IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

EVOLUTIONARY INTELLIGENCE, LLC, Plaintiff, v. TWITTER, INC.; CRIMSON HEXAGON, INC.; DATAMINR, INC.; and MASS RELEVANCE, INC., Defendants.	Case No. 6:12-cv-00792-MHS-CMC JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Evolutionary Intelligence, LLC states its First Amended Complaint against Defendants Twitter, Inc., Crimson Hexagon, Inc., Dataminr, Inc., and Mass Relevance, Inc. and alleges as follows:

THE PARTIES

1. Plaintiff Evolutionary Intelligence, LLC is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business in Newton, Massachusetts.

2. Upon information and belief, Defendant Twitter, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 1355 Market Street, Suite 900, San Francisco, California 94103.

3. Upon information and belief, Defendant Crimson Hexagon, Inc. is a corporation organized and existing under the laws of Delaware, with its principal place of business at 155 Seaport Drive, Third Floor, Boston, Massachusetts 02210.

4. Upon information and belief, Defendant Dataminr, Inc. is a corporation organized and existing under the laws of Delaware, with its principal place of business at 41 East 11th Street, Second Floor, New York, New York 10003.

5. Upon information and belief, Defendant Mass Relevance, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 9933 Morgan Creek Drive, Austin, Texas 78717.

JURISDICTION AND VENUE

6. Plaintiff realleges and incorporates by reference the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

7. This action is for patent infringement pursuant to the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has subject matter jurisdiction over the action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Personal jurisdiction exists generally over each Defendant because each Defendant has sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and within the Eastern District of Texas. Personal jurisdiction also exists specifically over each Defendant because it, directly or through subsidiaries or intermediaries, makes, uses, offers for sale, sells, imports, advertises, makes available and/or markets one or more products and/or services within the State of Texas, and more particularly, within the Eastern District of Texas, that infringe the patent-in-suit, as described more particularly below. In addition, Mass Relevance maintains its offices and facilities in Austin, Texas.

9. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391 and 1400(b), because each Defendant has committed acts of infringement in the Eastern District of Texas and has transacted business in the Eastern District of Texas.

COUNT ONE
INFRINGEMENT OF U.S. PATENT NO. 7,010,536

10. Plaintiff realleges and incorporates by reference the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

11. Plaintiff is the owner of all right, title, and interest in United States Patent No. 7,010,536, entitled "System and Method for Creating and Manipulating Information Containers with Dynamic Registers," duly and legally issued by the United States Patent and Trademark

Office on March 7, 2006 (the "'536 patent"). A true and correct copy of the '536 patent is attached hereto as Exhibit A.

12. The '536 patent generally describes and claims an apparatus that efficiently processes data using containers, registers, information elements, and gateways.

13. Twitter has infringed and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '536 patent under 35 U.S.C. § 271 by making, using, offering to sell, and/or selling the patented invention within the United States. Specifically, Twitter has infringed and continues to infringe the '536 patent by making, using, offering to sell, and/or selling its Twitter real-time information network product and service, accessible at least through twitter.com and mobile device applications (the "Twitter Product").

14. Crimson Hexagon has infringed and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '536 patent under 35 U.S.C. § 271 by making, using, offering to sell, and/or selling the patented invention within the United States. Specifically, Crimson Hexagon has infringed and continues to infringe the '536 patent by using the Twitter Product in an infringing manner. In addition, Crimson Hexagon has infringed and continues to infringe the '536 patent by making, using, offering to sell, and/or selling its Crimson Hexagon ForSight Platform, which is designed to collect and process data of the Twitter Product in an infringing manner.

15. Dataminr has infringed and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '536 patent under 35 U.S.C. § 271 by making, using, offering to sell, and/or selling the patented invention within the United States. Specifically, Dataminr has infringed and continues to infringe the '536 patent by using the Twitter Product in an infringing manner. In addition, Dataminr has infringed and continues to infringe the '536 patent by making, using, offering to sell, and/or selling its Dataminr product and/or service, which is designed to collect and process data of the Twitter Product in an infringing manner.

16. Mass Relevance has infringed and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '536 patent under 35 U.S.C. § 271 by making,

using, offering to sell, and/or selling the patented invention within the United States. Specifically, Mass Relevance has infringed and continues to infringe the '536 patent by using the Twitter Product in an infringing manner. In addition, Mass Relevance has infringed and continues to infringe the '536 patent by making, using, offering to sell, and/or selling its Mass Relevance Platform and Mass Maps products and/or services, which are designed to collect and process data of the Twitter Product in an infringing manner.

17. Twitter has had knowledge and notice of the '536 patent since at least as early as October 17, 2012, when the complaint in this action was filed.

18. Twitter actively, knowingly, and intentionally induces infringement of the '536 patent by Crimson Hexagon, Dataminr, and Mass Relevance, all with knowledge of the '536 patent and its claims, with knowledge that such persons will use the Twitter Product in an infringing manner, and with the knowledge and the specific intent to encourage and facilitate infringement. In particular, Twitter provides Application Programming Interfaces ("APIs"), which enable Crimson Hexagon, Dataminr, and Mass Relevance to collect and process data of the Twitter Product in a manner that directly infringes the '536 patent. Twitter also provides documentation and instructions to each of these defendants regarding the use of the Twitter APIs and the Twitter data, and requires each of these defendants to conform its products and services to Twitter's documentation and instructions. Further, Twitter has evaluated the infringing products and services of Crimson Hexagon, Dataminr, and Mass Relevance, and has authorized each of these defendants to integrate these products and services with the Twitter Product pursuant to Twitter's Certified Products Program, in an infringing manner. Twitter has held these defendants out to the public as being certified developers of Twitter-integrated products, by conferring its Twitter Certified Product Engagement badge on Crimson Hexagon and Dataminer, and by conferring its Twitter Certified Product Analytics badge on Mass Relevance. After the complaint in this action was filed, Twitter continued to update the APIs and corresponding documentation of the infringing Twitter Product, enabling and encouraging Crimson Hexagon,

Dataminr, and Mass Relevance to continue integrating their products and services with the Twitter Product in an infringing manner.

19. As a result of the infringing activities of Twitter, Crimson Hexagon, Dataminr, and Mass Relevance with respect to the '536 patent, Plaintiff has suffered damages in an amount not yet ascertained. Plaintiff is entitled to recover damages adequate to compensate it for these Defendants' infringing activities in an amount to be determined at trial, but in no event less than reasonable royalties, together with interest and costs. These Defendants' infringement of Plaintiff's exclusive rights under the '536 patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

COUNT TWO
INFRINGEMENT OF U.S. PATENT NO. 7,702,682

20. Plaintiff realleges and incorporates by reference the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

21. Plaintiff is the owner of all right, title, and interest in United States Patent No. 7,702,682, entitled "System and Method for Creating and Manipulating Information Containers with Dynamic Registers," duly and legally issued by the United States Patent and Trademark Office on April 20, 2010 (the "'682 patent"). A true and correct copy of the '682 patent is attached hereto as Exhibit B.

22. The '682 patent generally describes and claims an apparatus and method for efficiently searching and processing data using containers, registers, information elements, and gateways.

23. Twitter has infringed and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '682 patent under 35 U.S.C. § 271 by making, using, offering to sell, and/or selling the patented invention within the United States. Specifically, Twitter has infringed and continues to infringe the '682 patent by making, using, offering to sell, and/or selling its Twitter real-time information network product and service, accessible at least through twitter.com and mobile device applications (the "Twitter Product").

24. Mass Relevance has infringed and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '682 patent under 35 U.S.C. § 271 by making, using, offering to sell, and/or selling the patented invention within the United States. Specifically, Mass Relevance has infringed and continues to infringe the '682 patent by using the Twitter Product in an infringing manner. In addition, Mass Relevance has infringed and continues to infringe the '682 patent by making, using, offering to sell, and/or selling its Mass Relevance Platform, Mass Expressions, Mass Leaderboards, Mass Polls, and Mass Trends products and/or services, which are designed to collect and process data of the Twitter Product in an infringing manner.

25. Twitter has had knowledge and notice of the '682 patent since at least as early as October 17, 2012, when the complaint in this action was filed.

26. Twitter actively, knowingly, and intentionally induces infringement of the '682 patent by Mass Relevance, all with knowledge of the '682 patent and its claims, with knowledge that Mass Relevance will use the Twitter Product in an infringing manner, and with the knowledge and the specific intent to encourage and facilitate infringement. In particular, Twitter provides Application Programming Interfaces ("APIs"), which enable Mass Relevance to collect and process data of the Twitter Product in a manner that directly infringes the '682 patent. Twitter also provides documentation and instructions to Mass Relevance regarding the use of the Twitter APIs and the Twitter data, and requires Mass Relevance to conform its products and services to Twitter's documentation and instructions. Further, Twitter has evaluated the infringing products and services of Mass Relevance, and has authorized Mass Relevance to integrate these products and services with the Twitter Product pursuant to Twitter's Certified Products Program, in an infringing manner. Twitter has held Mass Relevance out to the public as being a certified developer of Twitter-integrated products by conferring its Twitter Certified Product Analytics badge on Mass Relevance. After the complaint in this action was filed, Twitter continued to update the APIs and corresponding documentation of the infringing Twitter

Product, enabling and encouraging Mass Relevance to continue integrating its products and services with the Twitter Product in an infringing manner.

27. As a result of the infringing activities of Twitter and Mass Relevance with respect to the ‘682 patent, Plaintiff has suffered damages in an amount not yet ascertained. Plaintiff is entitled to recover damages adequate to compensate it for these Defendants’ infringing activities in an amount to be determined at trial, but in no event less than reasonable royalties, together with interest and costs. These Defendants’ infringement of Plaintiff’s exclusive rights under the ‘682 patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

PRAYER FOR RELIEF

Plaintiff requests entry of judgment in its favor as follows:

a) For a declaration that Twitter, Crimson Hexagon, Dataminr, and Mass Relevance have infringed one or more claims of the ’536 patent;

b) For a declaration that Twitter and Mass Relevance have infringed one or more claims of the ‘682 patent;

c) For an award of damages adequate to compensate Plaintiff for each Defendant’s infringement of the ‘536 patent and/or ‘682 patent, but in no event less than a reasonable royalty, together with prejudgment and post-judgment interest and costs, in an amount according to proof;

d) For an entry of a permanent injunction enjoining each Defendant, and its respective officers, agents, employees, and those acting in privity with it, from further infringement of the ‘536 patent and/or ‘682 patent, or in the alternative, awarding a royalty for post-judgment infringement; and

e) For an award to Plaintiff of such other costs and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully requests a trial by jury.

Dated: March 25, 2013

Respectfully submitted,

/s/ Todd Kennedy

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