.C. § 271(c) by, among other things, by making, using, offering for sale or selling within the United States or importing into the United States web-based services and products via operation of its website www.facebook.com and its mobile applications, including without limitation, the Facebook user pages, groups and chat features, for use in practicing the patented inventions of the '685 patent, knowing that the web-based services and products are especially made or adapted for use in infringement of the '685 patent, embody a material part of the inventions claimed in the '685 patent, and are not staple articles of commerce suitable for substantial non-infringing use.

21. As a result of Facebook's past and continued unlawful infringement of the '685 patent, Mitel has suffered and will continue to suffer damage. Mitel is entitled to recover damages adequate to compensate for that infringement in an amount that will be ascertained at trial, but in no event less than a reasonable royalty.

22. Facebook's acts of infringement have been willful and made with knowledge of Mitel's rights in the '685 patent. Such acts constitute willful and deliberate infringement, entitling Mitel to enhanced damages and reasonable attorney fees.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38, Plaintiffs demand a trial by jury on all issues triable by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following relief:

- 1) A judgment that the '834 patent and '685 patent have been infringed by Facebook;
- 2) A judgment that Facebook's infringement of the '834 patent and the '685 patent has been willful;
- 3) Awarding Mitel damages adequate to compensate for the infringement, pre- and post-judgment interest as allowed by law, costs, and all other damages permitted by 35 U.S.C. § 284, including enhanced damages as a result of Facebook's willful infringement;
- 4) An accounting for any infringing sales not presented at trial and awarding Mitel additional damages for any such infringing sales;
- 5) Declaring that this case is an exceptional one under 35 U.S.C. § 285, and awarding Mitel its reasonable attorneys' fees;
- 6) Permanently enjoining Facebook and its officers, agents, servants, employees, affiliates, representatives, successors and assigns, attorneys, and any others acting in concert with Facebook, from further infringement, inducement and contributory infringement of the '834 patent and '685 patent;
- 7) Awarding Mitel such further, necessary and proper relief as this Court may deem just and reasonable.

Dated: March 16, 2012

Respectfully submitted,

FISH & RICHARDSON P.C.

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