

<p>UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK</p>	
<p>SHOLEM WEISNER, Plaintiff, -against- GOOGLE LLC and SHMUEL NEMANOV, Defendant and Involuntary Party.</p>	<p>Case No.: 1:23-cv-08186-AKH FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT DEMAND FOR JURY TRIAL</p>

Plaintiff Sholem Weisner (“Weisner” or “Plaintiff” or “Inventor”), by his attorney, for his First Amended Complaint against Defendant Google LLC (“First Amended Complaint”) and Involuntary Party Shmuel Nemanov (“Nemanov”, collectively with Weisner - “Weisner”, “Plaintiff” or “Inventor”) alleges as follows:

THE PARTIES

1. Sholem Weisner (“Weisner”) is an individual having his residence at 227 Hewes Street, Brooklyn, New York 11211.

2. Google LLC (“Google”) is a Delaware Limited Liability Company with its principal place of business at 1600 Amphitheatre Parkway, Mountain View, CA 94043. Google has registered with the New York State Department of State as a Foreign Limited Liability Company and has identified the Corporation Service Company, 80 State Street, Albany, New York, 12207-2543 as its Agent for Service of Process.

3. Upon information and belief, Google LLC maintains a large office in this District at 111 Eighth Avenue, New York, New York.

4. Involuntary Party Shmuel Nemanov (“Nemanov”) is joined as an involuntary party in this action, pursuant to Rule 19(a) of the Federal Rules of Civil Procedure. See *Indep. Wireless Tel. Co. v. Radio Corp. of Am.*, 269 U.S. 459, 468 (1926) (“If the owner of a patent, being within the jurisdiction, refuses or is unable to join an exclusive licensee as coplaintiff, the licensee may make him a party defendant by process and he will be lined up by the court in the party character which he should assume.”); *AsymmetRx, Inv. v. Biocare Med.*, 582 F.3d 1314, 1322 (Fed. Cir.

2009)("A patentee that does not voluntarily join an action prosecuted by its exclusive licensee can be joined as a defendant" (citation omitted)); *Int'l Rediscount Corp. v. Hartford Accident & Indem. Co.*, 425 F. Supp. 669, 674-75 (D. Del. 1997)("An involuntary plaintiff is a party who is obligated to assist in prosecuting an action or to permit its name to be used but refuses to do so and who is thereafter joined ... If a party is subject to service, however, it is not joined as an 'involuntary plaintiff.' Rather, it is served, joined as a defendant, and then realigned by the Court in the 'character which [it] should assume."").

5. In *Weisner, et al. v. Google, et al.*, 20-cv-02862- AKH a Patent Infringement suit involving Google's Infringement of Weisner's '905 and '911 Patents, before the Hon. Alvin K. Hellerstein, USDJ ("Patent Suit #1"), Nemanov was first named an Involuntary Defendant then realigned as an Involuntary Plaintiff. (ECF #67).

6. Involuntary Party Shmuel Nemanov ("Nemanov") at all times hereinafter mentioned, was and now is a resident of Kings County, New York.

JURISDICTION AND VENUE

7. This action arises under the Patent Act, 35 U.S.C. § 101 *et seq.* This Court has original and exclusive subject matter jurisdiction over this controversy pursuant to 28U.S.C. §§ 1331 and 1338.

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1400(b).

9. This Court has personal jurisdiction over Google. Google has committed acts of infringement in this District and has a regular and established place of business in this District. For example, Google regularly and continuously does business in this District and has infringed or induced infringement or contributorily infringed, and continues to do so, in this District. Upon information and belief, Google maintains an office within this District (New York, New York). Defendant's office in New York, New York is a regular and established place of business. In addition, the Court has personal jurisdiction over Google because minimum contacts have been established with the forum and the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

10. Nemanov is an owner of a minority, undivided interest in certain of Plaintiff Weisner's Patents pursuant to the **Exhibit A** Agreement Between Owners ("Agreement", *infra*).

11. Under that Agreement, Plaintiff Weisner, as the majority owner of the undivided interest in certain patents and patent applications including those identified hereinbelow, has exclusive rights to sue for patent infringement.

12. As indicated above, in Patent Suit #1, Nemanov was first joined as an involuntary Defendant, pursuant to Rule 19(a) of the Federal Rules of Civil Procedure. Nemanov was then realigned as an Involuntary Plaintiff. (Patent Suit #1, ECF #67).

13. Demand has been made on Nemanov pursuant to the Plaintiff's Agreement with Nemanov a true copy of which is annexed hereto as **Exhibit A**.

14. Nemanov has refused to join the Complaint pursuant to the **Exhibit A** Agreement.

15. Due to Nemanov's breach of and repudiation of the **Exhibit A** Agreement, Plaintiff has sued Nemanov *et al* in that certain State Court proceeding styled as Weisner v. Nemanov, et al. (Kings County Index #502269/2020).

16. Nemanov is subject to service in New York because he is a resident of Kings County, New York. After Nemanov has been served with the Complaint, Plaintiff will respectfully request that the Court realign Nemanov as an Involuntary Plaintiff as in Patent Suit #1.

**GOOGLE'S PATENT INFRINGEMENT OF UNITED STATES
PATENT NO. 11,163,839**

17. On November 2nd, 2021, the United States Patent and Trademark Office ("the USPTO") issued United States Patent No. 11,163,839, entitled "Mobile Communication Device with Location histories Configured to Link Individual Member to Vendor Members of Network" (the "'839 Patent"). A true and correct copy of the '839 Patent is attached to this Complaint as **Exhibit B**.

18. Independent Claim 1 of the '839 Patent states:

A handheld mobile communication device configured for communication with at least one processing system to create and use location histories on the device that are configured to link an individual member of a member network to a plurality of vendor members of the network, the device comprising software,

the software for configuring the device to, upon instances of a physical encounter between the individual member who is mobile and has an account associated with a URL and a vendor member from among the plurality of vendor members at a physical premises of the vendor member, transmit to, or generate on, the at least one processing system a location history entry of the physical encounter in at least the account of the individual member, that includes (i) key data of, and a location of, the vendor member, and (ii) a time of the physical encounter, the key data being the URL of the vendor member or data associated with the URL of the vendor member, the software configured to interact with a positioning system that identifies a location of the device, the software configured to accumulate a location history from the location history entries,

the software also for maintaining a viewable physical encounter history on the device that, upon logging in to the individual member's account, is searchable by the time, by the URL or data associated with the URL of the vendor member, and by the location of the vendor member, the physical encounter history including key data from multiple vendor members of the plurality and includes in at least one mode a visual timeline of physical encounters of the individual member,

the key data associated with the account of the individual member before the physical encounter between the individual member and the vendor member,

wherein the individual member's account is configured to allow the physical encounter history to be accumulated from the device or from multiple such devices of the individual member over time,

wherein the location history is configured to include advertisements from the plurality of vendor members, wherein the content of the advertisements comprise the key data of particular vendor members of the plurality of vendor members,

wherein the advertisements are clickable such that when the individual member clicks on a particular advertisement of a particular vendor member of the plurality, the individual member is taken by the at least one processing system to a web site of the particular vendor member.

19. The '839 Patent is generally directed to a handheld mobile communication device,

such as cellphones or handheld computers, having software that configures the mobile devices to create and use digital physical interaction histories that have on them advertisements from a plurality of vendor members. The vendor members of the network, together with a plurality of such devices held by individual members of the network, creates a novel advertising network for businesses and individual consumers, in part through offering membership profiles for the individuals and the businesses.

20. One of the technical improvements achieved by the '839 Patent is in digital business advertising over the world wide web by linking individual members of the network with business members of the network, by utilizing the physical interaction histories of the individual members with the business members, so as to serve custom tailored digital business advertisements to the consumers members of the network.

21. The software within the claimed mobile communication device is implemented in part by the individual consumer who operates at least one mobile communication device on which the software is installed and through which the individual user's physical encounters with businesses can be recorded and stored.

22. The mobile software of the claimed mobile communication device further provides a user interface where the individual user can log in to their account and access their physical encounters with businesses in a viewable, searchable and clickable manner.

23. Business members of the advertising network who have experienced a physical encounter with an individual user of the network can have their business advertisement appear on, and be displayed on, the individual member's application's location history interface.

24. The business advertisement which is displayed on the individual user's location history interface contains the key data of the business.

25. Additionally, the business advertisement which is displayed on the individual's location history is in URL format, or on a webpage associated with a URL, through which the individual member of the network can click and access the business profile URL.

26. The business participants of the advertising network can have their advertisement

appear and be displayed for individual members of the network, on their electronic devices, on any number of websites and applications which have access to the individual member's location history.

27. Additionally, if the business has a website the inter-networked advertisement may also contain a link to an external website of the business to which the individual user-member can be redirected to.

28. Prior to 2007, the mobile-web was in its infancy. Existing search engine and search algorithm technology used records of virtual encounters to give the best possible results. When a person searched the web for real life locations, such as fine dining, spas, or movie theaters, the searching person would be referred by the search engine (including Google's PageRank) to the highest-ranking Uniform Resource Locator ("URL") link but the search engine or algorithm would not discern the most relevant physical location. Rather it made use of websites that had the most URL visitors, the individual's cyber activity, surf history and other things, but it had no history of URL encounters that occur in real life (since such a thing did not exist). So a person surfing the web would obtain results (for example) for fine dining that were popular on the Internet, but would not obtain results tailored to that searching person's specific tastes and inclinations, and certainly not based on that searching person's real-life physical interactions.

29. Furthermore, advertisements by vendors on the world wide web to a person either surfing or searching the world wide web were not tailored to the tastes and inclinations of these persons.

30. The Plaintiff and Involuntary Plaintiff (i.e. the Inventor) therefore labored to find a way to marry one's physical activities to the emerging virtual world so that dynamic, accurate advertisements tailored to the unique tastes and inclinations of persons surfing the world wide web could be served by vendors and be noticed by such persons whenever such persons are either looking at their digital history on their mobile communication device or in response to such persons conducting a search using their mobile device.

31. Accordingly, one advantage of use of the mobile communications device of the '839 Patent is that dynamic, accurate advertisements tailored to the unique tastes and

inclinations of the persons using their mobile device to surf the world wide web or conducting web searches can be served by vendors to such person's digital history or in response to searches of the searching person. This advantage also eliminates or dramatically reduces the randomness of how digital advertising and business marketing on the world wide web is served for potential consumers, by instead serving useful and relevant advertisements tailored to an individual's or a purchaser's tastes and inclinations. This is by utilizing the individual's past physical encounters with business enterprises because the software of the mobile device first generates a digital history of physical encounters in the real world that are defined by URLs (or web sites associated with URLs). These are seamlessly collected in a digital database during physical encounters.

32. Accordingly, the mobile device is configured by the software to use the location histories on the device, which are defined by the URLs, to link the vendor members that serve clickable advertisements on to the location history of the individual member of the advertising network based on the URLs that the recipient of the advertisement has in their digital history.

33. The Specification of the '839 Patent clearly delineates the advantage of the new advertising venue with its improvement in digital internet advertising.

34. For example, the Specification at column 2 lines 18-24, states: “Another basic need among businesses in society is advertising. Businesses are always looking for new venues in which to advertise. When use of the Internet became commonplace in the late 1990's business advertising on the Internet exploded. A digital leg history that is attractive to users would provide a new venue for businesses to advertise in.” Specification column 5 lines 27-33 also recites the following Objects and Advantages of certain embodiments: “(7) to provide such a method and apparatus that also serves the function of allowing a business to advertise itself on the digital history thereby creating a new venue for business advertising;”, “(8) to provide such a method and apparatus as in Object and Advantage “(7)” that allows the business to have an entry in the digital history which functions as an advertisement for that business;” and “(9) to provide such a method and apparatus as in Object and Advantage “(8)” that includes the URL of the business or a more elaborate advertisement;”.

35. The Specification of the '839 Patent, column 16 lines 48-56, describes how the vendor members of the network come to serve advertisements to the digital histories of the consumers: "One way is that large companies approach the system owner and offer to place advertisements on digital leg history account holders having a particular profile. Preferably, the profile is a profile of the digital network entries 20 that are comprised of URLs. The content of the URLs in the leg history 10 make it more likely that the advertisement is attractive to the person whose leg history it is. "Attractive" in this context means likely to generate a positive response to the advertisement". See also column 12 original claim 20, column 5 lines 23-33 and column 7 lines 22-28

36. The '839 Patent was issued to Weisner and to Shmuel Nemanov ("Nemanov"). On or about July 9, 2019, Weisner and Nemanov executed an "Agreement Between Owners of Undivided Interests in the Patent" ("Agreement Between Owners"), under which Weisner, as the majority owner of the undivided interest in certain patents and patent applications including the application that matured into the '839 Patent, has exclusive rights to sue for patent infringement of the '839 Patent. A copy of the "Agreement Between Owners" was recorded on or about September 4, 2019, in the U.S. Patent & Trademark Office Assignment Records under Reel/Frame 050259/0564 and is attached herein to the Complaint as **Exhibit A**.

37. The '839 Patent is currently in full force and effect and has not expired or been abandoned, and there are no known prior adjudications of invalidity of any of the claims of the '839 Patent.

DEFENDANT GOOGLE'S INFRINGEMENT OF THE '839 PATENT

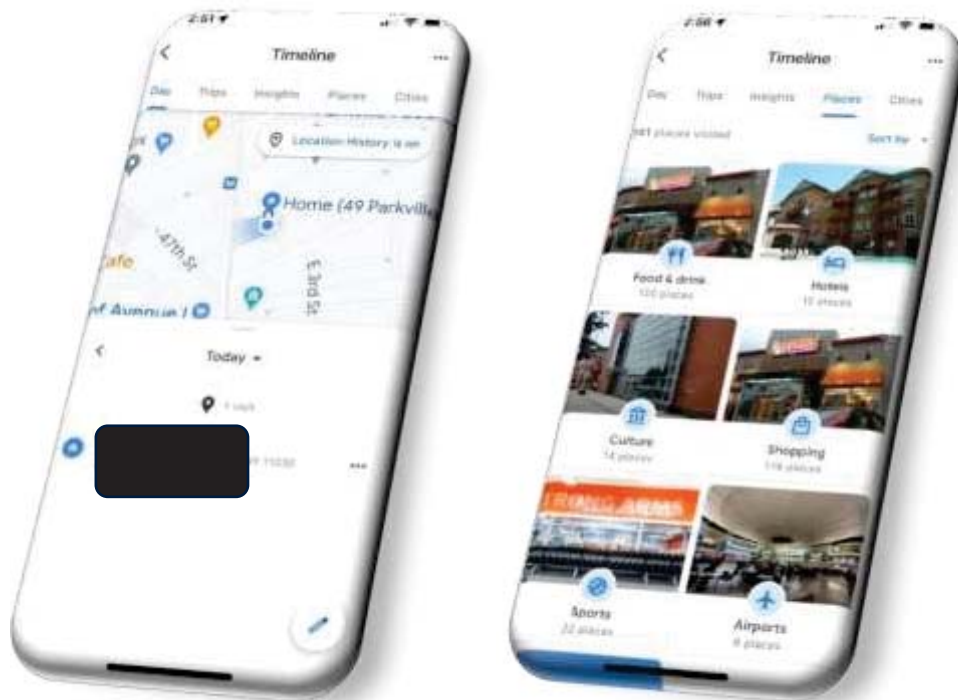
38. Google is making, using and/or selling mobile communication devices with the capacity to accumulate location histories, configured to link individual members to vendor members of a network as claimed in the '839 Patent.

39. When Google sells or imports its Pixel phones or Android phones containing an operating system that includes the software described in the claim, it infringes claim 1 of U.S. Patent 11,163,839.

40. That software includes Google's "Your Timeline" feature under Google Maps or Google's "Your Places" feature under Google Maps.

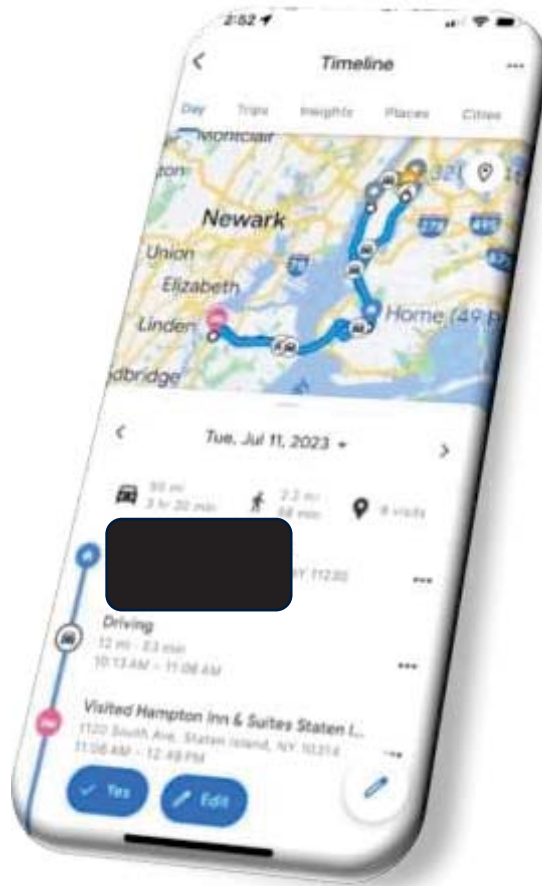
41. Google literally infringes on all aspects and elements of claim 1 of the '839 Patent.

42. "Google Maps" contains a "Your Timeline" and "Your Places" feature(s).



"Google Maps Timeline" and "Your Places" feature of "Timeline" in mobile view.

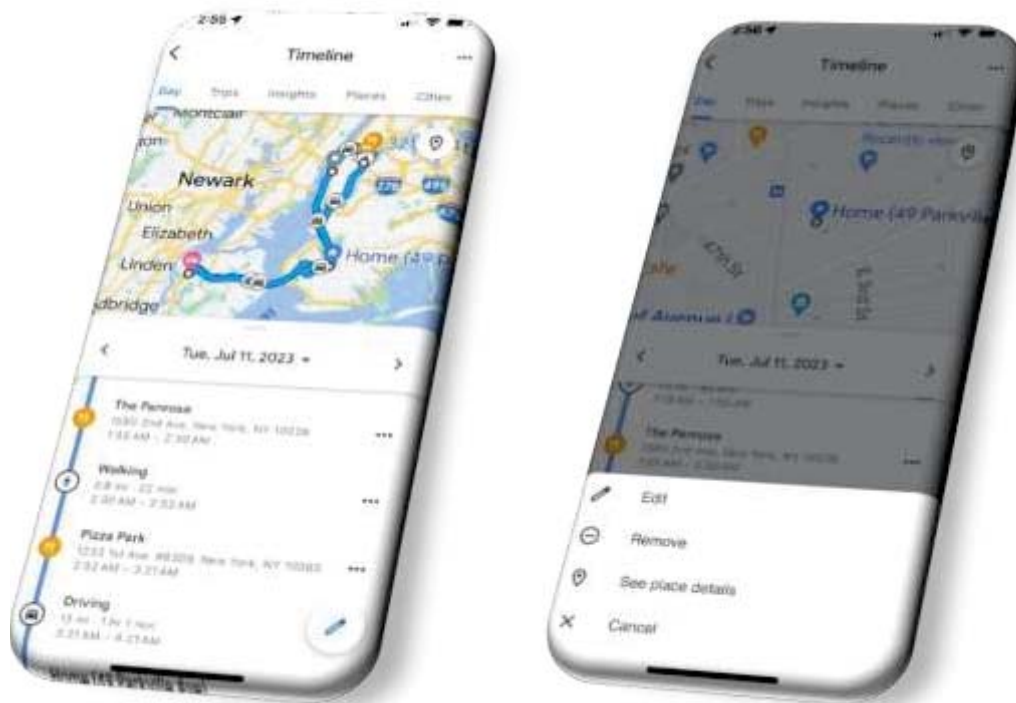
43. "Your Timeline" and "Your Places" are the Google software interfaces through which individual Google account members can access, search, and review their past location history in precisely the same fashion as is described in the '839 patent claim and specifications.



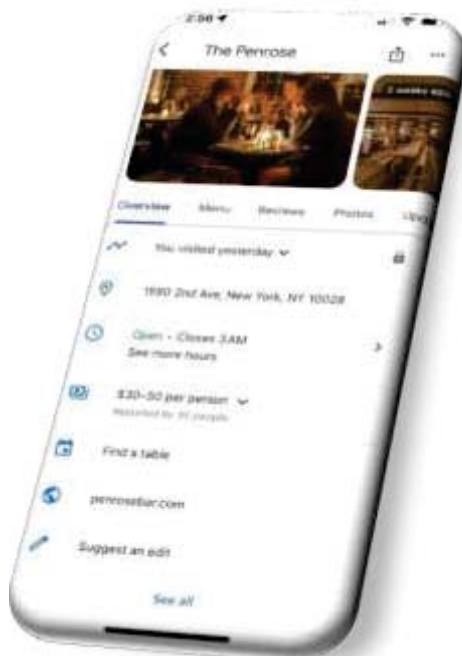
44. Google Business Profile is a business profile offered to Businesses which are members of the Google network.

45. The Google Business profile contains the businesses key data.

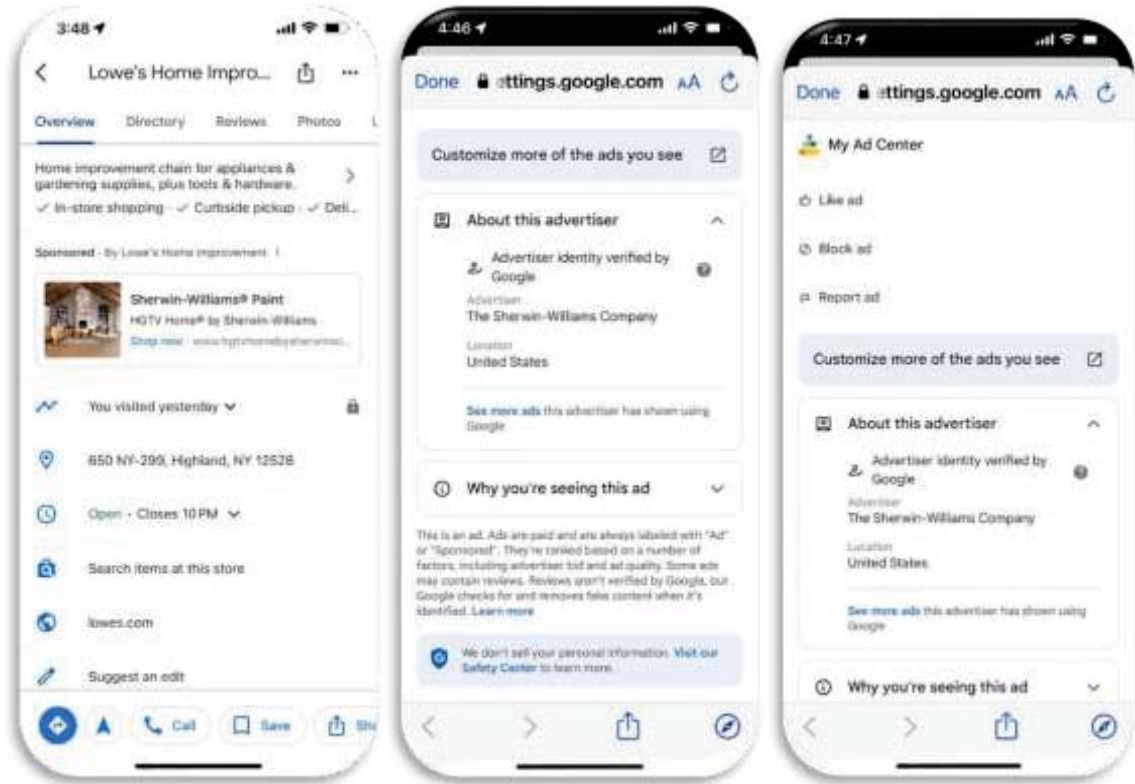
46. Through the “Your Timeline” and “Your Places” features, individuals can view “Google Business” advertisement profiles with which they have visited:



Location History entry for "The Penrose" in "Timeline" Clicking on the 3 dots in the entry reveals a menu where the user can see the "Place details"



"See Place Details" leads the user to the Business Advertisement for "The Penrose" with the businesses key data presented



"Lowe's Home Improvement" Business advertisement in individual users Google account Timeline

Google's Patent Infringement of United States Patent No. 10,685,068

47. On June 16, 2020, the United States Patent and Trademark Office ("the USPTO") issued United States Patent No. 10,685,068, entitled Targeting individuals for advertising using digital physical location histories (the "068 Patent"). A true and correct copy of the '068 Patent is attached to this Complaint as **Exhibit C.**

48. Independent claims 1, 16, and 30 are exemplary claims of the '068 Patent.

49. Claim 1 states:

A computer-implemented method of targeting individuals for advertising using digital physical location histories, comprising:

maintaining a processing system in communication with a positioning system, the processing system configured to provide an account to an individual member, and to a stationary vendor member, of a member network, the account associated with key data

providing an application that configures a mobile communication device of each individual member, the device in communication with the positioning system, to, upon instances of a physical encounter between the individual member carrying the device, and a stationary vendor member of the member network, at a physical premises of the stationary vendor member, automatically transmit to, or generate on, the processing system an entry of the physical encounter including the key data of the individual member and key data of the stationary vendor member, a location of the individual member at the physical premises determined by the positioning system, the key data being a URL or another identifier associated with the URL;

maintaining, on a database of the processing system, a physical encounter history comprising a location history of the physical encounters with stationary vendor members for each of the individual members, the individual member's account is configured to allow the physical encounter history to be accumulated from multiple devices of the individual member over time;

the application maintaining a viewable, searchable physical encounter history on the device that includes key data from multiple stationary vendor members and includes in at least one mode a visual timeline of physical encounters of a particular individual member; and

serving, by the processing system, advertisements of particular stationary vendor members on the physical encounter history of the particular individual member, a content of the advertisements based on a profile of the key data recorded in the physical encounter history accumulated from as many devices as are associated with the particular individual member's account,

wherein the content of the advertisements comprise the key data of the particular stationary vendor member.

50. Claim 16 recites:

A system for targeting individuals for advertising using digital physical location histories, comprising:

a processing system in communication with a positioning system, the processing system configured to provide an account to an individual member, and to a

stationary vendor member, of a member network, the account associated with key data;

an application that configures a mobile communication device of each individual member, the device in communication with the positioning system, to, upon instances of a physical encounter between the individual member carrying the device, and a stationary vendor member of the member network, at a physical premises of the stationary vendor member, automatically transmit to, or generate on, the processing system an entry of the physical encounter including the key data of the individual member and key data of the stationary vendor member, a location of the individual member at the physical premises determined by the positioning system, the key data being a URL or another identifier associated with the URL;

a database of the processing system having a physical encounter history comprising a location history of each of the physical encounters for each individual member, the individual member's account is configured to allow the location history to be accumulated from multiple devices of the individual member over time;

the application maintaining a viewable, searchable physical encounter history on the device that includes key data from multiple stationary vendor members and includes in at least one mode a visual timeline of physical encounters of a particular individual member; and

the processing system configured to serve advertisements of particular stationary vendor members on the physical encounter history of the particular individual member, a content of the advertisements based on a profile of the key data recorded in the physical encounter history accumulated from as many devices as are associated with the particular individual member's account,

wherein the content of the advertisements comprise the key data of the particular stationary vendor member.

51. Claim 30 states:

A computer-implemented method of targeting individuals for advertising using digital physical location histories, comprising:

maintaining a processing system in communication with a positioning system, the processing system configured to provide an account to an individual

member, and to a stationary vendor member, of a member network, the account associated with key data;

providing an application that configures a mobile communication device of each individual member, the device in communication with the positioning system, to, upon instances of a physical encounter between the individual member carrying the device, and a stationary vendor member of the member network, at a physical premises of the stationary vendor member, automatically transmit to, or generate on, the processing system an entry of the physical encounter including the key data of the individual member and key data of the stationary vendor member, a location of the individual member at the physical premises determined by the positioning system, the key data being a URL or another identifier associated with the URL or with the account;

maintaining, on a database of the processing system, a physical encounter history comprising a location history of the physical encounters with stationary vendor members for each of the individual members, the individual member's account is configured to allow the physical encounter history to be accumulated from multiple devices of the individual member;

the application maintaining a viewable, searchable physical encounter history on the device that includes key data from multiple stationary vendor members and includes in at least one mode a visual timeline of physical encounters of a particular individual member; and

serving, by the processing system, advertisements of particular stationary vendor members on the physical encounter history of the particular individual member, a content of the advertisements based on a profile of the key data recorded in the physical encounter history of the particular individual member accumulated from as many devices as are associated with the particular individual member's account,

wherein the advertisements comprise the key data of the particular stationary vendor member.

52. The '068 Patent is generally directed towards a method and a system of creating a unique advertising platform for businesses through an online membership network for businesses and individual consumer participants of the network.

53. An improvement in digital business advertising is sought through linking individual members of the network with business members of the network by use of the physical interaction histories of the individual members with the business members.

54. The '068 Patent is generally directed to a method and system of targeting individuals for advertising using digital physical location histories that have on them advertisements from a plurality of vendor members.

55. One of the improvements achieved by the '068 Patent is in digital business advertising over the world wide web by utilizing the physical interaction histories of the individual members with the business members, so as to serve custom tailored digital business advertisements to the consumers members of the network.

56. Business members of the advertising network who have experienced a physical encounter with an individual user of the network can have their business advertisement appear on, and be displayed on, the individual member's application's location history interface.

57. The business advertisement which is displayed on the individual user's location history interface contains the key data of the business.

58. Additionally, the business advertisement which is displayed on the individual's location history is in URL format, or on a webpage associated with a URL, through which the individual member of the network can click and access the business profile URL.

59. The business participants of the advertising network can have their advertisement appear and be displayed for individual members of the network, on their electronic devices, on any number of websites and applications which have access to the individual member's location history.

60. Additionally, if the business has a website the inter-networked advertisement may also contain a link to an external website of the business to which the individual user-member can be redirected to.

61. As described above in paragraph 28, prior to 2007, existing search engine and

search algorithm technology used records of virtual encounters to give the best possible result and were of little use when it came to real life services, businesses, or activities since the search engine would obtain results that the Internet liked, but not results tailored to a surfing person or a searching person's specific tastes and inclinations, and certainly not based on their real-life interactions.

62. Furthermore, advertisements by vendors on the world wide web to persons either surfing or searching the world wide web were not tailored to the tastes and inclinations of these persons.

63. The '068 Patent married our physical activities to the emerging virtual world so that dynamic, accurate advertisements tailored to the unique tastes and inclinations of the person surfing or searching the web could be served by vendors to the person's digital history either when the person is viewing the digital history on their mobile communication device or in response to such persons conducting a search using their mobile device.

64. In the method and system of the '068 Patent, the vendor members of the network serve advertisements onto the physical encounter history of the individual members and the content of such advertisements is based on a profile of the key data of the vendor member that is recorded in the individual member's physical encounter history, the key data being a Uniform Resource Locator ("URL") or another identifier associated with the URL.

65. Accordingly, one advantage of the method and system of the '068 Patent is that dynamic, accurate advertisements tailored to the unique tastes and inclinations of the persons using their mobile devices to surf the world wide web or conduct web searches can be served by vendor members onto a person's digital history.

This advantage eliminates or dramatically reduces the randomness of how digital advertising and business marketing on the world wide web is served for potential consumers, by instead serving useful and relevant advertisements tailored to an individual's or a purchaser's tastes and inclinations. This is by utilizing the individual's past physical encounters with business enterprises because the method and system first generates a digital history of physical encounters in the real world that are defined by

URLs (or other identifiers such as web sites associated with URLs), that were collected into the digital database of digital histories during physical encounters of the individual members with vendor members of the network.

66. The Specification of the '068 Patent, column 16 lines 44-52, describes how the vendor members of the network come to serve advertisements to the digital histories of the consumers: "One way is that large companies approach the system owner and offer to place advertisements on digital leg history account holders having a particular profile. Preferably, the profile is a profile of the digital network entries 20 that are comprised of URLs. The content of the URLs in the leg history 10 make it more likely that the advertisement is attractive to the person whose leg history it is. "Attractive" in this context means likely to generate a positive response to the advertisement". See also column 12 original claim 20, column 5 lines 23-33 and column 7 lines 22-28.

67. The software provides a user interface where the individual user can log in to their account and have access to the entries on the physical encounter history in a viewable, searchable, and clickable manner.

68. Business members of the network who have experienced a physical encounter with an individual user of the network can have their business profile advertisement appear on the individual's location history interface.

69. Individual members of the network can also be served business advertisements of businesses who don't appear in the individual's location history, having not received a visit from the individual, but are similar in profile to business advertisements of businesses which do appear on the individual's location history.

70. The business advertisement which is displayed on the individual user's location history interface contains the key data of the business.

71. Additionally, the business advertisement which is displayed on the individual's location history is in URL format, or on a webpage associated with a URL, through which the individuals can click and access the businesses key data.

72. If the business has a website the inter-networked advertisement may also contain a link to an external website of the business which the user can be redirected towards.

73. The method and system of the '068 Patent eliminates or dramatically reduces the randomness of how digital advertising and business marketing on the world wide web is served, towards serving useful and relevant advertisements for individuals by employ of their past physical encounters with business enterprises.

74. One of the ways that this improvement in digital internet marketing is achieved through serving business advertisements for the individual consumer only for those physical establishment businesses towards which the consumer has expressed an interest in, either by way of a personal visit to said physical establishment, or by way of the business being similar in profile to a business (or businesses) with which the individual consumer has experienced a physical encounter as evidenced by the business entries accumulated in their location history.

75. The '068 Patent was issued to Weisner and to Shmuel Nemanov ("Nemanov"). On or about July 9, 2019 Weisner and Nemanov executed an "Agreement Between Owners of Undivided Interests in the Patent" ("Agreement Between Owners"), under which Weisner, as the majority owner of the undivided interest in certain patents and patent applications including the application that matured into the '068 Patent, has exclusive rights to sue for patent infringement of the '068 Patent. A copy of the "Agreement Between Owners" was recorded on or about September 4, 2019 in the U.S. Patent & Trademark Office Assignment Records under Reel/Frame 050259/0564 and is attached herein to the Complaint as **Exhibit A**.

76. The '068 Patent is currently in full force and effect and has not expired or been abandoned, and there are no known prior adjudications of invalidity of any of the claims of the '068 Patent.

Defendant Google's Infringement of the '068 Patent

77. Google is making, using and/or selling a copycat method and/or system towards targeting individuals for advertising through using their digital physical location histories.

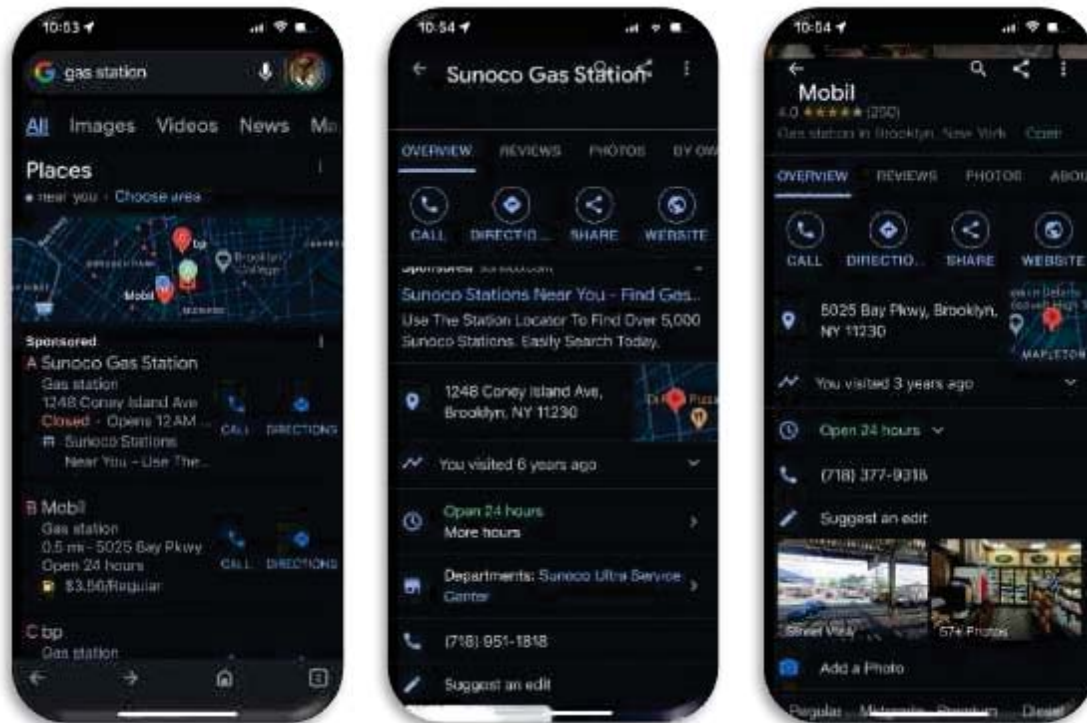
78. Google literally infringes all claims of the '068 Patent. Google's infringement of the '068 Patent occurs through its Google Maps feature. For example, Google Maps contains a "Your Timeline" and "Your Places" feature(s) that infringe the '068 Patent

79. When Google’s search engines produce and provide search results, for the individual, and in the process of doing so utilize the individual’s location history data, they are “targeting individuals for advertising using digital physical location histories.”

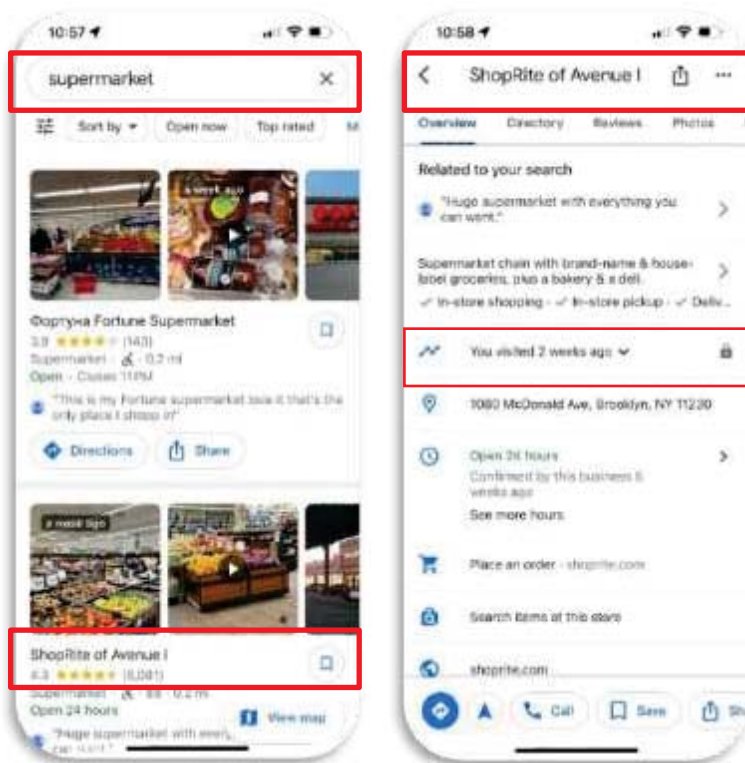
80. As one non-limiting example, one of the ways Google infringes the ‘068 patent, is by serving business advertisements to individual Google account holders when these individual account holders search for a business on “Google.com” or on “Google Maps”.

81. For example, a search on Google.com or Google Maps for the search term “gas station” or “Supermarket” (physical establishment business) produces business advertisement for businesses which have received a visit from the individual

82. See screenshots of Google Maps and Google .com

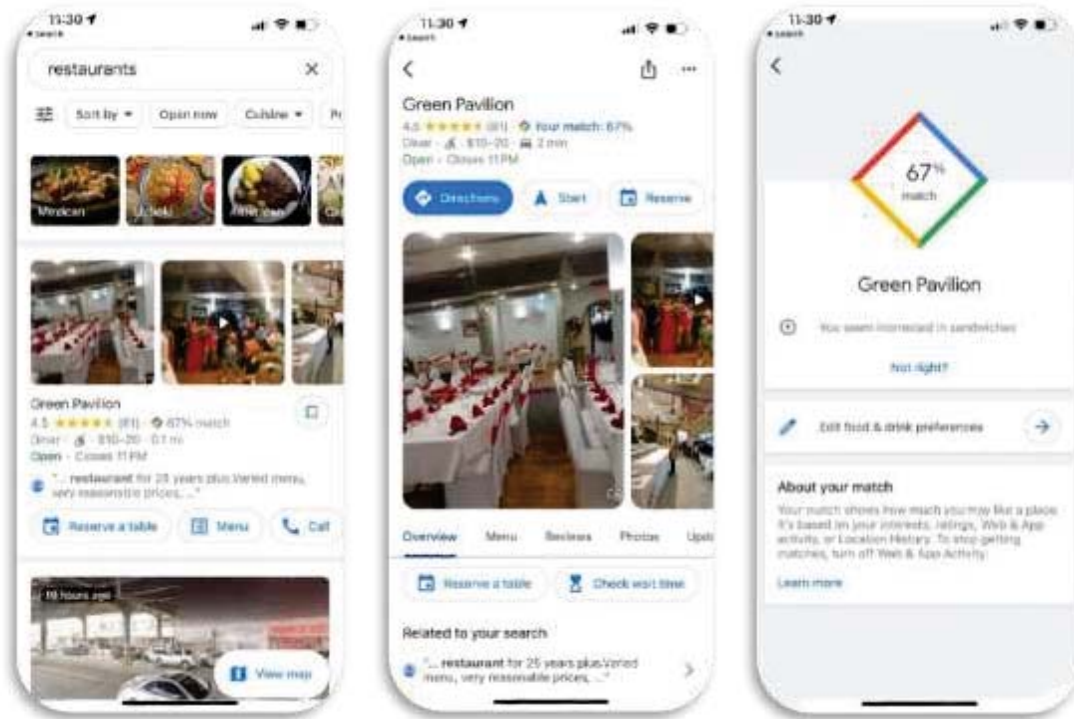


Search on “Google.com” for the search phrase “gas station” elicits a search result for a business advertisement which has previously been frequented by the searching individual.



Search on “Google Maps” for the search phrase “supermarket” elicits a search result for a business advertisement which has previously been frequented by the searching individual.

83. Additionally, Google is infringing on claim 1 of the ‘068 with serving advertisements to individuals, for businesses with which they have not had a physical encounter in the past but are similar in profile with a business with which they have experienced a physical encounter in the past:



84. “Green Pavilion” is a restaurant that has never received a visit from the individual member, nevertheless the ad for Green Pavilion appears in response to a search for “restaurants” because it is deemed to be a 67% match with what the individual is searching for.

85. One of the parameters Google uses to rate business ads as potential matches is based on the individuals “location history.”

Google’s Patent Infringement of United States Patent No. 10,860,667

86. On December 8, 2020, the United States Patent and Trademark Office (“the USPTO”) issued United States Patent No. 10,860,667, entitled Physical location history with key data using positioning system (the “‘667 Patent”). A true and correct copy of the ‘667 Patent is attached to this Complaint as **Exhibit D**.

87. Independent claims 1, 9, and 17 are exemplary claims of the ‘667 Patent.

88. Claim 1 states:

A method of creating and/or using physical location histories,

comprising:

maintaining a processing system having access to a telecommunications network and configured to provide an account associated with a URL to an individual member of a member network and to a vendor member of the member network;

providing an application that configures a mobile communication device of each individual member of the member network, the device in communication with the processing system, to, upon instances of a physical encounter between the individual member and the vendor member at a physical premises of the vendor member, a location of the physical encounter determined by a positioning system in communication with either the mobile communication device or a communication device of the vendor member, transmit to, or generate on, the processing system a location history entry of the physical encounter in at least the account of the individual member, that includes (i) key data, of, and a location of, the vendor member, and (ii) a time of the physical encounter, the key data being the URL of the vendor member or data associated with the URL of the vendor member,

the application maintaining a viewable physical encounter history on the mobile communication device that, upon logging in to the individual member's account, is searchable by the time, by the data associated with the URL of the vendor member, and by the location of the vendor member,

the URL associated with the account of the individual member before the physical encounter between the individual member and the vendor member;

the physical encounter history includes key data from multiple vendor members and includes in at least one mode a visual timeline of physical encounters of a particular individual member,

maintaining, on a database of the processing system, the physical encounter history, and physical encounter histories of other individual members, comprising, for each of the individual members, a location history of the physical encounters with vendor members, wherein the individual member's account is configured to allow the physical encounter history to be accumulated from multiple devices of the individual member over time.

89. Claim 9 states:

A system for creating and/or using physical location histories, comprising:
a processing system having access to a telecommunications network and configured to provide an account associated with a URL to an individual member and to a stationary vendor member of a member network;

an application that configures a mobile communication device of each individual member of the member network, the device in communication with the processing system, to, upon instances of a physical encounter between the individual member and the vendor member at a physical premises of the vendor member, a location of the physical encounter determined by a positioning system in communication with either the mobile communication device or a communication device of the vendor member, transmit to, or generate on, the processing system a location history entry of the physical encounter in at least the account of the individual member, that includes (i) key data of, and a location of, the vendor member, and (ii) a time of the physical encounter, the key data being the URL of the vendor member or data associated with the URL of the vendor member,

the application maintaining a viewable physical encounter history on the mobile communication device that, upon logging in to the individual member's account, is searchable by the time, by the data associated with the URL of the vendor member, and by the location of the vendor member,

the URL associated with the account of the individual member before the physical encounter between the individual member and the vendor member;

the physical encounter history includes key data from multiple vendor members and includes in at least one mode a visual timeline of physical encounters of a particular individual member,

a database of the processing system maintaining the physical encounter history, and physical encounter histories of other individual members, comprising, for each of the individual members, a location history of the physical encounters with vendor members, wherein the individual member's account is configured to allow the physical encounter history to be accumulated from multiple devices of the individual member over time

90. Claim 17 of the '667 Patent recites:

A non-transitory computer-readable medium having stored thereon application executable by one or more hardware processors, the execution performing:

configuring a mobile communication device that is in communication with a positioning system and a processing system to, upon instances of a physical encounter between an individual member of a member network who is mobile and has an account associated with a URL and a vendor member of the member network at a physical premises of the vendor member, a location of the physical encounter determined by a positioning system in communication with either the mobile communication device or a communication device of the vendor member, transmit to, or generate on, the processing system a location history entry of the physical encounter in at least the account of the individual member, that includes (i) key data of, and a location of, the vendor member, and (ii) a time of the physical encounter, the key data being the URL of the vendor member or data associated with the URL of the vendor member,

maintaining a viewable physical encounter history on the mobile communication device that, upon logging in to the individual member's account, is searchable by the time, by the data associated with the URL of the vendor member, and by the location of the vendor member, the physical encounter history including key data from multiple vendor members and includes in at least one mode a visual timeline of physical encounters of a particular individual member,

the URL associated with the account of the individual member before the physical encounter between the individual member and the vendor member,

wherein the individual member's account is configured to allow the physical encounter history to be accumulated from multiple devices of the individual member over time.

91. Dependent Claim 6 illustrates how the data collection process is member centric and oriented towards eliminating wholesale and indiscriminate collection of data, through allowing the members to confirm data entries prior to being entered in their location history.

92. Dependent claim 6 reads: “The method of claim 1, further comprising presenting

the individual member with an option to confirm an entry of a physical encounter between the individual member and the vendor member into the physical encounter history.” (Dependent Claim 6)

93. Dependent claims 7 and 8 further expound on additional advantages of the independent claims in further detail.

94. Claim 7 and 8 recite: “The method of claim 1, wherein the physical encounter history of the particular individual member viewable on the mobile communication device includes an advertisement of at least one of the vendor members, the advertisement comprising a location history entry in the location history.” (Dependent Claim 7)

95. “The method of claim 1, wherein the physical encounter history of the particular individual member viewable on the mobile communication device includes an advertisement of at least one of the vendor members, wherein the advertisement appears in the location history separate from any location history entry and is viewable on the mobile communication device.” (Dependent Claim 8)

96. The ‘667 Patent is generally directed to a method and system of creating a membership network for individuals and businesses with one of the advantages of the membership-only network being towards documenting and chronicling physical interactions between the business members and the individual members of the network.

97. One of the many advantages of a membership-only network is the elimination or dramatic reduction of the randomness and irrelevancy of aggregated data available for the individual user from the world wide web.

98. The method, system and software of the ‘667 Patent aggregates and collects data exclusively and only from members who are participants in the network which can subsequently be used and manipulated in several highly inventive and innovative systems, thus refining the data set and eliminating unwanted and irrelevant data.

99. Independent claims 1, 9, and 17 describe how the individual and business member-only network is achieved.

100. Dependent claims 7, and 8 recite elements that the physical encounter history includes an advertisement of at least one of the vendor members, which provides additional advantages of this membership-only network of claim 1.

101. Dependent claim 7 recites that the advertisement is a location history entry, which provides the advantage for a business to join the network so that the member-businesses data can appear and function as an advertisement for the individual members through their location history.

102. Dependent claim 8 further recites that the advertisement appears on the physical encounter history separate from any location history entry. This provides a privilege for the business members who are participants in the exclusive membership network to have their business advertisement appear on the individual member's mobile communication device on location history separate from a record of a physical encounter.

103. Additionally, the '667 patent is not limiting to only displaying advertisements for businesses which appear in the individual's location history. Advertisements for businesses who are members of the network which are similar in profile to a member business which appears in the location history can also be served for the individual member of the network.

104. The '667 Patent was issued to Weisner and to Shmuel Nemanov ("Nemanov"). On or about July 9, 2019, Weisner and Nemanov executed an "Agreement Between Owners of Undivided Interests in the Patent" ("Agreement Between Owners"), under which Weisner, as the majority owner of the undivided interest in certain patents and patent applications including the application that matured into the '667 Patent, has exclusive rights to sue for patent infringement of the '667 Patent. A copy of the "Agreement Between Owners" was recorded on or about September 4, 2019, in the U.S. Patent & Trademark Office Assignment Records under Reel/Frame 050259/0564 and is attached herein to the Complaint as **Exhibit A**.

105. The '667 Patent is currently in full force and effect and has not expired or been abandoned, and there are no known prior adjudications of invalidity of any of the claims of the '667 Patent.

DEFENDANT GOOGLE’S INFRINGEMENT OF THE ‘667 PATENT

106. Google is making, using and/or selling a copycat method and/or system for creating a member network for businesses and individuals with one component of this member network being utilized to link individual members to business members through business advertisements for the business members which appear on the individual members location history or on other platforms on their networked mobile devices.

107. Google literally infringes all the claims of the ‘667 Patent. Google’s infringement of the ‘667 Patent occurs through its Google Maps feature. For example, Google Maps contains a “Your Timeline” and “Your Places” feature(s) that infringe the ‘667 Patent. Google offers membership accounts for individuals and businesses alike.

108. The Google membership accounts can be customized via settings to interact with positioning systems through which physical encounters between individual members and business members of the Google network can be documented and displayed for the individual member in the “Your Timeline” module of the individual member.

109. Google also offers member privileges to businesses who participate in the Google member network to have their business advertisement appear on software applications and Google powered webpages which appear on the individual members logged in devices.

WEISNER’S NOTICE OF INFRINGEMENT TO GOOGLE

110. Google is well aware of the ‘839 Patent and has continued its unauthorized infringing activity despite this knowledge.

111. Weisner gave written notice to Google of its infringement of the ‘839 Patent on or about May 8, 2022. Google did not provide a refutation of infringement as to any claims of the ‘839 Patent . As such, Google has continued to willfully, wantonly, and deliberately engage in acts of infringement of the ‘839 Patent permitting increased damages under 35 U.S.C. § 284, and attorneys’ fees and costs incurred under 35 U.S.C. § 285.

112. Google is well aware of the '068 Patent, and the '667 Patent and has continued its unauthorized infringing activity of each despite this knowledge.

113. Weisner gave written notice to Google of its infringement of the '068 patent on and about June 18, 2020, and of the '667 Patent on and about December 8, 2020.

114. The written notice identifies features used by Google that infringe the '068 Patent, and the '667 Patent. Google did not provide a refutation of infringement as to any claims of the '068 Patent, and the '667 Patent. As such, Google has continued to willfully, wantonly, and deliberately engage in acts of infringement of the '839 Patent, of the '068 Patent, and of the '667 Patent permitting increased damages under 35 U.S.C. § 284, and attorneys' fees and costs incurred under 35 U.S.C. § 285.

115. As a result of Google's infringement of the '839, '068, and '667 Patents, Weisner has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law.

116. Google's infringement of the '839, '068, and '667 Patents causes harm to Weisner in the form of price erosion, loss of goodwill, damage to reputation, loss of business opportunities, inadequacy of money damages, and direct and indirect competition.

117. Monetary damages alone relating to the '839, '068, and '667 Patents are likely to be shown as insufficient to compensate Weisner for these harms. Accordingly, Weisner is entitled to injunctive relief against Google's future acts of infringement, including manufacture, sale, and importation.

118. Google's infringement of the '839, '068, and '667 Patent also has injured and continues to injure Weisner in an amount to be proven at trial, but not less than a reasonable royalty.

**GOOGLE'S KNOWLEDGE OF THE '839, THE '068, AND THE '667
PATENT AND WILLFUL PATENT INFRINGEMENT**

119. Google has actual knowledge of and about the '839, '068, and '667 Patents and had such knowledge before the filing of the Complaint.

120. In his cease-and-desist letters sent to Google, Weisner informed Google that

Google is infringing the claims of the '839, the '068, and '667 Patents.

121. Google continues to make, use, offer to sell and/or sell its “Your Timeline” and “Your Places” feature(s) under Google Maps that literally infringe each and every one of the independent claims of the '839, the '068, and '667 patents as well as at least several of the dependent claims for each of the patents.

122. In his May 8, 2020 cease and desist letter Weisner informed Google that Google was infringing on Claim 1 of the '839 patent, and advised Google that Google had “to cease and desist from making, using, selling, offering to sell in the United States, or importing into the United States, any features, methods, systems or devices that infringe any of the claims of the patent including ceasing and desisting from any further making, using, selling or offering to sell in the U.S., or importing into the U.S., of Google’s “Your Timeline” feature under Google Maps or Google’s “Your Places” feature under Google Maps” and that “failure to comply with the above would result in Google infringing the Patent Act at 35 U.S. Code § 271(a), a statute that provides for damages for infringement in no event less than a reasonable royalty, including, where appropriate, increased damages up to three times the amount found or assessed, as well as injunctive relief, preliminary and permanent.”

123. Upon information and belief, Google also had knowledge of the '839, the '068, and the '667 patents prior to its receipt of the May 8, 2020 letter.

124. In sum, Google was aware of the '839, the '068, and the '667 Patents but intentionally embarked upon and continued its unauthorized infringing activity despite this knowledge.

125. Google has been making, using, offering for sale, and/or selling products that infringe the '839, the '068, and the '667 Patents, and, despite Weisner’s cease-and-desist letters and additional pre- suit communications, Google continues to do so in blatant and reckless disregard of Weisner’s patent rights.

126. Google has acted recklessly and continues to willfully, wantonly, and deliberately engage in acts of infringement of the '839, the '068, and the '667 Patents, justifying an award to Weisner of increased damages under 35 U.S.C. § 284, attorneys’ fees and costs

incurred under 35 U.S.C. § 285, and other remedies that the Court may impose.

Count I

Direct Infringement of the '839 Patent Pursuant to 35 U.S.C. § 271(a)

127. Weisner repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

128. Google has infringed and continues to infringe the independent claim 1 of the '839 Patent in violation of 35 U.S.C. § 271(a).

129. Google's infringement is based upon literal infringement or infringement under the doctrine of equivalents, or both.

130. Upon information and belief, Google's inducement to infringe is based upon literal infringement or infringement under the doctrine of equivalents, or both.

Count II

Direct Infringement of the '068 Patent Pursuant to 35 U.S.C. § 271(a)

131. Weisner repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

132. Google has infringed and continues to infringe claims 1- 30 of the '068 Patent in violation of 35 U.S.C. § 271(a).

133. Google's infringement is based upon literal infringement or infringement under the doctrine of equivalents, or both.

Count III

Direct Infringement of the '667 Patent Pursuant to 35 U.S.C. § 271(a)

134. Weisner repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

135. Google has infringed and continues to infringe claims 1-20 of the '667 Patent in violation of 35 U.S.C. § 271(a).

136. Google's infringement is based upon literal infringement or infringement under the doctrine of equivalents, or both.

PRAYER FOR RELIEF

WHEREFORE, Weisner requests judgment in his favor and relief as follows:

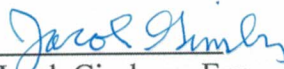
- A. An entry of judgment that Google has infringed and is infringing the ‘839 Patent, the ‘068 Patent, and the ‘667 Patent.
- B. A preliminary and permanent injunction against Google and its officers, employees, agents, servants, attorneys, instrumentalities, and/or those in privity with them, from infringing the ‘839 Patent, the ‘068 Patent, the ‘667 Patent, and for all further and proper injunctive relief pursuant to 35 U.S.C. §283;
- C. An award to Weisner of such past damages through the date of judgment, not less than a reasonable royalty, as he shall prove at trial or otherwise against Google in an amount adequate to fully compensate Weisner for Google’s infringement of the ‘839 Patent, the ‘068 Patent, and the ‘667 Patent;
- D. A determination that Google’s infringement has been willful, wanton, and deliberate and that the damages against Google be increased up to treble on this basis or for any other basis in accordance with the law;
- E. A finding that this case is “exceptional” and an award to Weisner of his costs and reasonable attorneys’ fees, as provided by 35 U.S.C. § 285;
- F. An accounting of all infringing sales and revenues, together with post judgment interest and prejudgment interest and costs from the first date of infringement of the ‘839 Patent, the ‘068 Patent, and the ‘667 Patent; and
- G. Such further and other relief as the Court may deem proper and just.

DEMAND FOR JURY TRIAL

Weisner demands a trial by jury of all issues so triable by right under Rule 38 of the Federal Rules of Civil Procedure.

Dated: September 27, 2023

Respectfully submitted



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