

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

HYPER SEARCH LLC

Plaintiff,

vs.

FACEBOOK, INC.,

Defendant.

C.A. No. _____

PATENT CASE

JURY TRIAL DEMANDED

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

Plaintiff Hyper Search LLC (“Hyper Search” or “Plaintiff”), by and through its attorneys, hereby alleges for its Complaint for Patent Infringement against Defendant Facebook, Inc. (“Facebook”) on personal knowledge as to its own activities and on information and belief as to all other matters, as follows:

THE PARTIES

1. Plaintiff Hyper Search LLC is a Texas limited liability company with its principal place of business at 5068 W. Plano Parkway, Suite 300, Plano, Texas 75093.
2. Defendant Facebook, Inc. (“Defendant” or “Facebook”), is a Delaware corporation, with a place of business at 1601 Willow Road, Menlo Park, California 94025.

JURISDICTION AND VENUE

3. Facebook 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.

4. Facebook is subject to this Court's specific and general personal jurisdiction because Facebook is a Delaware corporation. Facebook may be served with process via its registered agent, the Corporation Services Company, 251 Little Falls Drive, Wilmington, Delaware 19808.

5. Facebook has committed and continues to commit acts of infringement within the state of Delaware, as alleged herein.

6. Facebook uses and offers to its customers its home page creating system, its browser interface for rendering summary graphic information, and its system for controlling information output based on user feedback about the information.

7. As detailed in paragraphs 38–43 below, Facebook offers a “Create a Page” system that allows a user to “set up a free Facebook business Page in a matter of minutes, from a mobile device or a computer.” (See Hyper Search's Claim Chart for the '219 Patent, Ex. B).

8. Facebook offers a search engine feature known as the Facebook Crawler. (See Hyper Search's Claim Charts for the '840 Patent, Ex. D).

9. Facebook offers a social media platform that includes a “post” display algorithm. (See Hyper Search's Claim Charts for the '412 Patent, Ex. F).

10. Facebook has derived substantial revenues from its infringing acts occurring within Delaware.

11. Facebook 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.

12. Facebook provides social networking services through its website, www.facebook.com and m.facebook.com and its mobile applications for several mobile platforms including iOS, Windows Phone, and Android.

13. Facebook is subject to the Court's personal jurisdiction at least due to its sale of products or services within Delaware.

14. Facebook has committed such purposeful acts or transactions in Delaware such that it reasonably should know and expect that it could be haled into court in this State as a consequence of such activities.

15. As detailed in paragraphs 38–43 below, Facebook supports the creation and maintenance of various business Pages for businesses within the state and District of Delaware.

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

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

COUNT I

PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 6,085,219

18. Plaintiff incorporates by reference herein the above paragraphs.

19. On July 4, 2000, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,085,219 (“the ’219 Patent”). The ’219 Patent is entitled “Home Page Creating Systems Apparatuses and Program Recording Mediums, and Home Page Displaying Systems and Program Recording Mediums.” The application leading to the

'219 Patent was filed on March 16, 1998. A true and correct copy of the '219 Patent is attached hereto as Exhibit A and incorporated herein by reference.

20. Plaintiff Hyper Search LLC is the assignee of all right, title, and interest in the '219 Patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '219 Patent, including the right to collect past damages.

21. At least one of the claims in the '219 Patent is directed at a unique computing solution that addresses a problem particular to computer networks—providing a home page creating system capable of creating a home page easily without requiring any special knowledge. (Ex. A at col. 1:41–44).

22. A home page is typically the first page encountered on a website and often contains links to other pages of the website. The '219 Patent relates to the field of home page creating systems, apparatuses and program recording mediums, and home page displaying systems and program recording mediums. (See e.g., Ex. A at col. 1:10–13).

23. Providing a home page for a plurality of clients connected via a network in the manner claimed in the '219 Patent solved new challenges over the techniques and systems known in the art at the time.

24. Prior to the priority date of the '219 Patent, it was mainly just users with some degree of special knowledge who could create home pages using application software designed for such users. (See Ex. A at col. 1:26–31).

25. Alternatively, the creation of home pages was left to firms and individuals with special knowledge who derived income from creating home pages. (See Ex. A at col. 1:22–25).

26. Prior to the priority date of the '219 Patent, a home page would be sent to the user's computer terminal from a server at the user's service provider each time the user needed to access the home page. (See Ex. A at col. 1:32–40).

27. Thus, it took some time from the time when the user requested transmission of the home page to the time when the user's terminal received the home page. (*Id.* at col. 1:23–48).

28. The '219 Patent overcame these disadvantages by describing and enabling a system, method, and apparatus for creating a home page easily, without requiring users to have special knowledge of the home page template creation process, with a home page display system capable of reducing the time required for sending a home page. (*Id.* at col. 1:42–48).

29. The claimed technology of the '219 Patent for providing a home page for a plurality of clients connected via a network was not a conventional business practice.

30. The '219 Patent does not preempt every way of providing a home page for a computer device.

31. The '219 Patent does not preempt the field or preclude the use of other home page creation systems.

32. Other techniques for home page creation systems that are not included within the scope of the '219 Patent's claims include the prior art referenced in the '219 Patent. *See, e.g.*, U.S. Patent No. 5,778,367 to Wesinger, Jr. et al; and U.S. Patent No. 5,890,170 to Sidana.

33. The '219 Patent does not preempt the field of home page creation systems. Technologies falling outside the scope of at least one claim of the '219 Patent include the following: (1) completely custom home page creation systems, and (2) home page creation systems that don't read a template corresponding to a type of a requesting client.

34. The '219 Patent claims are not directed to any “method of organizing human activity,” “fundamental economic practice long prevalent in our system of commerce,” nor are any of the claims “a building block of the modern economy.”

35. The '219 Patent does not take a well-known or established business method or process and “apply it to a general purpose computer.” Instead, the specific system and processes described in the '219 Patent have no direct corollary to a business process that predates the advent of the internet.

36. At least one of the '219 Patent's claims is directed toward a solution rooted in computer technology and uses technology unique to computers and networks to overcome a problem specifically arising in the realm of providing a home page creation system.

37. The '219 Patent's claims are not directed at a mere mathematical relationship or formula.

38. The '219 Patent's claims cannot be performed by a human, in the human mind, or by pen and paper.

39. Facebook directly infringes and continues to directly infringe at least Claims 5–6, and 12 of the '219 Patent in the State of Delaware, in this District, and elsewhere in the United States, by actions comprising providing a server providing a home page for a plurality of clients connected via a network, comprising a template storage means, a home page creating means, and a home page storage means through use of the Facebook's website at www.facebook.com. (See Hyper Search's Claim Chart for Claims 5, 6, and 12 of the '219 Patent, Ex. B).

40. Users of facebook.com can access and create a variety of personal pages, company pages, group pages, and event pages. (*Id.*).

41. A server at Facebook.com provides a template storage means for storing a plurality of templates for creating home pages corresponding to respective types of clients. (*Id.*).

42. Facebook.com provides a home page creating means for reading a template corresponding to a type of requesting client from said template storage means based on type information received from the requesting client. (*Id.*).

43. Facebook.com provides a home page storage means for storing the home page so that it is freely accessible by a plurality of clients via the Facebook social network. (*Id.*).

44. The Facebook servers offer a service to users (that are using a computing device) in Delaware to interact with the Facebook site to create and store home pages as recited in Claims 5, 6, and 12 of the '219 Patent.

45. Hyper Search reserves the right to modify its infringement theories as discovery progresses in this case; it shall not be estopped for purposes of its infringement contentions or its claim constructions by the claim charts it provides with this Complaint. Hyper Search intends the claim charts (Exhibit B) for the '219 Patent to satisfy the notice requirements of Rule 8(a)(2) of the Federal Rule of Civil Procedure; they are not Hyper Search's preliminary or final infringement contentions or preliminary or final claim construction positions.

COUNT II

PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 6,271,840

46. Plaintiff incorporates the above paragraphs herein by reference.

47. On August 7, 2001, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,271,840 ("the '840 Patent"). The '840 Patent is entitled "Graphical Search Engine Visual Index." The application leading to the '840 Patent was filed

on September 24, 1998. A true and correct copy of the '840 Patent is attached hereto as Exhibit C and incorporated herein by reference.

48. Plaintiff Hyper Search LLC is the assignee of all right, title, and interest in the '840 Patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '840 Patent, including past damages.

49. The '840 Patent relates to "Internet web browsers and search engine output, and more particularly to a visual Internet search engine results index or summary that enables faster perusal of search engine output on both a hyperlink and graphical level." (Ex. C at col. 1:7–11).

50. Prior to the priority date of the '840 Patent, conventional Internet web browsers and search engine output typically required literal string searches as a principle manner in which information was generally retrieved or accessed on the Internet. (*Id.* at col. 1:48–57)

51. The output provided to users was often in the form of a list of hyperlinks with an excerpt of initial text present on the web page. (*Id.*).

52. The claimed technology of the '840 Patent for rendering summary graphic information regarding at least one Uniform/Universal Resource Locator ("URL") was not a conventional business practice.

53. The '840 Patent does not preempt every way of providing a visual method that "provides graphical output from search engine results or other URL lists," ('840 Patent, Abstract).

54. The '840 Patent does not preempt the field or preclude the use of other systems for rendering summary graphic information regarding at least one URL.

55. Other techniques for systems that render summary graphic information regarding at least one URL are not included within the scope of the '840 Patent's claims include the prior art referenced in the '840 Patent. *See, e.g.*, U.S. Patent No. 5,193,056 to Boes; U.S. Patent No. 5,721,851 to Cline.

56. The '840 Patent claims are not directed to any "method of organizing human activity," "fundamental economic practice long prevalent in our system of commerce," nor are any of the claims "a building block of the modern economy."

57. The '840 Patent does not take a well-known or established business method or process and "apply it to a general purpose computer." Instead, the specific system and processes described in the '840 Patent have no direct corollary to a business process that predates the advent of the internet.

58. At least one of the '840 Patent's claims is directed toward a solution rooted in computer technology and uses technology unique to computers and networks to overcome a problem specifically arising in the realm of rendering summary graphic information regarding at least one URL.

59. The '840 Patent's claims are not directed at a mere mathematical relationship or formula.

60. The '840 Patent's claims cannot be performed by a human, in the human mind, or by pen and paper.

61. Facebook directly infringes and continues to directly infringe at least Claims 1 and 13 of the '840 Patent in the State of Delaware and elsewhere in the United States, by actions that include providing a browser interface for rendering summary graphic information regarding at least one Uniform or Universal Resource Locator ("URL") that includes a web

crawler (e.g., the Facebook Crawler) and a web page renderer that transmit a reduced image of data associated with the URL. (See Hyper Search's Claim Chart for Claims 1 and 13 of the '840 Patent, Ex. D)

62. Facebook provides a server and associated software that provides a home page for clients connected to a network. (*Id.*).

63. The Facebook server and associated software is able to store a number of templates for creating home pages according to the preferences of Facebook clients without requiring the client to have any special knowledge of the template creation process. (*Id.*).

64. The Facebook server and associated software is able to store the home pages created and to make them accessible to clients through a network. (*Id.*).

65. The Facebook servers offer a service to users (that are using a computing device) in Delaware to interact with the Facebook site to create a visual Internet search engine results index or summary that enables faster perusal of search engine output on both a hyperlink and graphical level as recited in Claims 1 and 13 of the '840 Patent.

66. Hyper Search reserves the right to modify its infringement theories as discovery progresses in this case; it shall not be estopped for purposes of its infringement contentions or its claim constructions by the claim charts it provides with this Complaint. Hyper Search intends the claim charts (Exhibit D) for the '840 Patent to satisfy the notice requirements of Rule 8(a)(2) of the Federal Rule of Civil Procedure; they are not Hyper Search's preliminary or final infringement contentions or preliminary or final claim construction positions.

COUNT III

PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 6,792,412

67. Plaintiff incorporates the above paragraphs herein by reference.

68. On September 14, 2004, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,792,412 (“the ’412 Patent”). The ’412 Patent is titled “Neural Network System and Method for Controlling Information Output Based on User Feedback.” The application leading to the ’412 Patent was filed on February 2, 1999. A true and correct copy of the ’412 Patent is attached hereto as Exhibit E and incorporated herein by reference.

69. Plaintiff Hyper Search LLC is the assignee of all right, title and interest in the ’412 Patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the ’412 Patent, including for part damages.

70. The ’412 Patent relates to a system and method for controlling information output based on user feedback regarding that information. (See Ex. C at col. 1:9–11). The ’412 Patent describes and enables “a computer network-based neural network system that controls information provided as output from the system based on learned experience gained from user feedback regarding the value of the information.” (*Id.* at col. 1:10–15).

71. Prior to the priority date of the ’412 Patent, search engines enabled users to locate pages based on key words contained in the page. (*Id.* at 1:63–2:5).

72. These engines suffered from the fact that many pages incorporate a large volume of words so that those pages will provide ‘hits’ to the search engines that include those words. (*Id.*).

73. Often the page may contain such words even though the subject matter of the page may have little or nothing to do with the words that are included. (*Id.*).

74. Inclusion of words in this manner may render the search engine less useful in identifying pages with information that is likely to be useful to the user. (*Id.*).

75. The '412 Patent overcame these disadvantages by describing and enabling a system and method for delivering information “which selects information for delivery based on indications of what subject matter a recipient is likely to find useful.” (*Id.* at 2:10–14).

76. The claimed technology of the '412 Patent for controlling information output based on user feedback about the information was not a conventional business practice.

77. The '412 Patent does not preempt every way of “controlling information output based on user feedback about the information that includes a plurality of information sources,” ('412 Patent, Abstract)

78. The '412 Patent does not preempt the field or preclude the use of other systems for controlling information output based on user feedback about the information.

79. Other techniques for systems that control information output based on user feedback about the information are not included within the scope of the '412 Patent's claims include the prior art referenced in the '412 Patent. *See, e.g.*, U.S. Patent No. 6,085,178 to Bigus et al.

80. The '412 Patent claims are not directed to any “method of organizing human activity,” “fundamental economic practice long prevalent in our system of commerce,” nor are any of the claims “a building block of the modern economy.”

81. The '412 Patent does not take a well-known or established business method or process and “apply it to a general purpose computer.” Instead, the specific system and processes described in the '412 Patent have no direct corollary to a business process that predates the advent of the internet.

82. At least one of the '412 Patent's claims is directed toward a solution rooted in computer technology and uses technology unique to computers and networks to overcome a

problem specifically arising in the realm of controlling information output based on user feedback about the information.

83. The '412 Patent's claims are not directed at a mere mathematical relationship or formula.

84. The '412 Patent's claims cannot be performed by a human, in the human mind, or by pen and paper.

85. Facebook directly infringes and continues to directly infringe at least Claim 1 of the '412 Patent in the State of Delaware, and elsewhere in the United States, by providing a system for controlling information output based on user feedback about the information. (See Hyper Search's Claim Chart for Claim 1 of the '412 Patent, Ex. F).

86. The Facebook system includes a number of information sources and at least one neural network module that selects one or more objects (e.g., posts) from which to receive information from those information sources. (*Id.*).

87. The Facebook system selects the sources of information based at least in part on one or more inputs and one or more weight values. (*Id.*).

88. A server associated with a neural network module provides one or more of the objects to one or more recipients (e.g., web browser instances of facebook.com on user computers) and the recipients enable one or more users to generate feedback about the information. (*Id.*).

89. The neural network module generates a rating value for one or more of the objects at the end of, for example, a time period, session, or event. (*Id.*).

90. Hyper Search reserves the right to modify its infringement theories as discovery progresses in this case; it shall not be estopped for purposes of its infringement contentions

or its claim constructions by the claim charts it provides with this Complaint. Hyper Search intends the claim charts (Exhibit F) for the '412 Patent to satisfy the notice requirements of Rule 8(a)(2) of the Federal Rule of Civil Procedure; they are not Hyper Search's preliminary or final infringement contentions or preliminary or final claim construction positions.

91. The Facebook servers offer a service to users (that are using a computing device) in Delaware to interact with the Facebook site to control information output based on user feedback about the information as recited in Claim 1 of the '412 Patent.

92. Upon information and belief, users in Delaware have used and interacted with the Facebook system as recited in Claim 1 of the '412 Patent.

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.

PRAYER FOR RELIEF

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

- a. Judgment that one or more claims of the United States Patent Nos. 6,085,219, 6,271,840, and 6,792,412 have been infringed, either literally or under the doctrine of equivalents, by Facebook;
- b. Judgment that Facebook account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Facebook's infringing activities and other conduct complained of herein;

- c. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Facebook's infringing activities and other conduct complained of herein; and
- d. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: October 3 , 2017

DEVLIN LAW FIRM LLC

/s/ Timothy Devlin

Timothy Devlin (#4241)
1306 N. Broom Street, 1st Floor
Wilmington, DE 19806
Phone: (302) 449-9010
tdevlin@devlinlawfirm.com

TOLER LAW GROUP, PC

Jeffrey G. Toler (*Pro Hac Vice* motion to be filed)
jtoler@tligiplaw.com
Benjamin R. Johnson (*Pro Hac Vice* motion to be
filed)
bjohnson@tligiplaw.com
Craig S. Jepson (*Pro Hac Vice* motion to be filed)
cjepson@tligiplaw.com
8500 Bluffstone Cove
Suite A201
Austin, TX 78759
(512) 327-5515

Attorneys for Plaintiff Hyper Search LLC