	Case 2:17-cv-05573 Document 1 Filed 07/27/17 Page 1 of 7 Page ID #:1
1 2 3 4 5 6 7 8 9 10 11 12	Frank M. Wever, Esq. (State Bar No. 127011) TECHCOASTLAW® 2032 Whitley Ave. Los Angeles CA 90068 Telephone: (310) 494-6616 Facsimile: (310) 494-9089 fweyer@techcoastlaw.com Attorney for Plaintiff EveryMD.com LLC IN THE UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA
13	California Limited Liability Company, Plaintiff, COMPLAINT FOR PATENT
14	v.) COMPLAINT FOR FATENT
15 16	AMAZON.COM INC., a Delaware
17	Defendant.
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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. Plaintiff resides in this district.
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3. Defendant AMAZON.COM INC. ("Defendant" or "Amazon") maintains established places of business in this district, committed acts of infringement in this district, and is subject to personal jurisdiction in this district. Therefore, venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), (c), and 1400(b).

PARTIES

4. Plaintiff is a California Limited Liability Company with a place of business at 2032 Whitley Ave., Los Angeles, CA 90068.

5. Defendant is a Delaware Corporation with established places of business, *inter alia*, at 923 Westwood Blvd., Los Angeles, CA 90024; 1620 26th St., Santa Monica, CA 90404; 40 Pacifica Ave., Irvine, CA 92618, and 410 Terry Ave. North, Seattle, WA 98109.

THE EVERYMD PATENTS

6. EveryMD operates the website www.everymd.com.

7. EveryMD's website at www.everymd.com has since 2001 provided individual home pages for over 300,000 doctors and electronic messaging services allowing patients to communicate with those 300,000 doctors.

8. EveryMD's principals Frank Weyer and Troy Javaher (collectively, "the EveryMD inventors") invented numerous inventions during development of the www.everymd.com website.

9. On November 23, 1999, the EveryMD inventors filed U.S. Patent Application Serial No. 09/447,755 entitled "Method Apparatus and Business System for Online Communications with Online and Offline Recipients" disclosing the inventions made by the EveryMD inventors while developing the www.everymd.com website. 10. To date, six different patents have issued from the patent application originally filed in November 1999. Those patents (collectively, the "EveryMD Patents") are U.S. Patent Nos. 6,671,714 issued December 30, 2003 ("the '714 patent"), 7,644,122 issued January 5, 2010 ("the '122 patent), 8,499,047 issued July 30, 2013 ("the '047 patent"), 8,504,631 issued August 6, 2013 ("the'631 patent"), 9,137,192 issued September 15, 2015 ("the '192 patent") and 9,584,461 issued February 28, 2017 ("the '461 patent").

11. EveryMD is the assignee of record of the EveryMD Patents.

EVERYMD'S ENFORCEMENT OF THE EVERYMD PATENTS

12. EveryMD enforces its rights in the EveryMD Patents.

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

14. The dispute between the parties has been resolved.

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

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

17. The dispute between the parties has been resolved.

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

19. On January 27, 2016, EveryMD filed a complaint against Ebay Inc.("Ebay") in the U.S. District Court for the Central District of California as Civil

Action No. 2:16-cv-00595 ("the Ebay Enforcement Action") alleging infringement of the '047 patent.

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.

25. On May 27, 2016, EveryMD filed a complaint against Airbnb, Inc. ("Airbnb") in the U.S. District Court for the Central District of California as Civil Action No. 2:16-cv-03729 ("the Airbnb Enforcement Action") alleging infringement of the '631 and '047 patents.

26. On June 21, 2016 the EveryMD and Airbnb filed a stipulation in the Airbnb Enforcement Action to extend Airbnb's time to answer EveryMD's complaint. The stipulation stated: "Airbnb has requested and EveryMD has agreed to a twenty day extension, as the parties have finalized a settlement agreement and expect to dismiss this case pursuant to its terms."

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27. On July 5, 2016 the Airbnb Enforcement Action was completed and dismissed.

28. On June 21, 2016, EveryMD filed a counterclaim against Craigslist, Inc. ("Craigslist") in the U.S. District Court for the Northern District of California in Civil Action No. 3:16-cv-03421 ("the Craigslist Enforcement Action") alleging infringement of the '047 patent.

29. On February 2, 2017, EveryMD and Craigslist filed a stipulation in the Craigslist Enforcement Action to extend the time to file their joint claim construction statement. The stipulation stated: "the Parties' have executed a confidential settlement agreement in which they agreed to dismiss the current action upon completion of certain conditions precedent that are required to occur within 10 days of execution of the agreement, and are awaiting completion of those conditions precedent before filing the respective joint stipulation of dismissal."

30. On February 10, 2017 the Craigslist Enforcement Action was completed and dismissed.

31. On August 29, 2016, EveryMD filed a complaint against Facebook, Inc. ("Facebook") in the U.S. District Court for the Central District of California as Civil Action No. 2:16-cv-06473 ("the Facebook Enforcement Action") alleging infringement of the '192 and '631 patents.

32. On December 2, 2016, Facebook filed a motion for judgment on the pleadings in the Facebook Enforcement Action alleging that the claims of the '192 and '631 patents did not claim patentable subject matter.

33. On May 10, 2017, the Court issued an order granting Facebook's motion for judgment on the pleadings.

34. On May 21, 2017, EveryMD appealed the Court's granting of Facebook's motion for judgment on the pleadings to the U.S. Court of Appeals for the Federal Circuit.

35. On July 24, 2017, EveryMD filed its opening brief with the U.S. Court of Appeals for the Federal Circuit.

FIRST CAUSE OF ACTION INFRINGEMENT OF U.S. PATENT NO. 9,584,461

36. Plaintiff incorporates by reference paragraphs 1–35 as though fully set forth herein.

37. Plaintiff is the assignee of record of U.S. Patent No. 9,584,461 entitled "Method and Apparatus for Transmitting Electronic Mail" ("the '461 patent"). A copy of the '461 patent is attached as Exhibit 1.

38. The '461 patent is valid and in full force and effect.

39. Defendant Amazon directly infringes the '461 patent by practicing the claimed invention of the '461 patent without authorization of Plaintiff. A claim chart showing an example of how Amazon directly infringes claim 1 of the '461 patent is attached as Exhibit 2.

40. The '461 patent issued on February 28, 2017.

41. On March 7, 2017, Plaintiff sent Amazon a letter giving Amazon actual notice of Amazon's infringement of the '461 patent. According to the records of the U.S. Postal Service, the letter was delivered to Amazon on March 13, 2017.

42. Plaintiff's notice letter to Amazon included a copy of the '461 patent and the claim chart of Exhibit 2 showing an example of how Amazon infringes claim 1 of the '461 patent.

43. Amazon received actual notice of Plaintiff's patent rights in the '461 patent at least as early as March 13, 2017, but has continued to act in conscious and willful disregard of those rights after receiving such actual notice.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff asks this Court to:

a. Enter judgment for Plaintiff against Defendant on each of the counts of this Complaint;

b. Award compensatory damages to Plaintiff and to increase those damages three times in accordance with 35 U.S.C. § 284;

c. Award Plaintiff reasonable attorneys' fees in accordance with 35 U.S.C. § 285;

d. Award Plaintiff interest and costs; and

e. Award Plaintiff such other and further relief as is just and proper.

DEMAND FOR JURY TRIAL

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

Respectfully submitted, **TECHCOASTLAW®**

Dated: July 27, 2017

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By:

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