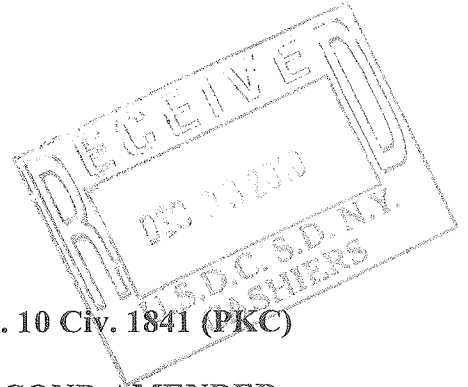


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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WIRELESS INK CORPORATION, :
: :
: :
Plaintiff, :
: :
-against- :
: :
FACEBOOK, INC. and GOOGLE, INC., :
: :
: :
Defendants. :
-----X

No. 10 Civ. 1841 (PKC)
**SECOND AMENDED
COMPLAINT FOR
PATENT INFRINGEMENT**

ECF CASE

DEMAND FOR JURY TRIAL

SECOND AMENDED COMPLAINT

Plaintiff Wireless Ink Corporation (“Wireless Ink”), by its attorneys The Pitcock Law Group, for its Second Amended Complaint against defendants Facebook, Inc. (“Facebook”) and Google, Inc. (“Google”) (defendants collectively referred to herein as “Defendants”) respectfully alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement. Wireless Ink has been and continues to be the exclusive owner of all rights in U.S. Patent No. 7,599,983 B2 (“the ‘983 patent,”) entitled “Method, Apparatus and System for Management of Information Content for Enhanced Accessibility over Wireless Communication Networks,” since the ‘983 patent was duly and legally issued on October 6, 2009. A true and correct copy of the ‘983 patent is attached hereto as Exhibit A. Upon information and belief, and as alleged in more detail below, Defendants have infringed and induced infringement of the ‘983 patent.

2. Upon information and belief, Defendants' infringement has and continues to be willful, justifying an award of enhanced damages from this Court.

JURISDICTION AND VENUE

3. This is an action arising under the patent laws of the United States, Title 35 of the United States Code §§ 101, *et. seq.* This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 (federal question) and 1338(a) (action arising under an Act of Congress relating to patents).

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b).

5. Defendants are doing business within the United States, including within this Judicial District. Upon information and belief, Defendants have committed numerous acts of infringement in this Judicial District and throughout the United States.

PARTIES

6. Plaintiff Wireless Ink Corporation ("Wireless Ink") is a Delaware Corporation with its principal place of business in East Islip, New York.

7. Defendant Facebook, Inc. ("Facebook") is a Delaware Corporation with its principal place of business in Palo Alto, California.

8. Defendant Google, Inc. ("Google") is a Delaware Corporation with its principal place of business in Mountain View, California.

9. Upon information and belief, Defendants have committed acts defined as unlawful under 35 U.S.C. § 271, as alleged more fully below.

FACTUAL ALLEGATIONS

10. The '983 patent was duly and lawfully issued on October 6, 2009.

A. INFRINGEMENT BY DEFENDANTS

11. As detailed below, and without prejudice to asserting any other claims related to infringement of the '983 patent, upon information and belief, Defendants directly infringe at least Claims 1, 2, 3, 4, 6, 7, 9, 14 and 15 of the '983 patent.

I. Facebook's Direct Infringement of Claim 1

12. Facebook provides a content management web site identified by the first url www.facebook.com. At the content management web site, a user can access various "mobile information channels" or virtual locations at which user authored content may be added for transmission to a mobile web site. As detailed below, the www.facebook.com web site provides users with a variety of ways to author content, *i.e.*, write or create material and to select activation of particular mobile information channels. The content management web site lists the virtual locations or mobile information channels for the user and provides respective indications of whether or not the channels have been made visible at the mobile web site by the user. The mobile web site has activatable links corresponding to the channels the user chose to make visible at the content management web site. A visitor to the mobile web site uses these links to access the channels made visible by the user.

13. When a potential user first accesses the www.facebook.com web site, the first thing the user sees is an area to sign up as a Facebook user. Until the user selects the "Sign Up" button, nothing exists at the mobile web site for that user.

14. After signing up, the user is then led through a series of other virtual locations at which the user may or may not author content to be added to the mobile web site. Any content will only be made visible at the mobile web sites only if the user so chooses.

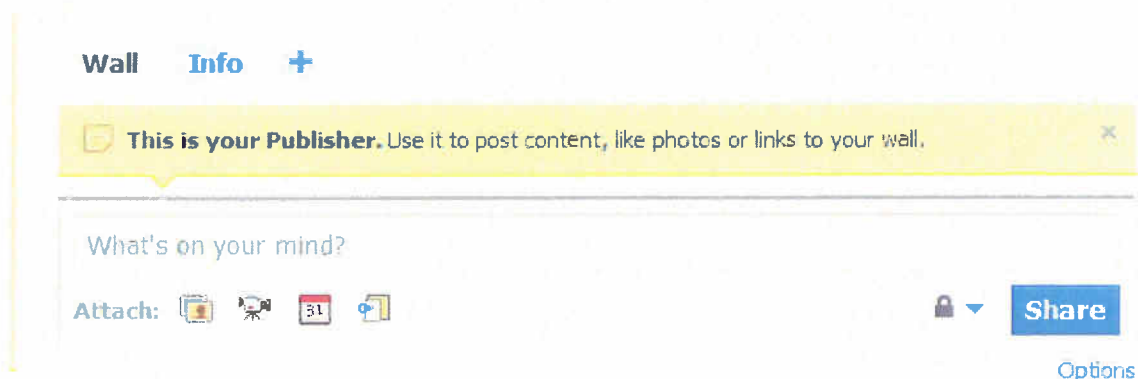
15. At any other time following the user's initial Sign Up, the user can again choose to author information at various virtual locations at the content management web site, such as those shown below.

The image shows a screenshot of a user profile editing interface. At the top, there is a 'Sex:' label followed by a dropdown menu labeled 'Select Sex:'. Below this is the 'Birthday:' section, which includes three dropdown menus for the month (currently 'Jan'), day (currently '1'), and year (with a blue 'Year:' label). Underneath are two sections: 'Interested In:' with checkboxes for 'Women' and 'Men', and 'Looking For:' with checkboxes for 'Friendship', 'Dating', 'A Relationship', and 'Networking'. Below these are three text input areas labeled 'Political Views:', 'Religious Views:', and 'Bio:'. At the bottom left is another text input area labeled 'Favorite Quotations:'. At the bottom center, there are two buttons: a blue 'Save Changes' button and a white 'Cancel' button with a grey border.

16. Any content written or created by a user at these virtual locations will only be added to a channel and made visible at a mobile web site to visitors after the user clicks on the "Save Changes" button. Activating the "Save Changes" button causes the content to be made visible at the mobile web site at the "Info" portion of the mobile web site, unless the user has chosen not to make the content visible elsewhere on the content management web site, as explained more fully below.

17. After clicking the “Save Changes” button, the user can also see what content has been made visible at the mobile web site by activating the “View My Profile” buttons at various virtual locations on the content management site. Any “Info” content that has been entered and saved by the user also appears at the “Profile” and the “Info” tabs.

18. The user can also author content at the content management web site at another virtual location identified as the “Wall,” as shown below:



19. When the “Share” button is activated, any user-authored content is made visible at the “Wall” location at the mobile web site. Until the Share button is activated, the user-authored content is not visible at the mobile web site.

20. The content management web site lists the various virtual locations at which user authored content may be added and provides updates to the user when the user has made content visible at the mobile web site. These updates are displayed to the user when the user clicks “Wall” and “Info” tabs as shown above.

21. Even after the user has authored information at the virtual locations, the user can further control whether such information is visible at the mobile web site. For example, by accessing the “Privacy Settings” the user can determine whether content will be visible at the mobile web site, before or after content is added to the channel:

Customize who can see and comment on things you share, things on your Wall and things you're tagged in.

Things I share	Posts by me <small>Default setting for posts, including status updates and photos</small>	Everyone ▼
	Family	Everyone ▼
	Relationships	Everyone ▼
	Interested in and looking for	Everyone ▼
	Bio and favorite quotations	Everyone ▼
	Website	Everyone ▼
	Religious and political views	Friends of Friends ▼
	Birthday	Friends of Friends ▼
	Places I check in to	Friends Only ▼

22. For example, a user can make everything posted at the “Wall” location (and even the link to the location) not visible to visitors at the mobile web sites by choosing the “Only Me” privacy setting. The user can also toggle between the “Only Me” setting (which causes the “Wall” location at the mobile web site to disappear to visitors) and other settings which allow certain groups of people (up to and including “Everyone”) to see the information.

23. Various content entered at other virtual locations can also be made visible (or not visible) to visitors in the same way, as shown below:

Things others share	<p>Photos and videos I'm tagged in 🔒 Only Me ▼</p> <p>Can comment on posts <small>Includes status updates, friends' Wall posts, and photos</small> 🔒 Only Me ▼</p> <p>Friends can post on my Wall <input type="checkbox"/> Enable</p> <p>Can see Wall posts by friends 🔒 No One</p> <p>Friends can check me in to Places Edit Settings</p>
Contact information	<p>Mobile phone 🔒 Friends Only ▼</p> <p>Other phone 🔒 Only Me ▼</p> <p>Address 🔒 Only Me ▼</p> <p>IM screen name 🔒 Only Me ▼</p> <p>jeremiepitcock@hotmail.com 🔒 Only Me ▼</p>

24. Other options, such as allowing (or disallowing) other Facebook users to post content at the Wall, are available. In addition to the designations such as “Only Me” or “Everyone,” which indicate to the user whether or not content entered at the content management web site is made visible to others at the mobile web site, the user can also view how the mobile web site appears to visitors to the mobile web site by activating the “Preview My Profile” button.

25. Thus, a user at the Facebook content management can choose which mobile information channels are visible at the mobile web site. The user can select activation of the mobile information channels in a variety of ways, as explained above.

26. Facebook generates mobile web sites at second urls, for example, at m.facebook.com and touch.facebook.com, which are web sites designed to be accessed by

mobile devices. The mobile web sites can be accessed by users independently of the content management website at www.facebook.com using any mobile device over a wireless network.

27. The mobile web sites are comprised of web pages having activatable links corresponding to the mobile information channels that were activated by the user at the content management website www.facebook.com. A visitor to the mobile web site can select a link to the user's name. This, in turn, takes the visitor to the user's web page containing activatable links corresponding to both the "Wall" and "Info" where a visitor can access content made visible by the user of the content management web site. No "Info" or "Wall" information content is visible after selecting either "Wall" or "Info" for visitors to the mobile web sites unless the user has chosen to make it visible at the content management web site.

28. Thus, upon information and belief, Facebook's website www.facebook.com, in conjunction with one or more of its mobile web sites, directly infringe at least claim 1 of the '983 patent. While Plaintiff believes that Facebook literally infringes claim 1, Plaintiff asserts that, to the extent any claim element is not literally met, Facebook infringes claim 1 under the doctrine of equivalents.

II. Google's Direct Infringement of Claim 1

29. Google provides a content management web site identified by the first url www.google.com. This content management web site called "Google Buzz" is available to any users with a Google email account (Gmail). At the content management web site, a user can access various "mobile information channels" or virtual locations at which user authored content may be added for transmission to a mobile web site. As detailed below, the www.google.com web site allows a user without programming to author content, *i.e.*, write or create material and to select activation of particular mobile information channels. The content management web site

lists the virtual locations or mobile information channels for the user and provides respective indications of whether or not the channels have been made visible at the mobile web site by the user. The mobile web site has activatable links corresponding to the channels the user chose to make visible at the content management web site. A visitor to the mobile web site uses the activatable links to access the channels made visible by the user.

30. While all users that have registered for a Google email account automatically have access to Google Buzz, users can choose to disable Google Buzz. Google Buzz provides several virtual locations that allow a user to author content. Different methods are used to allow the user to make those virtual locations visible at the mobile web site.

31. For example, if a user activates the “Buzz” tab or indicator, a person will be taken to the content management web site, an example of which appears (in part) as shown below:

[Jeremy Pitcock \(Edit\)](#) - [3 connected sites](#) - [2 followers](#)

Share what you're thinking. Post a picture, video, or other link here.

32. Virtual locations at the content management web site, shown below, allow a user to author content:



Insert: [Link](#) [Photo](#)

Post



Public on the web



to [my Google profile](#) and my [2 followers](#)

33. The user-authored information in this channel only becomes visible at the mobile web site if the user activates the “Post button.”

34. Other virtual locations for user authored content can be accessed by activating (for example) the “Edit” link (shown in the screen shot at paragraph 31) or the “my Google profile” link (shown in the screen shot at paragraph 32).

35. An example of the virtual locations for adding user-authored content by activating the above links is shown below:

About me **Photos** **Contact info**

This information is not public. You decide who can view it. Enter your contact information here, and then specify which people can see it.

Email

Work

Home

[Add another email](#)

Address

Work

Home

[Add another address](#)

Phone

Mobile

Home

Work

[Add another phone](#)

Instant Messaging

Google Talk

[Add another IM](#)

Birthday

Month Day

So your friends and Google can wish you a happy birthday

Who can see this information on my profile?

My Contacts (180) [view](#)

Friends (1) [view](#)

[Create a Family group](#)

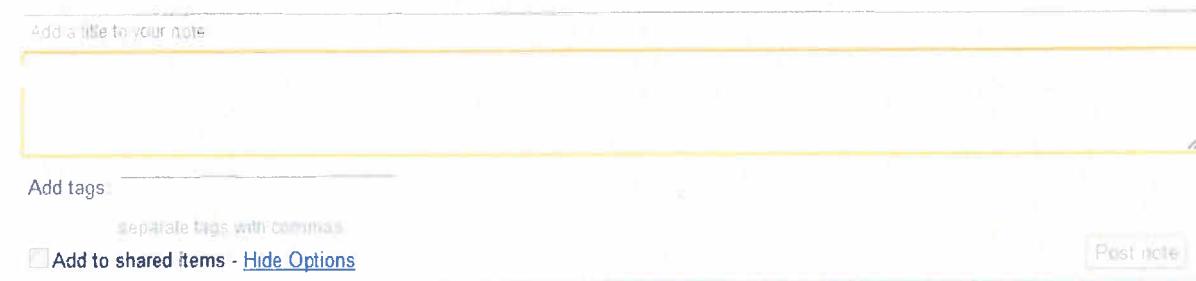
[Create a Coworkers group](#)

36. The user can author information to be added at the various locations. A user can make the content visible at the mobile web site in the “Contact” channel only if it is saved. The user can also select whether or not visitors to the mobile web site can see the content

at the “Contact” channel, as shown above. There are various indicators to the user whether or not (and to whom) the content has been made visible.

37. Google Buzz also has a “Connected Sites” feature which allows the user to select virtual locations to be made visible at the mobile website, such as those at Google Reader and Picassa, among others. Only when these “sites” are connected is the content at the “connected sites” visible.

38. For example, Google Reader also provides users with virtual locations at which user-authored information can be written or created as shown below:



39. The Google Reader notes that have been posted (on Google Reader) only become visible at the Google Buzz mobile web site if the user selects the “add” button for the Google Reader from the list of “connected sites” (activated by the link shown in the screenshot as part of paragraph 32), as shown below:



40. At the very least, both “Google Reader” and “Picassa” are parts of the Google content management web site, and contain virtual mobile information channels. For example, “Picassa” allows users to add user-authored text to photos, in a “Description” box.

41. Google generates a mobile web site at a second url, for example, at m.google.com, which is designed to be accessed by mobile devices. The mobile web site can be accessed by users independently of the content management website at www.google.com using a mobile device over a wireless network.

42. The mobile web site is comprised of web pages having activatable links corresponding to the mobile information channels that were activated by the user at the content management website www.google.com. The activated channels can be accessed, for example, by selecting the user’s name. This, in turn, takes a mobile web site visitor to the user’s web page containing activatable links corresponding to both “Buzz” and “Contact” where a visitor can access content if it has been made visible by the user of the content management web site. No content is visible after selecting either “Buzz” or “Contact” unless the user has chosen to make it visible at the content management web site.

43. Thus, upon information and belief, Google’s web site www.google.com, in conjunction with its mobile web site m.google.com, directly infringes at least claim 1 of the ‘983 patent. While Plaintiff believes that Google literally infringes claim 1, Plaintiff asserts that, to the extent any claim element is not literally met, Google infringes claim 1 under the doctrine of equivalents.

III. Defendants’ Direct Infringement of Claims 2, 3, 4, 6, 7, 9, 14 and 15

44. Both Facebook and Google Buzz permit the user to designate RSS feeds, and such feeds are included on their mobile websites. Assuming the direct infringement of claim

1 by both Facebook and Google, upon information and belief, the RSS features of Facebook and Google Buzz described above directly infringe claim 2. While Plaintiff believes that Defendants literally infringe claim 2, Plaintiff asserts that, to the extent any claim element is not literally met, Defendants infringe claim 2 under the doctrine of equivalents.

45. Assuming the direct infringement of claim 1 by both Facebook and Google, upon information and belief, the features of Facebook and Google Buzz which allow for multiple users to interact with the same data would be considered at least a collaborative community, and thus, upon information and belief, both Defendants directly infringe claim 3. Indeed, both Facebook and Google Buzz are known as “social networks.” While Plaintiff believes that Defendants literally infringe claim 3, Plaintiff asserts that, to the extent any claim element is not literally met, Defendants infringe claim 3 under the doctrine of equivalents.

46. Mobile users of both Facebook and Google Buzz can both enter information in a variety of fashions from their mobile devices that are integrated into the mobile web site and can be accessed by other mobile users. Thus, assuming the direct infringement of claim 1 by both Facebook and Google, upon information and belief, the features of Facebook and Google Buzz directly infringe claim 4. While Plaintiff believes that Defendants literally infringe claim 4, Plaintiff asserts that, to the extent any claim element is not literally met, Defendants infringe claim 4 under the doctrine of equivalents.

47. Mobile users of both the Facebook and Google mobile web sites can send messages over the wireless network. Thus, assuming the direct infringement of claim 1 and claim 4, upon information and belief, the features of Facebook and Google Buzz directly infringe claim 6. While Plaintiff believes that Defendants literally infringe claim 6, Plaintiff asserts that, to the

extent any claim element is not literally met, Defendants infringe claim 6 under the doctrine of equivalents.

48. Mobile users of both the Facebook and Google mobile web sites can specify at least one collaboration action over the wireless network. Thus, assuming the direct infringement of claim 1 and claim 4, upon information and belief, the features of Facebook and Google Buzz directly infringe claim 7. While Plaintiff believes that Defendants literally infringe claim 7, Plaintiff asserts that, to the extent any claim element is not literally met, Defendants infringe claim 7 under the doctrine of equivalents.

49. Access to the information by mobile devices to the content on the mobile web site is determined by the settings entered by the user at the content management website, including as described above. Thus, assuming the direct infringement of claim 1 by both Facebook and Google, upon information and belief, the features of Facebook and Google Buzz directly infringe claim 9. While Plaintiff believes that Defendants literally infringe claim 9, Plaintiff asserts that, to the extent any claim element is not literally met, Defendants infringe claim 9 under the doctrine of equivalents.

50. Assuming the direct infringement of claim 1 by both Facebook and Google, upon information and belief, the mobile web sites of Facebook and Google are shared by a group of members having a common interest, and thus, upon information and belief, both Defendants directly infringe claim 14. Indeed, both Facebook and Google Buzz are known as “social networks.” While Plaintiff believes that Defendants literally infringe claim 14, Plaintiff asserts that, to the extent any claim element is not literally met, Defendants infringe claim 14 under the doctrine of equivalents.

51. Assuming the direct infringement of claim 1 and 14 by both Facebook and Google, upon information and belief, one or more members of the group can manage content at the content management web site and can generate messages to other members at the mobile web site, and thus, upon information and belief, both Defendants directly infringe claim 15. While Plaintiff believes that Defendants literally infringes claim 15, Plaintiff asserts that, to the extent any claim element is not literally met, Defendants infringe claim 15 under the doctrine of equivalents.

52. Plaintiff expressly reserves the right to assert other claims of the '983 patent after discovery. Plaintiff expressly reserves the right to assert the claims against other infringing acts of defendants after discovery.

B. WIRELESS INK'S USE OF THE PATENTED TECHNOLOGY

53. Wireless Ink filed U.S. provisional application serial no. 60/389,430 on Jun. 18, 2002. Wireless Ink filed patent application no. 10/464,526 on June 18, 2003 claiming the priority of the U.S. provisional application. That application, which later issued as the '983 patent, was first published and made publicly available by the Patent and Trademark Office on January 22, 2004.

54. Around the time the patent application was filed, Wireless Ink began running Winksite, a web site that allows individuals to create mobile websites such as those described in the pending patent application. *See* <http://harper.wirelessink.com/2004/02/24/the-winksite-story/>. At all times, Winksite described its mobile web site technology as "Patent Pending." The day the '983 patent issued, the Winksite web sites were updated and marked with the '983 patent number. *See* http://winksite.com/site/section2a.cfm?article_level2_category_id=3&article_level2a_id=313.

55. Winksite continues to provide its mobile website technology to this day and has had more than one million anonymous visits between January 1, 2010 and May 1, 2010, averaging more than 10,000 visitors per day. Winksite has over 75,000 registered users. According to analytics from AdMobs, Winksite has had over 5,000,000 visits this year alone.

56. Winksite has long been recognized as leader in mobile web site creation and has been widely acknowledged as such within the industry. *See, e.g., Beyond 3G: Bringing Networks, terminals and the Web together* (Martin Sauter 2009) (http://books.google.com/books?id=1gMfAQAAIAAJ&q=winksite&dq=winksite&ei=Ka-bS6zpKY30Mr_fsdIH&cd=1); *Handbook of Research on Web 2.0 and Second Language Learning* (Michael Thomas 2009) (“Winksite allow users to build their own blogs, chat forums, conduct polls and create journals. It is truly user-friendly...”) (http://books.google.com/books?id=4tB82g0GuLAC&pg=PT506&dq=winksite&ei=Ka-bS6zpKY30Mr_fsdIH&cd=2#v=onepage&q=winksite&f=false); *Mobile Internet For Dummies* (Michael J. O’Farrell, John R. Levine, Jostein Algroy, James Pearce and Daniel Appelquist 2008) (“Designing colorful mobile sites with Winksite.”) (http://books.google.com/books?id=YdpsXjAvuUIC&pg=PA210&dq=winksite&ei=Ka-bS6zpKY30Mr_fsdIH&cd=3#v=onepage&q=winksite&f=false); Mac Life Magazine (2007) (“You can trick out your site with “channels” including a blog (either one hosted on Winksite or a feed of your existing blog), RSS feeds, surveys . . .”) (http://books.google.com/books?id=wgIAAAAAMBAJ&pg=PA86&dq=winksite&ei=Ka-bS6zpKY30Mr_fsdIH&cd=4#v=onepage&q=winksite&f=false); *Nokia Smartphone Hacks* (Michael Juntao Yuan 2005) (http://books.google.com/books?id=qDiAAot3HjYC&pg=PA269&dq=winksite&ei=Ka-bS6zpKY30Mr_fsdIH&cd=5#v=onepage&q=winksite&f=false); *Hybrid Learning and Education* (Joseph Fong, Reggie Kwan, and Fu Lee Wang 2008) (“A popular and free Mobile 2.0 site

builder for teaching can be found at Winksite . . .”) (http://books.google.com/books?id=Cy0YwEofp2oC&pg=PA229&dq=winksite&ei=KabS6zpKY30Mr_fsdIH&cd=6#v=onepage&q=winksite&f=false); Toys to Tools: Connecting Student Cell Phones to Education (Liz Kolb 2008) (“Winksite is another Web 2.0 resource that allows anyone to build a mobile-friendly website”) (http://books.google.com/books?id=nwYmAQAIAAJ&q=winksite&dq=winksite&ei=Ka-bS6zpKY30Mr_fsdIH&cd=7); The Everything Blogging Book: Publish Your Ideas, Get Feedback, and Create (Aliza Sherman Risdahl 2006) (http://books.google.com/books?id=XLjFHaxhG18C&pg=PT313&dq=winksite&ei=Ka-bS6zpKY30Mr_fsdIH&cd=8#v=onepage&q=winksite&f=false); Digital Engagement: Internet Marketing That Captures Customers and Builds Brand Loyalty (Leland Harden and Bob Heyman 2009) (“Google has a page creator (www.pages.google.com) that works in XHTML, and independent developers such as www.winksite.com offer community and support.”) (http://books.google.com/books?id=75GyZRRRZVkc&pg=PA90&dq=winksite&ei=Ka-bS6zpKY30Mr_fsdIH&cd=10#v=onepage&q=winksite&f=false); Jump Point: How Network Culture is Revolutionizing Business (Tom Hayes 2008) (“. . . and the ability to build a mobile Web page using a service like Winksite, and you have the best of all worlds.”) (<http://books.google.com/books?id=bEHSnh12VXUC&pg=PA10&dq=winksite&lr=&ei=x7GbS6fwFZ28M4uehJUH&cd=12#v=onepage&q=winksite&f=false>); Information Tomorrow: Reflections on Technology and the Future of Public and Academic Libraries (Rachel Singer Gordon 2007) (<http://books.google.com/books?id=8mRBKOrURK8C&pg=PA227&dq=winksite&lr=&ei=x7GbS6fwFZ28M4uehJUH&cd=13#v=onepage&q=winksite&f=false>).

57. Moreover, David Harper, lead inventor of the ‘983 patent and one of the founders of Wireless Ink, is well known as an expert on mobile web site technology. He has been

cited as a mobile web site expert by well known publications, such as the New York Times. *See, e.g.,* <http://www.nytimes.com/2004/12/07/books/07cell.html>.

58. In 2005, long before either Facebook or Google developed their infringing mobile web sites, David Harper helped found the New York chapter of Mobile Monday. Mobile Monday is a global community of mobile industry visionaries, developers and influentials across over 100 cities worldwide fostering cooperation and cross-border business development through virtual and live networking events to share ideas, best practices and trends from global markets. Through Mobile Monday, David Harper touted the advanced mobile website technology of Winksite, and presented at conferences around the country that drew hundreds of attendees.

59. Indeed, David Harper has served on panels that include persons who work on mobile web site technology issues at both Google and Facebook, and specifically discussed the Winksite technology with those persons. *See* http://www.informationweek.com/blog/main/archives/2007/06/good_web_sites.html;jsessionid=4GCYWY12Q3RRNOE1GHRSKHWATMY32JVN.

60. Finally, Winksite prominently appears in search results using Google's search engine with relevant keywords, nearly always coming up on the first page of search results.

C. DEFENDANTS' USE OF THE PATENTED TECHNOLOGY

61. Upon information and belief, on February 4, 2004 (shortly after the application that became the '983 patent was published), Facebook founder Mark Zuckerberg launched "Thefacebook" website, originally located at www.thefacebook.com.

62. Upon information and belief, Facebook incorporated in the summer of 2004. Upon information and belief, on or about June 2004, Facebook moved its base of

operations to Palo Alto, California. Upon information and belief, the company dropped “The” from its name after purchasing the domain name www.facebook.com in 2005.

63. Upon information and belief, Facebook launched its first mobile web site on or about January 10, 2007. The official announcement, found at <http://blog.facebook.com/blog.php?post=2228532130> (entitled “Facebook Your Phone”) reads in part: “Facebook was invented to make sharing information with your friends easier and better. Mobile phones were invented for pretty much the same reason. People needed an easier and better way to get in touch with each other, and mobile phones made it happen. We pondered this for a bit, quickly realized that pondering wasn't making anything awesome happen, and then started building Facebook Mobile. We're now happy to report that Facebook Mobile has services available for every Facebook user with a phone. Here's what they are: Mobile Web lets you surf Facebook on your phone just like the normal website . . . except that it actually fits on the screen.”

64. Upon information and belief, since early 2007, Facebook has continued to maintain its mobile web site at m.facebook.com and has launched additional mobile websites designed to work with mobile wireless devices. Upon information and belief, on or about October 21, 2009 -- shortly after the ‘983 patent was issued -- Facebook launched a new mobile website at touch.facebook.com.

65. On February 10, 2010, Facebook announced in a post on its official blog at <http://blog.facebook.com/blog.php?post=297879717130> that Facebook Mobile had more than 100 million users. The blog post (written by Chamath Palihapitiya -- Facebook’s VP of User Growth, Mobile and International Expansion) reads in part: “We want as many people as possible to be able to access Facebook all the time, regardless of where they live or what device they carry. Today, we hit another milestone toward that goal, with more than 100 million people

actively using Facebook from their mobile devices every month. This usage happens on almost every carrier in the world and comes less than six months after we announced 65 million people on Facebook Mobile . . . Our mobile sites m.facebook.com and touch.facebook.com have been redesigned, enabling people to access Facebook from any mobile browser in more than 70 languages. With the explosion of smart phones, we want to make sure people have a great Facebook experience that scales with their device especially as people have begun to upgrade their devices more frequently.”).

66. Upon information and belief, on or about February 15, 2010, in a session on “Mobile Communications 2.0” at the Mobile World Congress in Barcelona, Chamath Palihapitiya shared Facebook’s current mobile strategy and its plans for the future. Upon information and belief, Mr. Palihapitiya stated the following: (a) Facebook believes 2010 will be a watershed year for mobile; (b) 100 million users (25% of Facebook’s 400 million total users) actively use Facebook’s mobile products at least once a month; (c) 200 million people have interacted with Facebook on mobile devices at least once; (d) Over the next 5 to 10 years, Facebook aims to invest heavily in expanding mobile experiences for their users and expects a lot of growth; (e) Facebook mobile users demonstrate twice as much engagement (twice the pageviews, interactions, consumptions and productions) as non-mobile users; and (f) the mobile websites m.facebook.com and touch.facebook.com have now been translated into 70+ languages, covering about 98% of the world population.

67. Upon information and belief, in part driven by the success of its Facebook mobile web site offerings, Facebook recently has become the number two web site for unique visitor traffic in the United States, surpassing Yahoo! Inc. Perhaps more importantly, upon information and belief, the amount of time that Internet users spend on Facebook (commonly

called “Attention”) has also steadily grown. Upon information and belief, average Internet users now spend twice as much time on the Facebook websites as they do on either the Google or Yahoo! Inc. web sites (which have seen decreases in their Attention metrics over the last year).

68. Upon information and belief, on or about February 9, 2010, in response to the phenomenal growth of Facebook’s social network and its mobile web site offerings, Google - - at one point the number one ranked web site for unique visitor traffic -- launched a social networking service called “Buzz” to compete with Facebook.

69. Upon information and belief, Google launched Buzz through its free email service, Gmail, located at mail.google.com. Upon information and belief, as a result, Google was able to automatically populate its social networking site with existing users of its Gmail service. Upon information and belief, the total number of Gmail users exceeded 150,000,000 at the time Buzz was launched. Upon information and belief, the annual growth rate of Gmail’s user base exceeded 40 percent at the time Buzz was launched.

70. Upon information and belief, Google’s Buzz strategy worked – its base of 150,000,000 plus Gmail users has made the social network a success. On or about February 11, 2010 -- two days after the launch of Google Buzz – Google announced on its official blog that “tens of millions of people have checked Buzz out, creating over 9 million posts and comments . . . we’re seeing over 200 posts per minute from mobile phones around the world” at <http://gmailblog.blogspot.com/2010/02/google-buzz-in-gmail.html>.

71. Upon information and belief, Google has recently begun to emphasize its mobile offerings, including its mobile Buzz offering. Upon information and belief, Google CEO Eric Schmidt announced at the Mobile World Congress 2010 in Barcelona that: “Everything that Google will create going forward will be done . . . through a ‘Mobile First’ lens . . . It’s like

magic. All of a sudden you can do things that it never occurred to you was possible. The implication that has not been expressed here or in the industry now is Mobile First – the principal of everything being developed for mobile first.”

D. WILLFULNESS AND INDIRECT INFRINGEMENT

72. At all times for close to a decade, Wireless Ink publicized to the world that the advanced mobile web site features of its Winksite mobile application were “patent pending.” The patent application covering the technology has been publicly available since 2004. As alleged above, both the Winksite application and the lead inventor David Harper were well known, and their achievements and technology were published on many occasions. Moreover, employees at both Facebook and Google actually served on mobile technology panels with Mr. Harper, where the Winksite technology and advantages were specifically discussed.

73. Both Facebook and Google are very familiar with the patent system. Both companies own patents. Indeed, Mark Zuckerberg, the founder of Facebook, and seven others at the company were awarded U.S. Patent No. 7,669,123, which purports to cover dynamically providing a news feed about a user of a social network. Google was awarded U.S. Patent No. 7,668,832, which purports to cover determining and/or using location information in an ad system. Google also runs a popular patent search tool at www.google.com/patents. Both Facebook and Google have been involved in numerous patent litigations.

74. The Defendants alleged infringing activities involve hundreds of millions of users and potentially billions of acts of infringement. Given the time and resources the Defendants have invested in their desktop and mobile web sites as well as their strategic importance, and given the well known nature of Winksite and the lead inventor of the patent,

David Harper, upon information and belief, both Defendants were aware of the '983 patent and/or its predecessor patent application.

75. However, if two of the most resource-rich, patent-savvy and technologically-advanced companies leading the Internet were not aware of the '983 patent, despite its potential ramifications upon a major segment of the Defendants' business, upon information and belief, this was solely due to a deliberate indifference on the part of Defendants to a known patent risk. Thus, upon information and belief, Defendants had actual knowledge of the '983 patent and Defendants' infringement has been and continues to be willful, justifying an award of enhanced damages.

76. Furthermore, upon information and belief, Defendants have actively encouraged users to use their web sites. Indeed, Google arguably forced Buzz onto millions of its Gmail users. Upon information and belief, Defendants have engaged in such acts with at least a deliberate indifference to the patent rights of Wireless Ink, if not actual awareness of the claims, with the specific intent to induce their users to infringe the claims of the '983 patent. Thus, on information and belief, Defendants are liable for inducing infringement of the '983 patent.

FIRST CLAIM FOR RELIEF
(Infringement of the '983 Patent)

77. Wireless Ink repeats and realleges paragraphs 1 through 76 above as though fully set forth herein.

78. Upon information and belief, Wireless Ink alleges that Defendants have directly infringed and are currently directly infringing claims of the '983 patent either literally or under the doctrine of equivalents, and/or have actively induced and are actively inducing others to infringe the '983 patent, by committing acts defined in 35 U.S.C. § 271 as unlawful. All such acts have been without authority or license from Wireless Ink.

79. Upon information and belief, Defendants' direct infringement and inducement of infringement of the '983 patent has been and continues to be willful and deliberate, and without regard for Wireless Ink's rights in the '983 patent.

PRAYER FOR RELIEF

WHEREFORE, Wireless Ink prays for the following relief:

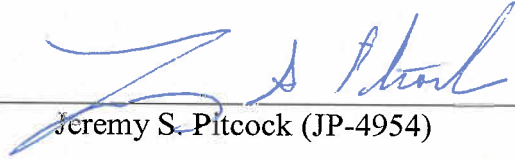
- A. A judgment by the Court that the Defendants infringe the '983 patent;
- B. A judgment by the Court that Defendants are liable for inducement of infringement of the '983 patent;
- C. A judgment by the Court that Defendants' infringement of the '983 patent has been and continues to be willful;
- D. An award of damages to compensate Wireless Ink for Defendants' infringement, including preliminary, pre- and post-judgment interests and costs, pursuant to 35 U.S.C. § 284;
- E. An award of treble damages based on the willfulness of Defendants' infringement, pursuant to 35 U.S.C. § 284;
- F. A judgment by the Court that this case is exceptional and for the Court to award Wireless Ink its reasonable attorney fees, disbursements, expert fees and costs in accordance with the law, including, but not limited to, 35 U.S.C. § 285;
- G. Preliminary and permanent injunctive relief; and
- H. For such other, further or different relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Wireless Ink respectfully demands a trial by jury for all issues so triable in this
action.

Dated: New York, New York
December 3, 2010

Respectfully submitted,

By: 
Jeremy S. Pitcock (JP-4954)

THE PITCOCK LAW GROUP
1501 Broadway, 12th Floor
New York, NY 10036
(646) 571-2237

Of Counsel:

STEVENS LAW GROUP
David R. Stevens (admitted *pro hac vice*)
1754 Technology Drive, Suite 226
San Jose, California 95110
(408) 288-7588

BANIE & ISHIMOTO LLP
Jennifer L. Ishimoto (admitted *pro hac vice*)
2225 East Bayshore Road
Suite 200
Palo Alto, CA 94303
(650) 320-1628

Attorneys for Wireless Ink Corporation

CERTIFICATE OF SERVICE

On December 3, 2010, I caused to be served a true and correct copy of the **SECOND AMENDED COMPLAINT**, with Exhibit, on Defendants by personal service to:

Kevin McGann
kmcgann@whitecase.com
White & Chase LLP
1155 Avenue of Americas
New York, New York 10036-2787

Jonathan Paul Bach
jbach@cooley.com
Cooley Godward Kronish LLP
1114 Avenue of the Americas
New York, New York 10036-7798

On December 3, 2010, I caused to be served a true and correct copy of the **SECOND AMENDED COMPLAINT**, with Exhibit, on Defendants by email to:

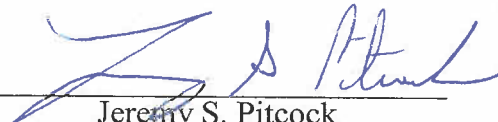
Mark Randolph Weinstein
mweinstein@cooley.com
Heidi Keefe
hkeefe@cooley.com
Cooley Godward Kronish LLP
3175 Hanover Street
Palo Alto, CA 94304

Jonathan Paul Bach
jbach@cooley.com
Arastu Kabeer Chaudhury
achaudhury@cooley.com
Cooley Godward Kronish LLP
1114 Avenue of the Americas
New York, New York 10036-7798

Kevin McGann
kmcgann@whitecase.com
Aaron Chase
achase@whitecase.com
White & Chase LLP
1155 Avenue of Americas
New York, New York 10036-2787

X I declare under penalty of perjury, under the laws of the State of New York, that the foregoing is true and correct.

Executed on December 3, 2010, at New York, New York.



Jeremy S. Pitcock