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BY: _____
12 FEB 27 AM 10:17
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

FILED

6 Attorney for Plaintiff
EVERYMD

8 **IN THE UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11
12 EVERYMD, a partnership,
13
14 Plaintiff,
15
16 v.
17
18 RICK SANTORUM, MITT
ROMNEY, NEWT GINGRICH,
and DOES 1 - 10
19 Defendants.

Civil Action No.
CV 12-01623 DPP (JEM/x)
**COMPLAINT FOR PATENT
INFRINGEMENT**
DEMAND FOR JURY TRIAL

22 COMES NOW, Plaintiff EVERYMD and on information and belief alleges as
23 follows:

24 **JURISDICTION AND VENUE**

25 1. This is an action for patent infringement under 35 U.S.C. §§ 271 et. seq.
26 and 28 U.S.C. §§ 1331 and 1338(a).
27
28

1 2. The acts of patent infringement alleged herein occurred within this
2 judicial district, Plaintiff resides in this district, and Defendants are subject to personal
3 jurisdiction in this district. Therefore, venue is proper pursuant to 28 U.S.C. §§
4 1391(b), (c), and 1400(b).
5

6 **PARTIES**

7 3. Plaintiff EVERYMD (“EVERYMD”) is a partnership of Frank Weyer
8 (“Weyer”) and Troy Javaher (“Javaher”). EVERYMD has a place of business at 2032
9 Whitley Ave., Los Angeles, CA 90068.

10 4. Defendant RICK SANTORUM (“SANTORUM”) is a Facebook business
11 account holder whose Facebook page has a URL of
12 <https://www.facebook.com/RickSantorum>. SANTORUM has a place of business at
13 Post Office Box 37, Verona, PA 15147.

14 5. Defendant MITT ROMNEY (“ROMNEY”) is a Facebook business
15 account holder whose Facebook page has a URL of
16 <https://www.facebook.com/mittromney>. ROMNEY has a place of business at 585
17 Commercial St., Boston, MA 02109.

18 6. Defendant NEWT GINGRICH (“GINGRICH”) is a Facebook business
19 account holder whose Facebook page has a URL of
20 <https://www.facebook.com/newtgingrich>. GINGRICH has a place of business at 3110
21 Maple Drive, Suite 400, Atlanta GA 30305.
22

23 7. Defendants Does 1 – 1000 are each a presently unidentified one of an
24 estimated 4,000,000 additional Facebook business account holders that are subject to
25 the jurisdiction of this court.
26
27
28

1
2 **FIRST CAUSE OF ACTION**
3 **PATENT INFRINGEMENT PURSUANT TO 35 U.S.C. 271(g)**

4 8. EVERYMD incorporates by reference paragraphs 1 – 7 as though fully
5 set forth herein.

6 9. EVERYMD has operated the website www.everymd.com since 2001.

7 10. EVERYMD’s website at www.everymd.com provides home pages for
8 over 300,000 member doctors and allows patients to obtain information about, send
9 messages to, and submit comments about those doctors via the doctors’ individual
10 home pages.

11 11. Prior to November 1999, EVERYMD invented numerous novel
12 technologies during development of its website.

13 12. EVERYMD filed U.S. Patent Application Serial No. 09/447,755 entitled
14 “Method Apparatus and Business System for Online Communications with Online
15 and Offline Recipients” on November 23, 1999.

16 13. EVERYMD is the owner of U.S. Patent No. 6,671,714 entitled “Method,
17 Apparatus and Business System for Online Communications with Online and Offline
18 Recipients” (“the ‘714 patent”).

19 14. The ‘714 patent is based on the ‘755 application and issued on December
20 30, 2003.

21 15. EVERYMD is the owner of U.S. Patent No. 7,644,122 entitled “Method,
22 Apparatus and Business System for Online Communications with Online and Offline
23 Recipients” (“the ‘122 patent”).

24 16. The ‘122 patent is based on the ‘755 application and issued on December
25 January 5, 2010.
26
27
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1 17. EVERYMD owns additional pending patent applications that are based
2 on the '755 application.

3 18. The '122 patent is valid and in full force and effect.

4 19. EVERYMD has given notice of its patent rights by marking its website at
5 www.everymd.com with the '122 patent number.
6

7 20. The '122 patent is directed to a novel method for creating individual
8 home pages for members of a group of members that contain controls for sending
9 messages to and for submitting comments about the members.

10 21. Third party Facebook, Inc. ("FACEBOOK") utilizes the method of the
11 '122 patent to create individual home pages ("FACEBOOK PAGES") for its
12 individual members.
13

14 22. In 2011, EVERYMD offered to sell the '122 patent to FACEBOOK.

15 23. FACEBOOK rejected EVERYMD's offer, and EVERYMD's offer has
16 expired.

17 24. Defendants each use FACEBOOK PAGES produced by FACEBOOK
18 using the method of the '122 patent for commercial purposes by placing
19 advertisements and proportional messages on one or more of such FACEBOOK
20 PAGES.

21 25. FACEBOOK's use of the method of the '122 patent to produce
22 FACEBOOK PAGES is unauthorized.
23

24 26. FACEBOOK's failure to purchase the '122 patent or otherwise obtain
25 rights under the '122 patent leaves holders of FACEBOOK business accounts liable
26 for infringement of the '122 patent for unauthorized commercial use of FACEBOOK
27 PAGES produced by FACEBOOK using the method of the '122 patent.
28

1 27. On January 23, 2011, EVERYMD announced a limited time reduced-
2 price patent licensing program under which holders of FACEBOOK business
3 accounts could avoid liability for infringement of the ‘122 patent by voluntarily
4 purchasing licenses to the ‘122 patent for a reduced price of \$500 per FACEBOOK
5 business account. EVERYMD’s reduced price voluntary licensing program has
6 ended.

7
8 28. None of defendants have taken advantage of EVERYMD’s voluntary
9 licensing program, which is now no longer available to them.

10 29. Defendants each have actual notice of EVERYMD’s patent rights but
11 Defendants continue to act in conscious and willful disregard of those rights.

12 30. Defendants’ infringements of EVERYMD’s patent rights have
13 irreparably damaged EVERYMD and will continue to cause irreparable harm unless
14 enjoined by the Court.

1 **DEMAND FOR RELIEF**

2 **WHEREFORE**, Plaintiffs ask this Court to:

- 3
- 4 a. Enter judgment for EVERYMD against each Defendant on this
- 5 Complaint;
- 6 b. Enter a preliminary and permanent injunction to enjoin each Defendant,
- 7 and all those in privity with each such Defendant, from further infringement of the
- 8 ‘122 patent during the remaining term of the patent;
- 9 c. Award compensatory damages to EVERYMD and to increase those
- 10 damages three times in accordance with 35 U.S.C. § 284;
- 11 d. Award EVERYMD reasonable attorneys’ fees in accordance with 35
- 12 U.S.C. § 285;
- 13 e. Award EVERYMD interest and costs; and
- 14 f. Award EVERYMD such other and further relief as is just and proper.
- 15

16 **DEMAND FOR JURY TRIAL**

17 Plaintiffs hereby demand a trial by jury of all issues so triable.

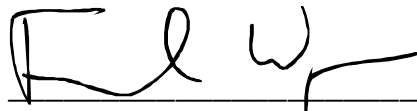
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19

20 Respectfully submitted,
21 **TECHCOASTLAW®**

22 Dated: February 27, 2012

23 By:

24 

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