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

FILED

6 Attorney for Plaintiff  
 EVERYMD

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

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

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

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

24 **JURISDICTION AND VENUE**

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



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

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

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

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

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

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

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

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

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

24 16. The '122 patent is based on the '755 application and issued on December  
25 January 5, 2010.  
26  
27  
28

1           17. EVERYMD owns additional pending patent applications that are based  
2 on the '755 application.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **DEMAND FOR RELIEF**

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

3 a. Enter judgment for EVERYMD against each Defendant on this  
4 Complaint;

5 b. Enter a preliminary and permanent injunction to enjoin each Defendant,  
6 and all those in privity with each such Defendant, from further infringement of the  
7 ‘122 patent during the remaining term of the patent;

8 c. Award compensatory damages to EVERYMD and to increase those  
9 damages three times in accordance with 35 U.S.C. § 284;

10 d. Award EVERYMD reasonable attorneys’ fees in accordance with 35  
11 U.S.C. § 285;

12 e. Award EVERYMD interest and costs; and

13 f. Award EVERYMD such other and further relief as is just and proper.  
14

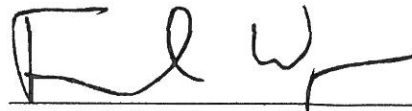
15 **DEMAND FOR JURY TRIAL**

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

18  
19  
20 Respectfully submitted,  
21 **TECHCOASTLAW®**

22 Dated: February 27, 2012

23 By:

24 

25 Frank M. Weyer (State Bar No. 127011)  
26 2032 Whitley Ave.  
27 Los Angeles, CA 90068  
28 (310) 494-6616  
Fax (310) 494-9089  
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Attorney for Plaintiff  
EVERYMD.COM

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Dean D. Pregerson and the assigned discovery Magistrate Judge is John E. McDermott.

The case number on all documents filed with the Court should read as follows:

**CV12- 1623 DDP (JEMx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

**Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

**Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

**Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.



UNITED STATES DISTRICT COURT

for the

Central District of California

EVERYMD, a partnership

Plaintiff

v.

RICK SANTORUM, MITT ROMNEY, NEWT GINGRICH, and DOES 1-100

Defendant

CV12-01623 DDP (JENK)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

FRANK M. WEYER
TECHCOASTLAW
2032 WHITLEY AVE
LOS ANGELES, CA 90068
(310) 494-6616
fweyer@techcoastlaw.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

FEB 27 2012

CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

[Handwritten signature]



**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) EVERYMD	<b>DEFENDANTS</b> RICK SANTORUM, MITT ROMNEY, NEWT GINGRICH, and DOES 1 - 1000
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  FRANK M. WEYER, TECHCOASTLAW 2032 WHITLEY AVE., LOS ANGELES, CA 90068 (310) 494-6616	Attorneys (If Known)

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="border: none;">Citizen of This State</td> <td style="border: none; text-align: center;">PTF DEF</td> <td style="border: none;">Incorporated or Principal Place of Business in this State</td> <td style="border: none; text-align: center;">PTF DEF</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> 1</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 1</td> <td style="border: none;"><input type="checkbox"/> 4</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td style="border: none;">Citizen of Another State</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2</td> <td style="border: none;">Incorporated and Principal Place of Business in Another State</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> 2</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2</td> <td style="border: none;"><input type="checkbox"/> 5</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td style="border: none;">Citizen or Subject of a Foreign Country</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3</td> <td style="border: none;">Foreign Nation</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> 3</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3</td> <td style="border: none;"><input type="checkbox"/> 6</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF DEF	Incorporated or Principal Place of Business in this State	PTF DEF	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF DEF	Incorporated or Principal Place of Business in this State	PTF DEF																						
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Citizen of Another State	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5																						
<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 5																						
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6																						
<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6																						

**IV. ORIGIN** (Place an X in one box only.)

1 Original Proceeding    
  2 Removed from State Court    
  3 Remanded from Appellate Court    
  4 Reinstated or Reopened    
  5 Transferred from another district (specify):    
  6 Multi-District Litigation    
  7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT:** JURY DEMAND:  Yes    No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION under F.R.C.P. 23:**  Yes    No    
 **MONEY DEMANDED IN COMPLAINT: \$** \_\_\_\_\_

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

35 USC 271(a)

**VII. NATURE OF SUIT** (Place an X in one box only.)

<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutional of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE / PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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CV12-01623

**FOR OFFICE USE ONLY:** Case Number: \_\_\_\_\_

**AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.**

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply)  A. Arise from the same or closely related transactions, happenings, or events; or  
 B. Call for determination of the same or substantially related or similar questions of law and fact; or  
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	PENNSYLVANIA MASSACHUSETTS GEORGIA

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note:** In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): [Signature] Date 2/27/2012

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))