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

Attorney for Plaintiff
EveryMD LLC

FILED
2013 AUG 23 AM 11:06
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY _____

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

EVERYMD LLC, a California Limited Liability Company,
 	
                           Plaintiff,
 	
        v.
 	
FACEBOOK, INC., a Delaware Corporation,
 	
                           Defendant.
	Civil Action No. CV13-06208-SJO (PLAx)
	
	COMPLAINT FOR PATENT INFRINGEMENT
	
	DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff EVERYMD LLC ("Plaintiff" or "EveryMD"), and on information and belief alleges as follows:

JURISDICTION AND VENUE

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

2.   The acts of patent infringement alleged herein occurred within this judicial district, Plaintiff resides in this district, and Defendant FACEBOOK, INC.

("Defendant" or "Facebook") is subject to personal jurisdiction in this district. Therefore, venue is proper pursuant to 28 U.S.C. §§ 1391(b), (c), and 1400(b).

PARTIES

3.   Plaintiff is a California Limited Liability Company with a place of business at 2032 Whitley Ave., Los Angeles, CA 90068.

4.   Defendant is a Delaware Corporation with a place of business at 1601 Willow Road, Menlo Park, CA 94025.

FIRST CAUSE OF ACTION
PATENT INFRINGEMENT

5.   Plaintiff incorporates by reference paragraphs 1 – 4 as though fully set forth herein.

6.   Plaintiff operates the website www.everymd.com.

7.   Plaintiff's website at www.everymd.com has since the year 2000 provided email messaging services allowing patients to communicate with over 300,000 doctors.

8.   Plaintiff's principals Frank Weyer and Troy Javaher (collectively, "the EveryMD inventors") invented numerous novel technologies and inventions during development of the www.everymd.com website.

9.   On November 23, 1999, the EveryMD inventors filed U.S. Patent Application Serial No. 09/447,755 entitled "Method Apparatus and Business System for Online Communications with Online and Offline Recipients" disclosing the inventions made by the EveryMD inventors while developing the www.everymd.com website.

10.   To date, four separate patents covering four separate inventions have issued from the patent application originally filed in November 1999. Those patents

are U.S. Patent Nos. 6,671,714 (issued December 30, 2003), 7,644,122 (issued January 5, 2010), 8,499,047 (issued July 30, 2013), and 8,504,631 (issued August 6, 2013).

11.   Plaintiff is the assignee of record of U.S. Patent No. 8,499,047 entitled "Method, Apparatus and Business System for Online Communications with Online and Offline Recipients" ("the '047 patent").

12.   The '047 patent is valid and in full force and effect.

13.   The '047 patent is directed to a novel method for providing email communications by a computer system.

14.   Defendant directly infringes the '047 patent by practicing the claimed invention of the '047 patent without authorization of Plaintiff.

15.   One example of how Defendant directly infringes claim 1 of the '047 patent is set forth in paragraphs 16 to 25 below.

16.   The preamble of claim 1 of the '047 patent states:

"*1.   A method for providing e-mail communications between a sender and a recipient by a first computer system comprising the steps of:*"

17.   Facebook's computer system provides e-mail communications between Facebook members.

18.   The limitation of claim 1 that follows the preamble of claim 1 of the '047 patent states:

"*said first computer system creating a first created e-mail address for a recipient*".

19.   When a first Facebook member sends a message from the Facebook website to a second Facebook member, the Facebook computer system creates an e-mail address at which the first Facebook member can receive a reply message. That

created reply-to email address is an example of the claimed "first created e-mail address for a recipient." In the example screenshot below, that first created e-mail address is "m+31urkqlp000zg3px8sek00002lcb6345vn756q4gpseorqty2f7@ reply.facebook.com" which the Facebook computer system created for the first member ("Frank Michael Weyer").

From Facebook <notification+zj4oazj0ajty@facebookmail.com> ☆
Subject **New message from Frank Michael Weyer**
Reply to Message Email Reply <m+31urkqlp000zg3px8sek00002lcb6345vn756q4gpseorqty2f7@reply.facebook.com>
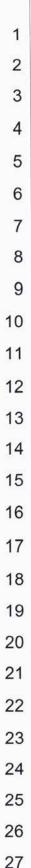To TechCoast Law <fweyer@techcoastlaw.com> ☆

Frank Michael Weyer   5:38pm Aug 20
Thanks for sending me a friend request.

20.   The next limitation of claim 1 of the '047 patent states:

"said first computer system receiving an incoming first e-mail message from a sending entity other than said first computer system comprising a first existing e-mail address of a sender addressed to said first created e-mail address of said recipient".

21.   When the second Facebook member (e.g."TechCoast Law") replies to the message from the first Facebook member (e.g. "Frank Michael Weyer"), the email that the first computer receives is (1) addressed to the first created email address, (2) is sent from the second member's email server (not the Facebook computer), and (3) contains the existing email address of the (sending) second Facebook member. In the example screenshot below, which shows an email reply to the above email, the email is addressed to the first created email address "m+31urkqlp000zg3px8sek00002lcb 6345vn756q4gpseorqty2f7@reply.facebook.com" and the email comprises the senders first existing email address "fweyer@techcoastlaw.com".

From: Frank Michael Weyer <fweyer@techcoastlaw.com> *fweyer@techcoastlaw.com*

To: ✉ Message Email Reply <m+31urkqlp000zg3px8sek00002lcb6345vn756q4gpseorqty2f7@reply.facebook.com>

Subject: Re: New message from Frank Michael Weyer

Body Text ▾   Variable Width   ▾   ■ A˙ A˙ A A A A | ≡ ≣ ⬅ ➡ | ≡ ▾ ■ ▾ ☺ ▾

You are welcome.

On 8/20/2013 6:08 PM, Facebook wrote:

Frank Michael Weyer   5:33pm Aug 20
Thanks for sending me a friend request.

22.   The next limitation of claim 1 of the '047 patent states:

"said first computer system creating a second created e-mail address for said sender different from said first existing e-mail address and from said first created e-mail address; said first computer system creating a first modified e-mail message by replacing said first existing e-mail address in said incoming first e-mail message with said second created e-mail address; said first computer system delivering said first modified e-mail message to said recipient".

23.   After the Facebook server computer receives the reply email message and before forwarding it to the recipient, the Facebook server creates an email address for the sender (the claimed "second created email address") and modifies the email message by replacing the sender's existing email address with the second created email address, as shown in the screenshot showing the reply email after it has been forwarded to the recipient. In the screenshot below, the sender's existing email address "fweyer@techcoastlaw.com" has been replaced with the second created email address: "m+31xczi6k0000009bsxlj00002lcb9jfjoqskupskvsio5nrs2f7@ reply.facebook.com" which is different from the recipient's first created email address which is: "m+31urkqlp000zg3px8sek00002lcb6345vn756q4gpseorqty2f7@ reply.facebook.com".

From Facebook <notification+m:pkkp_d@facebookmail.com>
Subject **New messages from TechCoast Law**
Reply to Message Email Reply <m+31xczi6k0000009bsxlj00002lcb9jfjoqskupskvsio5nrs2f7@reply.facebook.com>
To Frank Michael Weyer <frank@weyer.net>

TechCoast Law   8:29pm Aug 20
You are welcome.

24.   The last limitation of claim 1 of the '047 patent states:

"wherein said step of said first computer system delivering said first modified e-mail message to said recipient comprises said first computer system sending said first modified e-mail message to a second existing e-mail address of said recipient different from said first created e-mail address of said recipient."

25.   In delivering the modified email message to the recipient, the Facebook server sends the email message to an existing email address of the recipient, which is the claimed "second existing email address". As shown in the screenshot below, the Facebook server sent the modified message to "frank@weyer.net", which is the claimed "second existing email address", and which is different from the first created email address for the recipient, i.e. "m+31urkqlp000zg3px8sek00002lcb6345vn756q4 gpseorqty2f7@reply.facebook.com".

From Facebook <notification+m:pkkp_d@facebookmail.com>
Subject **New messages from TechCoast Law**
Reply to Message Email Reply <m+31xczi6k0000009bsxlj00002lcb9jfjoqskupskvsio5nrs2f7@reply.facebook.com>
To Frank Michael Weyer <frank@weyer.net>

TechCoast Law   8:29pm Aug 20
You are welcome.

Complaint

26.   Plaintiff has provided constructive notice of the '047 patent by marking the www.everymd.com website with the '047 patent number.

27.   Defendant has constructive and actual notice of Plaintiff' patent rights but Defendant continues to act in conscious and willful disregard of those rights.

28.   Defendant's infringements of Plaintiff's patent rights have irreparably damaged Plaintiff and will continue to cause irreparable harm unless enjoined by the Court.

Complaint

DEMAND FOR RELIEF

WHEREFORE, Plaintiff asks this Court to:

a.   Enter judgment for Plaintiff against Defendant on this Complaint;

b.   Enter a preliminary and permanent injunction to enjoin Defendant, and all those in privity with Defendant, from further infringement of the '047 patent during the remaining term of the patent;

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

d.   Award Plaintiff reasonable attorneys' fees in accordance with 35 U.S.C. § 285;

e.   Award Plaintiff interest and costs; and

f.   Award Plaintiff such other and further relief as is just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all issues so triable.

Respectfully submitted,
TECHCOASTLAW®

Dated: August 22, 2012   By: _____

Frank M. Weyer (State Bar No. 127011)
2032 Whitley Ave.
Los Angeles, CA 90068
(310) 494-6616
Fax (310) 494-9089
fweyer@techcoastlaw.com
Attorney for Plaintiff
EVERYMD.COM

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge _____ S. James Otero _____ and the assigned Magistrate Judge is _____ Paul L. Abrams _____ .

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

2:13-CV-6208-SJO (PLAx)

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.

Clerk, U. S. District Court

August 23, 2013   By MDAVIS _____
_____   Deputy Clerk
Date

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   ☐ Southern Division   ☐ Eastern Division
312 N. Spring Street, G-8   411 West Fourth St., Ste 1053   3470 Twelfth Street, Room 134
Los Angeles, CA 90012   Santa Ana, CA 92701   Riverside, CA 92501

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

Name & Address:
Frank M. Weyer, Esq. (State Bar No. 127011)
TECHCOASTLAW®
2032 Whitley Ave.
Los Angeles CA 90068
Telephone: (310) 494-6616

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

EVERYMD LLC, a California Limited Liability Company,	CASE NUMBER
PLAINTIFF(S)	**CV13-06208** ~~SSO~~ (PLA/x)
v.	
FACEBOOK, INC., a Delaware Corporation,	**SUMMONS**
DEFENDANT(S).	

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within __21__ days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☑ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure.   The answer or motion must be served on the plaintiff's attorney, _Frank M, Weyer_____, whose address is Techcoastlaw, 2032 Whitley Ave., Los Angeles, CA 90068_____. If you fail to do so, 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.

Clerk, U.S. District Court

Dated: __AUG 2 3 2013_____

By: _____
Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

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

I. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

EVERYMD LLC, a California Limited Liability Company

DEFENDANTS (Check box if you are representing yourself ☐)

FACEBOOK, INC., a Delaware Corporation

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)
FRANK M. WEYER (BAR NO. 127,011)
TECHCOASTLAW
2032 WHITLEY AVE, LOS ANGELES CA 90068
310-494-6616

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

II. BASIS OF JURISDICTION (Place an X in one box only.)

☐ 1. U.S. Government Plaintiff

☒ 3. Federal Question (U.S. Government Not a Party)

☐ 2. U.S. Government Defendant

☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business in this State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business in Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 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

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.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.)
Patent Infringement under 35 U.S.C. 271(a)

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

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
☐ 375 False Claims Act	☐ 110 Insurance	☐ 240 Torts to Land	☐ 462 Naturalization Application	**Habeas Corpus:**	☐ 820 Copyrights
☐ 400 State Reapportionment	☐ 120 Marine	☐ 245 Tort Product Liability	☐ 465 Other Immigration Actions	☐ 463 Alien Detainee	☒ 830 Patent
☐ 410 Antitrust	☐ 130 Miller Act	☐ 290 All Other Real Property		☐ 510 Motions to Vacate Sentence	☐ 840 Trademark
☐ 430 Banks and Banking	☐ 140 Negotiable Instrument	**TORTS**	**TORTS**	☐ 530 General	**SOCIAL SECURITY**
☐ 450 Commerce/ICC Rates/Etc.	☐ 150 Recovery of Overpayment & Enforcement of Judgment	**PERSONAL INJURY**	**PERSONAL PROPERTY**	☐ 535 Death Penalty	☐ 861 HIA (1395ff)
☐ 460 Deportation		☐ 310 Airplane	☐ 370 Other Fraud	**Other:**	☐ 862 Black Lung (923)
☐ 470 Racketeer Influenced & Corrupt Org.	☐ 151 Medicare Act	☐ 315 Airplane Product Liability	☐ 371 Truth in Lending	☐ 540 Mandamus/Other	☐ 863 DIWC/DIWW (405 (g))
☐ 480 Consumer Credit	☐ 152 Recovery of Defaulted Student Loan (Excl. Vet.)	☐ 320 Assault, Libel & Slander	☐ 380 Other Personal Property Damage	☐ 550 Civil Rights	☐ 864 SSID Title XVI
☐ 490 Cable/Sat TV		☐ 330 Fed. Employers' Liability	☐ 385 Property Damage Product Liability	☐ 555 Prison Condition	☐ 865 RSI (405 (g))
☐ 850 Securities/Commodities/Exchange	☐ 153 Recovery of Overpayment of Vet. Benefits	☐ 340 Marine	**BANKRUPTCY**	☐ 560 Civil Detainee Conditions of Confinement	**FEDERAL TAX SUITS**
☐ 890 Other Statutory Actions	☐ 160 Stockholders' Suits	☐ 345 Marine Product Liability	☐ 422 Appeal 28 USC 158	**FORFEITURE/PENALTY**	☐ 870 Taxes (U.S. Plaintiff or Defendant)
☐ 891 Agricultural Acts	☐ 190 Other Contract	☐ 350 Motor Vehicle	☐ 423 Withdrawal 28 USC 157	☐ 625 Drug Related Seizure of Property 21 USC 881	☐ 871 IRS-Third Party 26 USC 7609
☐ 893 Environmental Matters		☐ 355 Motor Vehicle Product Liability	**CIVIL RIGHTS**	☐ 690 Other	
☐ 895 Freedom of Info. Act	☐ 195 Contract Product Liability	☐ 360 Other Personal Injury	☐ 440 Other Civil Rights	**LABOR**	
☐ 896 Arbitration	☐ 196 Franchise	☐ 362 Personal Injury-Med Malpractice	☐ 441 Voting	☐ 710 Fair Labor Standards Act	
	REAL PROPERTY	☐ 365 Personal Injury-Product Liability	☐ 442 Employment	☐ 720 Labor/Mgmt. Relations	
☐ 899 Admin. Procedures Act/Review of Appeal of Agency Decision	☐ 210 Land Condemnation	☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability	☐ 443 Housing/Accomodations	☐ 740 Railway Labor Act	
	☐ 220 Foreclosure		☐ 445 American with Disabilities-Employment	☐ 751 Family and Medical Leave Act	
☐ 950 Constitutionality of State Statutes	☐ 230 Rent Lease & Ejectment	☐ 368 Asbestos Personal Injury Product Liability	☐ 446 American with Disabilities-Other	☐ 790 Other Labor Litigation	
			☐ 448 Education	☐ 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY: Case Number: CV13-06208

AFTER COMPLETING PAGE 1 OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED ON PAGE 2.

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
LOS ANGELES	

(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 SELF-REPRESENTED LITIGANT): _____   DATE: AUGUST 22, 2013

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. 405 (g))