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172 BLACKBERRY LIMITED, a)
173 Canadian corporation,)
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175 Plaintiff,)
176)
177 v.)
178)
179 SNAP INC., a Delaware corporation)
180)
181 Defendant.)

CASE NO. 2:18-cv-02693

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

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COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff BlackBerry Limited (“BlackBerry” or “Plaintiff”) hereby asserts the following claims for patent infringement against Defendant Snap Inc. (“Snap” or “Defendant”), and alleges as follows:

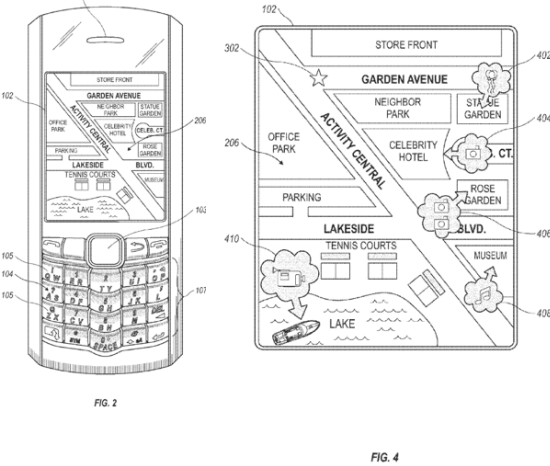
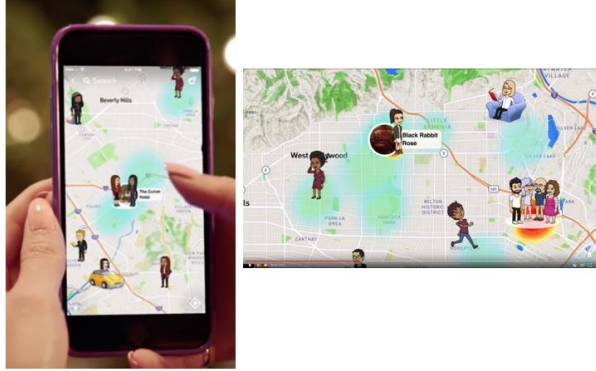
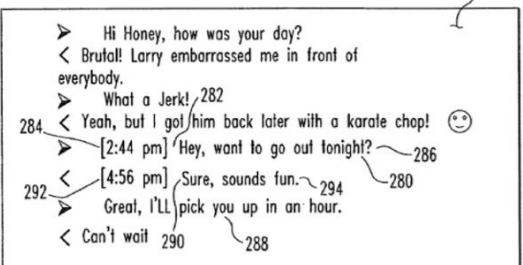
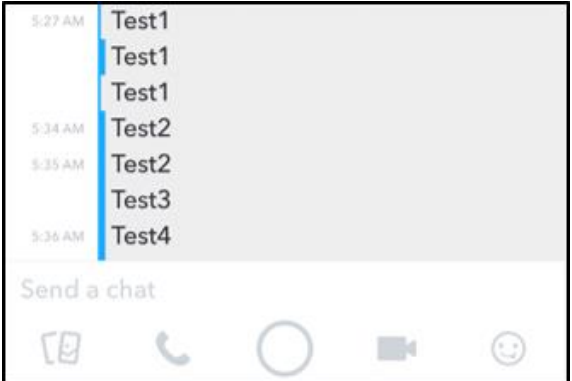
SUMMARY

1. ***BlackBerry Pioneers Mobile Messaging*** - BlackBerry has been a leading innovator in the field of mobile communications for the past 30 years, having invested substantial sums into research and development of communications technologies. BlackBerry’s innovations led to the commercialization of some of the earliest models of smartphones in the United States, enabling its users to, among other things, send and receive e-mails securely and surf the internet anytime and anywhere. These same innovations prompted the rise of the smartphone as a necessary everyday accessory for businesspersons and ordinary consumers alike.

2. One example of BlackBerry’s innovations is the BlackBerry Messenger technology, which revolutionized instant messaging by providing users with secure, user-friendly, point-to-point instant messaging on their mobile devices. In many respects, through BlackBerry Messenger and other research and development, BlackBerry helped pioneer modern mobile messaging—secure, instant and user friendly on a mobile device. The appeal and success of BlackBerry Messenger led consumers to consider instant messaging functionality as an integral aspect of mobile communications, resulting today in billions of people worldwide engaging in instant messaging over their mobile device.

3. As an innovator, BlackBerry took many steps to safeguard this valuable intellectual property. It received numerous patents protecting the cutting-edge features of its mobile phones, BlackBerry Messenger, and other communications applications that make such products secure, easy-to-use, and ultimately engaging to the end-user, thereby driving user growth and retention.

1 4. Defendant has used BlackBerry's intellectual property to compete with
 2 it in the mobile messaging space. A summary of Snap's infringing activities is
 3 presented below:

BlackBerry's Innovations	Snap
<p data-bbox="305 478 831 535">BlackBerry's U.S. Patent Nos. 8,825,084 and 8,326,327 Originally Filed 2010</p>  <p data-bbox="397 934 422 955">FIG. 2</p> <p data-bbox="673 987 706 1008">FIG. 4</p>	<p data-bbox="1117 457 1339 504">"Introducing Snap Map" June 21, 2017</p> 
<p data-bbox="370 1081 738 1138">BlackBerry's U.S. Patent No. 8,301,713 Originally Filed 2003</p>  <p data-bbox="511 1428 609 1470">FIG. 8a</p>	

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BlackBerry's U.S. Patent No. 8,209,634
Originally Filed 2003

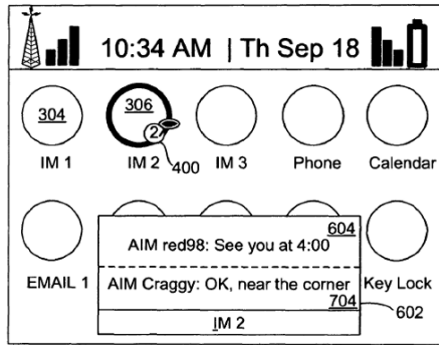
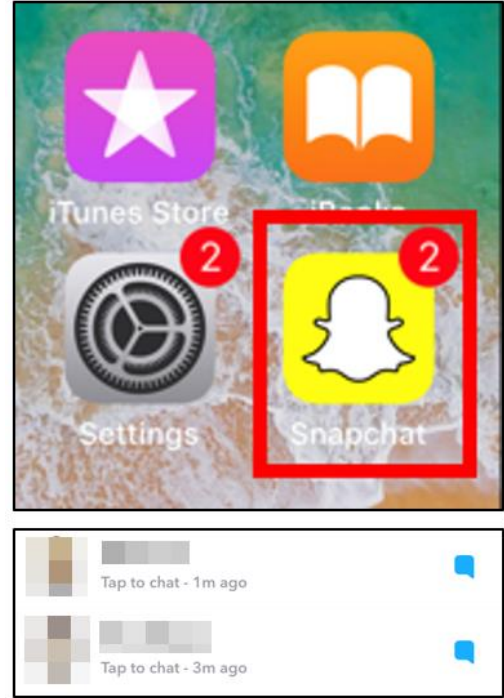


FIG. 7



BlackBerry's U.S. Patent Nos. 8,296,351 and 8,676,929
Originally Filed 2001

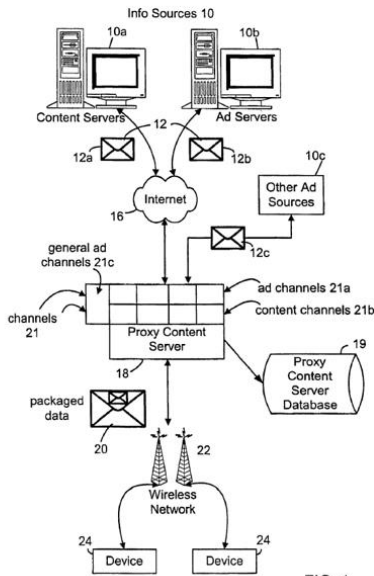


FIG. 1

Snap Ads

The Creative Solution: Snap Ads

Clean & Clear partnered with Snapchat to run animated Snap Ads that reached the right people at the right time. Clean & Clear used Snapchat's Lifestyle Categories to optimize its Snap Ads between Stories campaign and reach Snapchatters more likely to be interested in beauty. The bright, happy creative featured the Morning Burst face wash, encouraging Snapchatters to "Wake up tired skin."

Snapchatters were encouraged to "Wake up Tired Skin" with Morning Burst

5. The Patents-in-Suit cover, for example:

(a) **Map Improvements For Mobile Devices**—improved mapping techniques to establish and maintain real time activity location information and provide

1 sufficient indication for user adoption;

2 (b) *User Interface Improvements For Mobile Devices*—including (i)
3 improvements in message notification techniques that streamline and
4 optimize reception of new message notifications, and (ii) display of
5 timestamps in a messaging user interface that provides users with appropriate
6 temporal context for their communications without overtaking the user’s
7 screen with unnecessary information; and

8 (c) *Modern Mobile Advertising Techniques*—methods for integrating
9 advertising on mobile devices using different static and dynamic advertising
10 content as well as time sensitive advertising.

11 6. *Defendant’s Use of BlackBerry’s Mobile Messaging Innovations*
12 *Harms BlackBerry and Provides Undeserved Windfall to Snap*—Defendant’s use
13 of BlackBerry’s inventions and infringement of the Patents-in-Suit have succeeded
14 in diverting consumers away from BlackBerry’s products and services and toward
15 those of Defendant. This infringement has resulted in a substantial and undeserved
16 windfall for Defendant as these users drive Defendant’s revenue. Defendant’s gain
17 comes at BlackBerry’s expense, depriving BlackBerry of revenue to which it is
18 entitled as a result of its inventions.

19 7. BlackBerry attempted to resolve this dispute without resorting to
20 litigation. It has been communicating with Defendant for over a year regarding its
21 patent portfolio, including various letters, calls and an in person meeting. Through
22 this suit, BlackBerry seeks redress for the harm caused by Defendant’s unlawful use
23 of BlackBerry’s intellectual property.

24 **INTRODUCTION TO BLACKBERRY**

25 8. For more than 30 years, BlackBerry has been a leading innovator in the
26 mobile communications industry. BlackBerry’s cutting-edge wireless
27 communication products and services have transformed the way people around the
28 world connect, converse, and share digital information.

1 9. BlackBerry was founded in 1984 in Waterloo, Ontario by two
2 engineering students, Mike Lazaridis and Douglas Fregin. In its early years, the
3 company—then named Research In Motion (“RIM”)—focused its inventive
4 energies on wireless data transmission.

5 10. From its modest beginnings more than 30 years ago, BlackBerry has
6 gone on to offer a portfolio of award-winning products, services, and embedded
7 technologies to tens of millions of individual consumers and organizations around
8 the world, including governments, and educational institutions. By transforming the
9 way people communicate, BlackBerry laid a foundation for today’s multibillion-
10 dollar modern smartphone industry. BlackBerry’s innovations in mobile
11 communications continue to this day through BlackBerry’s award-winning software
12 platform and devices, which enable and manage security, mobility, and
13 communications between and among hardware, programs, mobile applications, and
14 the Internet of Things (IoT).

15 11. In the course of developing its ground-breaking mobile
16 communications systems, BlackBerry (and the BlackBerry family of companies) has
17 invented a broad array of new technologies that cover everything from enhanced
18 security and cryptographic techniques, to mobile device user interfaces, interactive
19 digital maps, instant messaging functionality, communication servers, and many
20 other areas. To take just one example, security posed a critical challenge for
21 BlackBerry to address when bringing its mobile devices to market. Commercial
22 acceptance of such mobile devices required providing mechanisms to ensure safe
23 and secure communications so that users and businesses could be confident that
24 their confidential and private information stayed that way in spite of ever increasing
25 threats. Due to its innovative technologies, BlackBerry has been universally
26 recognized as the gold standard when it comes to safe and secure data
27 communications over mobile devices.

28

1 12. Throughout its history, BlackBerry has demonstrated a commitment to
2 innovation, including through its investments in research and development, which
3 have totaled more than \$5.5 billion over the past decade. BlackBerry has protected
4 the technical innovations resulting from these investments, including through
5 seeking patent protection, and as detailed below, BlackBerry owns rights to an array
6 of patented technologies in the United States.

7 13. BlackBerry owns United States Patent Nos. 8,825,084, 8,326,327,
8 8,301,713, 8,209,634, 8,296,351, and 8,676,929 (collectively, the “Patents-in-Suit”).
9 Defendant infringes the BlackBerry Patents-in-Suit by using, without authorization,
10 BlackBerry’s proprietary technology in their commercial products and services,
11 including the Snapchat application, which Defendant markets, offers and distributes
12 to users of mobile and other devices throughout the United States, including in this
13 District.

14 14. By this action, BlackBerry seeks to put an end to Defendant’s
15 unauthorized use of BlackBerry’s patented technologies and to obtain compensation
16 for the harm BlackBerry has suffered.

17 **NATURE OF THE ACTION**

18 15. This is a civil action for patent infringement under the patent laws of
19 the United States, 35 U.S.C. § 1 *et seq.*

20 16. Defendant has infringed and continues to infringe, and has induced
21 and/or contributed to, and continues to induce and/or contribute to infringement of,
22 one or more claims of BlackBerry’s Patents-in-Suit at least by making, using,
23 selling, and/or offering to sell its Snapchat application for mobile and other devices
24 in the United States, including in this District.

25 17. BlackBerry is the legal owner by assignment of the Patents-in-Suit,
26 which were duly and legally issued by the United States Patent and Trademark
27 Office (“USPTO”). BlackBerry seeks injunctive relief and monetary damages.
28

1 **THE PARTIES**

2 18. Plaintiff BlackBerry Limited is a Canadian company with its principal
3 place of business at 2200 University Avenue East, Waterloo, Ontario, Canada N2K
4 0A7. BlackBerry Limited is the owner of intellectual property rights at issue in this
5 action.

6 19. On information and belief, Defendant Snap Inc. is a Delaware
7 corporation with a principal place of business at 63 Market Street, Venice, CA
8 90291. On information and belief, Snap maintains offices in Los Angeles,
9 California, operates and owns the websites located at www.snap.com and
10 www.snapchat.com, and markets, offers, and distributes the Snapchat application
11 throughout the United States, including in this District.

12 20. Upon information and belief, Defendant directly and/or indirectly
13 develops, designs, manufactures, distributes, markets, offers to sell and/or sells
14 infringing products and services in the United States, including in the Central
15 District of California, and otherwise purposefully directs infringing activities to this
16 District in connection with the Snapchat application.

17 **JURISDICTION AND VENUE**

18 21. This is a civil action for patent infringement arising under the patent
19 laws of the United States, 35 U.S.C. § 1 *et seq.*

20 22. This Court has subject matter jurisdiction over the matters asserted
21 herein under 28 U.S.C. §§ 1331 and 1338(a) and 35 U.S.C. §§ 271 *et seq.*

22 23. This Court has personal jurisdiction over Defendant, in part because
23 Defendant does continuous and systematic business in this District, including by
24 providing infringing products and services to the residents of the Central District of
25 California that Defendant knew would be used within this District, and by soliciting
26 business from the residents of the Central District of California. For example,
27 Defendant is subject to personal jurisdiction in this Court because, *inter alia*, and
28 upon information and belief, Defendant has a regular and established place of

1 business at its offices in the Central District of California, including the numerous
2 properties and its headquarters in Venice and about 300,000 square feet of office
3 space in Santa Monica,¹ and elsewhere in the State of California, and directly and
4 through agents regularly does, solicits and transacts business in the Central District
5 of California and elsewhere in the State of California, including through its
6 Snapchat application, which is marketed, offered, and distributed to and utilized by
7 users of mobile devices in this District and throughout the State of California.

8 24. In particular, Defendant has committed and continues to commit acts of
9 infringement in violation of 35 U.S.C. § 271, and has made, used, marketed,
10 distributed, offered for sale, sold, and/or imported infringing products in the State of
11 California, including in this District, and engaged in infringing conduct within and
12 directed at or from this District. For example, Defendant has purposefully and
13 voluntarily placed the Snapchat application into the stream of commerce with the
14 expectation that this infringing product will be used in this District. The infringing
15 Snapchat application has been and continues to be distributed to and used in this
16 District. Defendant's acts cause injury to BlackBerry, including within this District.

17 25. Venue is proper in this District under the provisions of 28 U.S.C.
18 §§ 1391 and 1400(b) at least because a substantial part of the events or omissions
19 giving rise to the claims occurred in this judicial district, and because Defendant has
20 committed acts of infringement in this District and has a regular and established
21 place of business in this District. In particular, on information and belief, Defendant
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26 ¹ See <https://investor.snap.com/company-profile>; <https://www.snap.com/en-US/news/page/2/> (“We have one HQ, in Venice, and many offices throughout the
27 world.”); [http://www.latimes.com/business/technology/la-fi-tn-snapchat-santa-
28 monica-20170106-story.html](http://www.latimes.com/business/technology/la-fi-tn-snapchat-santa-monica-20170106-story.html).

1 has a regular and established place of business at 63 Market Street, Venice, CA
2 90291.²

3 FACTS COMMON TO ALL CLAIMS

4 BlackBerry's Innovation and Industry Recognition

5 26. BlackBerry is a global leader in the mobile communications industry.
6 Through its significant investment in research and development over the past 30
7 years, BlackBerry has developed innovative, cutting-edge technologies that have
8 changed the face of telecommunications. In particular, BlackBerry has developed
9 key innovations in the way mobile devices and communications software interact
10 with and receive input from users. BlackBerry's innovations in messaging and UI
11 development improved the speed and accuracy with which users could perform
12 various tasks on their mobile devices.

13 27. In the late 1990s, BlackBerry began to release a series of game-
14 changing handheld mobile devices that enabled users to send and receive email and
15 messages on the go, without needing to be tethered to a modem or a desktop
16 computer. The innovative nature of the 1998 RIM 950 Wireless Handheld, for
17 example, was instantly recognized, garnering both an Editor's Choice Award from
18 CNET and Andrew Seybold's Outlook Award. In particular, the press praised the
19 RIM 950's keyboard for its advanced ergonomic features, including an easy-to-type-
20 on keyboard layout despite the device's miniature size.

21 28. In 2002, BlackBerry released the BlackBerry 6710 and 6720 – the first
22 BlackBerry devices capable of both sending emails and making phone calls, and
23 some of the earliest smartphones released in the United States. The next year,
24 BlackBerry introduced smartphone models that added built-in audio hardware and
25 color screens. Since those early smartphones, BlackBerry has continued to offer

26 ² See <https://investor.snap.com/company-profile>; [https://www.snap.com/en-](https://www.snap.com/en-US/news/page/2/)
27 [US/news/page/2/](https://www.snap.com/en-US/news/page/2/) (“We have one HQ, in Venice, and many offices throughout the
28 world.”).

1 handheld wireless products incorporating its proprietary technologies in security,
2 communications, mobile device user interfaces, and other areas.

3 29. In 2005, BlackBerry introduced the innovative BlackBerry Messenger
4 (or “BBM”) application, which revolutionized the concept of instant messaging.
5 BBM provided the first form of point-to-point communications that was instant,
6 cross-carrier, and mobile. The developers of BBM further incorporated a well-
7 designed graphical user interface and other innovative features not utilized by
8 messaging platforms at that time. For example, BBM has been credited as the first
9 messaging platform to enable status updates showing when messages were
10 Delivered and Read by users, which created a pioneering sense of real-time presence
11 that is now standard in many instant messaging applications. Additionally, BBM’s
12 unique platform has allowed users to communicate even when traditional forms of
13 cell communication were incapacitated, such as during the Chilean earthquake in
14 2010.³

15 30. Over the years, BlackBerry continued to develop and improve
16 successive versions of BBM by introducing features such as GPS positioning and
17 digital maps, connected applications, voice chat, private chat, and many other
18 features. As a result, BBM has been widely downloaded and is popular among users
19 of all platforms, including Android and iOS. Indeed, more than 5 million people
20 downloaded BBM within 8 hours of the release of its Android and iOS versions in
21 October 2013. By March 4, 2015, the Android version of BBM had reached 100
22 million Google Play installs. BBM also enjoys strong user loyalty, with studies
23 finding that 82% of BBM’s Android users continue using the application 90 days
24 after installation.

25 _____
26 ³ See, e.g., [https://www.cio.com/article/2420175/blackberry-phone/blackberry-](https://www.cio.com/article/2420175/blackberry-phone/blackberry-messenger--bbm--keeps-chilean-quake-affected-connected.html)
27 [messenger--bbm--keeps-chilean-quake-affected-connected.html](http://www.nytimes.com/2001/09/20/technology/the-right-connections-the-simple-blackberry-allowed-contact-when-phones-failed.html);
28 [http://www.nytimes.com/2001/09/20/technology/the-right-connections-the-simple-](http://www.nytimes.com/2001/09/20/technology/the-right-connections-the-simple-blackberry-allowed-contact-when-phones-failed.html)
[blackberry-allowed-contact-when-phones-failed.html](http://www.nytimes.com/2001/09/20/technology/the-right-connections-the-simple-blackberry-allowed-contact-when-phones-failed.html).

1 31. Each successive iteration of BlackBerry’s wireless devices and
2 technologies have received significant unsolicited coverage in the media. For
3 example, GSMA—the largest and most well-known association of mobile
4 operators—recognized BlackBerry and its communication technologies as
5 “chang[ing] the face of corporate communication.” Thomson Reuters named
6 BlackBerry one of the World’s Top 100 Most Innovative Organizations, based
7 largely on the number of “important patents” owned by BlackBerry. In 2015,
8 Forrester Research crowned BlackBerry as a “leader in mobile management” based
9 on BlackBerry’s focus in security software and mobile solutions.

10 32. BlackBerry’s handheld devices and communications technologies have
11 garnered widespread industry acclaim for both their unique design and their
12 performance. For example, BlackBerry mobile devices have garnered dozens of
13 industry awards, including the GSMA Chairman’s Award, InfoWorld Magazine’s
14 Product of the Year Award, PC World’s World Class Award, the Network Industry
15 Award for Best New Mobile Communications Product, the BusinessWeek Best
16 Product of the Year Award, Digit Magazine’s “World’s Best Mobile OS” Award,
17 Security Products “Govies” Government Security Award, and PC Magazine’s Best
18 Products of the Year Award. BBM in particular has been recognized for its
19 innovations in mobile messaging, being awarded “Superstar” distinction from the
20 2014 Mobile Star Awards in the Mobile Messaging or Email category, the Indonesia
21 Golden Ring Award for Best Mobile Social Media, and the ICA 2014 Award for
22 Best Mobile Chat App.

23 33. BlackBerry’s more recent innovations have garnered similar industry
24 acclaim. For example, in 2015 BlackBerry’s Passport was awarded the prestigious
25 Red Dot “Best of the Best” award for innovative product design (from thousands of
26 total entries); BlackBerry and BBM were recognized with the Mobile Marketing
27 Association’s “Smartie” Award for 2015 Publisher/Media Company of the Year in
28

1 Mobile; and BlackBerry's PRIV was awarded the Red Dot "Design Award" for best
2 product design in 2016.

3 **BlackBerry's Patents**

4 34. U.S. Patent No. 8,825,084 ("084 Patent") is entitled "System and
5 method for determining action spot locations relative to the location of a mobile
6 device," and was issued on September 2, 2014. A true and correct copy of the '084
7 Patent is attached as Exhibit A.

8 35. The '084 Patent was filed on October 9, 2012 as U.S. Patent
9 Application No. 13/648,167 as a continuation of application No. 12/870,676 filed on
10 Aug. 27, 2010, which issued as U.S. Patent No. 8,326,327.

11 36. BlackBerry Limited is the owner of all rights, title, and interest in and
12 to the '084 Patent, with the full and exclusive right to bring suit to enforce the '084
13 Patent, including the right to recover for past infringement.

14 37. The '084 Patent is valid and enforceable under United States Patent
15 Laws.

16 38. U.S. Patent No. 8,326,327 ("327 Patent") is entitled "System and
17 method for determining action spot locations relative to the location of a mobile
18 device," and was issued on December 4, 2012. A true and correct copy of the '327
19 Patent is attached as Exhibit B.

20 39. The '327 Patent was filed on August 27, 2010 as U.S. Patent
21 Application No. 12/870,676.

22 40. BlackBerry Limited is the owner of all rights, title, and interest in and
23 to the '327 Patent, with the full and exclusive right to bring suit to enforce the '327
24 Patent, including the right to recover for past infringement.

25 41. The '327 Patent is valid and enforceable under United States Patent
26 Laws.

27 42. U.S. Patent No. 8,301,713 ("713 Patent") is entitled "Handheld
28 electronic device and associated method providing time data in a messaging

1 environment,” and was issued on Oct. 30, 2012. A true and correct copy of the ’713
2 Patent is attached as Exhibit C.

3 43. The ’713 Patent was filed on May 19, 2011 as U.S. Patent Application
4 No. 13/111,675, claims priority to U.S. Provisional Application No. 60/504,379
5 filed on Sep. 19, 2003, and is a continuation of U.S. Patent Application No.
6 10/944,925 filed Sep. 20, 2004, which issued as U.S. Patent No. 7,970,849.

7 44. BlackBerry Limited is the owner of all rights, title, and interest in and
8 to the ’713 Patent, with the full and exclusive right to bring suit to enforce the ’713
9 Patent, including the right to recover for past infringement.

10 45. The ’713 Patent is valid and enforceable under United States Patent
11 Laws.

12 46. U.S. Patent No. 8,209,634 (“’634 Patent”) is entitled “Previewing a
13 new event on a small screen device,” and was issued on Jun. 26, 2012. A true and
14 correct copy of the ’634 Patent is attached as Exhibit D.

15 47. The ’634 Patent was filed on Feb. 24, 2004 as U.S. Patent Application
16 No. 10/784,781 and claims priority to U.S. Provisional Appl. No. 60/525,958 filed
17 Dec. 1, 2003.

18 48. BlackBerry Limited is the owner of all rights, title, and interest in and
19 to the ’634 Patent, with the full and exclusive right to bring suit to enforce the ’634
20 Patent, including the right to recover for past infringement.

21 49. The ’634 Patent is valid and enforceable under United States Patent
22 Laws.

23 50. U.S. Patent No. 8,296,351 (“’351 Patent”) is entitled “System and
24 method for pushing information to a mobile device,” and was issued on October 23,
25 2012. A true and correct copy of the ’351 Patent is attached as Exhibit E.

26 51. The ’351 Patent was filed on March 18, 2010 as U.S. Patent
27 Application No. 12/726,405 and claims priority to, *inter alia*, U.S. Provisional Appl.
28 No. 60/307,265 filed July 23, 2001.

1 52. BlackBerry Limited is the owner of all rights, title, and interest in and
2 to the '351 Patent, with the full and exclusive right to bring suit to enforce the '351
3 Patent, including the right to recover for past infringement.

4 53. The '351 Patent is valid and enforceable under United States Patent
5 Laws.

6 54. U.S. Patent No. 8,676,929 ("929 Patent") is entitled "System and
7 method for pushing information to a mobile device," and was issued on March 18,
8 2014. A true and correct copy of the '929 Patent is attached as Exhibit F.

9 55. The '929 Patent was filed on September 13, 2012 as U.S. Patent
10 Application No. 13/614,884 and claims priority to, *inter alia*, U.S. Provisional Appl.
11 No. 60/307,265 filed July 23, 2001.

12 56. BlackBerry Limited is the owner of all rights, title, and interest in and
13 to the '929 Patent, with the full and exclusive right to bring suit to enforce the '929
14 Patent, including the right to recover for past infringement.

15 57. The '929 Patent is valid and enforceable under United States Patent
16 Laws.

17 **Defendant's Use of BlackBerry's Patented Technologies**

18 58. On information and belief, Defendant released the Snapchat application
19 in September, 2011, more than six years after BlackBerry's release of BlackBerry
20 Messenger ("BBM").⁴

21 59. By the time Defendant released the first (and simplest) version of its
22 messaging app, BlackBerry had already invented most of the technologically
23 innovative messaging application functionalities at issue in this action. Indeed,
24 some of these innovations were already being utilized by users of BlackBerry's
25 smartphones, which represented more than half of the U.S. market in 2009 and came
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27 ⁴ See, e.g., <https://www.forbes.com/sites/jjcolao/2012/11/27/snapchat-the-biggest-no-revenue-mobile-app-since-instagram/#11e04b967200>
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1 with BBM installed.⁵ Industry commentators at the time noted the success of BBM,
2 including with consumer audiences such as “[t]eens, for instance, [who] love
3 BlackBerry Messenger, RIM’s proprietary instant messaging feature.” *See*
4 http://archive.fortune.com/2009/08/12/technology/blackberry_research_in_motion.f
5 [ortune/index.htm](http://archive.fortune.com/2009/08/12/technology/blackberry_research_in_motion.f). The consumer demand and appreciation for BlackBerry’s
6 innovative messaging application functionalities was further evidenced in 2013,
7 when BlackBerry released the first versions of BBM for Apple’s iOS and Google’s
8 Android mobile device platforms and recorded over 5 million downloads of BBM
9 within the first 8 hours of being made available. *See*
10 <https://9to5mac.com/2013/10/21/blackberry-announces-5-million-downloads-of->
11 [bbm-for-ios-and-android-only-8-hours-after-release/](https://9to5mac.com/2013/10/21/blackberry-announces-5-million-downloads-of-). In just two years, BBM had
12 been installed in over 100 million Android devices alone. *See*
13 <http://blogs.blackberry.com/2015/03/bbm-hits-100m-google-play-installs/>.

14 60. Seizing on the success of BBM and demand for consumer messaging
15 platforms featuring BlackBerry’s innovative features and functionalities, Defendant
16 developed and released its infringing Snapchat application and products, which
17 incorporate and unlawfully utilize BlackBerry’s patented technologies.

18 61. On information and belief, Defendant markets, offers, and distributes
19 the infringing Snapchat application in and within the United States, including
20 through distribution platforms such as the Apple iTunes Application Store and the
21 Google Android Play Store.

22 62. On information and belief, the accused Snapchat application is
23 Defendant’s primary product in the United States.

24 63. On information and belief, Defendant encourage users of mobile
25 devices such as iPhones and Android phones in the United States to download and
26 use the infringing Snapchat application, and such mobile device users do so

27 _____
28 ⁵ *See* http://money.cnn.com/2009/06/17/technology/rim_blackberry_preview/.

1 download and use the infringing apps in the manner Defendant intends the
2 application to be used.

3 64. On information and belief, Defendant has also designed, developed,
4 tested, and used the infringing apps in and within the United States.

5 **BlackBerry Put Defendant on Notice of Infringement**
6 **for Various of the Patents-in-Suit**

7 65. Through a series of letters, e-mails, a meeting and personal
8 communications between the parties' general counsels, BlackBerry provided
9 Defendant with clear and unambiguous notice that its products infringe
10 BlackBerry's messaging patents, including some of the Patents-in-Suit.

11 66. BlackBerry sent a letter to Defendant's General Counsel on January 27,
12 2017, informing Defendant that the "Snapchat Software application" infringes the
13 '713 and '634 Patents. *See* Ex. G. BlackBerry again identified the '713 and '634,
14 Patents during a meeting between BlackBerry and Defendants concerning possible
15 licensing of the patents on June 21, 2017.

16 **COUNT I: INFRINGEMENT OF U.S. PATENT NO. 8,825,084**

17 67. BlackBerry incorporates by reference and re-alleges all of the foregoing
18 paragraphs of this Complaint as if fully set forth herein.

19 **The '084 Patent**

20 68. The '084 Patent discloses, among other things, a system, server, mobile
21 device, and method for determining an action spot location. '084 Patent at Abstract.
22 An action spot location can be determined relative to the location of a first mobile
23 device and can represent, for example, a location where at least one other mobile
24 device "has engaged in documenting action within a predetermined period of time"
25 from when the first mobile device arrived at its current location. *Id.*

26 69. The '084 Patent explains that "[w]hen devices are enabled for
27 navigational functions, mobile devices can retrieve and display maps and directions
28 to locations relative to the current location of the mobile device. Typically, the

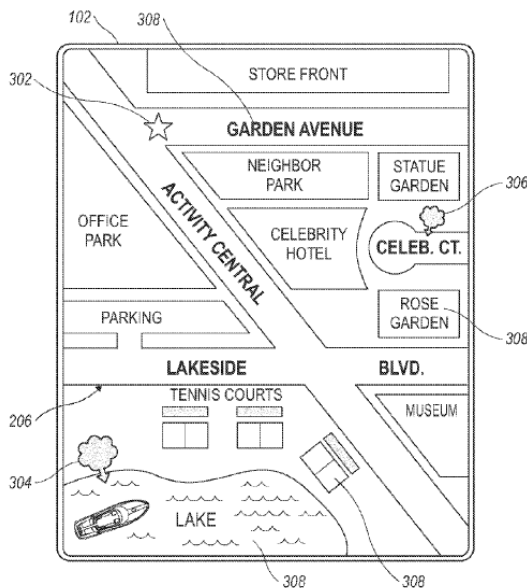
1 maps are limited in information. For example, maps are limited to displaying the
2 streets within a city.” *Id.* at 3:6-11. The limited amount of information displayed
3 means that, “[i]n order to find information relating to events and happenings
4 currently occurring proximate to the mobile device’s present location, the user of the
5 mobile device will have to search an external resource, such as an electronic events
6 calendar, internet sites, internet calendars of individual business or event holders
7 (stores, restaurants, concert venues, bars, etc.), and compare the locations of the
8 found events and happenings to the mobile device’s current location.” *Id.* at 3:11-
9 19.

10 70. As the ’084 Patent notes, “[s]uch a process of manually researching
11 events and happenings, determining the location of the events and happenings, and
12 comparing the location of the events and happenings to the user’s current location is
13 tedious and results in user frustration. Moreover, the results of the user’s research of
14 current events and happenings can be incomplete and inaccurate, and the user can
15 miss certain happenings that are close in proximity to the current location of the
16 user’s mobile device.” *Id.* at 3: 19-27.

17 71. To solve this problem, the ’084 Patent discloses a technique for
18 “determining action spot locations relative to the location of a mobile device.” *Id.* at
19 3:28-30. These “action spots” can represent locations or events where at least one
20 other mobile device is engaging in activity that can include “a documenting action
21 (such as text messaging, emailing, blogging, posting a message on a social
22 networking internet site, or any other documenting actions), a recording action (such
23 as video recording, audio recording, or photographing taken by a mobile device) or
24 any other action where the mobile device is being used to observe and make not of a
25 location or an event currently occurring at the location of the mobile device.” *Id.* at
26 2:61-3:5.

27 72. The Patent describes how a server “can monitor and log where other
28 mobile devices are capturing images, capturing videos, or transmitting messages,

1 such as text messages, instant messages, virtual posts, or any combination thereof,
 2 and identify the locations as action spots,” which can then be displayed on the
 3 graphical user interface of a mobile device. *Id.* at 7:16-34. Figure 3 of the '084
 4 Patent illustrates an exemplary implementation of a graphical user interface



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 15 associated with the invention, with an interactive map on a mobile device display
 16 capable of displaying various action spots representing documenting activity:

17 73. The '084 Patent goes on to describe how colors may be used on the
 18 map to provide the user with information about the level and density of
 19 documenting activity. The Patent explains that “[t]he level of activity associated
 20 with the action spot 304, 306 can also be represented by varying the colors of the
 21 graphical items representing the action spots 304, 306. For example, a graphical
 22 item that is yellow can represent a moderate amount of documenting action; while a
 23 graphical item of green represents a large amount of documenting action, and thus
 24 an increased likelihood that the action spot associated with a green graphical item is
 25 a more happening location, a more popular location, or a location where a large
 26 number of people have gathered to witness and document a current event or
 27 happening. In other words, the indication of the level of activity includes coloring
 28

1 the graphical item in accordance with a range of activity occurring at the at least one
2 action spot, 304, 306.” *Id.* at 6:45-59.

3 74. Thus, the ’084 Patent describes, *inter alia*, “[a] server configured to:
4 receive data indicative of a current location of a first mobile device; determine at
5 least one action spot within a predetermined distance from the current location of
6 the first mobile device, the at least one action spot corresponding to a location where
7 at least one second mobile device has engaged in at least one documenting action,
8 the documenting action including at least one of capturing images, capturing videos
9 and transmitting messages; transmit the at least one action spot to the first mobile
10 device; and transmit to the first mobile device, an indication of an activity level at
11 the at least one action spot, wherein the activity level is based upon at least one of a
12 number of images captured, a number of videos captured, and a number of messages
13 transmitted.” *Id.* at claim 1.

14 **The Inventions Claimed in the ’084 Patent Were Not**
15 **Well-Understood, Routine, or Conventional**

16 75. A server configured to receive data indicative of a current location of a
17 mobile device and determine an indication of activity level within a predetermined
18 distance from the current location of the mobile device based on surrounding
19 documenting actions of other mobile devices was not common or conventional at
20 the time of the ’084 Patent.

21 76. The inventors of ’084 Patent recognized that, in certain mobile device
22 contexts where the devices can retrieve and display maps and directions based on
23 user location, the maps and directions typically comprise only information regarding
24 events and happenings occurring proximate to the user’s current location. ’084
25 Patent at 3:6-27. The inventors also recognized that in some circumstances this
26 information may be desirable, but “[s]uch a process of manually researching events
27 and happenings, determining the location of the events and happenings, and
28 comparing the location of the events and happenings to the user’s current location is

1 tedious and results in user frustration. Moreover, the results of the user's research of
2 current events and happenings can be incomplete and inaccurate, and the user can
3 miss certain happenings that are close in proximity to the current location of the
4 user's mobile device." *Id.* at 3:19-27.

5 77. The inventors recognized the benefit of solving this problem by
6 providing a system and method of determining action spot locations based on an
7 activity level of other mobile devices relative to the location of a mobile device.
8 The '084 Patent explains: "[i]n one implementation, a mobile device includes a
9 display and a processor module communicatively coupled to the display. The
10 processor can be configured to receive executable instructions to: determine a
11 current location of the mobile device; determine at least one action spot, within a
12 predetermined distance from the current location of the mobile device; signify the at
13 least one action spot with a graphical item on the display of the mobile device;
14 marking the graphical item according to an activity level of the at least one action
15 spot." *Id.* at 3:28-42. In this manner, the '084 Patent discloses an improved mobile
16 device that is able to provide an accurate indication of activity within a
17 predetermined distance of the location of the device. At the time of the '084 Patent,
18 mobile device maps and directions were static and lacked dynamic information
19 relating to the surrounding location of a user. The '084 patent thus discloses an
20 improvement on the functioning of a mobile device.

21 78. Given the state of the art at the time of the invention of the '084 Patent,
22 the inventive concepts of the '084 Patent were not conventional, well-understood, or
23 routine. The '084 Patent discloses, among other things, an unconventional
24 technological solution to an issue arising specifically in the context of electronic
25 communications between electronic devices. The solution implemented by the '084
26 Patent provides a specific and substantial improvement over prior electronic
27 messaging systems in electronic devices, including by introducing novel elements
28 directed to improving the function and working of electronic devices such as, *inter*

1 *alia*, the claimed “determine at least one action spot within a predetermined distance
2 from the current location of the first mobile device, the at least one action spot
3 corresponding to a location where at least one second mobile device has engaged in
4 at least one documenting action, the documenting action including at least one of
5 capturing images, capturing videos and transmitting messages; transmit the at least
6 one action spot to the first mobile device; and transmit to the first mobile device, an
7 indication of an activity level at the at least one action spot” (claim 1).

8 79. Consistent with the problem addressed being rooted in wireless
9 communication to mobile devices, the '084 Patent's solutions are also rooted in the
10 same technology that cannot be performed with pen and paper or in the human
11 mind. This technical context is reflected in the '084 Patent's claims, as described
12 above.

13 80. A person having ordinary skill in the art at the time of the inventions of
14 the '084 Patent would not have understood that the inventions could or would be
15 performed solely in the human mind or using pen and paper. Using pen and paper
16 would ignore the stated purpose of the '084 Patent and the problem the patented
17 technology was specifically designed to address. Doing so would also run counter
18 to the inventors' detailed description of the inventions, and the language of the
19 claims, and be a practical impossibility.

20 **'084 Patent Allegations**

21 81. Defendant has infringed and is infringing, either literally or under the
22 doctrine of equivalents, the '084 Patent in violation of 35 U.S.C. § 271 *et seq.*,
23 directly and/or indirectly, by making, using, selling, offering for sale, and/or
24 importing into the United States without authority or license, the Snapchat
25 application and servers associated with its operation (hereinafter “the '084 Accused
26 Products”) that infringe at least claims 1 and 9 of '084 Patent.

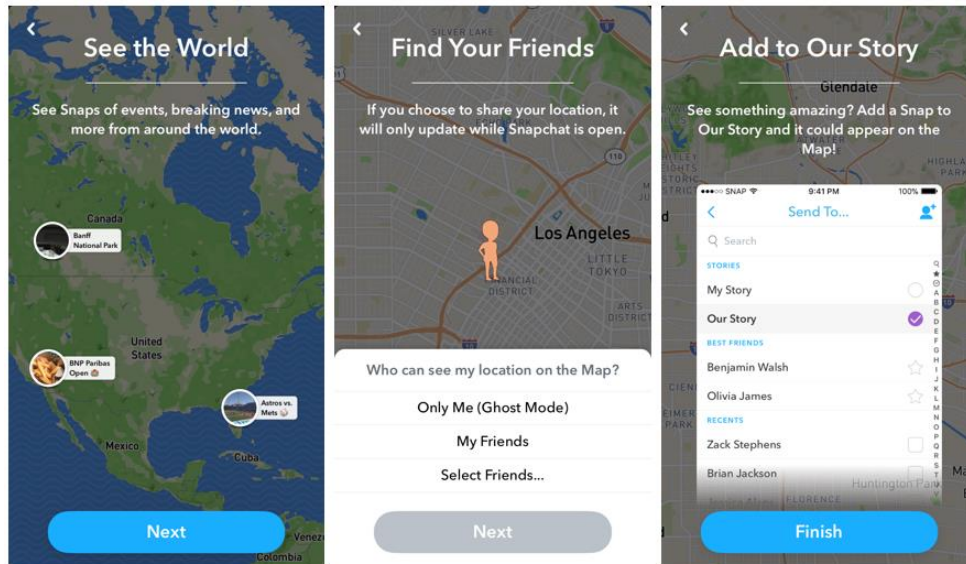
27 82. On information and belief after reasonable investigation, the '084
28 Accused Products contain functionality designed to identify documenting activity by

1 mobile devices, to transmit information about that activity to a user’s mobile device,
2 and to cause that information to be displayed on an interactive map on the display of
3 the user’s mobile device in a manner that indicates the nature and level of that
4 activity by, for example, displaying a color-coded “heat map” indicative of the level
5 of that activity. This functionality infringes the ’084 Patent.

6 83. One non-limiting description of this infringement is set forth below for
7 exemplary claim 1 of the ’084 Patent (with claim language in italics). This
8 description is based entirely on publicly available information. BlackBerry reserves
9 the right to modify this description, including, for example, based on information
10 about the ’084 Accused Products that it obtains during discovery.

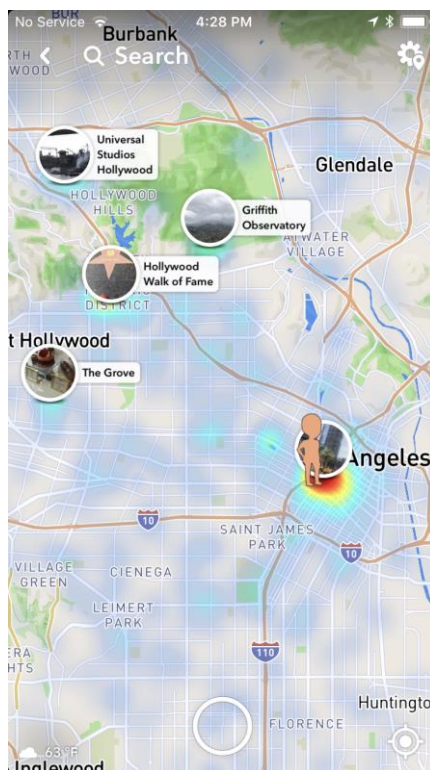
11 84. On information and belief, the ’084 Accused Products include *a server*
12 *configured to: receive data indicative of a current location of a first mobile device.*
13 See <https://support.snapchat.com/en-US/article/ios-permissions> (describing how
14 Snapchat users can share the mobile device location information to use its features:
15 “Use your location for features like Geofilters and Our Stories, and for other
16 services that improve your experience.”).

17 85. On information and belief, the ’084 Accused Products include servers
18 that are also configured to: *determine at least one action spot within a*
19 *predetermined distance from the current location of the first mobile device, the at*
20 *least one action spot corresponding to a location where at least one second mobile*
21 *device has engaged in at least one documenting action, the documenting action*
22 *including at least one of capturing images, capturing videos and transmitting*
23 *messages and to transmit the at least one action spot to the first mobile device.*
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86. This functionality is displayed in Snapchat’s “Snap Map” feature, which records documenting activity including messages, photos, and videos (“Snaps”) from users’ mobile devices and allows them to be viewed within the application. See <https://support.snapchat.com/en-US/a/snap-map-about> (“On Snap Map, you can view Snaps submitted to Our Story from all across the world — including sporting events, celebrations, breaking news, and more. You and your friends can also share your locations with one another, and see what’s going on around you.”).

87. On information and belief, the ’084 Accused Products include servers that are also configured to: *transmit to the first mobile device, an indication of an activity level at the at least one action spot, wherein the activity level is based upon at least one of a number of images captured, a number of videos captured, and a number of messages transmitted.*



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14 88. The Snap Map functionality directly incorporates this feature,
15 displaying activity level-based, color-coded heat maps indicative of the level and
16 density of documenting activity by other Snapchat users. *See*
17 <https://support.snapchat.com/en-US/a/snap-map-about> (“Just tap on the heatmap to
18 view Snaps from that area; blue means that there were some Snaps taken at that
19 spot, while red means there are tons.”).

20 89. The Accused Products thus infringe the '084 Patent.

21 90. Additionally, Defendant has been, and currently is a contributory
22 infringer of the '084 Patent under 35 U.S.C. § 271(c).

23 91. Upon information and belief, Defendant knew of the '084 Patent, or
24 should have known of the '084 Patent but was willfully blind to its existence. Upon
25 information and belief, Defendant has had actual knowledge of the '084 Patent, and
26 its infringement thereof, since at least as early as the filing and/or service of this
27 Complaint.
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1 92. Defendant contributorily infringes at least claims 1 and 9 of the '084
2 Patent by providing the '084 Accused Products and/or software components thereof,
3 that embody a material part of the claimed inventions of the '084 Patent, that are
4 known by Defendant to be specially made or adapted for use in an infringing
5 manner, and are not staple articles with substantial non-infringing uses. The '084
6 Accused Products are specially designed to infringe at least claims 1 and 9 of the
7 '084 Patent, and their accused components have no substantial non-infringing uses.
8 In particular, on information and belief, the software modules and code that
9 implement and perform the infringing functionalities identified above are specially
10 made and adapted to carry out said functionality and do not have any substantial
11 non-infringing uses.

12 93. Additional allegations regarding Defendants' knowledge of the '084
13 Patent and willful infringement will likely have further evidentiary support after a
14 reasonable opportunity for discovery.

15 94. Defendant's infringement of the '084 Patent was and continues to be
16 willful and deliberate, entitling BlackBerry to enhanced damages and attorneys'
17 fees.

18 95. Defendant's infringement of the '084 Patent is exceptional and entitles
19 BlackBerry to attorneys' fees and costs incurred in prosecuting this action under
20 U.S.C. § 285.

21 96. BlackBerry has been damaged by Defendant's infringement of the '084
22 Patent and will continue to be damaged unless Defendant is enjoined by this Court.
23 BlackBerry has suffered and continues to suffer irreparable injury for which there is
24 no adequate remedy at law. The balance of hardships favors BlackBerry, and public
25 interest is not disserved by an injunction.

26 97. BlackBerry is entitled to recover from Defendant all damages that
27 BlackBerry has sustained as a result of Defendant's infringement of the '084 Patent,
28 including without limitation lost profits and not less than a reasonable royalty.

1 **COUNT II: INFRINGEMENT OF U.S. PATENT NO. 8,326,327**

2 98. BlackBerry incorporates by reference and re-alleges all of the foregoing
3 paragraphs of this Complaint as if fully set forth herein.

4 **The '327 Patent**

5 99. The '327 Patent issued from the parent application of the '084 Patent.
6 As such, the '327 Patent contains the same disclosure and specification as the '084
7 Patent, described above.

8 **The Inventions Claimed in the '327 Patent Were Not**
9 **Well-Understood, Routine, or Conventional**

10 100. The '327 Patent issued from the parent application of the '084 Patent.
11 As such, the '327 Patent contains the same disclosure and specification. For the
12 same reasons described above, the invention described in the '327 patent were not
13 well-understood, routine, or conventional.

14 101. For example, the '327 Patent discloses, among other things, an
15 unconventional technological solution to an issue arising specifically in the context
16 of electronic communications between electronic devices. The solution
17 implemented by the '327 Patent provides a specific and substantial improvement
18 over prior electronic messaging systems in electronic devices, including by
19 introducing novel elements directed to improving the function and working of
20 electronic devices such as, *inter alia*, the claimed “receive data indicative of a
21 current location of the mobile device; determine at least one action spot within a
22 predetermined distance from the current location of the mobile device, the at least
23 one action spot corresponding to a location where at least one other mobile device
24 has engaged in documenting action within a predetermined period of time; signify
25 the at least one action spot on the graphical user interface; [and] provide an
26 indication of activity level at the at least one action spot.” (claim 1).

27 102. Consistent with the problem addressed being rooted in user interfaces
28 for electronic messaging between wireless communications devices, the '327

1 Patent's solutions are also rooted in the same technology that cannot be performed
2 with pen and paper or in the human mind.

3 103. This technical context is reflected in the '327 Patent's claims. For
4 example, various claims of the '327 Patent require a graphical user interface, a
5 processor, and a mobile device.

6 104. A person having ordinary skill in the art at the time of the inventions of
7 the '327 Patent would not have understood that the inventions could or would be
8 performed solely in the human mind or using pen and paper. Using pen and paper
9 would ignore the stated purpose of the '327 Patent and the problem the patented
10 technology was specifically designed to address. Doing so would also run counter
11 to the inventors' detailed description of the inventions and the language of the
12 claims and be a practical impossibility.

13 **'327 Patent Allegations**

14 105. Defendant has infringed and is infringing, either literally or under the
15 doctrine of equivalents, the '327 Patent in violation of 35 U.S.C. § 271 *et seq.*,
16 directly and/or indirectly, by making, using, selling, offering for sale, and/or
17 importing into the United States without authority or license, the Snapchat
18 application and servers associated with its operation (hereinafter "the '327 Accused
19 Products") that infringe at least claims 1, 10, and 13 of '327 Patent.

20 106. On information and belief after reasonable investigation, the '327
21 Accused Products contain functionality designed to identify documenting activity by
22 mobile devices, to transmit information about that activity to a user's mobile device,
23 and to cause that information to be displayed on an interactive map on the display of
24 the user's mobile device in a manner that indicates the nature and level of that
25 activity by, for example, displaying a color-coded "heat map" indicative of the level
26 of that activity. This functionality infringes the '327 Patent.

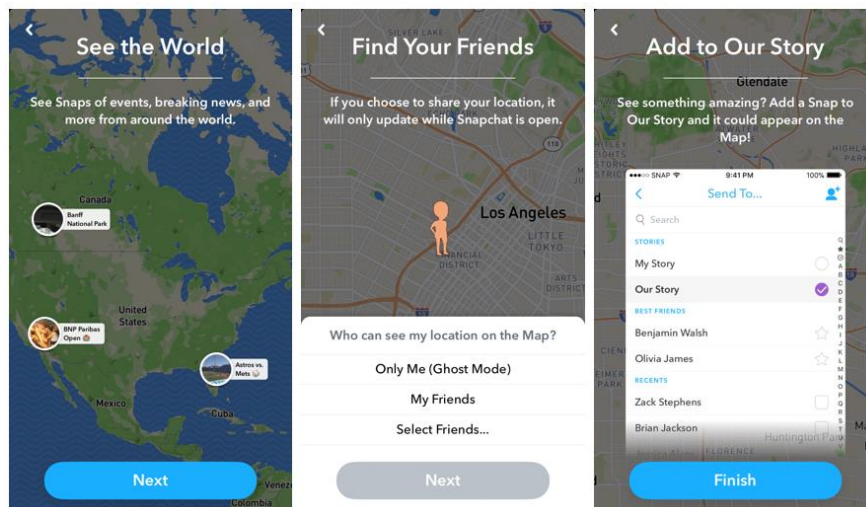
27 107. One non-limiting description of this infringement is set for below for
28 exemplary claim 13 of the '327 Patent (with claim language in italics). This

1 description is based entirely on publicly available information. BlackBerry reserves
2 the right to modify this description, including, for example, based on information
3 about the '327 Accused Products that it obtains during discovery.

4 108. On information and belief, the '327 Accused Products are configured to
5 perform *a method for providing action spots on a mobile device comprising:*
6 *determining, via a processor, a current location of the mobile device. See*
7 <https://support.snapchat.com/en-US/article/ios-permissions> (describing how
8 Snapchat users can share the mobile device location information to use its features:
9 “Use your location for features like Geofilters and Our Stories, and for other
10 services that improve your experience.”).

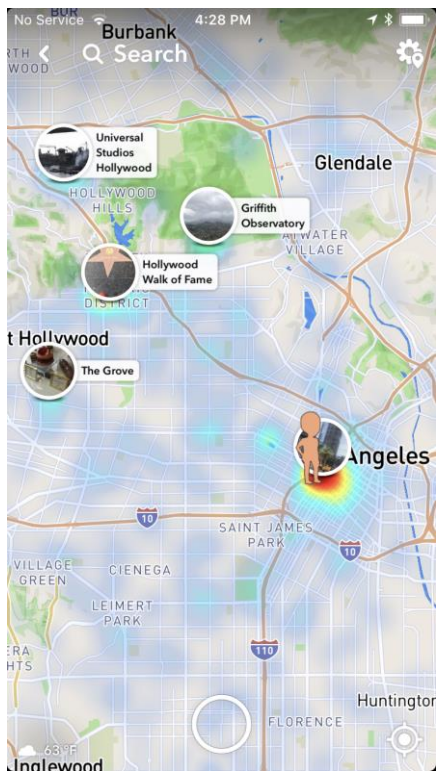
11 109. On information and belief, the '327 Accused Products are also
12 configured to perform: *determining at least one action spot within a predetermined*
13 *distance from the current location of the mobile device, the at least one action spot*
14 *corresponding to a location where at least one other mobile device has engaged in*
15 *documenting action within a predetermined period of time. This functionality is*
16 *displayed in Snapchat’s “Snap Map” feature, which records documenting activity*
17 *including messages, photos, and videos (“Snaps”) from users’ mobile devices and*
18 *allows them to be viewed within the application. See*
19 <https://support.snapchat.com/en-US/a/snap-map-about> (“On Snap Map, you can
20 view Snaps submitted to Our Story from all across the world — including sporting
21 events, celebrations, breaking news, and more. You and your friends can also share
22 your locations with one another, and see what’s going on around you.”).

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110. On information and belief, the '327 Accused Products are also configured to perform: signifying the at least one action spot with a graphical item on a display of the mobile device; marking the graphical item according to an activity level with at least one action spot. The Snap Map functionality directly incorporates this feature, displaying activity level-based, color-coded heat maps indicative of the level and density of documenting activity by other Snapchat users. See <https://support.snapchat.com/en-US/a/snap-map-about> (“Just tap on the heatmap to view Snaps from that area; blue means that there were some Snaps taken at that spot, while red means there are tons.”).

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111. The Accused Products thus infringe the '327 Patent.

112. Additionally, Defendant has been, and currently is a contributory infringer of the '327 Patent under 35 U.S.C. § 271(c).

113. Upon information and belief, Defendant knew of the '327 Patent, or should have known of the '327 Patent but was willfully blind to its existence. Upon information and belief, Defendant has had actual knowledge of the '327 Patent, and its infringement thereof, since at least as early as the filing and/or service of this Complaint.

114. Defendant contributorily infringes at least claims 1, 10, and 13 of the '327 Patent by providing the '327 Accused Products and/or software components thereof, that embody a material part of the claimed inventions of the '327 Patent, that are known by Defendant to be specially made or adapted for use in an infringing manner, and are not staple articles with substantial non-infringing uses. The '327 Accused Products are specially designed to infringe at least claims 1, 10, and 13 of the '327 Patent, and their accused components have no substantial non-

1 infringing uses. In particular, on information and belief, the software modules and
2 code that implement and perform the infringing functionalities identified above are
3 specially made and adapted to carry out said functionality and do not have any
4 substantial non-infringing uses.

5 115. Additional allegations regarding Defendants' knowledge of the '327
6 Patent and willful infringement will likely have further evidentiary support after a
7 reasonable opportunity for discovery.

8 116. Defendant's infringement of the '327 Patent was and continues to be
9 willful and deliberate, entitling BlackBerry to enhanced damages and attorneys'
10 fees.

11 117. Defendant's infringement of the '327 Patent is exceptional and entitles
12 BlackBerry to attorneys' fees and costs incurred in prosecuting this action under
13 U.S.C. § 285.

14 118. BlackBerry has been damaged by Defendant's infringement of the '327
15 Patent and will continue to be damaged unless Defendant is enjoined by this Court.
16 BlackBerry has suffered and continues to suffer irreparable injury for which there is
17 no adequate remedy at law. The balance of hardships favors BlackBerry, and public
18 interest is not disserved by an injunction.

19 119. BlackBerry is entitled to recover from Defendant all damages that
20 BlackBerry has sustained as a result of Defendant's infringement of the '327 Patent,
21 including without limitation lost profits and not less than a reasonable royalty.

22 **COUNT III: INFRINGEMENT OF U.S. PATENT NO. 8,301,713**

23 120. BlackBerry incorporates by reference and re-alleges all of the foregoing
24 paragraphs of this Complaint as if fully set forth herein.

25 **'713 Patent Allegations**

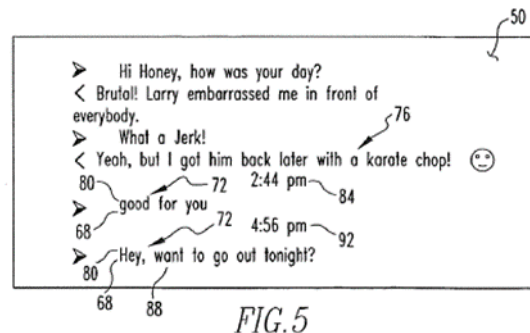
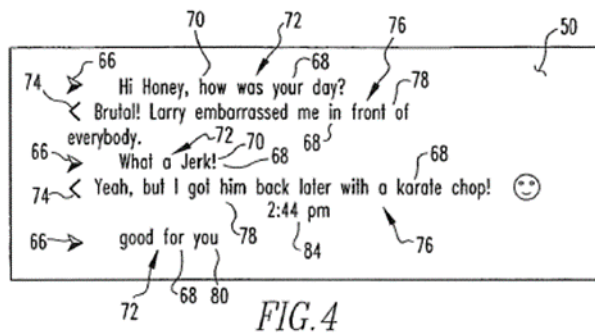
26 121. The '713 Patent discloses, among other things, "[a]n improved
27 handheld electronic device and an associated method . . . in which time data
28 regarding certain aspects of a messaging conversation on a handheld electronic

1 device are made available to a user,” including “in situations where an interruption
2 has occurred during a messaging conversation.” ’713 Patent, Abstract.

3 122. The ’713 Patent explains that in instant messaging conversations,
4 where a conversation proceeds quickly, *i.e.*, substantially without interruption, there
5 is no need to provide a time stamp for each individual message. *Id.* at 1:54-58. The
6 patent states that, therefore, “[i]n the environment of a handheld electronic device, it
7 would be desirable to avoid unnecessary time stamps and other unnecessary output
8 since it occupies too much valuable space on the limited display of the handheld
9 electronic device. In some messaging circumstances, however, it may be desirable
10 for information regarding certain timing aspects of conversation to be available to a
11 user.” *Id.* at 1:59-65.

12 123. Fig. 4 of the ’713 Patent shows an exemplary instant messaging
13 conversation according to the patent that includes “a plurality of incoming messages
14 72 and a plurality of outgoing messages 76 that are transmitted between the devices
15 4 and 104 at a conversational speed, *i.e.*, at a speed in which back-to-back
16 communications between the devices 4 and 104 occur without a meaningful delay
17 there between. Due to the conversational speed of the back-to-back
18 communications, the messages 68 do not include an indication of the times at which
19 such messages 68 were transmitted, it being assumed as a general matter that in such
20 circumstances the specific time at which a given message within such a conversation
21 occurred may not be of significance to a user.” *Id.* at 5:11-22. In the disclosed
22 embodiment, a determination is made that a predetermined duration of time has
23 transpired without a response to the most recent message in the conversation thread.
24 *Id.* at 5:22-38. As shown in Fig. 5, in the exemplary embodiment, “another message
25 68 may subsequently be communicated between the devices 4 and 104. Since the
26 message 68 corresponds with a resumption of communication between the devices 4
27 and 104 after a period of interruption, the message 68 is determined to be a
28 resumption message 88, and . . . time stamp 92 is output adjacent the resumption

1 message 88.” *Id.* at 5:62-6:2.



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8 124. The '713 Patent thus describes, *inter alia*, “[a] method of operating an
9 electronic device, the method comprising: outputting an electronic conversation
10 comprising a plurality of indications, each indication being representative of at least
11 a portion of a corresponding messaging communication between the electronic
12 device and a second electronic device; identifying a first messaging communication
13 between the electronic device and the second electronic device occurring at a first
14 time, the first messaging communication having a corresponding first indication
15 representative of at least a portion of the first messaging communication and which
16 is one of the plurality of indications; determining that a predetermined duration of
17 time has elapsed since the first time without additional communication between the
18 electronic device and the second electronic device during that duration of time;
19 detecting an input to the electronic device following said identifying and
20 determining steps, said input occurring at a second time; and responsive to said
21 detecting an input, outputting in the electronic conversation, a time stamp
22 representative of the second time.” *Id.* at claim 1.

23
24 **The Inventions Claimed in the '713 Patent Were Not Well-Understood, Routine, or Conventional**

25 125. An electronic device displaying a time stamp associated with an input
26 based on a determination that a predetermined duration of time has elapsed since a
27 first messaging communication without additional communication between the
28 device and another electronic device was not common or conventional at the time of

1 the '713 Patent.

2 126. The inventors of '713 Patent recognized that, in certain instant
3 messaging conversations where the conversation proceeds quickly, it is not
4 necessary and can be a nuisance to include a time stamp with each message and that
5 "it would be desirable to avoid unnecessary time stamps and other unnecessary
6 output since it occupies too much valuable space on the limited display of the
7 handheld electronic device." '713 Patent at 1:59-62. The inventors also recognized
8 that in some circumstances it may be desirable for information regarding timing
9 aspects to be available to the user, but that "the limited space available on a display
10 of a handheld electronic device has made a solution difficult." *Id.* at 1:63-67.

11 127. The inventors recognized the benefit of solving this problem by
12 providing a method of outputting a time stamp associated with a messaging
13 conversation on an electronic device responsive to a determination that a
14 predetermined period of time has elapsed without response after a first
15 communication. The '713 Patent explains: "[t]he general nature of the method can
16 be stated as including determining that a first messaging communication has
17 occurred at a first time between the first device and the second device, outputting a
18 first indication that is representative of at least a portion of the first communication,
19 determining that a predetermined period of time has elapsed since the first time
20 substantially without further communication between the first device and the second
21 device and, responsive to determining that a predetermined period of time has
22 elapsed, outputting a first time stamp representative of the first time." *Id.* at 2:35-
23 45. In this manner, the '713 Patent is able to strike a desirable balance between
24 displaying sufficient timestamps to provide context for messages in a conversation
25 without taking up too much of a mobile device's display screen. At the time of the
26 '713 Patent, timestamps were typically displayed for every message in a
27 conversation or not at all.

28 128. Given the state of the art at the time of the invention of the '713 Patent,

1 the inventive concepts of the '713 Patent were not conventional, well-understood, or
2 routine. The '713 Patent discloses, among other things, an unconventional
3 technological solution to an issue arising specifically in the context of electronic
4 communications between electronic devices. The solution implemented by the '713
5 Patent provides a specific and substantial improvement over prior electronic
6 messaging systems in electronic devices, including by introducing novel elements
7 directed to improving the function and working of electronic devices such as, *inter*
8 *alia*, the claimed “[determining / determine] that a predetermined duration of time
9 has elapsed since the first time without additional communication between the
10 electronic device and the second electronic device during that duration of time;
11 [detecting / detect] an input to the electronic device following said identifying and
12 determining steps, said input occurring at a second time; and responsive to said
13 detecting an input, [outputting / output] in the electronic conversation, a time stamp
14 representative of the second time” (claims 1, 5, and 9).

15 129. Consistent with the problem addressed being rooted in user interfaces
16 for electronic messaging between wireless communications devices, the '713
17 Patent's solutions are also rooted in the same technology that cannot be performed
18 with pen and paper or in the human mind.

19 130. This technical context is reflected in the '713 Patent's claims. For
20 example, various claims of the '713 Patent require an electronic device, an
21 electronic conversation, a messaging communication between the electronic device
22 and a second electronic device, and a display.

23 131. A person having ordinary skill in the art at the time of the inventions of
24 the '713 Patent would not have understood that the inventions could or would be
25 performed solely in the human mind or using pen and paper. Using pen and paper
26 would ignore the stated purpose of the '713 Patent and the problem it was
27 specifically designed to address. Doing so would also run counter to the inventors'
28 detailed description of the inventions and the language of the claims and be a

1 practical impossibility.

2 **'713 Patent Allegations**

3 132. Defendant has infringed and is infringing, either literally or under the
4 doctrine of equivalents, the '713 Patent in violation of 35 U.S.C. § 271 *et seq.*,
5 directly and/or indirectly, by making, using, selling, offering for sale, and/or
6 importing into the United States without authority or license, the Snapchat
7 application and associated backend servers and systems (hereinafter "the '713
8 Accused Products") that infringe at least claims 1, 5, and 9 of the '713 Patent. The
9 '713 Accused Products are non-limiting examples that were identified based on
10 publicly available information, and BlackBerry reserves the right to identify
11 additional infringing activities, products, and services, including, for example, on
12 the basis of information obtained during discovery.

13 133. On information and belief after reasonable investigation, the '713
14 Accused Products contain message time stamping functionality designed and used to
15 provide timing information for messages between electronic devices in a manner
16 that infringes the '713 Patent.

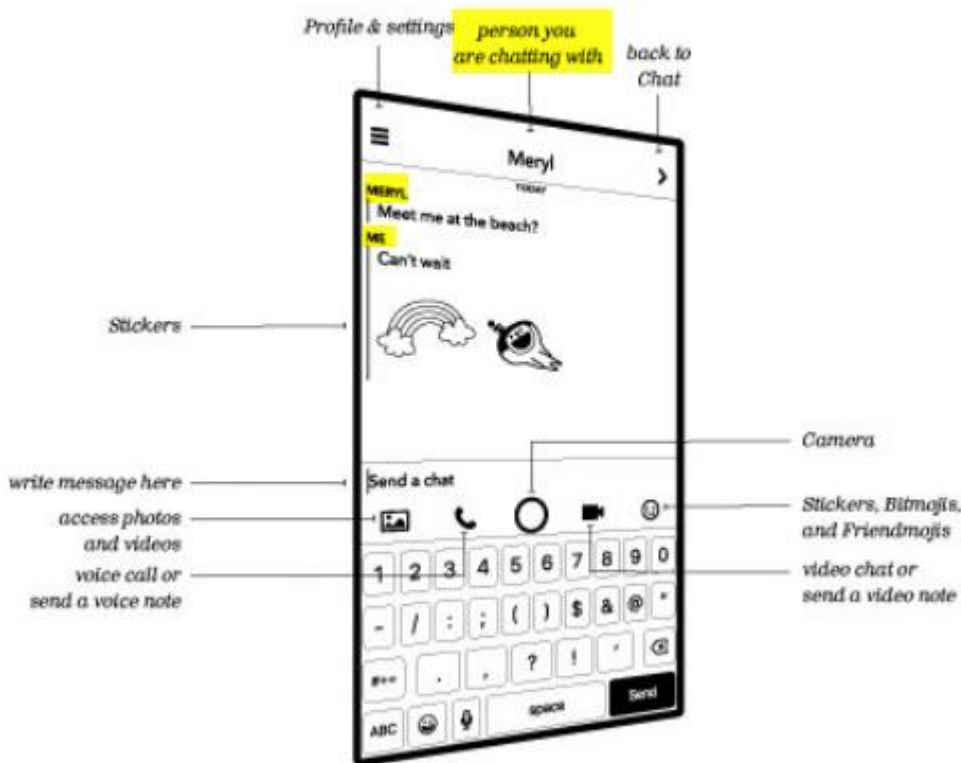
17 134. As just one non-limiting example, set forth below (with claim language
18 in italics) is a description of infringement of exemplary claim 1 of the '713 Patent in
19 connection with the Snapchat application and associated backend servers and
20 systems. This description is based on publicly available information. BlackBerry
21 reserves the right to modify this description, including, for example, on the basis of
22 information about the '713 Patent Accused Products that it obtains during discovery.

23 135. *1(a) A method of operating an electronic device, the method*
24 *comprising:* Defendants make and use the Snapchat application and associated
25 backend servers and systems. Regardless of whether the preamble of claim 1 adds
26 any substantive limitation to the claim, the claim language is met by the '713
27 Accused Products, as the '713 Accused Products facilitate performing a method of
28

1 operating an electronic device as further described below for the remaining claim
 2 limitations.

3 *1(b) outputting an electronic conversation comprising a plurality of*
 4 *indications, each indication being representative of at least a portion of a*
 5 *corresponding messaging communication between the electronic device and a*
 6 *second electronic device;*

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 9 *Figure 8. Chat Conversation*

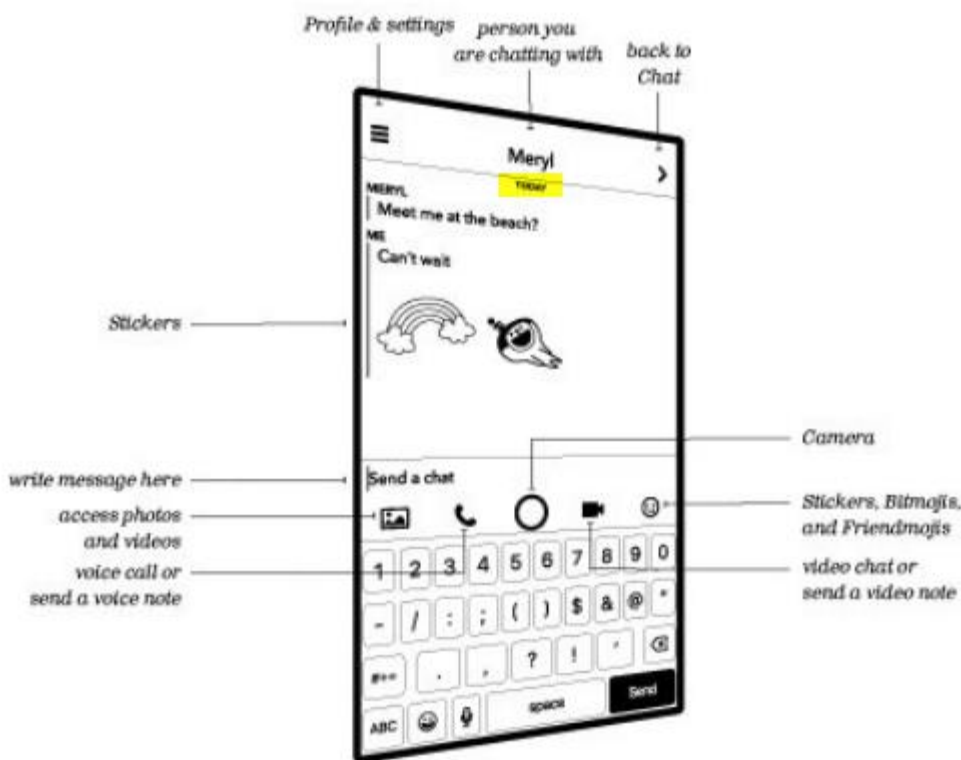


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 22 <http://online.wsj.com/public/resources/documents/SnapS1-02022017.pdf>

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 24 *1(c) identifying a first messaging communication between the electronic*
 25 *device and the second electronic device occurring at a first time, the first messaging*
 26 *communication having a corresponding first indication representative of at least a*
 27 *portion of the first messaging communication and which is one of the plurality of*
 28 *indications;*

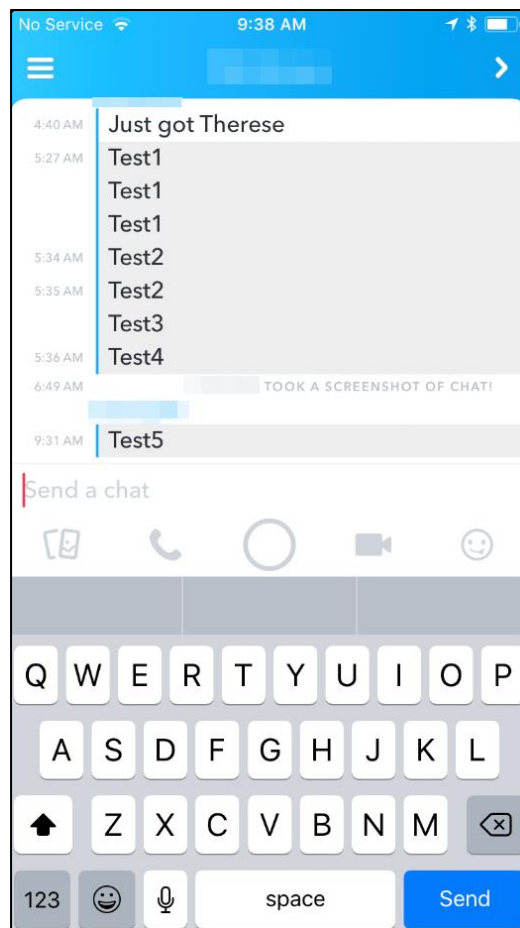
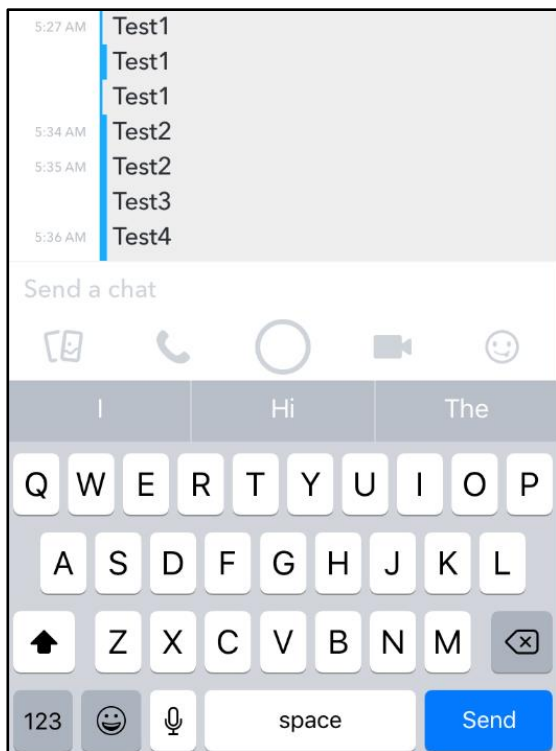
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Figure 8. Chat Conversation



<http://online.wsj.com/public/resources/documents/SnapS1-02022017.pdf>

1(d) determining that a predetermined duration of time has elapsed since the first time without additional communication between the electronic device and the second electronic device during that duration of time; 1(e) detecting an input to the electronic device following said identifying and determining steps, said input occurring at a second time; and 1(f) responsive to said detecting an input, outputting in the electronic conversation, a time stamp representative of the second time.



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136. The Accused Products thus infringe the '713 Patent.

137. Additionally, Defendant has been, and currently is, an active inducer of infringement of the '713 Patent under 35 U.S.C. § 271(b) and a contributory infringer of the '713 Patent under 35 U.S.C. § 271(c).

138. Defendant knew of the '713 Patent, or should have known of the '713 Patent but was willfully blind to its existence. Upon information and belief, Defendant has had actual knowledge of the '713 Patent since at least as early as the filing and/or service of this Complaint. Additionally, Defendant was made aware of the '713 Patent and Defendant's infringement through a notice letter sent from BlackBerry to Snap on January 27, 2017, addressed to Defendant's General Counsel, Chris Handman. *See* Ex. G. In that letter, BlackBerry provided Defendant with clear notice that Defendant's Snapchat app infringed one or more claims of the

1 '713 Patent. BlackBerry informed Defendant that the letter was a "Notice of
2 Infringement" and invited Defendant "to engage in discussions" before litigation
3 was necessary. Upon receiving such a letter, Defendant reasonably should have
4 investigated whether it was in fact infringing this Patent. Had Defendant so much as
5 read the first claim of the '713 Patent it would have immediately recognized that the
6 Accused Products infringed at least claim 1 of the '713 Patent. Defendant was thus
7 provided with unambiguous and actual notice of the '713 Patent and its infringement
8 thereof. Defendant nevertheless continues to make, use, offer to sell, and to sell the
9 Accused Products despite this notice and despite knowledge of its infringement.

10 139. Defendant has provided the '713 Accused Products to its customers
11 and, on information and belief, instructions to use the '713 Accused Products in an
12 infringing manner while being on notice of or willfully blind to the '713 Patent and
13 the Defendant's infringement. Therefore, on information and belief, Defendant
14 knew or should have known of the '713 Patent and of its own infringing acts, or
15 deliberately took steps to avoid learning of those facts.

16 140. Defendant knowingly and intentionally encourages and aids at least its
17 end-user customers to directly infringe the '713 Patent.

18 141. Upon information and belief, Defendant provides the '713 Accused
19 Products to customers through various third-party application stores (e.g., the Apple
20 Application Store) and instructions to end-user customers so that such customers
21 will use the '713 Accused Products in an infringing manner. For example,
22 Defendant provides instructions to end-user customers on how to set up, configure,
23 and use various features of the '713 Accused Products, including how to send
24 messages.⁶

25 142. Defendant's end-user customers directly infringe at least claims 1, 5,
26 and 9 of the '713 Patent by using the '713 Accused Products in their intended

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28 ⁶ <https://support.snapchat.com/en-US/a/chat>.

1 manner. Defendant induces such infringement by providing the '713 Accused
2 Products and instructions to enable and facilitate infringement, knowing of, or being
3 willfully blind to the existence of, the '713 Patent. Upon information and belief,
4 Defendant specifically intends that its actions will result in infringement of at least
5 claims 1, 5, and 9 of the '713 Patent, or subjectively believes that its actions will
6 result in infringement of the '713 Patent but took deliberate actions to avoid learning
7 of those facts.

8 143. Additionally, Defendant contributorily infringes at least claims 1, 5,
9 and 9 of the '713 Patent by providing the '713 Accused Products and/or software
10 components thereof, that embody a material part of the claimed inventions of the
11 '713 Patent, that are known by Defendant to be specially made or adapted for use in
12 an infringing manner, and are not staple articles with substantial non-infringing
13 uses. The '713 Accused Products are specially designed to infringe at least claims
14 1, 5, and 9 of the '713 Patent, and their accused components have no substantial
15 non-infringing uses. In particular, on information and belief, the software modules
16 and code that implement and perform the infringing functionalities identified above
17 are specially made and adapted to carry out said functionality and do not have any
18 substantial non-infringing uses.

19 144. Additional allegations regarding Defendant's knowledge of the '713
20 Patent and willful infringement will likely have further evidentiary support after a
21 reasonable opportunity for discovery.

22 145. Defendant's infringement of the '713 Patent was and continues to be
23 willful and deliberate, entitling BlackBerry to enhanced damages and attorneys'
24 fees.

25 146. Defendant's infringement of the '713 Patent is exceptional and entitles
26 BlackBerry to attorneys' fees and costs incurred in prosecuting this action under 35
27 U.S.C. § 285.
28

1 147. BlackBerry has been damaged by Defendant's infringement of the '713
2 Patent and will continue to be damaged unless Defendant is enjoined by this Court.
3 BlackBerry has suffered and continues to suffer irreparable injury for which there is
4 no adequate remedy at law. The balance of hardships favors BlackBerry, and public
5 interest is not disserved by an injunction.

6 148. BlackBerry is entitled to recover from Defendant all damages that
7 BlackBerry has sustained as a result of Defendant's infringement of the '713 Patent,
8 including without limitation lost profits and not less than a reasonable royalty.

9 **COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 8,209,634**

10 149. BlackBerry incorporates by reference and re-alleges all of the foregoing
11 paragraphs of this Complaint as if fully set forth herein.

12 **The '634 Patent**

13 150. The '634 Patent discloses, among other things, a "[m]ethod and
14 apparatus for previewing new events in a computing device having a plurality of
15 applications for managing respective events" whereby "[i]n response to a new event
16 of a one of the applications, the application's icon is visually modified to notify of
17 the new event." '634 Patent at Abstract.

18 151. The '634 Patent explains that "[r]epresenting multiple services and
19 functions to a user on a single wireless mobile device presents a number of
20 challenges to the designer of a user interface, particularly a graphical user interface
21 (GUI), for controlling the device. Wireless devices are usually small relative to less
22 portable computing devices such as laptops and desktop computers. Inherently then,
23 a visual display such as an LCD or other screen component of the wireless mobile
24 device has a small display area." *Id.* at 1:32-40. The patent further explains a
25 drawback created by the small display area of mobile devices in combination with a
26 user's desire to operate multiple simultaneous applications on a mobile device:
27 "When a user is notified of a new event such as a new IM message, the user is
28 required to check each of their IM service applications separately, via their

1 respective activation icons, to determine which IM service is responsible for the new
 2 event. Checking each service is inconvenient. Moreover, there is a demand to have
 3 information made available to a user quicker than previously available in order to
 4 optimize the control of the wireless device.” *Id.* at 1:60-67. Similarly, a user of a
 5 mobile device would face the same limitations in attempting to access multiple
 6 simultaneous conversations on the mobile device in order to determine whether
 7 there is one or many conversations responsible for the new event.

8 152. Fig. 7 of the '634 Patent shows an exemplary mobile device user
 9 interface according to the patent including “a dialog box 602 for an IM application
 10 306 having two unread messages indicated at visual modification 400.” *Id.* at 8:56-
 11 58. The Patent discloses that a count may represent the number of correspondents
 12 from which one or more messages have been received but remain unread. *Id.* at 8:8-
 13 13.

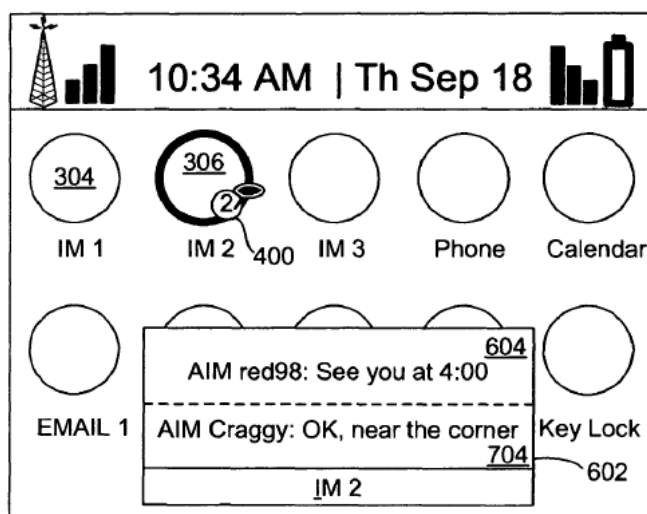


FIG. 7

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 24 153. The '634 Patent thus describes, *inter alia*, “[a] method of providing
 25 notifications of unread messages on a wireless communication device, comprising:
 26 displaying at least one icon relating to electronic messaging on a graphical user
 27 interface of the wireless communication device; receiving a plurality of electronic
 28 messages on the wireless communication device, the plurality of electronic

1 messages including messages from a plurality of different messaging
2 correspondents; and in response to receiving at least one of the plurality of
3 electronic messages, visually modifying at least one displayed icon relating to
4 electronic messaging to include a numeric character representing a count of the
5 plurality of different messaging correspondents for which one or more of the
6 electronic messages have been received and remain unread.” *Id.* at claim 1.

7
8 **The Inventions Claimed in the ’634 Patent Were Not**
9 **Well-Understood, Routine, or Conventional**

10 154. A wireless communication device displaying at least one icon relating
11 to electronic messaging on a graphical user interface, receiving a plurality of
12 electronic messages from a plurality of different messaging correspondents, and
13 visually modifying at least one icon to include a numeric character representing the
14 count of the plurality of correspondents for which one or more messages remain
unread was not common or conventional at the time of the ’634 Patent.

15 155. The inventors of the ’634 Patent recognized the need in wireless mobile
16 devices “to have information made available to a user quicker than previously
17 available in order to optimize the control of the wireless device,” particularly with
18 respect to notifications on mobile devices of new events such as new IM messages.
19 ’634 Patent at 1:65-67. The inventors further identified the benefit of solving this
20 described problem by providing a wireless communication device with a graphical
21 user interface wherein an icon is visually modified in response to a new event and
22 the visual modification may comprise maintaining a count of new events. *Id.* at 2:9-
23 28. Moreover, the ’634 Patent displays a count of the number of conversations in
24 which a new message has been received, so that the user is able to quickly determine
25 whether the level of new messaging activity is coming from multiple conversations
26 or a single, busy conversation.

27 156. Given the state of the art at the time of the invention of the ’634 Patent,
28 the inventive concepts of the ’634 Patent were not conventional, well-understood, or

1 routine. The '634 Patent discloses, among other things, an unconventional and
2 technological solution to an issue arising specifically in the context of wireless
3 communication devices and electronic messaging received within those devices.
4 The solution implemented by the '634 Patent provides a specific and substantial
5 improvement over prior messaging notification systems, resulting in an improved
6 user interface for electronic devices and communications applications on those
7 devices, including by introducing novel elements directed to improving the function
8 and working of communications devices such as, *inter alia*, the claimed “visually
9 modifying at least one displayed icon relating to electronic messaging to include a
10 numeric character representing a count of the plurality of different messaging
11 correspondents for which one or more of the electronic messages have been received
12 and remain unread” (claims 1, 7, and 13).

13 157. Consistent with the problem addressed being rooted in electronic
14 messaging between wireless communications devices, the '634 Patent's solutions
15 are also rooted in the same technology that cannot be performed with pen and paper
16 or in the human mind.

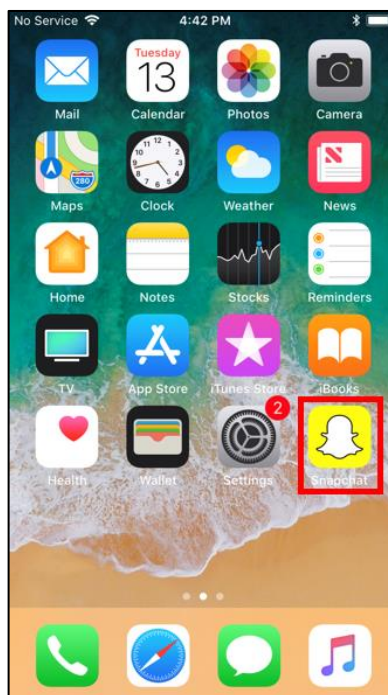
17 158. This technical context is reflected in the '634 Patent's claims. For
18 example, various claims of the '634 Patent require an electronic messaging
19 application, plurality of electronic messages, and a wireless communication device.

20 159. A person having ordinary skill in the art at the time of the inventions of
21 the '634 Patent would not have understood that the inventions could or would be
22 performed solely in the human mind or using pen and paper. Using pen and paper
23 would ignore the stated purpose of the '634 Patent and the problem it was
24 specifically designed to address, which arose in the context of needing an improved
25 user interface for small screen computing devices. Doing so would also run counter
26 to the inventors' detailed description of the inventions and the language of the
27 claims and be a practical impossibility.

28

1 method of providing notifications of unread messages on a wireless communications
2 device as further described below for the remaining claim limitations.

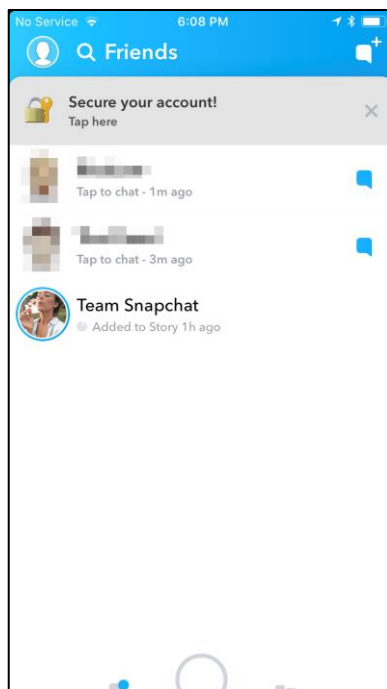
3 *1(b) displaying at least one icon relating to electronic messaging on a*
4 *graphical user interface of the wireless communication device;*



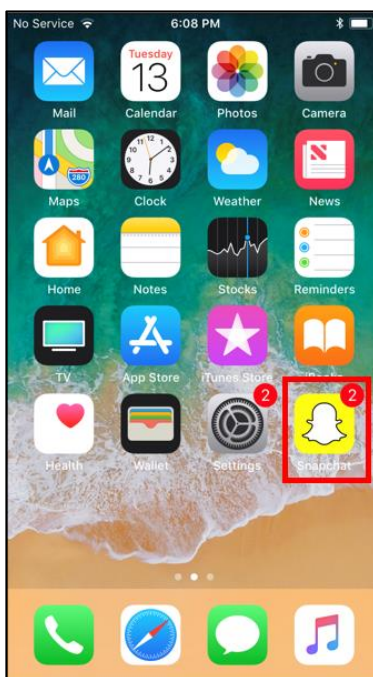
18 *1(c) receiving a plurality of electronic messages on the wireless*
19 *communication device, the plurality of electronic messages including messages from*
20 *a plurality of different messaging correspondents; and*

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1(d) in response to receiving at least one of the plurality of electronic messages, visually modifying at least one displayed icon relating to electronic messaging to include a numeric character representing a count of the plurality of different messaging correspondents for which one or more of the electronic messages have been received and remain unread.



165. The Accused Products thus infringe the '634 Patent.

1 166. Additionally, Defendant has been, and currently is, an active inducer of
2 infringement of the '634 Patent under 35 U.S.C. § 271(b) and a contributory
3 infringer of the '634 Patent under 35 U.S.C. § 271(c).

4 167. Defendant knew of the '634 Patent, or should have known of the '634
5 Patent but was willfully blind to its existence. Upon information and belief,
6 Defendant has had actual knowledge of the '634 Patent since at least as early as the
7 filing and/or service of this Complaint. Additionally, Defendant was made aware of
8 the '634 Patent and Defendant's infringement through a notice letter sent from
9 BlackBerry to Snap on January 27, 2017, addressed to Defendant's General
10 Counsel, Chris Handman. *See Ex. G.* In that letter, BlackBerry provided Defendant
11 with clear notice that Defendant's Snapchat app infringed one or more claims of the
12 '634 Patent. BlackBerry informed Defendant that the letter was a "Notice of
13 Infringement" and invited Defendant "to engage in discussions" before litigation
14 was necessary. Upon receiving such a letter, Defendant reasonably should have
15 investigated whether it was in fact infringing this Patent. Had Defendant so much as
16 read the first claim of the '634 Patent it would have immediately recognized that the
17 Accused Products infringed at least claim 1 of the '634 Patent. Defendant was thus
18 provided with unambiguous and actual notice of the '634 Patent and its infringement
19 thereof. Defendant nevertheless continues to make, use, offer to sell, and to sell the
20 Accused Products despite this notice and despite knowledge of its infringement.

21 168. Defendant has provided the '634 Accused Products to its customers
22 and, on information and belief, instructions to use the '634 Accused Products in an
23 infringing manner while being on notice of or willfully blind to the '634 Patent and
24 the Defendant's infringement. Therefore, on information and belief, Defendant
25 knew or should have known of the '634 Patent and of its own infringing acts, or
26 deliberately took steps to avoid learning of those facts.

27 169. Defendant knowingly and intentionally encourages and aids at least its
28 end-user customers to directly infringe the '634 Patent.

1 170. Upon information and belief, Defendant provides the '634 Accused
2 Products to customers through various third-party application stores (e.g., the Apple
3 Application Store) and instructions to end-user customers so that such customers
4 will use the '634 Accused Products in an infringing manner. For example,
5 Defendant provides instructions to end-user customers on how to set up, configure,
6 and use various features of the '634 Accused Products, including how to send and
7 receive messages via the '634 Accused Products.⁷

8 171. Defendant's end-user customers directly infringe at least claims 1, 7,
9 and 13 of the '634 Patent by using the '634 Accused Products in their intended
10 manner. Defendant induces such infringement by providing the '634 Accused
11 Products and instructions to enable and facilitate infringement, knowing of, or being
12 willfully blind to the existence of, the '634 Patent. Upon information and belief,
13 Defendant specifically intends that its actions will result in infringement of at least
14 claims 1, 7, and 13 of the '634 Patent, or subjectively believes that its actions will
15 result in infringement of the '634 Patent but took deliberate actions to avoid learning
16 of those facts.

17 172. Additionally, Defendant contributorily infringes at least claims 1, 7,
18 and 13 of the '634 Patent by providing the '634 Accused Products and/or software
19 components thereof, that embody a material part of the claimed inventions of the
20 '634 Patent, that are known by Defendant to be specially made or adapted for use in
21 an infringing manner, and are not staple articles with substantial non-infringing
22 uses. The '634 Accused Products are specially designed to infringe at least claims
23 1, 7, and 13 of the '634 Patent, and their accused components have no substantial
24 non-infringing uses. In particular, on information and belief, the software modules
25 and code that implement and perform the infringing functionalities identified above
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27 _____
28 ⁷ <https://support.snapchat.com/en-US/article/chat>.

1 are specially made and adapted to carry out said functionality and do not have any
2 substantial non-infringing uses.

3 173. Additional allegations regarding Defendant's knowledge of the '634
4 Patent and willful infringement will likely have further evidentiary support after a
5 reasonable opportunity for discovery.

6 174. Defendant's infringement of the '634 Patent was and continues to be
7 willful and deliberate, entitling BlackBerry to enhanced damages and attorneys'
8 fees.

9 175. Defendant's infringement of the '634 Patent is exceptional and entitles
10 BlackBerry to attorneys' fees and costs incurred in prosecuting this action under 35
11 U.S.C. § 285.

12 176. BlackBerry has been damaged by Defendant's infringement of the '634
13 Patent and will continue to be damaged unless Defendant is enjoined by this Court.
14 BlackBerry has suffered and continues to suffer irreparable injury for which there is
15 no adequate remedy at law. The balance of hardships favors BlackBerry, and public
16 interest is not disserved by an injunction.

17 177. BlackBerry is entitled to recover from Defendant all damages that
18 BlackBerry has sustained as a result of Defendant's infringement of the '634 Patent,
19 including without limitation lost profits and not less than a reasonable royalty.

20 **COUNT V: INFRINGEMENT OF U.S. PATENT NO. 8,296,351**

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22 178. BlackBerry incorporates by reference and re-alleges all of the foregoing
23 paragraphs of this Complaint as if fully set forth herein.

24 **The '351 Patent**

25 179. The '351 Patent discloses, among other things, a "system for pushing
26 information to a mobile device" involving a "proxy content server," which "is
27 coupled to [an] information source and [a] wireless network." '351 Patent at
28 Abstract. The proxy content server "stores information received from the

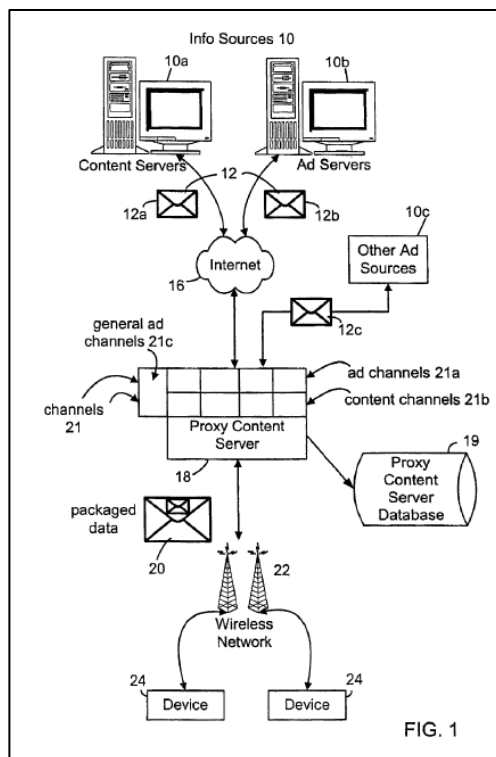
1 information source to one of a plurality of channels based on predefined information
2 categories, and automatically transmits information from a selected channel over the
3 wireless network to the mobile device.” *Id.*

4 180. The ’351 Patent teaches a proxy content server that provides targeted
5 advertising information (*see, e.g., id.* at 4:28-46) and “aggregates existing
6 information, such as Internet or Intranet content, from one or more Information
7 sources, and pushes the information to a mobile device.” *Id.* at 2:59-62. This
8 configuration “provides a method of combining the information so that the mobile
9 device user has a consistent and transparent experience of receiving both
10 information content and advertising content.” *Id.* at 2:63-66. The ’351 Patent
11 inventors recognized that providing targeted advertisements and content was
12 important “to achieve a revenue source for the provider of the information so the
13 mobile device user gets a reduce[d] or free information service.” *Id.* at 3:16-19.

14 181. Fig. 1 of the ’351 Patent shows an exemplary network architecture
15 according to an embodiment of the Patent for such a push notification system to
16 improve the delivery of advertising content to mobile users. Figure 1 illustrates “a
17 plurality of Information Sources 10, a Proxy Content Server 18, a Proxy Content
18 Server Database 19, and a plurality of mobile devices 24.” *Id.* at 2:21-23.

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182. The '351 Patent thus claims, *inter alia*, “[a] system for pushing information to a mobile device, comprising: a proxy content server that receives information over a computer network from an information source and stores the information to one of a plurality of channels based on pre-defined information categories, wherein the plurality of channels comprise memory locations included in at least one of the proxy content server or a proxy content server database; the proxy content server to receive a feedback signal over a wireless network that indicates a position of the mobile device, and to use the feedback signal to select a channel for transmission of the information from the selected channel over the wireless network to the mobile device, wherein the information comprises at least one of static advertising information, dynamic advertising information, default advertising information, or content information, and wherein a combination of the static advertising information with one of the dynamic or default advertising information comprises an advertisement or an information bulletin.” *Id.* at Claim 1.

1 **The Inventions Claimed in the '351 Patent Were Not**
2 **Well-Understood, Routine, or Conventional**

3 183. The use of a proxy content server to receive information over a
4 computer network from an information source and store the information to one of a
5 plurality of channels based on pre-defined information categories, wherein the
6 plurality of channels comprise memory locations included in at least one of the
7 proxy content server or a proxy content server database, and to receive a feedback
8 signal over a wireless network that indicates the position of the mobile device and to
9 use the feedback signal to select a channel for transmission of the information from
10 the selected channel over the wireless network to the mobile device, wherein the
11 information comprises at least one of static advertising information, dynamic
12 advertising information, default advertising information, or content information, and
13 wherein a combination of the static advertising information with one of the dynamic
14 or default advertising information comprises an advertisement or an information
15 bulletin was not common or conventional at the time of the '351 Patent.

16 184. The inventors of the '351 Patent recognized the need to transmit
17 targeted advertising, facilitated by a proxy content server, in order to deliver
18 relevant and timely advertising information to mobile users. As taught by the '351
19 Patent, the "Proxy Content Server [] provides a method of combining the
20 information so that the mobile device user has a consistent and transparent
21 experience of receiving both information content and advertising content." *Id.* at
22 2:63-66.

23 185. Given the state of the art at the time of the invention of the '351 Patent,
24 the inventive concepts of the '351 Patent were not conventional, well-understood, or
25 routine. The '351 Patent discloses, among other things, an unconventional and
26 technological solution to an issue arising specifically in the context of wireless
27 communication devices, and the delivery of advertising content to such devices.
28 The solution implemented by the '351 Patent provides a specific and substantial

1 improvement over prior wireless communication systems used for this purpose,
2 resulting in an improved system for the delivery of relevant and timely advertising
3 information to mobile device users. The '351 Patent achieves this result by
4 introducing novel elements directed to improving the function and working of
5 wireless communication systems such as, *inter alia*, the claimed "proxy content
6 server" (all claims), positioned in a wireless network and configured according to
7 the claims, the capability of the proxy content server to "receive a feedback signal
8 over a wireless network that indicates a position of the mobile device, and to use the
9 feedback signal to select a channel for transmission of the information from the
10 selected channel over the wireless network to the mobile device," (claims 1-13) and
11 the capability to combine "static advertising information with one of [] dynamic or
12 default advertising information" to result in "an advertisement or an information
13 bulletin" (all claims).

14 186. Consistent with the problem addressed being rooted in wireless
15 communication to mobile devices, the '351 Patent's solutions are also rooted in the
16 same technology that cannot be performed with pen and paper or in the human
17 mind.

18 187. This technical context is reflected in the '351 Patent's claims. For
19 example, the claims recite a "proxy content server that receives information over
20 computer network from an information source" and which transmits information
21 over a "wireless network" to "mobile devices."

22 188. A person having ordinary skill in the art at the time of the inventions of
23 the '351 Patent would not have understood that the inventions could or would be
24 performed solely in the human mind or using pen and paper. Using pen and paper
25 would ignore the stated purpose of the '351 patent and the problem it was
26 specifically designed to address, which arose in the context of needing an improved
27 system for delivering content, including advertising content, from an information
28 source to mobile users over a wireless network. Doing so would also run counter to

1 the inventors' detailed description of the inventions and the language of the claims
2 and be a practical impossibility.

3 **'351 Patent Allegations**

4 189. Defendant has infringed and is infringing, either literally or under the
5 doctrine of equivalents, the '351 Patent in violation of 35 U.S.C. § 271 *et seq.*,
6 directly and/or indirectly, by making, using, selling, offering for sale, and/or
7 importing into the United States without authority or license, the Snapchat
8 application and associated backend servers and systems (hereinafter "the '351
9 Accused System") that infringes at least claims 1 and 14 of the '351 Patent. The
10 '351 Accused System is a non-limiting example that was identified based on
11 publicly available information, and BlackBerry reserves the right to identify
12 additional infringing activities, products and services, including, for example, on the
13 basis of information obtained during discovery.

14 190. On information and belief after reasonable investigation, the '351
15 Accused System includes a proxy content server that receives information from an
16 information source, stores the information in one of a plurality of channels, receives
17 a feedback signal over a wireless network that indicates a position of a mobile
18 device, uses the feedback signal to select a channel for transmission of the
19 information over the wireless network to the mobile device, wherein the information
20 comprises at least one of static advertising information, dynamic advertising
21 information, default advertising information, or content information, and wherein a
22 combination of the static advertising information with one of the dynamic or default
23 advertising information comprises an advertisement or an information bulletin.

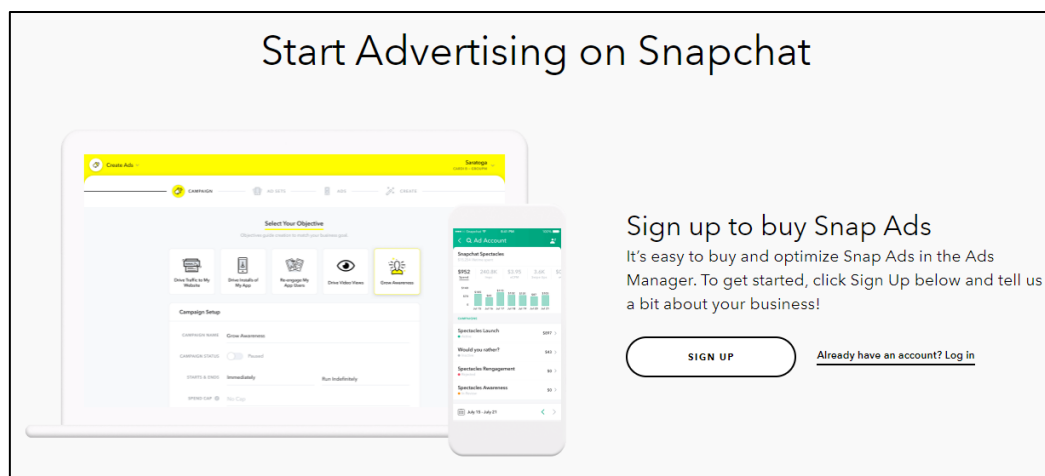
24 191. As just one non-limiting example, set forth below (with claim language
25 in italics) is a description of infringement of exemplary claim 1 of the '351 Patent in
26 connection with the Snapchat application. This description is based on publicly
27 available information. BlackBerry reserves the right to modify this description,
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1 including, for example, on the basis of information about the '351 Accused System
2 that it obtains during discovery.

3 *1(a) A system for pushing information to a mobile device, comprising:*

4 Defendant makes and uses Snapchat software applications and associated
5 backend servers and systems. Regardless of whether the preamble of claim 1 adds
6 any substantive limitation to the claim, the claim language is met by the '351
7 Accused System, as the '351 Accused System includes a system for pushing
8 information to a mobile device as further described below for the remaining claim
9 limitations.

10 *1(b) a proxy content server that receives information over a computer*
11 *network from an information source and stores the information to one of a plurality*
12 *of channels based on pre-defined information categories, wherein the plurality of*
13 *channels comprise memory locations included in at least one of the proxy content*
14 *server or a proxy content server database;*

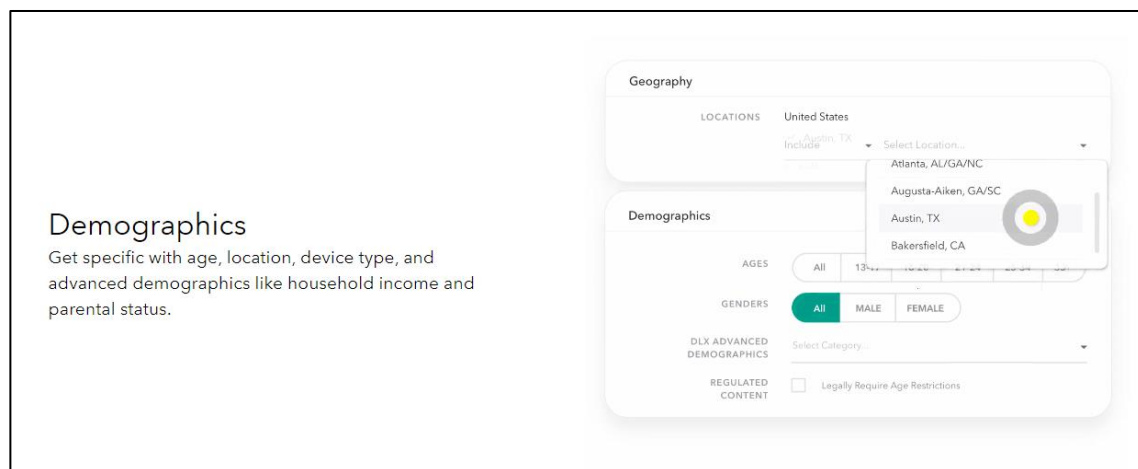


23 (<https://forbusiness.snapchat.com/gettingstarted>)

24 On information and belief, the “proxy content server” receives information
25 over a computer network from advertisers and/or a server used by Snap for
26 advertising intake. Once received, this information is stored to one of a plurality of
27 channels comprising memory locations included in the proxy content server or a
28 database associated with the proxy content server. The storage of the information is

1 based on pre-defined information categories (*i.e.*, categories corresponding to a
2 targeted audience for the advertiser information).

3 *I(c) the proxy content server to receive a feedback signal over a wireless*
4 *network that indicates a position of the mobile device, and to use the feedback*
5 *signal to select a channel for transmission of the information from the selected*
6 *channel over the wireless network to the mobile device,*



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15 (<https://forbusiness.snapchat.com/audiences>)

16 *I(d) wherein the information comprises at least one of static advertising*
17 *information, dynamic advertising information, default advertising information, or*
18 *content information,*

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Upload or create your content

Create your Snap Ad

All fields will autosave and are required to publish a creative

Top Snap

BRAND NAME @ Your Brand Name


HEADLINE @ Your Catchy Headline

CALL TO ACTION @ Select..

MEDIA FILE @ Upload Create Browse

Long Form Video

MEDIA FILE Upload Browse



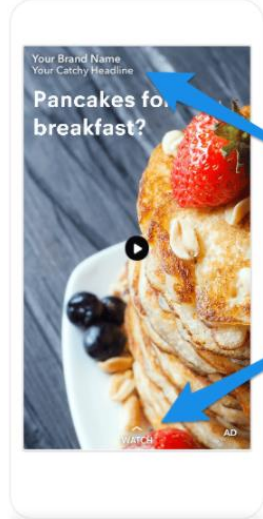
CLOSE DRAFT Submit

There are a few tiny details to complete before uploading or creating your ad creative.

- **Brand name:** Enter your brand name (maximum of 25 characters, including spaces). This will appear in the upper-left corner of your Snap Ad.
- **Headline:** Enter your headline (maximum of 34 characters, including spaces). This will appear right below your brand name.
- **Call to action:** Select your preferred call-to-action from the list. The options available will depend on the ad type you have chosen. This will appear at the

<https://blog.bufferapp.com/snapchat-ad-manager#what-are-snap-ads>

1(e) and wherein a combination of the static advertising information with one of the dynamic or default advertising information comprises an advertisement or an information bulletin.



Brand Name and Headline

Call To Action

“Media File” is the vertical video you want to use for your Snap Ad. If you have created it already or prefer to use a third-party software to create it, simply hit “Upload” to add it to your ad.

1 (<https://blog.bufferapp.com/snapchat-ad-manager#what-are-snap-ads>)

2 192. The '351 Accused System thus infringes at least one claim of the '351
3 Patent.

4 193. Upon information and belief, Defendant knew of the '351 Patent, or
5 should have known of the '351 Patent but was willfully blind to its existence. Upon
6 information and belief, Defendant has had actual knowledge of the '351 Patent, and
7 its infringement thereof, since at least as early as the filing and/or service of this
8 Complaint.

9 194. Additional allegations regarding Defendants' knowledge of the '351
10 Patent and willful infringement will likely have further evidentiary support after a
11 reasonable opportunity for discovery.

12 195. Defendant's infringement of the '351 Patent was and continues to be
13 willful and deliberate, entitling BlackBerry to enhanced damages and attorneys'
14 fees.

15 196. Defendant's infringement of the '351 Patent is exceptional and entitles
16 BlackBerry to attorneys' fees and costs incurred in prosecuting this action under 35
17 U.S.C. § 285.

18 197. BlackBerry has been damaged by Defendant's infringement of the '351
19 Patent and will continue to be damaged unless Defendant is enjoined by this Court.
20 BlackBerry has suffered and continues to suffer irreparable injury for which there is
21 no adequate remedy at law. The balance of hardships favors BlackBerry, and public
22 interest is not disserved by an injunction.

23 198. BlackBerry is entitled to recover from Defendant all damages that
24 BlackBerry has sustained as a result of Defendants' infringement of the '351 Patent,
25 including without limitation lost profits and not less than a reasonable royalty.

26 **COUNT VI: INFRINGEMENT OF U.S. PATENT NO. 8,676,929**

27 199. BlackBerry incorporates by reference and re-alleges all of the foregoing
28 paragraphs of this Complaint as if fully set forth herein.

1 **The '929 Patent**

2 200. The '929 Patent issued from a continuation application stemming
3 originally from the application giving rise to the '351 Patent. As such, the '929
4 Patent contains the same disclosure and specification as the '351 Patent.

5 201. The '929 Patent thus claims, *inter alia*, “[a] server, comprising: a
6 database organized into a plurality of memory location channels, each of the
7 memory location channels storing information of a same category as a pre-defined
8 category of each of the respective memory location channels, wherein upon
9 detection of a triggering event comprising a time triggering event, determining the
10 information relevant to the detected triggering event from among information stored
11 in one of the plurality of memory location channels of the database, when the
12 information relevant to the detected triggering event comprises content information,
13 inserting into the content information a meta tag for one or more advertisements to
14 be displayed with the content information that includes the meta tag to a mobile
15 device, wherein the meta tag identifies the one or more advertisements and
16 advertisement display requirements, and wherein the one or more advertisements are
17 selected based on the detected triggering event.” '929 Patent at claim 1.

18 **The Inventions Claimed in the '929 Patent Were Not**
19 **Well-Understood, Routine, or Conventional**

20 202. The use of a server to detect a time triggering event, determine
21 information relevant to the detected time triggering event, and inserting a meta tag
22 into content information corresponding to the detected time triggering event that
23 identifies one or more advertisements or advertisement display requirements
24 selected based on the detected triggering event was not common or conventional at
25 the time of the '929 Patent.

26 203. The inventors of the '929 Patent recognized that when transmitting
27 content triggered by, for example, a time triggering event, the insertion of a meta tag
28 into content information could further facilitate the delivery of relevant and timely

1 advertising information to mobile users. As taught by the '929 Patent, the disclosed
2 invention “provides a method of combining the information so that the mobile
3 device user has a consistent and transparent experience of receiving both
4 information content and advertising content.” ‘939 Patent at 3:1-4.

5 204. Given the state of the art at the time of the invention of the '929 Patent,
6 the inventive concepts of the '929 Patent were not conventional, well-understood, or
7 routine. The '929 Patent discloses, among other things, an unconventional and
8 technological solution to an issue arising specifically in the context of wireless
9 communication devices, and the delivery of advertising content to such devices.
10 The solution implemented by the '929 Patent provides a specific and substantial
11 improvement over prior communication systems used for this purpose, resulting in
12 an improved system for the delivery of relevant and timely advertising information
13 to mobile device users. The '929 Patent achieves this result by introducing novel
14 elements directed to improving the function and working of mobile communication
15 systems such as, *inter alia*, the claimed “a server” (all claims), positioned in a
16 wireless network and configured according to the claims, the capability of the
17 claimed server to detect a “time triggering event” and determine information
18 relevant to the triggering event (all claims), and the capability of inserting into
19 content information corresponding to the time triggering event a meta tag that
20 identifies one or more advertisements and advertisement display requirements that
21 are selected based on the time triggering event (all claims).

22 205. Consistent with the problem addressed being rooted in wireless
23 communication to mobile devices, the '929 Patent's solutions are also rooted in the
24 same technology that cannot be performed with pen and paper or in the human
25 mind.

26 206. This technical context is reflected in the '929 Patent's claims. For
27 example, the claims recite “a server” that detects a “time triggering event,”
28 determines information relevant to the detected triggering event, and which

1 transmits information over a “wireless network” to a “mobile device” with a “meta
2 tag” that identifies the one or more advertisements and advertisement display
3 requirements.

4 207. A person having ordinary skill in the art at the time of the inventions of
5 the '929 Patent would not have understood that the inventions could or would be
6 performed solely in the human mind or using pen and paper. Using pen and paper
7 would ignore the stated purpose of the '929 Patent and the problem it was
8 specifically designed to address, which arose in the context of needing an improved
9 system for delivering content, including advertising content, from an information
10 source to mobile users over a wireless network. Doing so would also run counter to
11 the inventors' detailed description of the inventions and the language of the claims
12 and be a practical impossibility.

13 **'929 Patent Allegations**

14 208. Defendant has infringed and is infringing, either literally or under the
15 doctrine of equivalents, the '929 Patent in violation of 35 U.S.C. § 271 *et seq.*,
16 directly and/or indirectly, by making, using, selling, offering for sale, and/or
17 importing into the United States without authority or license, the Snapchat
18 application and associated backend servers and systems (hereinafter “the '929
19 Accused System”) that infringes at least claims 1 and 9 of the '929 Patent. The '929
20 Accused System is a non-limiting example that was identified based on publicly
21 available information, and BlackBerry reserves the right to identify additional
22 infringing activities, products and services, including, for example, on the basis of
23 information obtained during discovery.

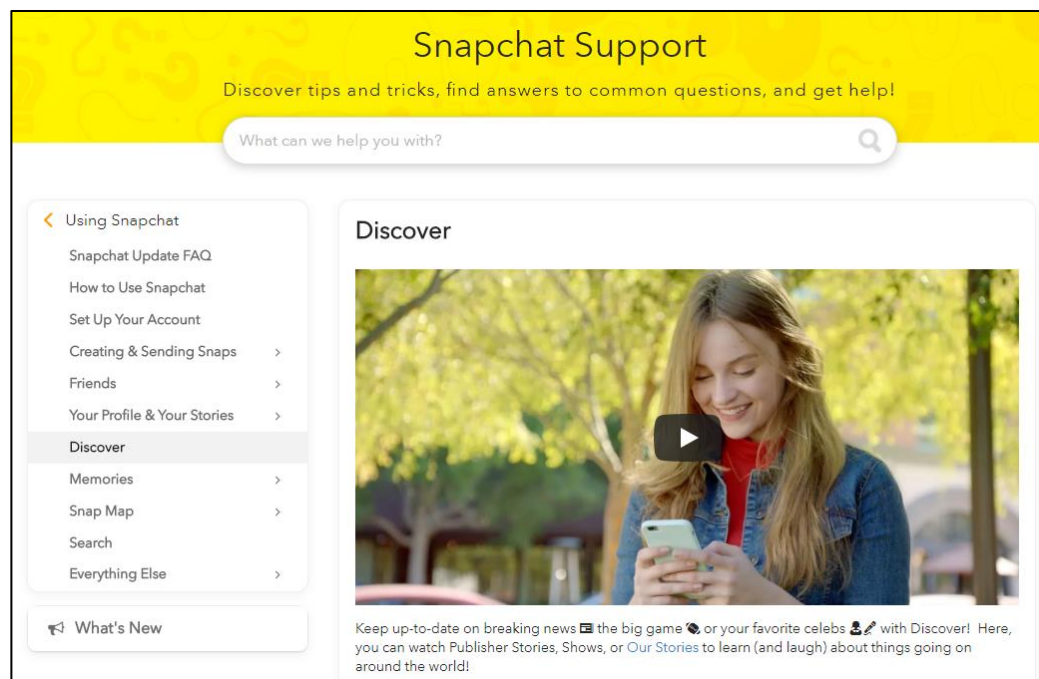
24 209. On information and belief after reasonable investigation, the '929
25 Accused System includes a server capable of detecting a time triggering event and,
26 based on the time triggering event, sending content information a mobile device
27 with a “meta tag” to identify one or more advertisements and advertisement display
28 requirements.

1 210. As just one non-limiting example, set forth below (with claim language
2 in italics) is a description of infringement of exemplary claim 9 of the '929 Patent in
3 connection with the Snapchat application. This description is based on publicly
4 available information. BlackBerry reserves the right to modify this description,
5 including, for example, on the basis of information about the '929 Accused System
6 that it obtains during discovery.

7 *9(a) A server, comprising:*

8 Defendant makes and uses Snapchat software applications and associated
9 backend servers and systems. Regardless of whether the preamble of claim 1 adds
10 any substantive limitation to the claim, the claim language is met by the '929
11 Accused System, as the '929 Accused System include a server comprising the
12 elements further described below for the remaining claim limitations.

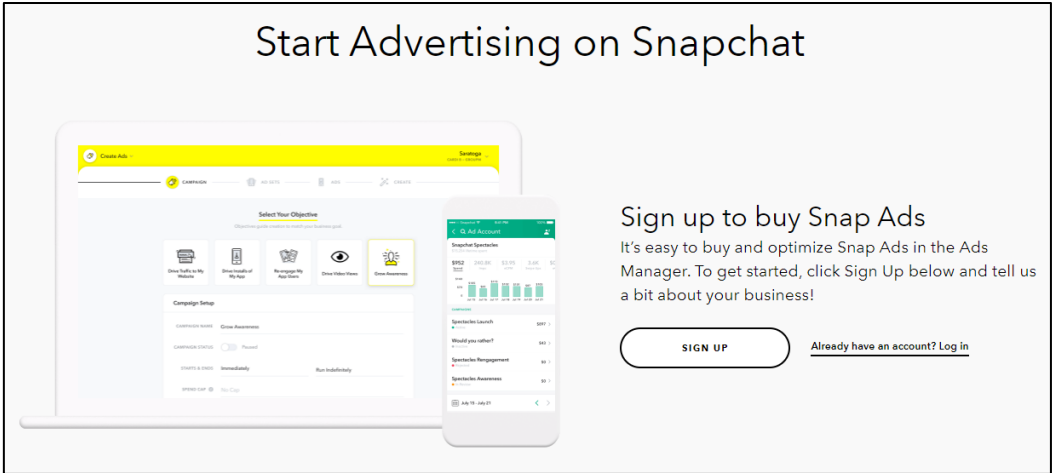
13 *9(b) a database organized into a plurality of memory location channels, each*
14 *of the memory location channels storing information of a same category as a pre-*
15 *defined category of each of the respective memory location channels,*



27 (<https://support.snapchat.com/en-US/article/discover>)

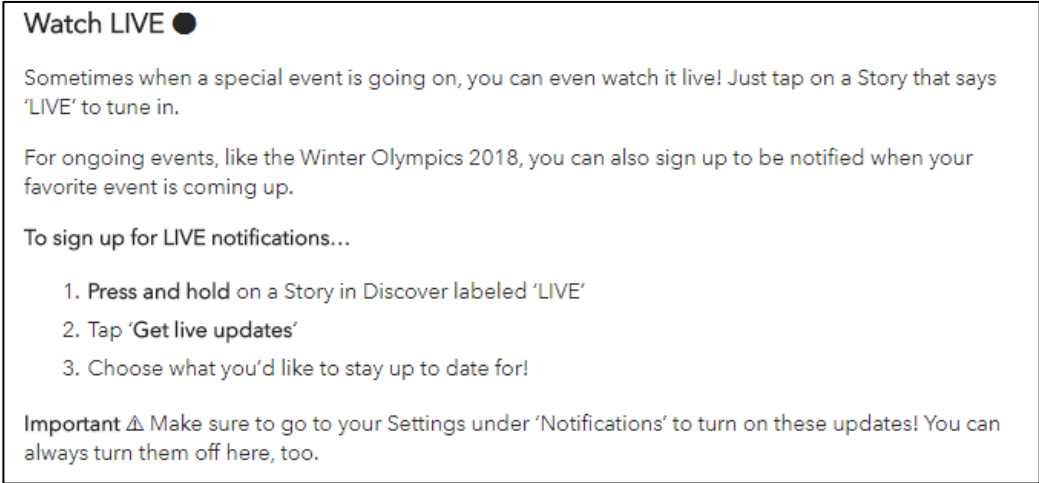
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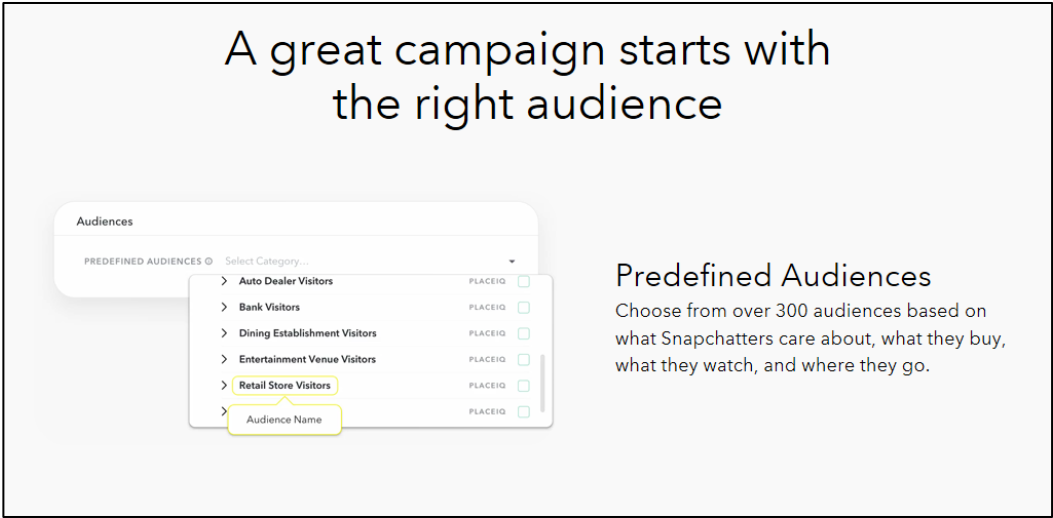
<https://forbusiness.snapchat.com/gettingstarted>

9(c) wherein upon detection of a triggering event comprising a time triggering event, determining the information relevant to the detected triggering event from among information stored in one of the plurality of memory location channels of the database,



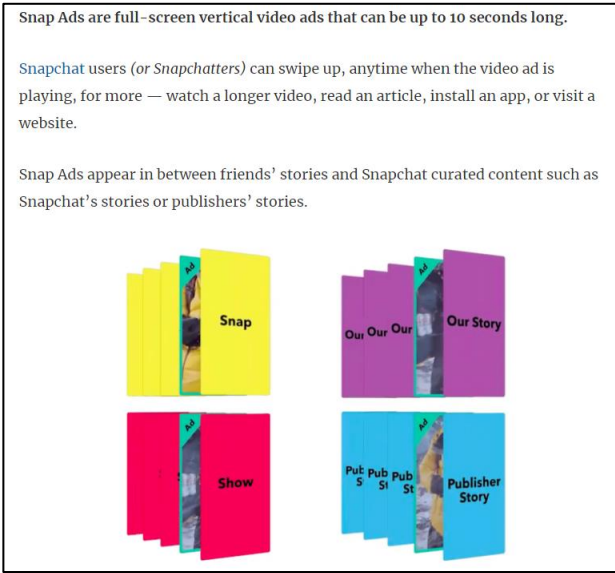
<https://support.snapchat.com/en-US/article/discover>

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(<https://forbusiness.snapchat.com/audiences/>)

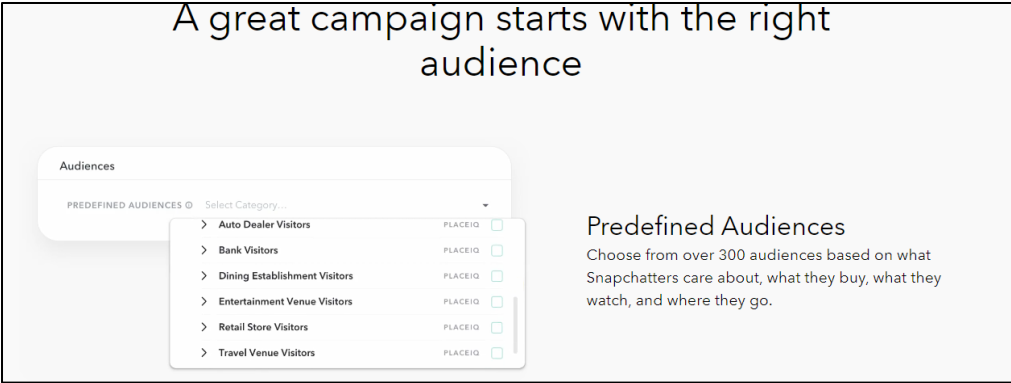
9(d) when the information relevant to the detected triggering event comprises content information, inserting into the content information a meta tag for one or more advertisements to be displayed with the content information, and transmitting the content information that includes the meta tag to a mobile device,



(<https://blog.bufferapp.com/snapchat-ad-manager#what-are-snap-ads>)

9(e) wherein the meta tag identifies the one or more advertisements and advertisement display requirements, and wherein the one or more advertisements are selected based on the detected triggering event.

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<https://forbusiness.snapchat.com/audiences>

211. The '929 Accused System thus infringes at least one claim of the '929 Patent.

212. Upon information and belief, Defendant knew of the '929 Patent, or should have known of the '929 Patent but was willfully blind to its existence. Upon information and belief, Defendant has had actual knowledge of the '929 Patent, and its infringement thereof, since at least as early as the filing and/or service of this Complaint.

213. Additional allegations regarding Defendants' knowledge of the '929 Patent and willful infringement will likely have further evidentiary support after a reasonable opportunity for discovery.

214. Defendant's infringement of the '929 Patent was and continues to be willful and deliberate, entitling BlackBerry to enhanced damages and attorneys' fees.

215. Defendant's infringement of the '929 Patent is exceptional and entitles BlackBerry to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

216. BlackBerry has been damaged by Defendant's infringement of the '929 Patent and will continue to be damaged unless Defendant is enjoined by this Court. BlackBerry has suffered and continues to suffer irreparable injury for which there is no adequate remedy at law. The balance of hardships favors BlackBerry, and public interest is not disserved by an injunction.

1 217. BlackBerry is entitled to recover from Defendant all damages that
2 BlackBerry has sustained as a result of Defendant's infringement of the '929 Patent,
3 including without limitation lost profits and not less than a reasonable royalty.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, BlackBerry respectfully requests:

6 A. That Judgment be entered that Defendant has infringed one or more
7 claims of the Patents-in-Suit, directly and indirectly, literally and/or under the
8 doctrine of equivalents;

9 B. That, in accordance with 35 U.S.C. § 283, Snap, and all of its affiliates,
10 employees, agents, officers, directors, attorneys, successors, and assigns and all
11 those acting on behalf of or in active concert or participation with any of them, be
12 preliminarily and permanently enjoined from (1) infringing the Patents-in-Suit and
13 (2) making, using, selling, and offering for sale the Snapchat application and/or
14 backend servers enabling the accused functionality of such application;

15 C. An order directing Defendant to file with the Court and serve upon
16 BlackBerry's counsel within thirty (30) days after entry of the order of injunction, a
17 report setting forth the manner and form in which Defendant has complied with the
18 injunction, including the provision relating to destruction and recall of infringing
19 products and materials

20 D. An award of damages sufficient to compensate BlackBerry for
21 Defendants' infringement under 35 U.S.C. § 284, including an enhancement of
22 damages on account of Defendants' willful infringement;

23 E. That the case be found exceptional under 35 U.S.C. § 285 and that
24 BlackBerry be awarded its reasonable attorneys' fees;

25 F. Costs and expenses in this action;

26 G. An award of prejudgment and post-judgment interest; and

27 H. Such other and further relief as the Court may deem just and proper.
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DATED: April 3, 2018

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By/s/ James R. Asperger

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DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, BlackBerry respectfully demands a trial by jury on all issues triable by jury.

DATED: April 3, 2018

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By/s/ James R. Asperger

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