UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SITNET LLC, Plaintiff, v. META PLATFORMS, INC. Defendant.	Civil Action No.: 1:23-cv-06389-AS

PLAINTIFF SITNET'S DISCLOSURE OF
ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS

Pursuant to the Case Management Addendum (Patent) (Dkt. 36), Plaintiff SitNet LLC ("SitNet") provides its Disclosure of Asserted Claims and Infringement Contentions against Defendant Meta Platforms Inc. ("Defendant"). These disclosures and contentions are made with respect to United States Patent Nos. 11,470,682 (the "'682 Patent"), 9,877,345 (the "'345 Patent"), 8,332,454 (the "'454 Patent"), and 8,249,932 (the "'932 Patent"), (collectively the "Patents-in-Suit"), set forth in Exhibits 1-4 hereto.

1. Disclosure of Asserted Claims and Infringement Contentions

(a) Asserted Claims

At present, claims 1-4 and 11-14 of the '682 Patent, claims 1, 3, 5, 6 and 13-15 of the '345 Patent, claims 1, 2, 4-6, 10, 12-13 and 20 of the '454 Patent and claims 1-7 and 22 of the '932 Patent are alleged to be infringed by Defendants under 35 U.S.C. § 271(a)-(c).

(b) Accused Instrumentalities

At present, Facebook Safety Check/Crisis Response is alleged to infringe claims 1-4 and 11-14 of the '682 Patent, claims 1, 3, 5, 6 and 13-15 of the '345 Patent, and claims 1, 2, 4-6, 10,

12-13 and 20 of the ’454 Patent, and Facebook Ad Platform/Meta’s Marketing API is alleged to infringe claims 1, 4, 5 and 20 of the ’454 Patent, and claims 1-7 and 22 of the ’932 Patent.

(c) Claim Charts

Claim Charts identifying specifically for each asserted claim, where and how each limitation of each asserted claim are found within each Accused Instrumentality are set forth in Exhibits 5-9 hereto, which reference Exhibits 1-4 and 10-67 that have been produced in the following range of production numbers: SITNET_000395-001077.

(d) Indirect Infringement

With respect to indirect infringement, for claims that require a user device or browser as a required element, Defendant at least supplied an important component of the Accused Instrumentalities (*e.g.*, the accused servers or systems). That component is not a common component suitable for non-infringing use, and Defendant supplied the component with the knowledge of the Patents-in-Suit, as alleged in Plaintiff’s Complaint (Dkt. 1 at ¶¶15-17, 87, 105, 143, 1740,) and, upon information and belief, knowledge that the component was especially made or adapted for use in an infringing manner. In addition, and with respect to claims that include a user device or browser as a required element, Defendant has intentionally taken action that actually induced direct infringement by others while having been aware of the Patents-in-Suit and, as alleged in Plaintiff’s Complaint (Dkt. 1 at ¶¶15-17, 87, 105, 143, 174), upon information and belief, having known that the acts it was causing would infringe the patents and/or was willfully to such infringement.

(e) Doctrine of Equivalents

At present, SitNet contends that the Accused Instrumentalities literally infringe each limitation of each asserted claim as identified in the Claim Charts referenced in Section (c) above.

SitNet has propounded its First Set of Interrogatories (Nos. 1-2) requesting that Meta identify each and every limitation in the Asserted Claims that Meta contends is not literally present in the Accused Instrumentalities and explain in detail why Meta contends they are not literally present, and explain whether Meta also contends that such limitations are not present in the Accused Instrumentalities under the Doctrine of Equivalents and, if so, explain separately and in detail why Meta contends they are not present in the Accused Instrumentalities under the Doctrine of Equivalents. To the extent that Meta contends, in response to SitNet's Interrogatories Nos. 1-2, that any claim limitation is not found to be literally present in any of the Accused Instrumentalities, SitNet contends that the limitation is met under the doctrine of equivalents, and reserves the right to supplement its Infringement Contentions in response to Meta's contentions.

(f) Priority Date

Each of the asserted claims of the Patents-in-Suit is entitled to a priority date of at least as early as February 2, 2007, which is the filing date of U.S. Provisional Patent Application Serial No. 60/887,843, to which each of the Patents-in-Suit claim priority.

(g) Embodying Instrumentality

SitNet is presently unaware of any Embodying Instrumentality other than the Accused Instrumentalities, and reserves the right to supplement this Disclosure should SitNet become aware of any other Embodying Instrumentality.

(h) Timing of Infringement

Upon information and belief, the first infringement of the asserted claims of the '932 Patent and the '454 Patent by the Accused Instrumentalities occurred before July 24, 2017, which is the start of the damages period for those two patents. The first infringement of the asserted claims of the '345 Patent by the Accused Instrumentalities occurred on its date of issue of January 23, 2018,

which is the start of the damages period for the ’345 Patent. The first infringement of the asserted claims of the ’682 Patent by the Accused Instrumentalities occurred on its date of issue of October 11, 2022, which is the start of the damages period for the ’682 Patent.

(i) Willful Infringement

Upon information and belief, and as alleged in Plaintiff’s Complaint (Dkt. 1 at ¶¶15-17, 87, 105, 143, 174), Plaintiff has willfully infringed the Patents-in-Suit, for the ’932 Patent and the ’454 Patent beginning as early as August 9, 2016, and for the ’345 Patent beginning as early as its date of issue of January 23, 2018, and for the ’682 Patent beginning as early as its date of issue of October 11, 2022.

2. Document Production Accompanying Disclosure of Asserted Claims and Infringement Contentions

(a) Documents (e.g., contracts, purchase orders, invoices, advertisements, marketing materials, offer letters, beta site testing agreements, and third party or joint development agreements) sufficient to evidence each discussion with, disclosure to, or other manner of providing to a third party, or each sale of or offer to sell, or any public use of, the claimed invention prior to the date of application for the asserted patent(s);

SitNet is presently unaware of any such documents.

(b) All documents evidencing the conception, reduction to practice, design, and development of each claimed invention, which were created on or before the date of application for the asserted patent(s) or the priority date identified pursuant to paragraph 1(f) of this Order, whichever is earlier.

SitNet is presently unaware of any such documents.

(c) A copy of the file history for each asserted patent;

Such documents have been produced in the following range of production numbers: SITNET_001078-002133.

(d) All documents evidencing ownership of the patent rights by the party asserting patent infringement;

Such documents have been produced in the following range of production numbers: SITNET_000271-000394.

(e) If a party identifies instrumentalities pursuant to paragraph 1(g) of this Order, documents sufficient to show the operation of any aspects or elements of such instrumentalities the patent claimant relies upon as embodying any asserted claims;

SitNet is presently unaware of any such documents.

(f) All agreements, including licenses, transferring an interest in any asserted patent;

Such documents have been produced in the following range of production numbers: SITNET_ 000001-000270.

(g) All agreements that the party asserting infringement contends are comparable to a license that would result from a hypothetical reasonable royalty negotiation;

SitNet is presently unaware of any such documents, has requested such documents from Meta in its First Set of Requests for the Production of Documents and Things (Nos. 1-110), served on November 3, 2023, and Meta has not yet produced responsive documents thereto, and such documents are more likely to be in Meta's possession, custody and control.

(h) All agreements that otherwise may be used to support the party asserting infringement's damages case;

SitNet is presently unaware of any such documents, has requested such documents from

Meta in its First Set of Requests for the Production of Documents and Things (Nos. 1-110), served on November 3, 2023, and Meta has not yet produced responsive documents thereto, and such documents are more likely to be in Meta's possession, custody and control.

(i) If a party identifies instrumentalities pursuant to paragraph 1(g) of this Order, documents sufficient to show marking of such Embodying Instrumentalities; and if the party wants to preserve the right to recover lost profits based on such products, the sales, revenues, costs, and profits of such Embodying Instrumentalities; and

SitNet is presently unaware of any such documents.

(j) All documents comprising or reflecting a F/RAND commitment or agreement with respect to the asserted patent(s).

SitNet is presently unaware of any such documents.

(k) Reservation of Rights

The investigation of facts and information concerning SitNet's claims is ongoing, and, therefore, this disclosure is not intended as an admission or representation that additional or different infringement contentions, Accused Instrumentalities, facts, or information do not exist. These Infringement Contentions are necessarily preliminary and provide notice of the currently asserted patent claims and of where each element of each asserted claim is found within each Accused Products, but do not undertake to include all evidence that may support such assertions, which is reserved for trial following further analysis, fact discovery, claim construction, and expert discovery. These contentions may require subsequent amendment, alteration, or supplementation, as neither claim construction proceedings nor substantial discovery has occurred.

SitNet propounded its First Set of Requests for the Production of Documents and Things (Nos. 1-110) on November 3, 2023, and Meta has not yet produced responsive documents thereto.

Therefore, SitNet reserves the right to supplement these Infringement Contentions, including the asserted claims and list of Accused Products, based upon Meta's responsive productions and further discovery. Further, SitNet may amend or supplement any of these disclosures and contentions in view of any claim construction ruling(s) by the Court, or any position taken by Defendant, including information provided by Defendant concerning its invalidity and noninfringement allegations, theories, contentions, or facts supporting them.

These contentions do not indicate SitNet's position with regard to the proper claim construction of any term of the Patents-in-Suit. SitNet has made reasonable assumptions, to the extent necessary and appropriate, with respect to the meaning of patent claim terms for the purpose of preparing these contentions. SitNet Infringement Contentions are not, and should not be construed as, an endorsement or acceptance by SitNet of any claim interpretations. SitNet reserves the right to rely upon different meanings in the conduct of this litigation and to assert different meanings as appropriate in connection with any *Markman* procedures and proceedings or applicable meanings agreed to by the parties. SitNet further reserves the right to update, amend, or supplement these contentions as prompted by discovery or following a *Markman* opinion adopting meanings that differ from those assumed by SitNet or any other judicial clarification or alteration of the meaning of claim terms, and/or as otherwise authorized or permitted by the Local Rules of Civil Practice and Procedure of the United States District Court for the Southern District of New York, the Federal Rules of Civil Procedure, and this Court's Orders.

In the claim charts, citation to and inclusion of a figure or text of a document or photograph or other reference is meant to be and should be understood as a demonstrative illustration for exemplary purposes only, and not exclusive of other examples from the same or other documents,

and, therefore, not inclusive of all evidence SitNet may use as proof at trial after further analysis and discovery, claim construction proceedings, and expert discovery.

SitNet, for all the foregoing reasons, therefore expressly reserves the right to amend or supplement its identification of asserted claims, Accused Instrumentalities, and claim charts, based on further investigation and discovery. All of these disclosures and the accompanying appendices are made subject to and without limiting any of the foregoing reservation of rights.

These disclosures are made on information and belief, and are based on the facts reasonably available to SitNet at this time, following an inquiry that was reasonable under the circumstances. Defendant has not yet provided its full disclosures, document production, or interrogatory responses. Nor has it produced complete information (*e.g.*, schematics, service manuals, product requirement documents, or other technical documentation) regarding the structure or operation of the accused instrumentalities, as well as other of its products that potentially infringe the Patent-in-Suit, including those for which publicly available information was sparse or not readily available.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 17, 2023, a copy of the foregoing document was served on the counsel listed below in the manner indicated:

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