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BASCOM RESEARCH, LLC
9

10              **IN THE UNITED STATES DISTRICT COURT**

11          **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

12                    **SAN FRANCISCO DIVISION**

13

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15  BASCOM RESEARCH, LLC, a Delaware          Case No.: 3:12-CV-06293-SI
    Corporation,

16              Plaintiff,                     **FIRST AMENDED COMPLAINT FOR
                                               PATENT INFRINGEMENT**
17          v.

18  FACEBOOK, INC., a Delaware Corporation,    **DEMAND FOR JURY TRIAL**

19              Defendant.

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FIRST AMENDED COMPLAINT FOR                    CASE NO. 3:12-CV-06293-SI
PATENT INFRINGEMENT

Plaintiff Bascom Research, LLC ("Bascom") files this Complaint for Patent Infringement and Jury Demand against Defendant Facebook, Inc. ("Defendant" or "Facebook") and alleges as follows:

## THE PARTIES

1.     Bascom is a Virginia limited liability company organized and existing under the laws of Virginia having a principal place of business at 7025 Elizabeth Drive, McLean, Virginia 22101.

2.     On information and belief, Defendant is a Delaware corporation organized and existing under the laws of Delaware, with its principal place of business at 1601Willow Road, Menlo Park, California 94025, and with additional United States offices in Atlanta, Georgia; Austin, Texas; Detroit, Michigan; Chicago, Illinois; Dallas, Texas; Los Angeles, California; Miami, Florida; New York, New York; Seattle, Washington; Washington, District of Columbia; and Prineville, Oregon.

## JURISDICTION AND VENUE

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

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

5.     This Court has personal jurisdiction over Defendant.  Upon information and belief, Defendant does business in this District and has, and continues to, infringe and/or induce the infringement in Virginia and in this District.  In addition, the Court has personal jurisdiction over Defendant because it has established minimum contacts with the forum and the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

## FACTS COMMON TO ALL COUNTS

6.     On September 19, 2006, U.S. Patent No. 7,111,232 ("the '232 Patent"), entitled METHOD AND SYSTEM FOR MAKING DOCUMENT OBJECTS AVAILABLE TO USERS OF

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1   A NETWORK, was issued to Thomas Layne Bascom.  A true and correct copy of the '232 Patent is

2   attached to this Complaint as Exhibit A and is incorporated by reference herein.

3       7.      All rights, title, and interest in the '232 Patent have been assigned to Bascom, which is

4   the sole owner of the '232 Patent.

5       8.      The '232 Patent is generally directed towards a web-based system for  distributing

6   relevant content to its users. This system provides users with relevant content using the link

7   relationships between content. As a result, entities or groups are provided with the ability to

8   communicate relevant information to their employees or members as those members or employees

9   access such content.

10

11      9.      On November 21, 2006, U.S. Patent No. 7,139,974 ("the '974 Patent"), entitled

12  FRAMEWORK FOR MANAGING DOCUMENT OBJECTS STORED ON A NETWORK, was

13  issued to Thomas Layne Bascom.  A true and correct copy of the '974 Patent is attached to this

14  Complaint as Exhibit B and is incorporated by reference herein.

15      10.     All rights, title, and interest in the '974 Patent have been assigned to Bascom, which is

16  the sole owner of the '974 Patent.

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18      11.     The '974 Patent is generally directed towards web-based system for managing content

19  using the relationships between content. Such link relationships are stored in link directories.

20  Additionally, the invention provides a framework for creating and presenting such link relationships in

21  such a way that users are provided with relevant content.

22

23      12.     On January 2, 2007, U.S. Patent No. 7,158,971 ("the '971 Patent"), entitled METHOD

24  FOR SEARCHING DOCUMENT OBJECTS ON A NETWORK, was issued to Thomas Layne

25  Bascom.  A true and correct copy of the '971 Patent is attached to this Complaint as Exhibit C and is

26  incorporated by reference herein.

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FIRST AMENDED COMPLAINT FOR                         CASE NO. 3:12-CV-06293-SI
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13.     All rights, title, and interest in the '971 Patent have been assigned to Bascom, which is the sole owner of the '971 Patent.

14.     The '971 Patent is generally directed towards web-based methods for searching and identifying link relationships between content.  This invention involves an initial search then narrowing down the information using link relationships between the content.

15.     On June 17, 2008, U.S. Patent No. 7,389,241 ("the '241 Patent"), entitled METHOD FOR USERS OF A NETWORK TO PROVIDE OTHER USERS WITH ACCESS TO LINK RELATIONSHIPS BETWEEN DOCUMENTS, was issued to Thomas Layne Bascom.  A true and correct copy of the '241 Patent is attached to this Complaint as Exhibit D and is incorporated by reference herein.

16.     All rights, title, and interest in the '241 Patent have been assigned to Bascom, which is the sole owner of the '241 Patent.

17.     The '241 Patent is generally directed towards web-based methods for deriving value/revenue from the process of sharing content with other users. One of the ways, that this is accomplished is by billing based on link directories created.  Another way of billing is based on activity involving access of link directories.

18.     Defendant owns and operates the website located on the Worldwide Web at the web address of www.facebook.com (the "Facebook website").

19.     On information and belief, Defendant operates a data center in the state of Virginia, in this District, that is affiliated with the Facebook website.

20.     On information and belief, Defendant has been registered to do business in the state of Virginia with the Commonwealth of Virginia's State Corporate Commission (SCC Identification Number F1789017) since at least April 30, 2009.

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21.     The Facebook website is a social networking platform that allows its users to create their own personal profiles, link with their friends, acquaintances, co-workers, etc., join common-interest user groups, and share a variety of content.  The Facebook website is built on a social graph, elements of which can be queried and represented using the Graph Application Programming Interface (API).  The Graph API uniformly represents objects in the graph (e.g., people, photos, events, and pages) and the connections between them (e.g, friend relationships, shared content, photo tags, etc.).  Each of these objects is represented with a unique identification that corresponds to the URL for said object.

> At Facebook's core is the social graph; people and the connections they have to everything they care about. The Graph API presents a simple, consistent view of the Facebook social graph, uniformly representing objects in the graph (e.g., people, photos, events, and pages) and the connections between them (e.g., friend relationships, shared content, and photo tags).
>
> Every object in the social graph has a unique ID. You can access the properties of an object by requesting https://graph.facebook.com/ID. For example, the official page for the Facebook Platform has id 19292868552, so you can fetch the object at https://graph.facebook.com/19292868552:

http://developers.facebook.com/docs/reference/api/.

22.     The objects in the social graph available to users and/or third-party developers include, but are not limited to: Album, Application, Checkin, Comment, Domain, Event, Friendlist, Group, Insights, Link, Message, Note, Offer, Order, Page, Photo, Post, Question, Question Option, Review, Status message, Thread, User, and Video.  Each object has a variety of fields that correspond to data relating to the object.  For example, the User object contains at least 37 data fields which are exposed by the Graph API to users and third parties (including application developers and advertisers).

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23. All of the objects in the social graph are linked to each other via relationships, which are sometimes referred to as "connections" by Facebook.

All of the objects in the Facebook social graph are connected to each other via relationships. Bret Taylor is a fan of the Coca-Cola page, and Bret Taylor and Arjun Banker are friends. We call those relationships *connections* in our API. You can examine the connections between objects using the URL structure `https://graph.facebook.com/ID/CONNECTION_TYPE`. The connections supported for people and pages include:

- Friends: https://graph.facebook.com/me/**friends**?access_token=...
- News feed (this is an outdated view, does not reflect the News Feed on facebook.com):
  https://graph.facebook.com/me/**home**?access_token=...
- Profile feed (Wall): https://graph.facebook.com/me/**feed**?access_token=...
- Likes: https://graph.facebook.com/me/**likes**?access_token=...
- Movies: https://graph.facebook.com/me/**movies**?access_token=...
- Music: https://graph.facebook.com/me/**music**?access_token=...
- Books: https://graph.facebook.com/me/**books**?access_token=...
- Notes: https://graph.facebook.com/me/**notes**?access_token=...
- Permissions: https://graph.facebook.com/me/**permissions**?access_token=...
- Photo Tags: https://graph.facebook.com/me/**photos**?access_token=...
- Photo Albums: https://graph.facebook.com/me/**albums**?access_token=...
- Video Tags: https://graph.facebook.com/me/**videos**?access_token=...
- Video Uploads: https://graph.facebook.com/me/**videos/uploaded**?access_token=...
- Events: https://graph.facebook.com/me/**events**?access_token=...
- Groups: https://graph.facebook.com/me/**groups**?access_token=...
- Checkins: https://graph.facebook.com/me/**checkins**?access_token=...
- Objects with Location: https://graph.facebook.com/me/**locations**?access_token=...

http://developers.facebook.com/docs/reference/api/.

For example, the connections for the User object that are available to third-party developers includes Friends, News Feed, Profile Feed, Likes, Movies, Music, Books, Notes, Permissions, Photo Tags, Photo Albums, Video Tags, Video Uploads, Events, Groups, Checkins, and Objects with Location. These connections can be used for sharing document objects with third parties such as additional users, third party developers, and/or advertisers. Additionally, the connections can be created between objects stored within Facebook and third party websites. For example, a user can "like" an article, movie trailer, or even a recipe that is on another website and Facebook can create a connection within the Facebook Platform.

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24.     Upon information and belief, there are additional objects and connections available to developers employed by Facebook that are not available to third-party developers or the general public.  Accordingly, the above listed objects and connections are exemplary and not limiting.

25.     The objects and connections in the social graph can be manipulated using the Open Graph.  The Open Graph allows applications to model user activities based on objects and actions.  Objects in the Open Graph represent entities that are available for user interaction.  Actions in the Open Graph represent high-level interactions available to the user.  An Open Graph application may generate a connection between two objects in response to user interaction.  The generation of the connection between the two objects may then appear in the Facebook user's News Feed, Ticker and/or the User's Timeline.

26.     Notably, the Graph API, Facebook Query Language (FQL) and Open Graph are used for the framework of Facebook and marketed to third-party developers.  However, any descriptions of these mechanisms are not intended to be limiting.  Instead, the descriptions of these mechanisms are intended to demonstrate the existence of components that are contained within the backend infrastructure that supports and underpins the Facebook website.  Thus, the analysis provided herein is relevant to the Facebook Platform, including the Facebook website, as a whole and is not limited to third-party development tools.  Furthermore, upon information and belief, developers employed by Facebook utilize similar, if not the same mechanisms, in order to develop and maintain the Facebook Platform, including the Facebook website.

27.     Facebook requires its users to activate an account in order to use the Facebook website.  Activation of an account requires a user to agree to terms and conditions that dictate how they use the Facebook website.  Facebook generates a unique User object for each account which contains the personal information of the user.  Facebook also generates connections for each User object that

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associates the User object with other objects in the Facebook social graph.  The establishment of these

objects and connections may generate activity on the Facebook website which is viewable to the user

and/or other users of the Facebook website.  Facebook provides detailed instructions to its users

regarding all aspects of the Facebook website that results in the generation of objects, connections

and activity on the Facebook website.  These instructions can be found at

http://www.facebook.com/help.

28.     Facebook also permits third-party developers to access and use the Facebook website.

In doing so, Facebook requires third-party developers to agree to terms and conditions that dictate

how the developers access and use the Facebook website.  Third-party developers have access to a

variety of objects and connections in order to build applications and websites that integrate with the

Facebook website.  Applications and websites that integrate with the Facebook website utilize the

Facebook Platform.

29.      The Facebook Platform includes the Facebook website as well as the set of

development tools and APIs that are provided to third-party developers.  Facebook provides detailed

instructions to developers to enable them to integrate with the Facebook website to create social

applications and websites to reach its users.  These instructions can be found at

http://developers.facebook.com.

30.     The Facebook Platform also allows advertisers to build a Facebook webpage and

connect with an audience.  These ads can utilize the collection of Facebook's connections and even

Facebook's collection of user actions.  The strategy of advertising on Facebook allows the ads to

reach a specific targeted audience based on the connections of specific Facebook users.  Facebook

bills the advertisers to generate revenue.

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31.     On information and belief, Defendant has been and is now infringing the '232 Patent, the '974 Patent, the '241 Patent and the '971 Patent (collectively "the Patents-In-Suit") in the state of Virginia, in this judicial District, and elsewhere in the United States by, among other things, making, using, and operating the claimed system and methods on the Facebook Platform.  Reference to the Facebook Platform includes the Facebook website, as well as the set of development tools and APIs that Facebook provides to third-party developers.

32.     By way of non-limiting example, as discussed above, the Facebook Platform includes a number of document objects that represent various entities and things.  The Facebook Platform also contains a number of linking relationships that logically connect the document objects to each other. These linking relationships contain a variety of attributes that describe the linking relationship.  By way of non-limiting example, these attributes may be found in the social graph of the Facebook Platform which may be represented using the Graph API and may be manipulated using the Open Graph.  Each of the elements of the social graph, including the link relationships, may be retrieved using a unique identifier and presented based on the particular implementation of the application. Furthermore, users of the Facebook Platform are given the ability to access objects based on their relationship to other objects.  For at least these reasons, the Facebook Platform infringes the Patents-In-Suit.

33.     In addition to directly infringing the Patents-In-Suit pursuant to 35 U.S.C. § 271(a) either literally or under the doctrine of equivalents, Defendant indirectly infringes the Patents-In-Suit pursuant to 35 U.S.C. § 271(b) by instructing, directing and/or requiring others, including its users and developers, to perform all or some of the steps of the method claims, either literally or under the doctrine of equivalents, of the Patents-In-Suit.

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## COUNT I
### (Direct Infringement of the '232 Patent pursuant to 35 U.S.C. § 271(a))

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

35.     Bascom is informed and believes Defendant has infringed and continues to infringe, and has actively and knowingly induced and continues to actively and knowingly induce infringement of one or more claims of the '232 Patent, all in violation of 35 U.S.C. § 271(a)(b).

36.     Bascom is informed and believes Defendant's infringement is based upon literal infringement or, in the alternative, infringement under the doctrine of equivalents.

37.     Defendant's acts of making, using, importing, selling, and/or offering for sale infringing products and services have been without the permission, consent, authorization or license of Bascom.

38.     Defendant's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Defendant's products and services, including but not limited to the Facebook Platform and website located on the Worldwide Web at the web address www.facebook.com, which embody the patented invention of the '232 Patent.

39.     Bascom is informed and believes that as a result of Defendant's unlawful activities, Bascom has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law.  Accordingly, Bascom is entitled to preliminary and/or permanent injunctive relief.

40.     Bascom is informed and believes that Defendant's infringement of the '232 Patent has injured and continues to injure Bascom in an amount to be proven at trial.

## COUNT II
### (Indirect Infringement of the '232 Patent pursuant to 35 U.S.C. § 271(b))

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

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42.     Bascom is informed and believes, and based thereon alleges, that Defendant has induced and continues to induce others to infringe at least claims 4, 5, 6, 11, 12, 13, 14, 15 of the '232 Patent under 35 U.S.C. § 271(b).

43.     Defendant has had knowledge of the '232 Patent at least as of the time it learned of this action for infringement, which was filed on October 3, 2012.  Despite this knowledge, Defendant continues to infringe one or more claims of the '232 Patent.

44.     In addition to directly infringing the '232 Patent, Defendant indirectly infringes the '232 Patent pursuant to 35 U.S.C. § 271(b) by instructing, directing and/or requiring others, including but not limited to its users and developers, to perform some of the steps of the method claims, either literally or under the doctrine of equivalents, of the '232 Patent.  Defendant knew or was willfully blind to the fact that it was inducing infringement by practicing in conjunction with others, including users and developers, one or more method claims of the '232 Patent.

45.     Defendant knowingly and actively aided and abetted the direct infringement of the '232 Patent by instructing and encouraging its users and developers to use the Facebook Platform.  Such instructions and encouragement include but are not limited to, advising third parties to use the Facebook Platform in an infringing manner; providing a mechanism through which third parties may infringe the '232 Patent, specifically through the use of the Facebook Platform; advertising and promoting the use of the Facebook Platform in an infringing manner; and distributing guidelines and instructions to third parties on how to use the Facebook Platform in an infringing manner.

46.     Facebook regularly updates and maintains the Facebook Help Center to provide demonstration, instruction, and technical assistance to users to help them use the Facebook Platform, including:

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- Timeline (*see e.g.* http://www.facebook.com/help/timeline (attached as Exhibit E) provides instruction to users, including "How do I upload a profile picture" and "How do I post to my timeline"),

- News Feed (*see e.g.* http://www.facebook.com/help/newsfeed (attached as Exhibit F)  provides instructions to users, including "How do I upload a profile picture" and "How do I post to my timeline"),

- Sharing (*see e.g.* http://www.facebook.com/help/pages#!/help/405494409496261/ (attached as Exhibit U) provides instructions to users, including "We recommend posting about once per day to keep people returning to your Page."),

- Groups (*see e.g.* http://www.facebook.com/help/groups (attached as Exhibit H) provides instructions to users, including "How to create a group," "How do I post and share with a group" to my timeline" and "How do I comment on posts in a group"),

- Events (*see e.g.* http://www.facebook.com/help/events (attached as Exhibit I) provides instructions to users, including "How to create an event" and "How do I add photos or video to an event"),

- Photos (*see e.g.* http://www.facebook.com/help/photos (attached as Exhibit J) provides instructions to users, including "Viewing Photos" and "Uploading Photos and Profile Pictures"),

- Videos (*see e.g.* http://www.facebook.com/help/videos (attached as Exhibit K) provides instructions to users, including "Uploading and Viewing Videos"), and

- Pages (*see e.g.* http://www.facebook.com/help/pages (attached as Exhibit L) provides instructions to users, including "Managing a Page," "Accessing Your Page" and "Growing Your Audience").

47.     Facebook instructs users, including employees, to use and test the Facebook Platform. Bascom is informed and believes that Defendant also encourages users to use the Facebook Platform when performing user research of the Facebook Platform.  For example, Facebook's Engineering director describes "How we test.  Every day, we run hundreds of tests on Facebook, most of which are rolled out to a random sample of people to test their impact.  For example, you may have seen a small test for saving news feed stories last week."  *See* https://www.facebook.com/notes/facebook-engineering/building-and-testing-at-facebook/10151004157328920 (attached as Exhibit M).

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48.     Facebook provides demonstration, instruction, and technical assistance and a set of programming interfaces and tools to encourage developers to integrate their applications with the Facebook Platform and use the Facebook Platform, including  Timeline, News Feed, Sharing, Groups, Events, Photos, Videos and Pages.  *See* http://developers.facebook.com/ (attached as Exhibit N).

49.     Facebook encourages developers to use and build applications on the Facebook Platform, by hosting events and providing "prize money and cool tech gear." *See e.g.* Photo Hack Day 4 event at http://developers.facebook.com/news/events/ (attached as Exhibit O).

50.     The reasonable inference to be drawn from the facts set forth in this Amended Complaint is that Facebook actively and intentionally maintains and websites, including Facebook's Help Center and Developers websites, to promote the Facebook Platform and to encourage potential users and developers to use the Facebook Platform in the manner described by Bascom.

51.     The further reasonable inference to be drawn from the facts set forth in this Amended Complaint is that Facebook actively updates websites, including Facebook's Help Center  and Developers websites, to promote the Facebook Platform, including Timeline, News Feed, Sharing, Groups, Events, Photos, Videos and Pages to encourage users and developers to practice the methods taught in the '232 Patent.

## COUNT III
### (Direct Infringement of the '974 Patent pursuant to 35 U.S.C. § 271(a))

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

53.     Bascom is informed and believes Defendant has infringed and continues to infringe, and has actively and knowingly induced and continues to actively and knowingly induce infringement of one or more claims of the '974 Patent, all in violation of 35 U.S.C. § 271(a)(b).

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54.     Bascom is informed and believes Defendant's infringement is based upon literal

infringement or, in the alternative, infringement under the doctrine of equivalents.

55.     Defendant's acts of making, using, importing, selling, and/or offering for sale

infringing products and services have been without the permission, consent, authorization or license of

Bascom.

56.     Defendant's infringement includes, but is not limited to, the manufacture, use, sale,

importation and/or offer for sale of Defendant's products and services, including but not limited to the

Facebook website locate on the Worldwide Web at the web address www.facebook.com, which

embody the patented invention of the '974 Patent.

57.     Bascom is informed and believes that as a result of Defendant's unlawful activities,

Bascom has suffered and will continue to suffer irreparable harm for which there is no adequate

remedy at law.  Accordingly, Bascom is entitled to preliminary and/or permanent injunctive relief.

58.     Bascom is informed and believes that Defendant's infringement of the '974 Patent has

injured and continues to injure Bascom in an amount to be proven at trial.

## COUNT IV
### (Indirect Infringement of the '974 Patent pursuant to 35 U.S.C. § 271(b))

59.     Bascom repeats, realleges, and incorporates by reference, as if fully set forth herein, the

allegations of the preceding paragraphs, as set forth above.

60.     Bascom is informed and believes, and based thereon alleges, that Defendant has

induced and continues to induce others to infringe at least claims 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13,

14, 18, 31, 32, 33, 34, 35, 36, 37, 38, 39, 45 of the '974 Patent under 35 U.S.C. § 271(b).

61.     Defendant has had knowledge of the '974 Patent at least as of the time it learned of this

action for infringement, which was filed on October 3, 2012.  Despite this knowledge, Defendant

continues to infringe one or more claims of the '974 Patent.

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62.     In addition to directly infringing the '974 Patent, Defendant indirectly infringes the

'974 Patent pursuant to 35 U.S.C. § 271(b) by instructing, directing and/or requiring others, including

but not limited to its users and developers, to perform some of the steps of the method claims, either

literally or under the doctrine of equivalents, of the '974 Patent.  Defendant knew or was willfully

blind to the fact that it was inducing infringement by practicing in conjunction with others, including

users and developers, one or more method claims of the '974 Patent.

63.     Defendant knowingly and actively aided and abetted the direct infringement of the '974

Patent by instructing and encouraging its users and developers to use the Facebook Platform.  Such

instructions and encouragement include but are not limited to, advising third parties to use the

Facebook Platform in an infringing manner; providing a mechanism through which third parties may

infringe the '974 Patent, specifically through the use of the Facebook Platform; advertising and

promoting the use of the Facebook Platform in an infringing manner; and distributing guidelines and

instructions to third parties on how to use the Facebook Platform in an infringing manner.

64.     Facebook regularly updates and maintains the Facebook Help Center to provide

demonstration, instruction, and technical assistance to users to help them use the Facebook Platform,

including:

- Timeline (*see e.g.* http://www.facebook.com/help/timeline (attached as Exhibit E) provides instructions to users, including "How do I upload a profile picture" and "How do I post to my timeline"),

- News Feed (*see e.g.* http://www.facebook.com/help/newsfeed (attached as Exhibit F) provides instructions to users, including "How do I upload a profile picture" and "How do I post to my timeline"),

- Sharing (*see e.g.* http://www.facebook.com/help/#!/help/333140160100643/ (attached as Exhibit G) provides instructions to users, including "How to Post & Share," "share photos, videos, links and other application content."),

- Groups (*see e.g.* http://www.facebook.com/help/groups (attached as Exhibit H) provides instructions to users, including "How to create a group," "How do I post

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and share with a group" to my timeline" and "How do I comment on posts in a group"),

- Events (*see e.g.* http://www.facebook.com/help/events (attached as Exhibit I) provides instructions to users, including "How to create an event" and "How do I add photos or video to an event"),

- Photos (*see e.g.* http://www.facebook.com/help/photos (attached as Exhibit J) provides instructions to users, including "Viewing Photos" and "Uploading Photos and Profile Pictures"),

- Videos (*see e.g.* http://www.facebook.com/help/videos (attached as Exhibit K) provides instructions to users, including "Uploading and Viewing Videos"), and

- Pages (*see e.g.* http://www.facebook.com/help/pages (attached as Exhibit L) provides instructions to users, including "Managing a Page," "Accessing Your Page" and "Growing Your Audience"). For example, Facebook Help Center instructs how to share a post not only on a user's own timeline, but in a group, etc. *See* https://www.facebook.com/help/163779957017799/?q=sharing&sid=0fU8Ljeo8X vINQ5fP (attached as Exhibit P).

65.     Facebook regularly updates and maintains Facebook Tips to give users tips. For example, https://www.facebook.com/facebooktips (attached as Exhibit Q) states, "Come here for tips & new feature announcements!" and "Learn more about the improvements to Timeline which make it easier for you to add and organize things you care about on your About page: http://newsroom.fb.com/News/584/Improvements-to-Timeline."

66.     Facebook instructs users, including employees, to use and test the Facebook Platform. Bascom is informed and believes that Defendant also encourages users to use the Facebook Platform when performing user research of the Facebook Platform. For example, Facebook's Engineering director describes "How we test. Every day, we run hundreds of tests on Facebook, most of which are rolled out to a random sample of people to test their impact. For example, you may have seen a small test for saving news feed stories last week." *See* https://www.facebook.com/notes/facebook-engineering/building-and-testing-at-facebook/10151004157328920 (attached as Exhibit M).

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67.     Facebook also actively maintains guidelines on how to "get started" in creating a user's timeline. *See* https://www.facebook.com/help/timeline (attached as Exhibit R).

68.     Facebook provides demonstration, instruction, and technical assistance and a set of programming interfaces and tools to encourage developers to integrate their applications with the Facebook Platform and use the Facebook Platform, including Timeline, News Feed, Sharing, Groups, Events, Photos, Videos and Pages.  *See* http://developers.facebook.com/ (attached as Exhibit N).

69.     Facebook provides Migrations to developers to encourage them to test their applications with the Facebook Platform. "This allows you to test and see if any of the upcoming breaking changes announced on the Developer Blog and tracked on the Developer Roadmap will affect your app."  *See* http://developers.facebook.com/roadmap/migrations/ (attached as Exhibit S).

70.     The reasonable inference to be drawn from the facts set forth in this Amended Complaint is that Facebook actively and intentionally maintains and websites, including Facebook's Help Center  and Developers websites, to promote the Facebook Platform and to encourage potential users and developers to use the Facebook Platform in the manner described by Bascom.

71.     The further reasonable inference to be drawn from the facts set forth in this Amended Complaint is that Facebook actively updates websites, including Facebook's Help Center  and Developers websites, to promote the Facebook Platform, including Timeline, News Feed, Sharing, Groups, Events, Photos, Videos and Pages to encourage users and developers to practice the methods taught in the '974 Patent.

## COUNT V
### (Direct Infringement of the '241 Patent pursuant to 35 U.S.C. § 271(a))

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

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73. Bascom is informed and believes Defendant has infringed and continues to infringe, and has actively and knowingly induced and continues to actively and knowingly induce infringement of one or more claims of the '241 Patent, all in violation of 35 U.S.C. § 271(a)(b).

74. Bascom is informed and believes Defendant's infringement is based upon literal infringement or, in the alternative, infringement under the doctrine of equivalents.

75. Defendant's acts of making, using, importing, selling, and/or offering for sale infringing products and services have been without the permission, consent, authorization or license of Bascom.

76. Defendant's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Defendant's products and services, including but not limited to the Facebook website locate on the Worldwide Web at the web address www.facebook.com, which embody the patented invention of the '241 Patent.

77. Bascom is informed and believes that as a result of Defendant's unlawful activities, Bascom has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law. Accordingly, Bascom is entitled to preliminary and/or permanent injunctive relief.

78. Bascom is informed and believes that Defendant's infringement of the '241 Patent has injured and continues to injure Bascom in an amount to be proven at trial.

## COUNT VI
### (Indirect Infringement of the '241 Patent pursuant to 35 U.S.C. § 271(b))

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

80. Bascom is informed and believes, and based thereon alleges, that Defendant has induced and continues to induce others to infringe at least claims 1, 2, 3, 4, 16, 17, 18, 19, 20, 21, 23,

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24, 25, 31, 32, 33, 34, 37, 45, 47, 53, 55, 56, 57, 58, 61, 62, 63, 70, 71, 73, 74, 75, 76, and 78 of the '241 Patent under 35 U.S.C. § 271(b).

81.     Defendant has had knowledge of the '241 Patent at least as of the time it learned of this action for infringement, which was filed on October 3, 2012.  Despite this knowledge, Defendant continues to infringe one or more claims of the '241 Patent.

82.     In addition to directly infringing the '241 Patent, Defendant indirectly infringes the '241 Patent pursuant to 35 U.S.C. § 271(b) by instructing, directing and/or requiring others, including but not limited to its users, developers and advertisers, to perform some of the steps of the method claims, either literally or under the doctrine of equivalents, of the '241 Patent.  Defendant knew or was willfully blind to the fact that it was inducing infringement by practicing in conjunction with others, including users and developers, one or more method claims of the '241 Patent.

83.     Defendant knowingly and actively aided and abetted the direct infringement of the '241 Patent by instructing and encouraging its users, developers and advertisers to use of the Facebook Platform.  Such instructions and encouragement include but are not limited to, advising third parties to use the Facebook Platform in an infringing manner; providing a mechanism through which third parties may infringe the '241 Patent, specifically through the use of the Facebook Platform; advertising and promoting the use of the Facebook Platform in an infringing manner; and distributing guidelines and instructions to third parties on how to use the Facebook Platform in an infringing manner.

84.     Facebook regularly updates and maintains the Facebook Help Center to provide demonstration, instruction, and technical assistance to users to help them use the Facebook Platform, including Timeline, News Feed, Sharing, Groups, Events, Photos, Videos, Pages, Ads, Sponsored Stories, and Sponsored Results.  *See e.g.* http://www.facebook.com/help/ads (attached as Exhibit T)

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provides instructions to advertisers, including "Creating an Ad or Sponsored Story" and

http://www.facebook.com/help/pages#!/help/405494409496261/ (attached as Exhibit U) instructing

users, including "Run Facebook Ads or Sponsored Stories to drive traffic to your Page").

85.     Facebook encourages and instructs advertisers how to use Facebook in an infringing

manner by providing guides.  For example, Facebook's User Guide for the Ads Create Tool tells

advertisers that "Now, we're making it easier for you to create a group of ads and sponsored stories

that are optimized to meet your goal.  When you advertise a Page, app or event we'll suggest

sponsored stories along with your regular ad.  This group of ads and sponsored stories is optimized to

help people discover your business through their friends." *See* Facebook's User Guide for the Ads

Create Tool (attached as Exhibit V at 1).  Facebook's User Guide for the Ads Create Tool also tells

advertisers that states, "Automatically promoting your most recent post allows you to increase

engagement with your posts without the need to return to the ads create tool multiple times.  *See id.* at

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86.     Additional guides such as Facebook's Ads Manager guide tells advertisers that "At

Facebook, we believe that businesses will be better in a connected world.  Ads and sponsored stories

are some of the best ways for businesses to connect with and engage their audiences.  It's important

for  businesses of all sizes to understand how their ads and sponsored stories are performing so that

they can achieve their business objectives.  Facebook's Ads Manager gives businesses visibility into

the performance of their ads and sponsored stories with the ability to drill down into specific metrics.

We've recently made significant improvements to the Ads Manager to help businesses understand how

people are engaging with their ads and sponsored stories.  This guide will help you understand how to

use Ads Manager to improve your campaign performance and meet your business goals." *See*

Facebook's Ads Manager Guide with Action Measurement (attached as Exhibit W at 1).

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87.     Facebook regularly updates and maintains Facebook Tips to give users tips.  For

example, https://www.facebook.com/facebooktips (attached as Exhibit Q) states "Come here for tips

& new feature announcements!" and "Learn more about the improvements to Timeline which make it

easier for you to add and organize things you care about on your About page:

http://newsroom.fb.com/News/584/Improvements-to-Timeline."

88.     Facebook instructs users, including employees, to use and test the Facebook Platform.

Bascom is informed and believes that Defendant also encourages users to use the Facebook Platform

when performing user research of the Facebook Platform.  For example, Facebook's Engineering

director describes "How we test. Every day, we run hundreds of tests on Facebook, most of which are

rolled out to a random sample of people to test their impact. For example, you may have seen a small

test for saving news feed stories last week."  *See* https://www.facebook.com/notes/facebook-

engineering/building-and-testing-at-facebook/10151004157328920 (attached as Exhibit M).

89.     Facebook also actively maintains guidelines on how to "get started" in creating a user's

timeline.  *See* https://www.facebook.com/help/timeline (attached as Exhibit R).

90.     Facebook provides demonstration, instruction, and technical assistance and a set of

programming interfaces and tools to encourage developers to integrate their applications with the

Facebook Platform, including Timeline, News Feed, Sharing, Groups, Events, Photos, Videos, Pages,

Ads, Sponsored Stories, and Sponsored Results.  *See* http://developers.facebook.com/ (attached as

Exhibit N).

91.     Facebook encourages developers to use and build applications on the Facebook

Platform, by hosting events and providing "prize money and cool tech gear."  *See e.g.* Photo Hack Day

4 event at http://developers.facebook.com/news/events/ (attached as Exhibit O).

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92.     The reasonable inference to be drawn from the facts set forth in this Amended

Complaint is that Facebook actively and intentionally maintains and websites, including Facebook's

Help Center and Developers websites, to promote the Facebook Platform and to encourage potential

users, developers and advertisers to use the Facebook Platform in the manner described by Bascom.

93.     The further reasonable inference to be drawn from the facts set forth in this Amended

Complaint is that Facebook actively updates websites, including Facebook's Help Center and

Developers websites, to promote the Facebook Platform, including Timeline, News Feed, Sharing,

Groups, Events, Photos, Videos, Pages, Ads, Sponsored Stories, Sponsored Results to encourage

users, developers and advertisers to practice the methods taught in the '241 Patent.

## COUNT VII
### (Direct Infringement of the '971 Patent pursuant to 35 U.S.C. § 271(a))

94.     Bascom repeats, realleges, and incorporates by reference, as if fully set forth herein, the

allegations of the preceding paragraphs, as set forth above.

95.     Bascom is informed and believes Defendant has infringed and continues to infringe,

and has actively and knowingly induced and continues to actively and knowingly induce infringement

of one or more claims of the '971 Patent, all in violation of 35 U.S.C. § 271.

96.     Bascom is informed and believes Defendant's infringement is based upon literal

infringement or, in the alternative, infringement under the doctrine of equivalents.

97.     Defendant's acts of making, using, importing, selling, and/or offering for sale

infringing products and services have been without the permission, consent, authorization or license of

Bascom.

98.     Defendant's infringement includes, but is not limited to, the manufacture, use, sale,

importation and/or offer for sale of Defendant's products and services, including but not limited to the

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Facebook website locate on the Worldwide Web at the web address www.facebook.com, which

embody the patented invention of the '971 Patent.

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99.     Bascom is informed and believes that as a result of Defendant's unlawful activities,

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Bascom has suffered and will continue to suffer irreparable harm for which there is no adequate

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remedy at law.  Accordingly, Bascom is entitled to preliminary and/or permanent injunctive relief.

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100.    Bascom is informed and believes that Defendant's infringement of the '971 Patent has

injured and continues to injure Bascom in an amount to be proven at trial.

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## COUNT VIII
### (Indirect Infringement of the '971 Patent pursuant to 35 U.S.C. § 271(b))

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101.    Bascom repeats, realleges, and incorporates by reference, as if fully set forth herein, the

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allegations of the preceding paragraphs, as set forth above.

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102.    Bascom is informed and believes, and based thereon alleges, that Defendant has

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induced and continues to induce others to infringe at least claims 14, 19, 20, 21  of the '971 Patent

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under 35 U.S.C. § 271(b).

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103.    Defendant has had knowledge of the '971 Patent at least as of the time it learned of this

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action for infringement, which was filed on October 3, 2012. Despite this knowledge, Defendant

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continues to infringe one or more claims of the '971 Patent.

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104.    In addition to directly infringing the '971 Patent, Defendant indirectly infringes the

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'971 Patent pursuant to 35 U.S.C. § 271(b) by instructing, directing and/or requiring others, including

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but not limited to its users and developers, to perform some of the steps of the method claims, either

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literally or under the doctrine of equivalents, of the '971 Patent.  Defendant knew or was willfully

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blind to the fact that it was inducing infringement by practicing in conjunction with others, including

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users and developers, one or more method claims of the '971 Patent.

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105.     Defendant knowingly and actively aided and abetted the direct infringement of the '971 Patent by instructing and encouraging its users and developers to use of the Facebook Platform.  Such instructions and encouragement include but are not limited to, advising third parties to use the Facebook Platform in an infringing manner; providing a mechanism through which third parties may infringe the '971 Patent, specifically through the use of the Facebook Platform; advertising and promoting the use of the Facebook Platform in an infringing manner; and distributing guidelines and instructions to third parties on how to use the Facebook Platform in an infringing manner.

106.     Facebook regularly updates and maintains the Facebook Help Center to provide demonstration, instruction, and technical assistance to users to help them use the Facebook Platform, including Timeline, News Feed, Sharing, Groups, Events, Photos, Videos Pages and Graph Search. *See e.g.* http://www.facebook.com/help/graphsearch (attached as Exhibit X) provides instructions to users, including "How do I use Graph Search."

107.     Facebook encourage users to use Facebook in an infringing manner by asking users to "Try Graph Search, and "Find more of what you're looking for through your friends and connections." and "Explore your world through photos. Now you can use simple, specific phrases like "Photos my friends took in New York City" to find anything you want" and "Discover restaurants, music and more. Explore new places to eat and new bands to listen to—all through people you know." *See* https://www.facebook.com/about/graphsearch (attached as Exhibit X).

108.     Facebook regularly updates and maintains Facebook Tips to give users tips.  For example, https://www.facebook.com/facebooktips (attached as Exhibit Q) states, "Come here for tips & new feature announcements!" and "Learn more about the improvements to Timeline which make it easier for you to add and organize things you care about on your About page: http://newsroom.fb.com/News/584/Improvements-to-Timeline."

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109.    Facebook instructs users, including employees, to use and test the Facebook Platform. Bascom is informed and believes that Defendant also encourages users to use the Facebook Platform when performing user research of the Facebook Platform.  For example, Facebook's Engineering director describes "How we test.  Every day, we run hundreds of tests on Facebook, most of which are rolled out to a random sample of people to test their impact.  For example, you may have seen a small test for saving news feed stories last week." *See* https://www.facebook.com/notes/facebook-engineering/building-and-testing-at-facebook/10151004157328920 (attached as Exhibit M).

110.    Facebook also actively maintains guidelines on how to "get started" in creating a user's timeline. *See* https://www.facebook.com/help/timeline (attached as Exhibit R).

111.    Facebook provides demonstration, instruction, and technical assistance and a set of programming interfaces and tools to encourage developers to integrate their applications with the Facebook Platform, including Timeline, News Feed, Sharing, Groups, Events, Photos, Videos, Pages and Graph Search.  *See* http://developers.facebook.com/ (attached as Exhibit N).

112.    Facebook encourages developers to use and build applications on the Facebook Platform, by hosting events and providing "prize money and cool tech gear."  *See e.g.* Photo Hack Day 4 event at http://developers.facebook.com/news/events/ (attached as Exhibit O).

113.    The reasonable inference to be drawn from the facts set forth in this Amended Complaint is that Facebook actively and intentionally maintains and websites, including Facebook's Help Center  and Developers websites, to promote the Facebook Platform and to encourage potential users and developers to use the Facebook Platform in the manner described by Bascom.

114.    The further reasonable inference to be drawn from the facts set forth in this Amended Complaint is that Facebook actively updates websites, including Facebook's Help Center  and Developers websites, to promote the Facebook Platform, including Timeline, News Feed, Sharing,

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Groups, Events, Photos, Videos, Pages and Graph Search to encourage users and developers to

practice the methods taught in the '971 Patent.

## **PRAYER FOR RELIEF**

WHEREFORE, Bascom prays for judgment and relief as follows:

A.      An entry of judgment holding Defendant has infringed, is infringing, and has induced

infringement of the '232 Patent, '974 Patent, '241 Patent, and '971 Patent;

B.      A preliminary and permanent injunction against Defendant and its officers, employees,

agents, servants, attorneys, instrumentalities, and/or those in privity with them, from infringing, or

inducing the infringement of the '232 Patent, '974 Patent, '241 Patent, and/or the '971 Patent, and for

all further and proper injunctive relief pursuant to 35 U.S.C. § 283;

C.      An award to Bascom of such damages as it shall prove at trial against Defendant that is

adequate to fully compensate Bascom for Defendant's infringement of the '232 Patent, '974 Patent,

'241 Patent, and '971 Patent, said damages to be no less than a reasonable royalty;

D.      A finding that this case is "exceptional" and an award to Bascom of its costs and

reasonable attorney's fees, as provided by 35 U.S.C. § 285;

E.      An accounting of all infringing sales and revenues; and

F.      Such further and other relief as the Court may deem proper and just.

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Respectfully submitted,

2    Dated:  March 29, 2013                    By:  */s/ James Hannah*
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3                                                  Lisa Kobialka
                                                   James Hannah
4                                                  Michael Lee
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                                                   Bascom Research, LLC
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**DEMAND FOR JURY TRIAL**

Bascom demands a jury trial on all issues so triable.

Respectfully submitted,

Dated:  March 29, 2013

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