

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FLASH3D LLC,

Plaintiff,

v.

FACEBOOK, INC.,

Defendant.

CASE NO. 2:17-cv-_____

PATENT CASE

JURY TRIAL DEMANDED

**ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT
AGAINST FACEBOOK, INC.**

Plaintiff Flash3D LLC files this Original Complaint for Patent Infringement against Facebook, Inc., pursuant to Rule 15(a)(1)(B), Fed.R.Civ.P., and would respectfully show the Court as follows:

I. THE PARTIES

1. Plaintiff Flash3D LLC (“Flash3D” or “Plaintiff”) is a Texas limited liability company with its principal place of business at 5068 W. Plano Pkwy, Suite 300, Plano, Texas 75093.

2. On information and belief, Defendant Facebook, Inc. (“Defendant”), is a Delaware corporation, with a place of business at 1601 Willow Road, Menlo Park, California 94025.

II. JURISDICTION AND VENUE

1. On information and belief, Defendant is subject to this Court’s specific and general personal jurisdiction, pursuant to due process and the Delaware Long-Arm Statute, due at least to its substantial business in this forum, including at least a portion of the infringements alleged herein. Furthermore, Defendant is subject to this Court’s specific and general personal jurisdiction because Defendant is a Delaware corporation.

2. Without limitation, on information and belief, within this state, Defendant has used the patented inventions thereby committing, and continuing to commit, acts of patent infringement alleged herein. In addition, on information and belief, Defendant has derived substantial revenues from its infringing acts occurring within Delaware. Further, on information and belief, Defendant is subject to the Court's general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and deriving substantial revenue from goods and services provided to persons or entities in Delaware. Further, on information and belief, Defendant is subject to the Court's personal jurisdiction at least due to its sale of products and/or services within Delaware. Defendant has committed such purposeful acts and/or transactions in Delaware such that it reasonably should know and expect that it could be haled into this Court as a consequence of such activity.

3. Venue is proper in this district under 28 U.S.C. § 1400(b). On information and belief, Defendant is incorporated in Delaware. On information and belief, from and within this District Defendant has committed at least a portion of the infringements at issue in this case.

4. For these reasons, personal jurisdiction exists and venue is proper in this Court under 28 U.S.C. § 1400(b).

III. COUNT I
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 7,546,538)

3. Plaintiff incorporates the above paragraphs herein by reference.

4. On June 9, 2009, United States Patent No. 7,546,538 ("the '538 patent") was duly and legally issued by the United States Patent and Trademark Office. The '538 Patent is titled "System and Method for Web Browsing." The application leading to the '538 patent was filed on November 10, 2001. The application leading to the '538 patent is continuation-in-part of application No. 09/985,415, filed on November 2, 2001, which is a continuation of application

No. 09/498,079, filed on February 4, 2000, which issued as United States Patent No. 6,313,855. A true and correct copy of the '538 Patent is attached hereto as Exhibit A and incorporated herein by reference.

5. Flash3D is the assignee of all right, title and interest in the '538 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '538 Patent. Accordingly, Flash3D possesses the exclusive right and standing to prosecute the present action for infringement of the '538 Patent by Defendant.

6. The invention of the '538 patent relates to the field of web browsers. (Ex. A at col. 1:23-27). The invention of the '538 patent is directed to systems and methods for “web browsing that displays multiple web pages thereby allowing a user to contemporaneously view more than a single web page in a window.” (Ex. A at col. 5:49-52).

7. Prior to the priority date of the '538 patent, conventional browsers in the art had the problem of only allowing one web page to be rendered at any given time for display to the user. (*Id.* at col. 1:53-55). Methods for overcoming this problem included “the user opening a second instance of the web browser and manually switching back and forth between the instances, or alternately, the user manually moving and/or resizing a window in which each instance operates so that the respective instances can be contemporaneously viewed.” (*Id.* at col. 1:55-61). The inventors overcame the disadvantages of the prior art web browser systems by inventing methods and systems for contemporaneously displaying multiple web pages for users to view. (*Id.* at col. 2:41-51).

8. The '538 patent was cited during the prosecution history of over thirty patent and patent applications owned by companies including Apple Inc., Google Inc., Canon, Yahoo! Inc., Samsung Electronics Co., Ltd., and Microsoft Corporation.

9. **Direct Infringement.** Upon information and belief, Defendant has been and now is directly infringing at least claim 18 of the '538 patent in the State of Delaware, in this District, and elsewhere in the United States, by actions comprising performing the claimed method for browsing web pages through use of Defendant's website at www.facebook.com ("Accused Instrumentality"). Users can access their Facebook homepages through a web browser. The Facebook web page provides a user interface that is divided into sections ("panels"). The homepage displays recent activities of other Facebook users and enables the user to visit profiles as well as Facebook pages of other users.

10. Upon information and belief, Defendant performs the method step of rendering in a first panel a current web page from current web page data using a first instance of a web browsing engine. For example, a user accesses Facebook homepage ("current web page") by entering Facebook's URL in the address bar of the web browser. In response to the user entering the URL, HTML code is sent by Facebook server to the user terminal. This code is then used by the web browser at the user terminal to generate a user interface ("first panel"), for the user, displaying user-related information such as news feeds.

11. Upon information and belief, Defendant performs the method step of receiving a reference to a first web page. For example, the received HTML code rendering the Facebook homepage ("current web page") on user terminal contains a Link (in form of "href"), which points to activity performed by another user on the user's Facebook web page.

12. Upon information and belief, Defendant performs the method step of, in response to receiving the reference, requesting first web page data using the reference, and receiving the first web page data. For example, based on the second web page data present in the HTML code of the first web page, a second web page (*e.g.*, Ticker) in thumbnail view is rendered automatically by the web browser in the pagelet sidebar.

13. Upon information and belief, Defendant performs the method step of rendering the first web page in a second panel using a second instance of the web browsing engine. For example, Facebook uses pagelets to present some specific portion on the web page. The pagelets are created using the HTML code and are independent of other components of the web page. The pagelet (HTML document) components are therefore referenced separately by the web browser (“second instance”).

14. Upon information and belief, Defendant performs the method step of wherein the first panel and the second panel are contemporaneously viewable by a user. For example, both the user’s Facebook homepage and the Ticker are shown in separate panels on the same screen such that they are contemporaneously viewable by a user.

COUNT II
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 7,624,348)

15. Plaintiff incorporates the above paragraphs herein by reference.

16. On November 24, 2009, United States Patent No. 7,624,348 (“the ‘348 patent”) was duly and legally issued by the United States Patent and Trademark Office. The ‘348 Patent is titled “System and Method for Web Browsing.” The application leading to the ‘348 patent was filed on November 2, 2001. The application leading to the ‘348 patent is a continuation of application No. 09/498,079, filed on February 4, 2000, which issued as United States Patent No.

6,313,855. A true and correct copy of the '348 Patent is attached hereto as Exhibit B and incorporated herein by reference.

17. Flash3D is the assignee of all right, title and interest in the '348 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '348 Patent. Accordingly, Flash3D possesses the exclusive right and standing to prosecute the present action for infringement of the '348 Patent by Defendant.

18. The invention of the '348 patent relates to the field of web browsers. (Ex. B at col. 1:15-18). The invention of the '348 patent is directed to a "system and method for web browsing that displays multiple web pages thereby allowing a user to contemporaneously view more than a single web page in a single window." (*Id.* at col. 4:19-29).

19. Prior to the priority date of the '348 patent, conventional browsers in the art had the problem of only allowing one web page to be rendered at any given time for display to the user. (*Id.* at col. 1:45-47). Methods for overcoming this problem included "the user opening a second instance of the web browser and manually switching back and forth between the instances, or alternately, the user manually moving and/or resizing a window in which each instance operates so that the respective instances can be contemporaneously viewed." (*Id.* at col. 1:47-53). The inventors overcame the disadvantages of the prior art web browser systems by inventing methods and systems for contemporaneously displaying multiple web pages. (*Id.* at col. 2:47-53).

20. The '348 patent was cited during the prosecution history of patent applications owned by Samsung Electronics Co., Ltd. and Microsoft Corporation.

21. **Direct Infringement.** Upon information and belief, Defendant has been and now is directly infringing at least claims 1 and 15 of the '348 patent in the State of Delaware, in this District, and elsewhere in the United States, by actions comprising performing the claimed method for browsing web pages through use of the Accused Instrumentality. Users can access their Facebook homepages through a web browser. The Facebook web page provides a user interface that is divided into sections ("panels"). The homepage displays recent activities of other Facebook users and enables the user to visit profiles as well as Facebook pages of other users.

22. With respect to claim 1 of the '348 patent, upon information and belief, Defendant performs the step of, in response to a user action, requesting first web page data from a source of web page data. For example, a user can type the Facebook's URL into the address bar of the web browser to access his Facebook homepage. In response to a user entering the Facebook URL in the address bar, a request is sent to a Facebook web server to retrieve HTML code corresponding to the user's Facebook homepage.

23. Upon information and belief, Defendant performs the step of receiving the first web page data including a reference to second web page data. For example, in response to a user entering the Facebook URL in the address bar of the web browser, HTML code corresponding to the user Facebook homepage ("first web page data") is forwarded to the user terminal by the Facebook web server. The HTML code contain Links (references) in "href," to the activity being performed (such as Like a post) by the connections of the user on the Facebook homepage ("second web page data").

24. Upon information and belief, Defendant performs the step of locating the reference to the second web page data in the first web page data, and automatically requesting

the second web page data using the reference. For example, the requested HTML code of the user's Facebook homepage ("first web page data") is parsed to locate a Link to the other Facebook user activity ("second web page data"), which is then used to automatically retrieve a portion of information of the other Facebook user, associated with that particular Link

25. Upon information and belief, Defendant performs the step of rendering a first web page in a first panel from the first web page data using a first instance of a web browsing engine. For example, HTML code sent by a Facebook server to the user terminal is used by a web browser at the user's terminal to generate a user interface ("first panel") for the user, displaying user-related information such as news feeds using a pagelet in a first instance of a web browser.

26. Upon information and belief, Defendant performs the step of rendering a second web page in a second panel from the second web page data using a second instance of the web browsing engine. For example, based on the second web page data present in the HTML code of the first web page, a second web page (*e.g.*, Ticker) in thumbnail view is rendered automatically by the web browser in the pagelet sidebar. These pagelets are generated using HTML and are independent of other components of the web page. Thus, pagelet (HTML document) components are rendered in separate instances of the web browser ("second instance").

27. With respect to claim 15 of the '348 patent, upon information and belief, Defendant performs the step of rendering a first web page in a first panel using first web page data using a first instance of a web browsing engine. For example, a user can access Facebook by entering its URL in the address bar of the web browser. In response to a user entering the URL, HTML code is sent by a Facebook server to the user terminal. This code is then used by a web browser at the user terminal to generate a user interface ("first panel") for the user,

displaying user-related information such as news feeds (“first web page”) in a first instance of a web browser.

28. Upon information and belief, Defendant performs the step of locating a reference to second web page data in the first web page data and automatically requesting the second web page data using the located reference. For example, the requested HTML code of the user’s Facebook homepage (“first web page data”) is parsed to locate a Link to the other Facebook user activity (“second web page data”). This Link is employed to automatically retrieve a portion of information of the other Facebook user, associated with that particular Link.

29. Upon information and belief, Defendant performs the step of rendering a second web page in a second panel using the second web page data using a second instance of the web browsing engine. For example, based on the second web page data present in the HTML code of the first web page a second web page (*e.g.*, Ticker) in thumbnail view is rendered automatically by the web browser in the pagelet sidebar. These pagelets are generated using HTML and are independent of other components of the web page. Thus, pagelet (HTML document) components are rendered in separate instances of the web browser (“second instance”).

COUNT III
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 6,313,855)

30. Plaintiff incorporates the above paragraphs herein by reference.

31. On November 6, 2001, United States Patent No. 6,313,855 (“the ‘855 patent”) was duly and legally issued by the United States Patent and Trademark Office. The ‘855 Patent is titled “System and Method for Web Browsing.” The application leading to the ‘855 patent was filed on February 4, 2000. A true and correct copy of the ‘855 Patent is attached hereto as Exhibit C and incorporated herein by reference.

32. Flash3D is the assignee of all right, title and interest in the ‘855 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the ‘855 Patent. Accordingly, Flash3D possesses the exclusive right and standing to prosecute the present action for infringement of the ‘855 Patent by Defendant.

33. The invention of the ‘855 patent relates to the field of web browsers. (Ex. C at col. 1:7-10). The invention of the ‘855 patent is directed to a “system and method for web browsing that displays multiple web pages thereby allowing a user to contemporaneously view more than a single web page in a single window.” (*Id.* at col. 4:17-20).

34. Prior to the priority date of the ‘855 patent, conventional browsers in the art had the problem of only allowing one web page to be rendered at any given time for display to the user. (*Id.* at col. 1:38-40). Methods for overcoming this problem included “the user opening a second instance of the web browser and manually switching back and forth between the instances, or alternately, the user manually moving and/or resizing a window in which each instance operates so that the respective instances can be contemporaneously viewed.” (*Id.* at col. 1:40-46). The inventors overcame the disadvantages of the prior art web browser systems by inventing methods and systems for contemporaneously displaying multiple web pages. (*Id.* at col. 2:11, *et seq.*).

35. The ‘855 patent was cited during the prosecution history of over 88 patents and patent applications including those owned by Apple, Facebook, Microsoft, Google, IBM, Sprint, Qualcomm, AOL, Sony Computer Entertainment, Siemens Aktiengesellschaft, Canon Kabushiki Kaisha, Adobe Systems, and the United States Navy.

36. **Direct Infringement.** Upon information and belief, Defendant has been and now is directly infringing at least claims 19 and 25 of the '855 patent in the State of Delaware, in this District, and elsewhere in the United States, by actions comprising making, using selling or offering for sale a graphic user interface through the Accused Instrumentality. Users can access their Facebook homepages through a web browser. The Facebook web page provides a user interface that is divided into sections ("panels"). The first section refers to the Facebook web page that primarily includes news feeds. The second section refers to the side bar which includes links to the web pages that users might have interest.

37. With respect to claim 19 of the '855 patent, upon information and belief, the Accused Instrumentality has a first panel having a first web page rendered therein from first web page data, the first panel utilizing a first instance of a web browsing engine. For example, a user can access Facebook using login credentials. Once a user has logged in, HTML code is sent by a Facebook server to the user terminal. This code is then utilized by a web browser at the user terminal to generate a user interface ("first panel") for the user, displaying user-related information such as news feeds using a first instance of a web browser.

38. Upon information and belief, the Accused Instrumentality has first web page data including a reference to second web page data. For example, the HTML code rendering the Facebook homepage ("first web page") on a user terminal contains a reference (in the form of "href") which points to content present on, or activity performed by, another user on the user's Facebook homepage.

39. Upon information and belief, the Accused Instrumentality has a second panel having a second web page. For example, the user interface of the Facebook homepage contains a separate section ("second panel") displaying the continuously updated Ticker ("second web

page” referenced by the href). This Ticker presents a partial display (“thumbnail image”) of latest news stories, friend status updates, etc.

40. Upon information and belief, the Accused Instrumentality has a second web page rendered therein from the second web page data. For example, based on the second web page data present in the HTML code of the first web page, a second web page (*e.g.*, Ticker) in thumbnail view is rendered automatically by the web browser in the pagelet sidebar.

41. Upon information and belief, the Accused Instrumentality has a second panel utilizing a second instance of the web browsing engine. For example, Facebook uses pagelets to present a specific portion on the web page. These pagelets are based on markup language that is independent of other components of the web page. Thus, pagelet (HTML document) components are rendered as a separate instance of the web browser (“second instance”).

42. With respect to claim 25 of the ‘855 patent, upon information and belief, the Accused Instrumentality performs a method for enabling a computer to implement a web browser. For example, Facebook can be accessed by a user on a terminal (personal computer, smartphones, etc.) using a web browser. The user can type Facebook’s URL into the address bar of the web browser to access the user’s Facebook homepage.

43. Upon information and belief, the Accused Instrumentality performs the step of transmitting computer-readable program code to a computer. For example, in response to a user entering the Facebook URL in the address bar of the web browser, HTML code corresponding to the user’s Facebook homepage is forwarded to the user terminal by a Facebook web server.

44. Upon information and belief, the Accused Instrumentality uses computer-readable program code for causing a computer to invoke a first instance of a web browsing engine to render a first web page in a first panel using first web page data. For example, the HTML code

sent by a Facebook server is utilized by a web browser at a user terminal to generate a user interface (“first panel”) for the user, displaying user-related information such as news feeds.

45. Upon information and belief, the Accused Instrumentality uses computer-readable program code for causing a computer to locate a reference to second web page data in the first web page data. For example, the HTML code rendering a Facebook homepage (“first web page”) on a user’s terminal contains a reference (in form of “href”), which points to content present on, or activity performed by, another user on the user’s Facebook homepage.

46. Upon information and belief, the Accused Instrumentality uses pagelets to present some specific portion on the web page. These pagelets are generated using the HTML code sent by a Facebook web server that is independent of other components of the web page. Thus, pagelet (HTML document) components are rendered in a separate instance of the web browser (“second instance”). These pagelets display to the first web page user the activities of the other Facebook users in thumbnail view. Therefore, in case of any new update, these pagelets get modified to accommodate the updates independent of the rest of the web page.

47. Upon information and belief, the Accused Instrumentality uses computer-readable program code for causing a computer to automatically request the second web page data using the located reference. For example, based on information assigned to “href” in the HTML code partial content of a second web page is requested by the web browser.

48. Upon information and belief, the Accused Instrumentality uses computer-readable program code for causing a computer to render a second web page in a second panel using the second web page data, the second web page rendered using the second instance of the web browsing engine. For example, the user interface of a Facebook homepage displays in the pagelet (“second panel”) continuously updated Ticker (“second web page”) using the

information associated with the href. These tickers present a partial display (“thumbnail image”) of latest news stories, friend status updates, etc.

49. **Indirect Infringement.** Upon information and belief, Defendant has been and now is indirectly infringing by way of inducing infringement and contributing to the infringement of least claims 19 and 25 of the ‘855 patent in the State of Delaware and elsewhere in the United States, by actions comprising providing the Accused Instrumentality to Defendant’s customers and providing the Accused Instrumentality for performing the claimed method. Defendant is a direct and indirect infringer, and its customers using the Accused Instrumentality are direct infringers.

50. Upon information and belief, Defendant had actual knowledge of the ‘855 patent since at least July 23, 2015, when the publication of the application leading to the ‘855 patent was cited (after the ‘855 patent had issued) during the prosecution history of patent applications owned by Defendant on multiple occasions, and Defendant has known of its infringement since at least the sale and offer for sale of the Accused Instrumentality since that time. During the prosecution history of United States Patent No. 9,699,122, the publication of the application leading to the ‘855 patent was cited in an Office Action dated July 23, 2015. Defendant cited the publication of the application leading to the ‘855 patent to the examiner on July 31, 2015, during the prosecution history of United States Patent No. 9,356,984. Defendant also cited the publication of the application leading to the ‘855 patent to the examiner during the prosecution histories of United States Patent No. 9,360,966, No. 9,363,213, No. 9,461,950, No. 9,531,654, No. 9,621,493, and No. 9,628,461.

51. On information and belief, since becoming aware of the ‘855 patent, Defendant is and has been committing the act of inducing infringement by specifically intending to induce

infringement by providing the Accused Instrumentality to its customers and by aiding and abetting their use in a manner known to infringe by Defendant, as described above. Upon information and belief, Defendant encourages customers to use the Accused Instrumentality for conducting the directly infringing use and advertises the directly infringing use to customers despite knowing of the infringing use. On information and belief, Defendant knew or should have known that through its acts it was and is inducing infringement of the '855 patent since it was aware of the '855 patent and began infringing at least as early as July 23, 2015.

52. On information and belief, Defendant is and has been committing the act of contributory infringement by intending to provide the identified Accused Instrumentality to its customers knowing that it is a material part of the invention, knowing that its use was made and adapted for infringement of the '855 patent, and further knowing that the system is not a staple article or commodity of commerce suitable for substantially noninfringing use.

COUNT IV
(WILLFUL INFRINGEMENT OF UNITED STATES PATENT NO. 6,313,855)

53. Plaintiff incorporates the above paragraphs herein by reference.

54. On information and belief, prior to the filing of the complaint, Defendant's infringement was willful and continues to be willful. On information and belief, prior to the filing of this Complaint, Defendant was aware of the '855 patent through at least the prosecution of United States Patent No. 9,699,122, No. 9,356,984, No. 9,360,966, No. 9,363,213, No. 9,461,950, No. 9,531,654, No. 9,621,493, and No. 9,628,461. Defendant knew or should have known that it was infringing at least claims 19 and 25 of the '855 patent. On information and belief, Defendant's willful infringing activities of a valid patent constitutes egregious misconduct.

55. On information and belief, Defendant will continue its infringement of one or more claims of the '538 patent, '348 patent, and '855 patent unless enjoined by the Court. Defendant's infringing conduct thus causes Plaintiff irreparable harm and will continue to cause such harm without the issuance of an injunction.

56. On information and belief, Defendant has had notice of the '538 patent, '348 patent, and '855 patent by operation of law and as described above through the prosecution of its patent applications, and there are no marking requirements that have not been complied with.

VI. JURY DEMAND

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of United States Patent Nos. 7,624,348, 7,546,538, and 6,313,855 have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;
- b. Judgment that Defendant account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct complained of herein;
- c. Judgment that Defendant's infringement is willful and egregious and Plaintiff is entitled to enhanced damages;
- c. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;
- d. That Defendant be permanently enjoined from any further activity or conduct that infringes one or more claims of United States Patent Nos. 7,624,348, 7,546,538, and 6,313,855; and

- e. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: September 1, 2017

Respectfully submitted,

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