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12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION

16 YAHOO! INC.,  
17 Plaintiff,  
18 v.  
19 FACEBOOK, INC.,  
20 Defendant.

21  
22 FACEBOOK, INC.,  
23 Counterclaim-plaintiff,  
24 v.  
25 YAHOO! INC.,  
26 Counterclaim-defendant.

Case No. CV-12-01212-JSW

**DEFENDANT FACEBOOK, INC.'S  
ANSWER; COUNTERCLAIM  
AGAINST YAHOO! INC. FOR  
PATENT INFRINGEMENT**

**JURY TRIAL DEMANDED**

1 Defendant Facebook, Inc. (“Facebook”) hereby submits the following Answer to the  
2 Complaint for Patent Infringement of Yahoo! Inc. (“Yahoo!”). Facebook’s Counterclaim for  
3 Patent Infringement against Yahoo! is set forth below following the Answer.

#### 4 **THE PARTIES**

5 1. Facebook lacks sufficient information to form a belief as to the truth of the  
6 allegations recited in this paragraph, and on that basis denies them.

7 2. Facebook admits that it is a Delaware corporation with its principal place of  
8 business at 1601 Willow Road, Menlo Park, California 94025. Facebook admits it operates a  
9 website at www.facebook.com as well as associated mobile applications and social plugins.  
10 Except as expressly admitted herein, Facebook denies the remaining allegations of this paragraph.

#### 11 **NATURE OF THE ACTION**

12 3. This paragraph contains a legal conclusion to which no response is required.

13 4. Facebook denies the allegations set forth in this paragraph.

#### 14 **JURISDICTION AND VENUE**

15 5. This paragraph contains legal conclusions to which no response is required.

16 6. Facebook admits that this Court has personal jurisdiction over Facebook.  
17 Facebook denies that it has committed any acts of patent infringement and/or contributed to or  
18 induced acts of patent infringement by others in this or any other District.

19 7. Facebook admits that venue is proper in this judicial district.

#### 20 **INTRADISTRICT ASSIGNMENT**

21 8. This paragraph contains legal conclusions to which no response is required.

#### 22 **FACTUAL BACKGROUND**

##### 23 **Yahoo!’s History**

24 9. This paragraph of the Complaint consists of allegations regarding Yahoo! that  
25 Facebook lacks sufficient information to admit or deny, and on that basis, Facebook denies the  
26 allegations of this paragraph.

27 10. This paragraph of the Complaint consists of allegations regarding Yahoo! that  
28 Facebook lacks sufficient information to admit or deny, and on that basis, Facebook denies the

1 allegations of this paragraph.

2 11. This paragraph of the Complaint consists of allegations regarding Yahoo! that  
3 Facebook lacks sufficient information to admit or deny, and on that basis, Facebook denies the  
4 allegations of this paragraph.

5 12. This paragraph of the Complaint consists of allegations regarding Yahoo! that  
6 Facebook lacks sufficient information to admit or deny, and on that basis, Facebook denies the  
7 allegations of this paragraph.

8 13. This paragraph of the Complaint consists of allegations regarding Yahoo! that  
9 Facebook lacks sufficient information to admit or deny, and on that basis, Facebook denies the  
10 allegations of this paragraph.

11 **Yahoo!'s Alleged Innovations**

12 14. This paragraph of the Complaint consists of allegations regarding Yahoo! that  
13 Facebook lacks sufficient information to admit or deny, and on that basis, Facebook denies the  
14 allegations of this paragraph.

15 15. This paragraph of the Complaint consists of allegations regarding Yahoo! that  
16 Facebook lacks sufficient information to admit or deny, and on that basis, Facebook denies the  
17 allegations of this paragraph.

18 16. This paragraph of the Complaint consists of allegations regarding Yahoo! that  
19 Facebook lacks sufficient information to admit or deny, and on that basis, Facebook denies the  
20 allegations of this paragraph.

21 17. This paragraph of the Complaint consists of allegations regarding Yahoo! that  
22 Facebook lacks sufficient information to admit or deny, and on that basis, Facebook denies the  
23 allegations of this paragraph.

24 **Yahoo!'s Patents-in-Suit**

25 18. Facebook admits that messaging and privacy are offered as options on certain  
26 websites. Facebook denies that “[w]ithout Yahoo!’s achievements, websites such as Facebook  
27 would not enjoy repeat visitors or substantial advertising revenue.” Facebook further denies that  
28 the functions identified in this paragraph of the Complaint involved any innovation by Yahoo!.

1 Facebook lacks sufficient information to form a belief as to the truth of the remaining allegations  
2 recited in this paragraph, and on that basis denies them.

3 19. Facebook admits that website operators who offer services for free may seek to  
4 generate revenue through other means, such as advertising. The remaining allegations of this  
5 paragraph consist of assertions regarding Yahoo! that Facebook lacks sufficient information to  
6 admit or deny, and on that basis, Facebook denies them.

7 20. Facebook admits that Internet users may regard privacy as important in connection  
8 with their use of certain websites, and that some users of certain websites may want to ensure that  
9 sensitive information shared on those sites is shared only with specific users. As to practices and  
10 features of individual websites or the preferences of individual Internet users, Facebook lacks  
11 sufficient information to form a belief as to the truth of the allegations recited in this paragraph,  
12 and on that basis denies them. The remaining allegations of this paragraph consist of assertions  
13 regarding Yahoo! that Facebook lacks sufficient information to admit or deny, and on that basis,  
14 Facebook denies them.

15 21. Facebook admits that users of some websites may wish to customize their  
16 experiences according to their needs and interests. As to preferences of individual users,  
17 Facebook lacks sufficient information to form a belief as to the truth of the allegations recited in  
18 this paragraph, and on that basis denies them. The remaining allegations of this paragraph consist  
19 of assertions regarding Yahoo! that Facebook lacks sufficient information to admit or deny, and  
20 on that basis, Facebook denies them.

21 22. Facebook admits that some websites incorporate social features, and that the  
22 Internet enables many forms of communication. The remaining allegations of this paragraph  
23 consist of assertions regarding Yahoo! that Facebook lacks sufficient information to admit or  
24 deny, and on that basis, Facebook denies them.

25 23. Facebook admits that users who connect with and meet new people online may  
26 wish to communicate with them, and that instant messaging and e-mail are available means of  
27 communication on certain websites. As to preferences of individual users, Facebook lacks  
28 sufficient information to form a belief as to the truth of the allegations recited in this paragraph,

1 and on that basis denies them. The remaining allegations of this paragraph consist of assertions  
2 regarding Yahoo! that Facebook lacks sufficient information to admit or deny, and on that basis,  
3 Facebook denies them.

4 **Facebook's History**

5 24. Facebook admits that it was founded in 2004, that it is a widely trafficked web site,  
6 and that Mr. Mark Zuckerberg is its founder and CEO. Facebook admits that the New Yorker  
7 magazine in an article dated September 20, 2010 attributed the following statement to Mr.  
8 Zuckerberg: "The thing that's been really surprising about the evolution of Facebook is—I think  
9 then and now—that if we didn't do this someone else would have done it." Facebook denies the  
10 remaining allegations in this paragraph.

11 25. Facebook admits that Yahoo! has been granted certain patents. Facebook denies  
12 the remaining allegations in this paragraph.

13 26. Facebook denies the allegations set forth in this paragraph.

14 27. Facebook admits that it has a feature called News Feed, which was launched in  
15 2006, and that Facebook has privacy settings. Facebook denies Yahoo!'s characterizations of  
16 certain statements made in third party publications, as the publications speak for themselves.  
17 Facebook denies the remaining allegations set forth in this paragraph.

18 28. Facebook admits it generates revenue through the sale of ads, that it offers a  
19 number of methods by which ads can be purchased, and that certain ads on Facebook may be  
20 charged on a CPC (cost per click) basis. Facebook denies the remaining allegations set forth in  
21 this paragraph.

22 29. Facebook admits that it takes steps to prevent fraudulent actions taken with respect  
23 to advertisements on Facebook. Facebook denies the remaining allegations set forth in this  
24 paragraph.

25 30. Facebook denies the allegations set forth in this paragraph.

26 31. Facebook denies the allegations set forth in this paragraph.

27 //

28 //

1 **YAHOO!'S ALLEGATIONS OF INFRINGEMENT:**  
2 **THE '566, '111, '599, AND '861 PATENTS**

3 32. Facebook denies the allegations in this paragraph.

4 **COUNT I**

5 **(ALLEGED INFRINGEMENT OF THE '566 PATENT)**

6 33. Facebook incorporates by reference paragraphs 1-32 of this Answer and  
7 Counterclaim as if fully set forth herein.

8 34. Facebook admits that a copy of U.S. Patent No. 6,907,566 (the "'566 patent") was  
9 attached to the Complaint as Exhibit 1. Facebook admits that the '566 patent bears an issuance  
10 date of June 14, 2005 and a title of "Method and System for Optimum Placement of  
11 Advertisements on a Webpage." Facebook denies the remaining allegations of this paragraph.

12 35. Facebook admits that it received a letter from Yahoo! dated February 27, 2012 in  
13 which Yahoo! insisted that Facebook obtain a license to the '566 patent, among others. Facebook  
14 denies the remaining allegations of this paragraph.

15 36. Facebook denies the allegations set forth in this paragraph.

16 37. Facebook denies the allegations set forth in this paragraph.

17 **COUNT II**

18 **(ALLEGED INFRINGEMENT OF THE '111 PATENT)**

19 38. Facebook incorporates by reference paragraphs 1-32 of this Answer and  
20 Counterclaim as if fully set forth herein.

21 39. Facebook admits that a copy of U.S. Patent No. 7,100,111 (the "'111 patent") was  
22 attached to the Complaint as Exhibit 2. Facebook admits that the '111 patent bears an issuance  
23 date of August 29, 2006 and a title of "Method and System for Optimum Placement of  
24 Advertisements on a Webpage." Facebook denies the remaining allegations of this paragraph.

25 40. Facebook admits that it received a letter from Yahoo! dated February 27, 2012 in  
26 which Yahoo! insisted that Facebook take a license to the '111 patent, among others. Facebook  
27 denies the remaining allegations of this paragraph.

28 41. Facebook denies the allegations set forth in this paragraph.

1 42. Facebook denies the allegations set forth in this paragraph.

2 **COUNT III**

3 **(ALLEGED INFRINGEMENT OF THE '599 PATENT)**

4 43. Facebook incorporates by reference paragraphs 1-32 of this Answer and  
5 Counterclaim as if fully set forth herein.

6 44. Facebook admits that a copy of U.S. Patent No. 7,373,599 (the "'599 patent") was  
7 attached to the Complaint as Exhibit 3. Facebook admits that the '599 patent bears an issuance  
8 date of May 13, 2008 and a title of "Method and System for Optimum Placement of  
9 Advertisements on a Webpage." Facebook denies the remaining allegations of this paragraph.

10 45. Facebook admits that it received a letter from Yahoo! dated February 27, 2012 in  
11 which Yahoo! insisted that Facebook take a license to the '599 patent, among others. Facebook  
12 denies the remaining allegations of this paragraph.

13 46. Facebook denies the allegations set forth in this paragraph.

14 47. Facebook denies the allegations set forth in this paragraph.

15 **COUNT IV**

16 **(ALLEGED INFRINGEMENT OF THE '861 PATENT)**

17 48. Facebook incorporates by reference paragraphs 1-32 of this Answer and  
18 Counterclaim as if fully set forth herein.

19 49. Facebook admits that a copy of U.S. Patent No. 7,668,861 (the "'861 patent") was  
20 attached to the Complaint as Exhibit 4. Facebook admits that the '861 patent bears an issuance  
21 date of February 23, 2010 and a title of "System and Method To Determine the Validity of an  
22 Interaction on a Network." Facebook denies the remaining allegations of this paragraph.

23 50. Facebook admits that it received a letter from Yahoo! dated February 27, 2012 in  
24 which Yahoo! insisted that Facebook take a license to the '861 patent, among others. Facebook  
25 denies the remaining allegations of this paragraph.

26 51. Facebook denies the allegations set forth in this paragraph.

27 52. Facebook denies the allegations set forth in this paragraph.

28 //

1 **YAHOO!'S ALLEGATIONS OF INFRINGEMENT: THE '590 AND '935 PATENTS**

2 53. Facebook denies the allegations in this paragraph.

3 **COUNT V**

4 **(ALLEGED INFRINGEMENT OF THE '590 PATENT)**

5 54. Facebook incorporates by reference paragraphs 1-31 and 53 of this Answer and  
6 Counterclaim as if fully set forth herein.

7 55. Facebook admits that a copy of U.S. Patent No. 7,269,590 (the "'590 patent") was  
8 attached to the Complaint as Exhibit 5. Facebook admits that the '590 patent bears an issuance  
9 date of September 11, 2007 and a title of "Method and System for Customizing Views of  
10 Information Associated with a Social Network User." Facebook denies the remaining allegations  
11 of this paragraph.

12 56. Facebook admits that it received a letter from Yahoo! dated February 27, 2012 in  
13 which Yahoo! insisted that Facebook take a license to the '590 patent, among others. Facebook  
14 denies the remaining allegations of this paragraph.

15 57. Facebook denies the allegations set forth in this paragraph.

16 58. Facebook denies the allegations set forth in this paragraph.

17 **COUNT VI**

18 **(ALLEGED INFRINGEMENT OF THE '935 PATENT)**

19 59. Facebook incorporates by reference paragraphs 1-31 and 53 of this Answer and  
20 Counterclaim as if fully set forth herein.

21 60. Facebook admits that a copy of U.S. Patent No. 7,599,935 (the "'935 patent") was  
22 attached to the Complaint as Exhibit 6. Facebook admits that the '935 patent bears an issuance  
23 date of October 6, 2009 and a title of "Control for Enabling a User to Preview Display of Selected  
24 Content Based on Another User's Authorization Level." Facebook denies the remaining  
25 allegations of this paragraph.

26 61. Facebook admits that it received a letter from Yahoo! dated February 27, 2012 in  
27 which Yahoo! insisted that Facebook take a license to the '935 patent, among others. Facebook  
28 denies the remaining allegations of this paragraph.



1           62.     Facebook denies the allegations set forth in this paragraph.

2           63.     Facebook denies the allegations set forth in this paragraph.

3           **YAHOO!'S ALLEGATIONS OF INFRINGEMENT: THE '509 AND '227 PATENTS**

4           64.     Facebook denies the allegations in this paragraph.

5   **COUNT VII**

6   **(INFRINGEMENT OF THE '509 PATENT)**

7           65.     Facebook incorporates by reference paragraphs 1-31 and 64 of this Answer and  
8 Counterclaim as if fully set forth herein.

9           66.     Facebook admits that a copy of U.S. Patent No. 7,454,509 (the "'509 patent") was  
10 attached to the Complaint as Exhibit 7. Facebook admits that the '509 patent bears an issuance  
11 date of November 18, 2008 and a title of "Online Playback System with Community Bias."  
12 Facebook denies the remaining allegations of this paragraph.

13           67.     Facebook admits that it received a letter from Yahoo! dated February 27, 2012 in  
14 which Yahoo! insisted that Facebook take a license to the '509 patent, among others. Facebook  
15 denies the remaining allegations of this paragraph.

16           68.     Facebook denies the allegations set forth in this paragraph.

17           69.     Facebook denies the allegations set forth in this paragraph.

18   **COUNT VIII**

19   **(ALLEGED INFRINGEMENT OF THE '227 PATENT)**

20           70.     Facebook incorporates by reference paragraphs 1-31 and 64 of this Answer and  
21 Counterclaim as if fully set forth herein.

22           71.     Facebook admits that a copy of U.S. Patent No. 5,983,227 (the "'227 patent") was  
23 attached to the Complaint as Exhibit 8. Facebook admits that the '227 patent bears an issuance  
24 date of November 9, 1999 and a title of "Dynamic Page Generator." Facebook denies the  
25 remaining allegations of this paragraph.

26           72.     Facebook admits that it received a letter from Yahoo! dated February 27, 2012 in  
27 which Yahoo! insisted that Facebook take a license to the '227 patent, among others. Facebook  
28 denies the remaining allegations of this paragraph.

1 73. Facebook denies the allegations set forth in this paragraph.

2 74. Facebook denies the allegations set forth in this paragraph.

3 **COUNT IX**

4 **(ALLEGED INFRINGEMENT OF THE '648 PATENT)**

5 75. Facebook denies the allegations set forth in this paragraph.

6 76. Facebook incorporates by reference paragraphs 1-31 and 75 of this Answer and  
7 Counterclaim as if fully set forth herein.

8 77. Facebook admits that a copy of U.S. Patent No. 7,747,648 (the "'648 patent") was  
9 attached to the Complaint as Exhibit 9. Facebook admits that the '648 patent bears an issuance  
10 date of June 29, 2010 and a title of "World Modeling Using a Relationship Network with  
11 Communication Channels to Entities." Facebook denies the remaining allegations of this  
12 paragraph.

13 78. Facebook admits that it received a letter from Yahoo! dated February 27, 2012 in  
14 which Yahoo! insisted that Facebook take a license to the '648 patent, among others. Facebook  
15 denies the remaining allegations of this paragraph.

16 79. Facebook denies the allegations set forth in this paragraph.

17 80. Facebook denies the allegations set forth in this paragraph.

18 **COUNT X**

19 **(ALLEGED INFRINGEMENT OF THE '501 PATENT)**

20 81. Facebook denies the allegations set forth in this paragraph.

21 82. Facebook incorporates by reference paragraphs 1-31 and 81 of this Answer and  
22 Counterclaim as if fully set forth herein.

23 83. Facebook admits that a copy of U.S. Patent No. 7,406,501 (the "'501 patent") was  
24 attached to the Complaint as Exhibit 10. Facebook admits that the '501 patent bears an issuance  
25 date of July 29, 2008 and a title of "System and Method for Instant Messaging Using an E-Mail  
26 Protocol." Facebook denies the remaining allegations of this paragraph.

27 84. Facebook admits that it received a letter from Yahoo! dated February 27, 2012 in  
28 which Yahoo! insisted that Facebook take a license to the '501 patent, among others. Facebook

1 denies the remaining allegations of this paragraph.

2 85. Facebook denies the allegations set forth in this paragraph.

3 86. Facebook denies the allegations set forth in this paragraph.

4 **YAHOO!'S PRAYER FOR RELIEF**

5 Facebook incorporates by reference all preceding paragraphs of this Answer and  
6 Counterclaim as if fully set forth herein. Facebook denies that Yahoo! is entitled to any relief  
7 sought in Yahoo!'s Prayer for Relief against Facebook.

8 **DEMAND FOR JURY TRIAL**

9 Facebook demands a jury trial for all issues so triable.

10 **AFFIRMATIVE DEFENSES**

11 To the extent not expressly admitted above, the factual allegations contained in the  
12 Complaint are denied. Without altering any applicable burdens of proof, Facebook alleges the  
13 following affirmative defenses:

14 **FIRST AFFIRMATIVE DEFENSE – NON-INFRINGEMENT**

15 1. Facebook does not infringe and has not infringed any claim of the '566 patent, the  
16 '111 patent, the '599 patent, the '861 patent, the '590 patent, the '935 patent, the '509 patent, the  
17 '227 patent, the '648 patent, or the '501 patent.

18 **SECOND AFFIRMATIVE DEFENSE – INVALIDITY**

19 2. One or more of the claims of the '566 patent, the '111 patent, the '599 patent, the  
20 '861 patent, the '590 patent, the '935 patent, the '509 patent, the '227 patent, the '648 patent, and  
21 the '501 patent are invalid for failure to satisfy the conditions of patentability set forth in 35  
22 U.S.C. § 101, 102, 103, and/or 112.

23 **THIRD AFFIRMATIVE DEFENSE – LIMITATION OF DAMAGES**

24 3. Yahoo!'s recovery for damages for at least the '227 patent and the '566 patent is  
25 limited pursuant to 35 U.S.C. § 286.

26 **FOURTH AFFIRMATIVE DEFENSE – LACHES, EQUITABLE ESTOPPEL, WAIVER**

27 4. Yahoo!'s claims are barred, in whole or in part, by the doctrine of laches and/or  
28 equitable estoppel and/or waiver.

1 **FIFTH AFFIRMATIVE DEFENSE – FAILURE TO MARK**

2 5. Yahoo!’s pre-lawsuit claims for damages are barred, in whole or in part, for failure  
3 to comply with 35 U.S.C. § 287.

4 **SIXTH AFFIRMATIVE DEFENSE – NO INJUNCTIVE RELIEF**

5 6. Yahoo!’s demand to enjoin Facebook is barred, as Yahoo! has suffered neither  
6 harm nor irreparable harm from Facebook’s actions.

7 **SEVENTH AFFIRMATIVE DEFENSE - LICENSE**

8 7. Yahoo!’s claims are barred, in whole or in part, because Facebook has an express  
9 and/or implied license under one of more of the patents-in-suit.

10 **EIGHTH AFFIRMATIVE DEFENSE – FAILURE TO STATE A CLAIM**

11 8. The Complaint fails to state a claim upon which relief can be granted.  
12 Facebook reserves all other affirmative defenses pursuant to Rule 8(c) of the Federal  
13 Rules of Civil Procedures, the Patent Laws of the United States, and any other defenses, at law or  
14 in equity, that now exist or in the future may be available based on discovery and further factual  
15 investigation in this case.

16 **COUNTERCLAIM FOR PATENT INFRINGEMENT AGAINST YAHOO!**

17 Facebook, Inc. (“Facebook”) by and through its undersigned counsel, alleges the  
18 following counterclaim against Yahoo! Inc. (“Yahoo!”) for infringement of U.S. Patent No.  
19 7,827,208 (the “208 patent”), U.S. Patent No. 7,945,653 (the “653 patent”), U.S. Patent No.  
20 6,288,717 (the “717 patent”), U.S. Patent No. 6,216,133 (the “133 patent”), U.S. Patent No.  
21 6,411,949 (the “949 patent”), U.S. Patent No. 6,236,978 (the “978 patent”), U.S. Patent No.  
22 7,603,331 (the “331 patent”), U.S. Patent No. 8,103,611 (the “611 patent”), U.S. Patent No.  
23 8,005,896 (the “896 patent”), and U.S. Patent No. 8,150,913 (the “913 patent”) all assigned to  
24 Facebook (the “Facebook patents-in-suit”):

25 **THE PARTIES**

26 1. Facebook is a corporation organized and existing under the laws of the State of  
27 Delaware, having its principal place of business at 1601 Willow Road, Menlo Park, California  
28 94025.



1 **COUNT ONE**

2 **(Infringement by Yahoo! of U.S. Patent No. 7,827,208)**

3 6. Facebook incorporates by reference paragraphs 1 through 4 of this Counterclaim  
4 as if fully set forth herein.

5 7. Facebook is the owner of all right, title, and interest in U.S. Patent No. 7,827,208  
6 (“’208 patent”), entitled “Generating a Feed of Stories Personalized for Members of a Social  
7 Network,” issued by the U.S. Patent and Trademark Office on November 2, 2010. A true and  
8 correct copy of the ’208 patent is attached as **Exhibit A**.

9 8. Yahoo! has infringed and is continuing to infringe the ’208 patent by making,  
10 using, selling and/or offering to sell in the United States, or importing into the United States,  
11 products or processes that practice the ’208 patent in violation of 35 U.S.C. § 271(a), including  
12 without limitation the Photostream, Recent Activity and Groups Activity on the Yahoo! Flickr  
13 photo sharing service.

14 9. Yahoo!’s infringement of the ’208 patent has caused and will continue to cause  
15 damage to Facebook for which Facebook is entitled to recovery under 35 U.S.C. § 284.  
16 Facebook has been irreparably harmed by Yahoo!’s infringement, for which there is no adequate  
17 remedy at law, and such harm will continue unless Yahoo! is enjoined by this Court.

18 **COUNT TWO**

19 **(Infringement by Yahoo! of U.S. Patent No. 7,945,653)**

20 10. Facebook incorporates by reference paragraphs 1 through 4 of this Counterclaim  
21 as if fully set forth herein.

22 11. Facebook is the owner of all right, title, and interest in U.S. Patent No. 7,945,653  
23 (the “’653 patent”), entitled “Tagging Digital Media,” issued by the U.S. Patent and Trademark  
24 Office on May 17, 2011. A true and correct copy of the ’653 patent is attached as **Exhibit B**.

25 12. Yahoo! has infringed and is continuing to infringe the ’653 patent by making,  
26 using, selling and/or offering to sell in the United States, or importing into the United States,  
27 products or processes that practice the ’653 patent in violation of 35 U.S.C. § 271(a), including  
28 without limitation the People in Photos feature on the Yahoo! Flickr photo sharing service.

1 13. Yahoo!’s infringement of the ’653 patent has caused and will continue to cause  
2 damage to Facebook for which Facebook is entitled to recovery under 35 U.S.C. § 284.  
3 Facebook has been irreparably harmed by Yahoo!’s infringement, for which there is no adequate  
4 remedy at law, and such harm will continue unless Yahoo! is enjoined by this Court.

5 **COUNT THREE**

6 **(Infringement by Yahoo! of U.S. Patent No. 6,288,717)**

7 14. Facebook incorporates by reference paragraphs 1 through 4 of this Counterclaim  
8 as if fully set forth herein.

9 15. Facebook is the owner of all right, title, and interest in U.S. Patent No. 6,288,717  
10 (the “’717 patent”), entitled “Headline Posting Algorithm,” issued by the U.S. Patent and  
11 Trademark Office on September 11, 2001. A true and correct copy of the ’717 patent is attached  
12 as **Exhibit C**.

13 16. Yahoo! has infringed and is continuing to infringe the ’717 patent by making,  
14 using, selling and/or offering to sell in the United States, or importing into the United States,  
15 products or processes that practice the ’717 patent in violation of 35 U.S.C. § 271(a), including  
16 without limitation the Yahoo! Home Page (www.yahoo.com) and all other Yahoo! home pages  
17 that use C.O.R.E. to identify items for display.

18 17. Yahoo!’s infringement of the ’717 patent has caused and will continue to cause  
19 damage to Facebook for which Facebook is entitled to recovery under 35 U.S.C. § 284.  
20 Facebook has been irreparably harmed by Yahoo!’s infringement, for which there is no adequate  
21 remedy at law, and such harm will continue unless Yahoo! is enjoined by this Court.

22 **COUNT FOUR**

23 **(Infringement by Yahoo! of U.S. Patent No. 6,216,133)**

24 18. Facebook incorporates by reference paragraphs 1 through 4 of this Counterclaim  
25 as if fully set forth herein.

26 19. Facebook is the owner of all right, title, and interest in U.S. Patent No. 6,216,133  
27 (the “’133 patent”), entitled “Method for Enabling a User to Fetch a Specific Information Item  
28 from a Set of Information Items and a System for Carrying Out Such a Method,” issued by the

1 U.S. Patent and Trademark Office on April 10, 2001. A true and correct copy of the '133 patent  
2 is attached as **Exhibit D**.

3 20. Yahoo! has infringed and is continuing to infringe the '133 patent by making,  
4 using, selling and/or offering to sell in the United States, or importing into the United States,  
5 products or processes that practice the '133 patent in violation of 35 U.S.C. § 271(a), including  
6 without limitation ads displayed on Yahoo! pages including, by way of example only, ads  
7 displayed on My Yahoo!, Yahoo! Finance, Yahoo! Sports, Yahoo! News, Yahoo! Games, Yahoo!  
8 Movies, Yahoo! Shopping, Yahoo! Travel, Yahoo! Autos and the Flickr photo sharing service.

9 21. Yahoo!'s infringement of the '133 patent has caused and will continue to cause  
10 damage to Facebook for which Facebook is entitled to recovery under 35 U.S.C. § 284.  
11 Facebook has been irreparably harmed by Yahoo!'s infringement, for which there is no adequate  
12 remedy at law, and such harm will continue unless Yahoo! is enjoined by this Court.

13 **COUNT FIVE**

14 **(Infringement by Yahoo! of U.S. Patent No. 6,411,949)**

15 22. Facebook incorporates by reference paragraphs 1 through 4 of this Counterclaim  
16 as if fully set forth herein.

17 23. Facebook is the owner of all right, title, and interest in U.S. Patent No. 6,411,949  
18 (the "'949 patent"), entitled "Customizing Database Information for Presentation with Media  
19 Selections," issued by the U.S. Patent and Trademark Office on June 25, 2002. A true and correct  
20 copy of the '949 patent is attached as **Exhibit E**.

21 24. Yahoo! has infringed and is continuing to infringe the '949 patent by making,  
22 using, selling and/or offering to sell in the United States, or importing into the United States,  
23 products or processes that practice the '949 patent in violation of 35 U.S.C. § 271(a), including  
24 without limitation ads displayed on Yahoo! pages including, by way of example only, ads  
25 displayed on My Yahoo!, Yahoo! Finance, Yahoo! Sports, Yahoo! News, Yahoo! Games, Yahoo!  
26 Movies, Yahoo! Shopping, Yahoo! Travel, Yahoo! Autos and the Flickr photo sharing service.

27 25. Yahoo!'s infringement of the '949 patent has caused and will continue to cause  
28



1 damage to Facebook for which Facebook is entitled to recovery under 35 U.S.C. § 284.  
2 Facebook has been irreparably harmed by Yahoo!’s infringement, for which there is no adequate  
3 remedy at law, and such harm will continue unless Yahoo! is enjoined by this Court.

4 **COUNT SIX**

5 **(Infringement by Yahoo! of U.S. Patent No. 6,236,978)**

6 26. Facebook incorporates by reference paragraphs 1 through 4 of this Counterclaim  
7 as if fully set forth herein.

8 27. Facebook is the owner of all right, title, and interest in U.S. Patent No. 6,236,978  
9 (the “’978 patent”), entitled “System and Method for Dynamic Profiling of Users in One-to-One  
10 Applications,” issued by the U.S. Patent and Trademark Office on May 22, 2001. A true and  
11 correct copy of the ’978 patent is attached as **Exhibit F**.

12 28. Yahoo! has infringed and is continuing to infringe the ’978 patent by making,  
13 using, selling and/or offering to sell in the United States, or importing into the United States,  
14 products or processes that practice the ’978 patent in violation of 35 U.S.C. § 271(a), including  
15 without limitation ads displayed on Yahoo! pages including, by way of example only, ads  
16 displayed on My Yahoo!, Yahoo! Finance, Yahoo! Sports, Yahoo! News, Yahoo! Games, Yahoo!  
17 Movies, Yahoo! Shopping, Yahoo! Travel, Yahoo! Autos and the Flickr photo sharing service.

18 29. Yahoo!’s infringement of the ’978 patent has caused and will continue to cause  
19 damage to Facebook for which Facebook is entitled to recovery under 35 U.S.C. § 284.  
20 Facebook has been irreparably harmed by Yahoo!’s infringement, for which there is no adequate  
21 remedy at law, and such harm will continue unless Yahoo! is enjoined by this Court.

22 **COUNT SEVEN**

23 **(Infringement by Yahoo! of U.S. Patent No. 7,603,331)**

24 30. Facebook incorporates by reference paragraphs 1 through 4 of this Counterclaim  
25 as if fully set forth herein.

26 31. Facebook is the owner of all right, title, and interest in U.S. Patent No. 7,603,331  
27 (the “’331 patent”), entitled “System and Method for Dynamic Profiling of Users in One-to-One  
28 Applications and for Validating User Rules,” issued by the U.S. Patent and Trademark Office on

1 October 13, 2009. A true and correct copy of the '331 patent is attached as **Exhibit G**.

2 32. Yahoo! has infringed and is continuing to infringe the '331 patent by making,  
3 using, selling and/or offering to sell in the United States, or importing into the United States,  
4 products or processes that practice the '331 patent in violation of 35 U.S.C. § 271(a), including  
5 without limitation ads displayed on Yahoo! pages including, by way of example only, ads  
6 displayed on My Yahoo!, Yahoo! Finance, Yahoo! Sports, Yahoo! News, Yahoo! Games, Yahoo!  
7 Movies, Yahoo! Shopping, Yahoo! Travel, Yahoo! Autos and the Flickr photo sharing service.

8 33. Yahoo!'s infringement of the '331 patent has caused and will continue to cause  
9 damage to Facebook for which Facebook is entitled to recovery under 35 U.S.C. § 284.  
10 Facebook has been irreparably harmed by Yahoo!'s infringement, for which there is no adequate  
11 remedy at law, and such harm will continue unless Yahoo! is enjoined by this Court.

12 **COUNT EIGHT**

13 **(Infringement by Yahoo! of U.S. Patent No. 8,103,611)**

14 34. Facebook incorporates by reference paragraphs 1 through 4 of this Counterclaim  
15 as if fully set forth herein.

16 35. Facebook is the owner of all right, title, and interest in U.S. Patent No. 8,103,611  
17 (the "'611 patent"), entitled "Architectures, Systems, Apparatus, Methods, and Computer-  
18 Readable Medium for Providing Recommendations to Users and Applications Using  
19 Multidimensional Data," issued by the U.S. Patent and Trademark Office on January 24, 2012. A  
20 true and correct copy of the '611 patent is attached as **Exhibit H**.

21 36. Yahoo! has infringed and is continuing to infringe the '611 patent by making,  
22 using, selling and/or offering to sell in the United States, or importing into the United States,  
23 products or processes that practice the '611 patent in violation of 35 U.S.C. § 271(a), including  
24 without limitation ads displayed on Yahoo! pages including, by way of example only, ads  
25 displayed on My Yahoo!, Yahoo! Finance, Yahoo! Sports, Yahoo! News, Yahoo! Games, Yahoo!  
26 Movies, Yahoo! Shopping, Yahoo! Travel, Yahoo! Autos and the Flickr photo sharing service.

27 37. Yahoo!'s infringement of the '611 patent has caused and will continue to cause  
28 damage to Facebook for which Facebook is entitled to recovery under 35 U.S.C. § 284.

1 Facebook has been irreparably harmed by Yahoo!’s infringement, for which there is no adequate  
2 remedy at law, and such harm will continue unless Yahoo! is enjoined by this Court.

3 **COUNT NINE**

4 **(Infringement by Yahoo! of U.S. Patent No. 8,005,896)**

5 38. Facebook incorporates by reference paragraphs 1 through 4 of this Counterclaim  
6 as if fully set forth herein.

7 39. Facebook is the owner of all right, title, and interest in U.S. Patent No. 8,005,896  
8 (the “’896 patent”), entitled “System for Controlled Distribution of User Profiles Over a  
9 Network,” issued by the U.S. Patent and Trademark Office on August 23, 2011. A true and  
10 correct copy of the ’896 patent is attached as **Exhibit I**.

11 40. Yahoo! has infringed and is continuing to infringe the ’896 patent by making,  
12 using, selling and/or offering to sell in the United States, or importing into the United States,  
13 products or processes that practice the ’896 patent in violation of 35 U.S.C. § 271(a), including  
14 without limitation the ability to establish relationships with other users and set privacy settings on  
15 the Yahoo! Flickr photo sharing service.

16 41. Yahoo!’s infringement of the ’896 patent has caused and will continue to cause  
17 damage to Facebook for which Facebook is entitled to recovery under 35 U.S.C. § 284.  
18 Facebook has been irreparably harmed by Yahoo!’s infringement, for which there is no adequate  
19 remedy at law, and such harm will continue unless Yahoo! is enjoined by this Court.

20 **COUNT TEN**

21 **(Infringement by Yahoo! of U.S. Patent No. 8,150,913)**

22 42. Facebook incorporates by reference paragraphs 1 through 4 of this Counterclaim  
23 as if fully set forth herein.

24 43. Facebook is the owner of all right, title, and interest in U.S. Patent No. 8,150,913  
25 (the “’913 patent”), entitled “System for Controlled Distribution of User Profiles Over a  
26 Network,” issued by the U.S. Patent and Trademark Office on April 3, 2012. A true and correct  
27 copy of the ’913 patent is attached as **Exhibit J**.

28 44. Yahoo! has infringed and is continuing to infringe the ’913 patent by making,

1 using, selling and/or offering to sell in the United States, or importing into the United States,  
2 products or processes that practice the '913 patent in violation of 35 U.S.C. § 271(a), including  
3 without limitation the ability to establish relationships with other users and set privacy settings on  
4 the Yahoo! Flickr photo sharing service.

5 45. Yahoo!'s infringement of the '913 patent has caused and will continue to cause  
6 damage to Facebook for which Facebook is entitled to recovery under 35 U.S.C. § 284.  
7 Facebook has been irreparably harmed by Yahoo!'s infringement, for which there is no adequate  
8 remedy at law, and such harm will continue unless Yahoo! is enjoined by this Court.

9 **RELIEF REQUESTED BY FACEBOOK**

10 WHEREFORE, with respect to Yahoo!'s Complaint for Patent Infringement, Facebook  
11 prays that this Court enter judgment:

12 A. In favor of Facebook and against Yahoo!, thereby dismissing Yahoo!'s Complaint  
13 in its entirety, with prejudice, with Yahoo! taking nothing by way of its claims;

14 B. That Facebook has not infringed, contributorily infringed, or induced infringement  
15 of, and is not now infringing, contributorily infringing, or inducing infringement of any valid  
16 claim of the Yahoo! patents-in-suit, either willfully or otherwise, under any subsection of 35  
17 U.S.C. § 271;

18 C. That all asserted claims of the Yahoo! patents-in-suit are invalid and/or  
19 unenforceable; and

20 AND WHEREFORE, with respect to its Counterclaim for Patent Infringement Against  
21 Yahoo!, Facebook prays that this Court enter judgment:

22 D. That Yahoo! has infringed the claims of the Facebook patents-in-suit as alleged  
23 above;

24 E. That Facebook be awarded damages adequate to compensate Facebook for  
25 Yahoo!'s infringement under 35 U.S.C. § 284, together with pre-judgment and post-judgment  
26 interest;

27 F. That Yahoo! be permanently enjoined from further infringement of the Facebook  
28 patents-in-suit;

1 G. That this is an exceptional case pursuant to 35 U.S.C. § 285 and ordering Yahoo!  
2 to pay Facebook's reasonable attorneys' fees incurred in this action;

3 H. That Yahoo! pay all costs incurred by Facebook in this action; and

4 I. Awarding Facebook all other relief the Court deems just and proper.

5  
6 **DEMAND FOR JURY TRIAL**

7 With respect to its Counterclaim, Facebook demands a jury trial for all issues so triable.

8  
9 Dated: April 3, 2012

Respectfully submitted,

10  
11 /s/ Stephen C. Neal

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