

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

CONVERGENT ASSETS LLC,

Plaintiff,

v.

SNAP INC.,

Defendant.

C.A. No. 6:23-cv-181

JURY TRIAL DEMANDED

PATENT CASE

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Convergent Assets LLC, files this Original Complaint for Patent Infringement against Snap Inc. and would respectfully show the Court as follows:

I. THE PARTIES

1. Plaintiff Convergent Assets LLC (“Convergent Assets” or “Plaintiff”) is a Delaware limited liability company having an address at 1903 Toro Canyon Road, Austin, TX 78746.

2. On information and belief, Defendant Snap Inc. (“Defendant”) is a Delaware corporation and has a regular and established place of business in Austin, Texas. Defendant is registered for the right to transact business in Texas and has a registered agent at Corporation Service Company dba CSC - Lawyers Incorp., 211 E. 7th Street, Suite 620, Austin, TX 78701.

II. JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction of such action under 28 U.S.C. §§ 1331 and 1338(a).

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

5. Without limitation, on information and belief, Defendant has derived revenues from its infringing acts occurring within Texas. Further, on information and belief, Defendant is subject to the Court’s general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and deriving substantial revenue from goods and services provided to persons or entities in Texas. Further, on information and belief, Defendant is subject to the Court’s personal jurisdiction at least due to its sale of products and/or services within Texas. Defendant has committed such purposeful acts and/or transactions in Texas such that it reasonably should know and expect that it could be haled into this Court as a consequence of such activity.

6. Venue is proper in this district under 28 U.S.C. § 1400(b). On information and belief, Defendant has a regular and established place of business in Texas and in this District. On information and belief, from and within this District, Defendant has committed acts of infringement, including at least a portion of the infringements at issue in this case.

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

III. COUNT I
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 11,049,138)

8. Plaintiff incorporates the above paragraphs herein by reference.

9. On June 29, 2021, United States Patent No. 11,049,138 (“the ‘138 Patent”) was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ‘138 Patent is attached hereto as Exhibit A and incorporated herein by reference.

10. Convergent Assets is the assignee of all right, title, and interest in the ‘138 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the ‘138 Patent. Accordingly, Convergent Assets possesses the exclusive right and standing to prosecute the present action for infringement of the ‘138 Patent by Defendant.

11. The ‘138 Patent relates to the field of systems and methods for providing content that more closely matches a targeted user’s current specific interest associated with social networking activity. (Ex. A at 1:38-49; 3:23-36, 48-55; 4:16-18; 7:6-9, 12-16). The inventors recognized that the current methods of determining content for a particular user based on keywords listed on a webpage being viewed by the user failed to align the determined content with the current preferences or interests of the user. (*E.g., id.* at 1:38-49; 3:23-36, 48-55). The inventors therefore invented a sophisticated and improved method of using a computer that determines content for a targeted user by using social networking activity, recency of the content, ranking based on such information, and browsing information to determine what content to retrieve and provide to the user. (*E.g., id.* at 1:38-49; 4:51-57; 5:4-11; 24:17-37).

12. **Direct Infringement.** Upon information and belief, Defendant has been directly infringing and continues to infringe claim 28 of the ‘138 Patent in Texas, and elsewhere in the United States. As shown below, Defendant’s use and testing of Snapchat Ads (“Accused Instrumentality”) performs the claimed method and infringes claim 28. For example, Defendant uses and provides to customers Snapchat Ads, a platform that delivers targeted content including advertisements to end users based on their social media activity such as posting public stories. For example, when users post public stories on the social media platform, Snapchat Ads fetches words including tags in those stories to identify users’ interests and behaviors. Once the Snapchat system

understands (or identifies) users' behaviors and interests, relevant ads are identified to be delivered to a particular user based on the user's recent activities, including but not limited to, searching, posting public stories, and/or responding to other snaps.

13. Defendant (via the Accused Instrumentality) performs the step of obtaining first data indicating words in content associated with social networking activity that includes a user post on a social networking site. For example, when multiple users post public stories on the social media platform (Snapchat application), Snapchat Ads analyzes the public stories (content) to understand (or identify) what the users are talking about and to identify users' interests and behaviors. Upon information and belief, the public stories consist of words; therefore, it is apparent that Snapchat Ads obtain words (first data) from the public stories that include the stories posted by at least one user.

Snapchat Ads Drive Results

Snapchat is a camera and messaging app that connects people to their friends and the world. With Snapchat Ads, advertisers can reach a global audience and drive meaningful results.

Easily create and manage ads

Ads Manager is Snapchat's self-serve advertising platform where you can create ads, launch campaigns, monitor performance, and optimize toward your goals — all in one place.

Find the audience that matters most to you

Reach the Snapchat Generation based on their interests, behaviors, location, and more. Connect with the people who are driving new behaviors and values that are changing the world.

- On average, 347 million people use Snapchat every day.¹
- Snapchat reaches 75% of millennials and Gen Z.²
- On average, Snapchatters spend over 30 minutes on Snapchat every day.³



(<https://forbusiness.snapchat.com/en-US>).

Data Source

Snapchat Trends aggregates the most popular caption-based keywords from Public Stories, or My Stories viewed by a larger group. This data is intended to give more insight into what Snapchatters are talking about and what topics are most important to them, while still protecting user privacy and the private relationships among Snapchatters and their friends. Snapchat Trends will never index keywords from direct chat, or direct Snaps among Snapchatters.

FAQ

What defines a Trending Term?

Words and phrases are identified as "trending" when there is a significant increase in usage compared to recent history. As such, terms that are growing the fastest may appear higher on this list than terms that are mentioned more times in total, but are not growing as quickly. We are always striving to improve our algorithms and approach for detecting and surfacing meaningful

(https://businesshelp.snapchat.com/s/article/snap-trends?language=en_US).

3. Understanding Content & User Preferences

To understand content and user preferences we have to do a couple of things. First, we categorize all content submitted to Discover and Spotlight by labeling the content—for example "sports," "makeup," or "dogs." Both humans and computers help with this process. Our team looks at Discover and Spotlight content and labels it based on what they see. So for example, if a bunch of puppies are chasing a ball in a Spotlight submission, we may tag it "puppies playing with ball outside." We also label content based on keywords that are used. So if you submit content to Spotlight that contains "my cute puppy," we may pick up that phrase and categorize the content as "puppy."

Once we've labeled the content, we move to the next step, which is understanding if you actually like the content you see. There are a number of ways we try to figure out what content you'll enjoy. For example, if you subscribe to a Snapchatter, share a Spotlight with your Friends, or favorite it, we'll use those as indicators that you enjoy the content. On the other hand, if you skip, report or hide content, we'll use those as indicators that you don't enjoy the content. Other indicators we use to see what you like are how long you watch a piece of content and whether you completed it.

4. Making Content Age and Language Appropriate

We want to make sure that the content you see is appropriate for your age and the language you speak. To do this, we look at your country, your language, the age you provided when you created an account, and the age we think you may be, based on your friends and your activity. We use this information to group you with similar users in your age group. This way we can identify content that is appropriate for you, in the language that you speak, and is localized to your location.

5. Ranking Content

Now that we've labeled the content and figured out what content you'll likely enjoy, we can make sure you see that content in the right order: we call this "ranking."

We organize or rank content for Discover and Spotlight based on a combination of your preferences and the content tags. When we combine this, we hope that the algorithm succeeds in showing you the content you like the most. If that's not happening, you can help the algorithm by watching content you enjoy for a longer time, subscribing to creators you love, favoriting content, and hiding and skipping the content you don't like.

(<https://support.snapchat.com/en-US/article/how-we-rank-content-discover>).


Activity-Based Ads

We may show you ads based on information about your activities off Snapchat or other services on which we serve ads. These are called Activity-Based Ads.


For example, if you search for a movie on a website that shares data with Snap, you may see ads for similar movies.

Snapchatters can opt out of Activity-Based Ads...

On iOS:

1. Tap the  button in the Profile screen to open **Settings**
2. Scroll down to 'Additional Services' and tap 'Manage'
3. Tap 'Ad Preferences'
4. Toggle off 'Activity-Based' to opt out

On Android:

1. Tap the  button in the Profile screen to open **Settings**
2. Scroll down to 'Features' and tap 'Ads'
3. Tap 'Ad Preferences'
4. Uncheck 'Activity-Based' to opt out

If you change your mind later, you can turn 'Activity-Based' back on to opt in again.

(<https://support.snapchat.com/en-US/a/advertising-preferences#activity>).

How to Adjust My Advertising & Interest Preferences on Snapchat

We want the ads we show you to be fun, interesting, and relevant to you! To help do that, we let advertisers and other partners show you ads in the service you're using based on information collected on other websites and services.

If you would prefer not to have ads shown to you based on this information, you can read more about your different options below!

Please Note: You'll still see ads if you disable these advertising features, but those ads may be less relevant to you. You may also continue to see ads based on information from the service you're using. For example, on Snapchat you may still see ads based on information you provide us and inferences we make based on your activity on Snapchat and other Snapchat services, like which Stories you watch.

(<https://support.snapchat.com/en-US/a/advertising-preferences#activity>).

Custom Audience targeting

Reach Snapchatters by location, demographics, and interests. Easily create Custom Audiences like Customer List Audiences and Lookalike Audiences.

Snap, upload, and publish your ad in minutes.

Start advertising with a single photo or video. Create full-screen, engaging ads that inspire action and drive results. Find the best ad format for your business!

Solutions that can help you meet your business goals

In Snapchat Ads Manager, you can create, update, and view all of your Snapchat campaigns. Measure, learn, and optimize to meet your performance goals using Snapchat's optimization tools like the Snap Pixel, goal-based bidding, Audience Insights, and Campaign Lab.

Brand safe environment for businesses

The vast majority of Snapchatters use the app to communicate with friends and family. As with any community, cultivating a safe environment requires smart, continuous work. [Read more](#) about our approach to brand safety.


(<https://forbusiness.snapchat.com/advertising/why-snapchat-ads>).

Third-Party Ad Networks


Snap may use third-party ad networks to serve ads on Snapchat. To do this, Snap sends the ad networks a limited amount of data (e.g., IP Address, Mobile Ad ID, and whether you saw the ad or interacted with it) so the ad networks can provide advertising services, like ad targeting, measurement, and optimization to us and their advertisers.

Snapchatters can opt out of Third-Party Ad Networks...

On iOS:

1. Tap the  button in the Profile screen to open Settings
2. Scroll down to 'Additional Services' and tap 'Manage'
3. Tap 'Ad Preferences'
4. Toggle off 'Third-Party Ad Networks' to opt out

On Android:

1. Tap the  button in the Profile screen to open Settings
2. Scroll down to 'Features' and tap 'Ads'
3. Tap 'Ad Preferences'
4. Uncheck 'Third-Party Ad Networks' to opt out

If you change your mind later, you can turn 'Third-Party Ad Networks' back on to opt in again.

<https://support.snapchat.com/en-US/a/advertising-preferences#activity>).

Snapchat Ads Drive Results

Snapchat is a camera and messaging app that connects people to their friends and the world. With Snapchat Ads, advertisers can reach a global audience and drive meaningful results.

Easily create and manage ads

Ads Manager is Snapchat's self-serve advertising platform where you can create ads, launch campaigns, monitor performance, and optimize toward your goals — all in one place.

Find the audience that matters most to you

Reach the Snapchat Generation based on their interests, behaviors, location, and more. Connect with the people who are driving new behaviors and values that are changing the world.

- On average, 347 million people use Snapchat every day.¹
- Snapchat reaches 75% of millennials and Gen Z.²
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Data Source

Snapchat Trends aggregates the most popular caption-based keywords from Public Stories, or My Stories viewed by a larger group . This data is intended to give more insight into what Snapchatters are talking about and what topics are most important to them, while still protecting user privacy and the private relationships among Snapchatters and their friends. Snapchat Trends will never index keywords from direct chat, or direct Snaps among Snapchatters.

FAQ

What defines a Trending Term?

Words and phrases are identified as “trending” when there is a significant increase in usage compared to recent history. As such, terms that are growing the fastest may appear higher on this list than terms that are mentioned more times in total, but are not growing as quickly. We are always striving to improve our algorithms and approach for detecting and surfacing meaningful

https://businesshelp.snapchat.com/s/article/snap-trends?language=en_US).

14. As shown below, Defendant (via the Accused Instrumentality) performs the step of generating second data indicating an association between first words of the indicated words and indicating a degree of the association, the degree of the association corresponds to a ranking based on a recency of the content. For example, Snapchat analyzes a user’s Stories and Public Stories posted by other Snapchat users to identify keywords (first words). These keywords are used to identify trending words and phrases and to understand (or identify) what topics are being discussed by Snapchat users. Upon information and belief, Snapchat identifies a trending topic by, at least in part, creating an association between a plurality of words and phrases that relate to that particular topic. As an example, if users are discussing ‘World Cup’, Snapchat associates “first words” such as football, Ronaldo, Messi, penalty, world cup, FIFA, etc. as being associated with each other and being related to the topic ‘World Cup.’ Further, in identifying “trending” words and phrases posted by users, Snapchat analyzes words and phrases that its users posted recently (as older words and phrases would no longer constitute “trending”). As Snapchat users post words and phrases on Snapchat’s platform, Snapchat (via the Accused Instrumentality) continuously creates multiple

associations between words and phrases over a period of time, and relates them to one or more trending topics. These multiple associations are the “second data”, wherein certain associations would be more recent than other associations. Snapchat Ads allows an advertiser to display advertisements to users based on recent **trending** topics. It is apparent therefore that Snapchat prioritizes (“ranking”) recently associated keywords over previously associated keywords. Therefore, Snapchat generates second data by associating recently posted words and phrases such that the recently associated keywords are prioritized/ranked over previous associations (based on older posts).

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Top Trends for Last Week

Topics that have been trending on Snapchat in the past week.



No. 1 
Graduation

With 2022 coming to a close, Snapchatters celebrated college graduation or final exams at many schools across the US.



No. 2 
St. Nicks Day

The holiday season is in full swing, which means some Snapchatters celebrated St. Nicholas Day on December 6th.



Sorry, no public Snaps currently available for this term.

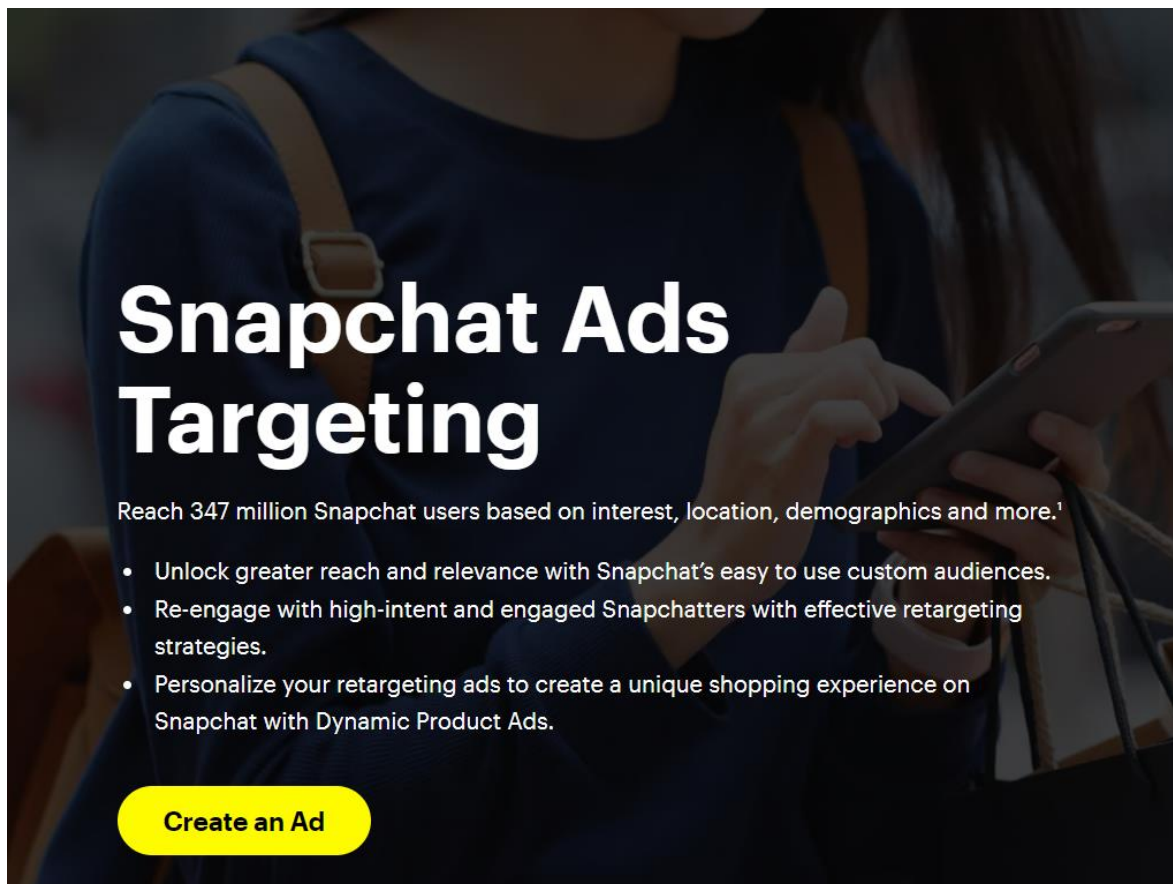
No. 3 
11s

Air Jordan Fans are going crazy for the Air Jordan 11 Retro “Cherry” drop.

https://trends.snapchat.com/?dataSource=SPOTLIGHT_HASHTAG).

15. Defendant performs the step of identifying, at a computing system, a word in browse information of a target user device, a second word determined based on the second data to be related to the word, and a content item having an associated keyword that corresponds to the

second word. For example, when a user visits (or browses) webpages in a browser or in the Snapchat application, Snapchat collects the browsing data (“browse information”) and compares the browsing data with the user’s recent stories to understand or identify the user’s interests and behavior. In this way, at least a second word corresponding to the user’s recent stories (including interests and behaviors) is determined to be related to the words identified in the browse information. For example, Snapchat provides a Snapchat Ads Targeting functionality that allows an advertiser to send ads to relevant users based on their interests and behaviors. While creating an ad campaign, an advertiser adds multiple keywords such that when Snapchat identifies that the user’s interests (obtained from analyzing user’s stories) are related to the keywords added by the advertiser, the ads (“content item”) created by the advertiser are deemed relevant for the user.

A promotional graphic for Snapchat Ads Targeting. The background is a dark, slightly blurred image of a person in a blue shirt using a smartphone. Overlaid on this is white text and a yellow button. The main heading is 'Snapchat Ads Targeting' in a large, bold, sans-serif font. Below it, a sub-headline reads 'Reach 347 million Snapchat users based on interest, location, demographics and more.¹'. This is followed by a bulleted list of three points: 'Unlock greater reach and relevance with Snapchat’s easy to use custom audiences.', 'Re-engage with high-intent and engaged Snapchatters with effective retargeting strategies.', and 'Personalize your retargeting ads to create a unique shopping experience on Snapchat with Dynamic Product Ads.' At the bottom left, there is a bright yellow rounded rectangular button with the text 'Create an Ad' in black.

Snapchat Ads Targeting

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Create an Ad

(<https://forbusiness.snapchat.com/en-US/advertising/targeting>).


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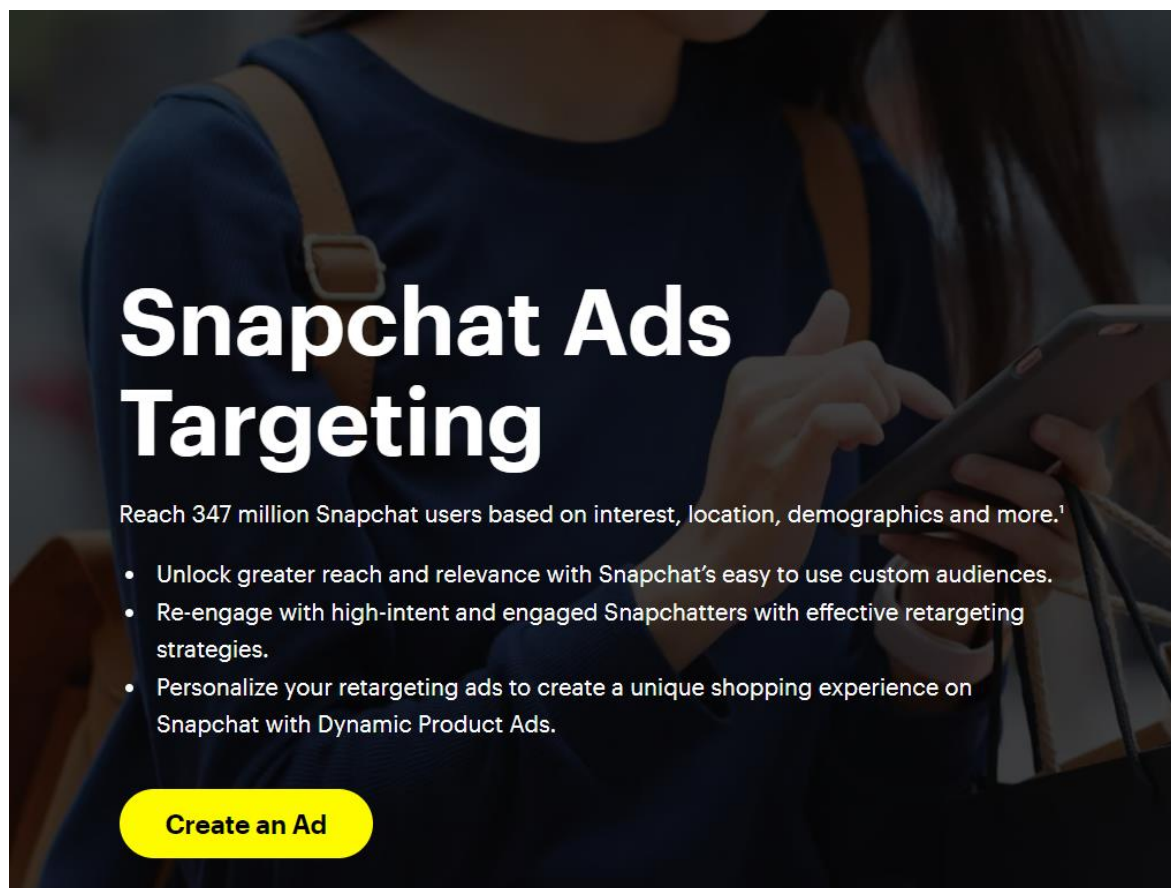
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2. Scroll down to 'Features' and tap 'Ads'
3. Tap 'Ad Preferences'
4. Uncheck 'Activity-Based' to opt out

If you change your mind later, you can turn 'Activity-Based' back on to opt in again.

(<https://support.snapchat.com/en-US/a/advertising-preferences#activity>).

16. Defendant (via the Accused Instrumentalities) performs the step of providing a portion of the content item retrieved from a data repository to the target user device. This element is found literally, or in the alternative, under the doctrine of equivalents. For example, the Snapchat Ads platform delivers relevant advertisements (“portion of the content item”) to end users based on the users’ browsing history being associated with their interests and behaviors. Since an advertiser is allowed to create ad campaigns by uploading advertising content, the advertisements are stored on the servers (“data repository”) owned and operated by Snapchat. The advertisements are provided to the target users from the Snapchat’s servers.



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Brand safe environment for businesses

The vast majority of Snapchatters use the app to communicate with friends and family. As with any community, cultivating a safe environment requires smart, continuous work. [Read more](#) about our approach to brand safety.

(<https://forbusiness.snapchat.com/advertising/why-snapchat-ads>).

17. **Induced Infringement.** Defendant has also actively induced, and continues to induce, the infringement of at least claim 28 of the '138 Patent by actively inducing its customers to use Defendant's Snapchat product, including Snapchat Ads, in an infringing manner as described above. Upon information and belief, Defendant has specifically intended that its customers use Snapchat including Snapchat Ads in a manner that infringes at least claim 28 of the '138 Patent by, at a minimum, providing access to support for and instructions for Snapchat including Snapchat Ads to its customers to enable them to infringe at least claim 28 of the '138 Patent, as described above. Even where performance of the steps required to infringe at least claim

28 of the '138 Patent is accomplished by Defendant and Defendant's customer jointly, Defendant's actions have solely caused each of the steps to be performed.

18. Plaintiff has been damaged as a result of Defendant's infringing conduct. Defendant is thus liable to Plaintiff for damages in an amount that adequately compensates Plaintiff for such infringement of the '138 Patent, *i.e.*, in an amount that by law cannot be less than would constitute a reasonable royalty for the use of the patented technology, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

19. The claims of the '138 Patent are method claims to which the marking requirements are not applicable. Plaintiff has therefore complied with the marking statute.

V. JURY DEMAND

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

VI. PRAYER FOR RELIEF

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

- a. Judgment that one or more claims of United States Patent No. 11,049,138 have been infringed directly and indirectly, either literally and/or under the doctrine of equivalents, by Defendant;
- b. Judgment that Defendant account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct complained of herein, and an accounting of all infringements and damages not presented at trial;
- c. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein; and
- d. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

March 10, 2023

DIRECTION IP LAW

/s/David R. Bennett

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