

1 Frank M. Weyer, Esq. (State Bar No. 127011)  
 2 **TECHCOASTLAW®**  
 3 2032 Whitley Ave.  
 4 Los Angeles CA 90068  
 5 Telephone: (310) 494-6616  
 6 Facsimile: (310) 494-9089  
 7 fweyer@techcoastlaw.com

8 Attorney for Plaintiff  
 9 EVERYMD

10 **IN THE UNITED STATES DISTRICT COURT**  
 11 **CENTRAL DISTRICT OF CALIFORNIA**

12 EVERYMD, a partnership,  
 13  
 14 Plaintiff,  
 15 v.  
 16  
 17 RICK SANTORUM, MITT  
 18 ROMNEY, NEWT GINGRICH,  
 19 GOLDMAN SACHS, J.P.  
 20 MORGAN and DOES 1 - 10  
 21 Defendants.

Civil Action No.  
 CV12-01623 DDP (JEMx)

**FIRST AMENDED  
 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           8. Defendant J.P. MORGAN (“JP MORGAN”) is an underwriter for  
2 Facebook, Inc.’s upcoming IPO and a Facebook business account holder whose  
3 Facebook page has a URL of <https://www.facebook.com/jpmorgancommunity>. JP  
4 MORGAN has a place of business at 560 Mission St., San Francisco, CA 94105.  
5

6           9. Defendants Does 1 – 1000 are each a presently unidentified one of an  
7 estimated 4,000,000 additional Facebook business account holders that are subject to  
8 the jurisdiction of this court.  
9

10                                   **FIRST CAUSE OF ACTION**  
11                                   **PATENT INFRINGEMENT PURSUANT TO 35 U.S.C. 271(g)**

12           10. EVERYMD incorporates by reference paragraphs 1 – 7 as though fully  
13 set forth herein.

14           11. EVERYMD has operated the website [www.everymd.com](http://www.everymd.com) since 2001.

15           12. EVERYMD’s website at [www.everymd.com](http://www.everymd.com) provides home pages for  
16 over 300,000 member doctors and allows patients to obtain information about, send  
17 messages to, and submit comments about those doctors via the doctors’ individual  
18 home pages.

19           13. Prior to November 1999, EVERYMD invented numerous novel  
20 technologies during development of its website.

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

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

27           16. The ‘714 patent is based on the ‘755 application and issued on December  
28 30, 2003.

1           17. EVERYMD is the owner of U.S. Patent No. 7,644,122 entitled “Method,  
2 Apparatus and Business System for Online Communications with Online and Offline  
3 Recipients” (“the ‘122 patent”).  
4

5           18. The ‘122 patent is based on the ‘755 application and issued on December  
6 January 5, 2010.

7           19. EVERYMD owns additional pending patent applications that are based  
8 on the ‘755 application.

9           20. The ‘122 patent is valid and in full force and effect.

10           21. EVERYMD has given notice of its patent rights by marking its website at  
11 www.everymd.com with the ‘122 patent number.  
12

13           22. The ‘122 patent is directed to a novel method for creating individual  
14 home pages for members of a group of members that contain controls for sending  
15 messages to and for submitting comments about the members.

16           23. Third party Facebook, Inc. (“FACEBOOK”) utilizes the method of the  
17 ‘122 patent to create individual home pages (“FACEBOOK PAGES”) for its  
18 individual members.

19           24. In 2011, EVERYMD offered to sell the ‘122 patent to FACEBOOK.  
20

21           25. FACEBOOK rejected EVERYMD’s offer, and EVERYMD’s offer has  
22 expired.

23           26. Defendants each use FACEBOOK PAGES produced by FACEBOOK  
24 using the method of the ‘122 patent for commercial purposes by placing  
25 advertisements and proportional messages on one or more of such FACEBOOK  
26 PAGES.

27           27. FACEBOOK’s use of the method of the ‘122 patent to produce  
28 FACEBOOK PAGES is unauthorized.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

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

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

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

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

1 **DEMAND FOR RELIEF**

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

- 3
- 4 a. Enter judgment for EVERYMD against each Defendant on this
- 5 Complaint;
- 6 b. Enter a preliminary and permanent injunction to enjoin each Defendant,
- 7 and all those in privity with each such Defendant, from further infringement of the
- 8 ‘122 patent during the remaining term of the patent;
- 9 c. Award compensatory damages to EVERYMD and to increase those
- 10 damages three times in accordance with 35 U.S.C. § 284;
- 11 d. Award EVERYMD reasonable attorneys’ fees in accordance with 35
- 12 U.S.C. § 285;
- 13 e. Award EVERYMD interest and costs; and
- 14 f. Award EVERYMD such other and further relief as is just and proper.
- 15
- 16
- 17

18 **DEMAND FOR JURY TRIAL**

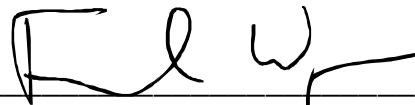
19 Plaintiffs hereby demand a trial by jury of all issues so triable.

20 Respectfully submitted,  
21 **TECHCOASTLAW®**

22

23 Dated: March 7, 2012

24 By:



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  
fweyer@techcoastlaw.com  
Attorney for Plaintiff EVERYMD