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10
11 **IN THE UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 EVERYMD.COM LLC, a
14 California Limited Liability
15 Company,

16 Plaintiff,

17 v.

18 AIRBNB, INC., a Delaware
19 Corporation,

20 Defendant.

Civil Action No. 2:16-cv-03729

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

21 COMES NOW, Plaintiff EVERYMD.COM LLC (“Plaintiff” or “EveryMD”),
22 and on information and belief alleges as follows:

23 **JURISDICTION AND VENUE**

24 1. This is an action for patent infringement under 35 U.S.C. §§ 271 et. seq.
25 and 28 U.S.C. §§ 1331 and 1338(a).

26 2. The acts of patent infringement alleged herein occurred within this
27 judicial district, Plaintiff resides in this district, and Defendant AIRBNB, INC.
28

1 (“Defendant” or “Airbnb”) is subject to personal jurisdiction in this district.
2 Therefore, venue is proper pursuant to 28 U.S.C. §§ 1391(b), (c), and 1400(b).
3

4 **PARTIES**

5 3. Plaintiff is a California Limited Liability Company with a place of
6 business at 2032 Whitley Avenue, Los Angeles, CA 90068.

7 4. Defendant is a Delaware corporation with a place of business located at
8 888 Brannan Street, 4th Floor, San Francisco, CA 94103.
9

10 **THE EVERYMD PATENTS**

11 5. Plaintiff operates the website www.everymd.com.

12 6. Plaintiff’s website at www.everymd.com has since 2001 provided
13 individual home pages for over 300,000 doctors and electronic messaging services
14 allowing patients to communicate with those 300,000 doctors.
15

16 7. Plaintiff’s principals Frank Weyer and Troy Javaher (collectively, “the
17 EveryMD inventors”) invented numerous novel technologies and inventions during
18 development of the www.everymd.com website.

19 8. On November 23, 1999, the EveryMD inventors filed U.S. Patent
20 Application Serial No. 09/447,755 entitled “Method Apparatus and Business System
21 for Online Communications with Online and Offline Recipients” disclosing the
22 inventions made by the EveryMD inventors while developing the www.everymd.com
23 website.

24 9. To date, five separate patents covering four separate inventions have
25 issued from the patent application originally filed in November 1999. Those patents
26 (collectively, the “EveryMD Patents”) are U.S. Patent Nos. 6,671,714 issued
27 December 30, 2003 (“the ‘714 patent”), 7,644,122 issued January 5, 2010 (“the ‘122
28 patent), 8,499,047 issued July 30, 2013 (“the ‘047 patent”), 8,504,631 issued August

1 6, 2013 (“the ’631 patent”) and 9,137,192 issued September 15, 2015 (“the ‘192
2 patent”).

3
4 10. Plaintiff is the assignee of record of the EveryMD Patents.

5 11. Plaintiff has provided constructive notice of the EveryMD Patents by
6 marking the patent numbers of the EveryMD patents on Plaintiff’s website at
7 www.everymd.com.

8 **EVERYMD’S ENFORCEMENT OF THE EVERYMD PATENTS**

9 12. Plaintiff enforces its rights in the EveryMD Patents.

10 13. On May 18, 2015, EveryMD filed a complaint against Google Inc. in the
11 U.S. District Court for the Central District of California as Civil Action No. 2:15-cv-
12 03714 (“the Google Enforcement Action”) alleging infringement of the ’631 patent.

13 14. The dispute between the parties has been resolved.

14
15 15. On October 13, 2015, the Google Enforcement Action was completed
16 and dismissed.

17 16. On November 13, 2015, EveryMD filed a complaint against Twitter, Inc.
18 in the U.S. District Court for the Central District of California as Civil Action No.
19 2:15-cv-08836 (“the Twitter Enforcement Action”) alleging infringement of the ’631
20 and ‘192 patents.

21 17. The dispute between the parties has been resolved.

22 18. On March 2, 2016 the Twitter Enforcement Action was completed and
23 dismissed.

24
25 19. On January 27, 2016, EveryMD filed a complaint against Ebay Inc.
26 (“Ebay”) in the U.S. District Court for the Central District of California as Civil
27 Action No. 2:16-cv-00595 (“the Ebay Enforcement Action”) alleging infringement of
28 claim 4 of the ’047 patent.

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20. On April 22, 2016, Ebay and EveryMD filed an “Agreed Motion to Extend Time to Respond to the Initial Complaint by Two Weeks” in the Ebay Enforcement Action. In the motion, Ebay and EveryMD stated: “The extension is necessary to permit the parties to finalize a settlement resolving all issues in this case. The parties have agreed on general terms and are exchanging draft settlement agreements.”

21. On May 19, 2016 the Ebay Enforcement Action was completed and dismissed.

22. On March 1, 2016, EveryMD filed a complaint against LinkedIn Corporation in the U.S. District Court for the Central District of California as Civil Action No. 2:16-cv-01424 (“the LinkedIn Enforcement Action”) alleging infringement of the ‘192 patent.

23. The dispute between the parties has been resolved.

24. On May 26, 2016 the LinkedIn Enforcement Action was completed and dismissed.

FIRST CAUSE OF ACTION
INFRINGEMENT OF U.S. PATENT NO: 8,504,631

25. Plaintiff incorporates by reference paragraphs 1–24 as though fully set forth herein.

26. Plaintiff is the assignee of record of U.S. Patent 8,504,631 entitled “Method, Apparatus and Business System for Online Communications with Online and Offline Recipients” (“the ‘631 patent”). A copy of the ‘631 patent is attached as Exhibit 1.

27. The ‘631 patent is valid and in full force and effect.

28. Defendant Airbnb directly infringes the ‘631 patent by practicing the claimed invention of the ‘631 patent without authorization of Plaintiff.

1 29. One example of how Airbnb has directly infringed claim 1 of the ‘631
2 patent is set forth in the claim chart attached as Exhibit 2.
3

4 30. Airbnb received actual notice of Plaintiff’s patent rights in the ‘631
5 patent at least as early as February 12, 2016, the date the US Postal Service confirmed
6 delivery of Plaintiff’s written notice of those rights to Airbnb. Despite receiving such
7 actual notice, Airbnb has continued to act in conscious and willful disregard of
8 Plaintiff’s patent rights in the ‘631 patent.

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10 **SECOND CAUSE OF ACTION**
INFRINGEMENT OF CLAIM 4 OF U.S. PATENT NO: 8,499,047

11 31. Plaintiff incorporates by reference paragraphs 1–30 as though fully set
12 forth herein.
13

14 32. Plaintiff is the assignee of record of U.S. Patent No. 8,499,047 entitled
15 “Method, Apparatus and Business System for Online Communications with Online
16 and Offline Recipients” (“the ‘047 patent”). A copy of the ‘047 patent is attached as
17 Exhibit 3.

18 33. Claim 4 of the ‘047 patent is valid and in full force and effect.

19 34. Defendant Airbnb directly infringes claim 4 of the ‘047 patent by
20 practicing the claimed invention of claim 4 of the ‘047 patent without authorization of
21 Plaintiff.
22

23 35. One example of how Airbnb directly infringes claim 4 of the ‘047 patent
24 is set forth in the claim chart attached as Exhibit 4.

25 36. Airbnb received actual notice of Plaintiff’s patent rights in the ‘047
26 patent at least as early as February 12, 2016, the date the US Postal Service confirmed
27 delivery of Plaintiff’s written notice of those rights to Airbnb. Despite receiving such
28

1 actual notice, Airbnb has continued to act in conscious and willful disregard of
2 Plaintiff's patent rights in the '047 patent.
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4 **DEMAND FOR RELIEF**

5 **WHEREFORE**, Plaintiff asks this Court to:

- 6 a. Enter judgment for Plaintiff against Defendant on each count of this
7 Complaint;
8 b. Award compensatory damages to Plaintiff in accordance with 35 U.S.C.
9 § 284;
10 c. Award Plaintiff reasonable attorneys' fees in accordance with 35 U.S.C.
11 § 285;
12 d. Award Plaintiff interest and costs; and
13 e. Award Plaintiff such other and further relief as is just and proper.
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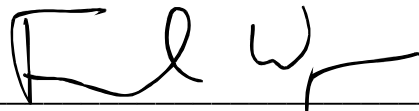
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16 **DEMAND FOR JURY TRIAL**

17 Plaintiff hereby demands a trial by jury of all issues so triable.
18

19 Respectfully submitted,
20 **TECHCOASTLAW®**

21 Dated: May 27, 2016

22 By:



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