IN THE UNITED STATES COURT
FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES, INC., a Delaware corporation, Plaintiff and Counterdefendant, v. FACEBOOK, INC., a Delaware corporation, Defendant and Counterclaimant.	**CIVIL ACTION** **No. 1:08-cv-00862-JJF**

FACEBOOK INC.'S MEMORANDUM IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT OF INVALIDITY OF U.S. PATENT NO. 7,139,761 BASED ON ANTICIPATION UNDER 35 U.S.C. § 102(b)

[MOTION NO. 6 OF 6]

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I. NATURE AND STAGE OF THE PROCEEDINGS

Plaintiff Leader Technologies, Inc. ("LTI") filed its complaint against defendant Facebook, Inc. ("Facebook") in this patent infringement action on November 19, 2008. Discovery is closed and trial is set for June 28, 2010. (D.I. 30, Rule 16 Scheduling Order).

II. SUMMARY OF ARGUMENT

Each and every limitation of the alleged invention of U.S. Patent No. 7,139,761 (the "'761 patent") was disclosed, using nearly identical language, in U.S. Patent No. 6,236,994 to Ronald Swartz (the "Swartz"). Because Swartz issued more than two and a half years before the application for the '761 patent was filed, it constitutes a statutory bar under 35 U.S.C. § 102(b). Swartz was never cited or considered by the U.S. Patent and Trademark Office ("PTO") during the original prosecution of the '761 patent.

There is no genuine issue of material fact that would preclude summary judgment. The content of the Swartz reference, and its status as effective prior art to the '761 patent, are both undisputed. In light of the remarkable similarities between the disclosures of Swartz and the asserted claims of the '761 patent, there can be no doubt that Swartz anticipates and renders invalid each asserted claim. Summary judgment should therefore be granted.

III. SUMMARY OF UNDISPUTED FACTS

The '761 patent, entitled "Dynamic Association of Electronically Stored Information with Iterative Workflow Changes," issued from an application filed on December 10, 2003. The '761 patent purports to disclose a data management tool for use in "communications, organization, information processing, and data storage." Ex. A at Col. 3:16-19. LTI has asserted claims 1, 4, 7, 9, 11, 16, 21, 23, 25, 31 and 32 of the '761 patent against Facebook.

The Swartz patent, entitled "Method and Apparatus for the Integration of Information and Knowledge," issued on May 22, 2001 from an application filed on June 29, 1998. *See* Ex. B. One of the stated goals of the Swartz patent, like McKibben who followed, was to prevent the

loss of information between individuals in an organization or enterprise working on large scale projects:

> Companies operating in regulated industries (e.g., aerospace, energy, healthcare, manufacturing, pharmaceuticals, telecommunications, utilities) are required to manage and review large amounts of information that is frequently generated over the course of several years. . . . Separate groups or organizations produce multiple iterations of these data and documents, with potentially thousands of statistical data analysis files linked to thousands of dependent documents. . . . Correspondingly, separate software systems for data analysis and document management have been adopted as discrete solutions."

Ex. B at Col. 1:33-50. Because such large scale collaborative processes run the risk of losing data as users continued to make changes to their documents over time, a need existed for a system and method to "integrate and synchronize the flow of all information, processes and work practices necessary for making better and faster decisions within an enterprise." *Id.* at Col. 1:51-54. Swartz proposed a solution referred to as "knowledge integration middleware," which he defined as: "any software used to assist in the integration of disparate information sources and their corresponding applications for the purposes of recording, distributing, and activating knowledge, knowledge applications, or knowledge services." *Id.* at Col. 6:18-22.

In one embodiment, Swartz discloses a system known as "DataDocket," which "manages the flow of information between two or more applications that comprise the information system of an enterprise." *Id.* at Col. 9:5-8. The management functions in Swartz rely on "context information" that is automatically collected from users and applications, which is stored in a "metadata catalog." *Id.* at Cols. 4:18, 4:33-35, 6:22-26, 18:9-13. In particular, Swartz discloses a system that "captures metadata associated with the information shared, stored and accessed by the users of the data so as to characterize the 'context' in which the information is being used." *Id.* at Col. 8:56-60; *see also id.* at Col. 6:22-26 ("More specifically, knowledge integration middleware is preferably employed to identify (including tracking, monitoring, analyzing) the context in which information is employed so as to enable the use of such context in the management of knowledge."). This context information and metadata can be used to create a

"knowledge path" that allows users to reflect back and track all interactions and transactions that took place with respect to their data. *See id.* at Col. 19:15-35.

IV. ARGUMENT

A. LEGAL STANDARD

The patent system was established to foster and reward new inventions. *See Kewanee Oil Co. v. Bicron Corp.*, 416 U.S. 470, 479 (1974). To be patentable, an invention must be novel. *See* 35 U.S.C. § 102. Pursuant to 35 U.S.C. § 102, a patent is invalid for lack of novelty if it can be shown that a single prior art reference expressly or inherently discloses each element of the claimed invention. *See, e.g., Schering Corp. v. Geneva Pharms., Inc.*, 339 F.3d 1373, 1379 (Fed. Cir. 2003). In simplest terms, a single piece of prior art that contains each element of a patent claim is said to "anticipate" that claim, rendering it invalid. *Id.* at 1377.

Anticipation is determined through a straightforward comparison between the language of a claim and the prior art reference, using an analysis similar to the one used to determine whether the claim is infringed. "The principle of law is concisely embodied in the truism that: 'That which infringes if later anticipates if earlier.'" *Brown v. 3M*, 265 F.3d 1349, 1352 (Fed. Cir. 2000) (quoting from *Peters v. Active Mfg. Co.*, 129 U.S. 530, 537 (1889)).

A party challenging the validity of a patent bears the burden of showing invalidity by clear and convincing evidence. *See PowerOasis, Inc. v. T-Mobile USA, Inc.*, 522 F.3d 1299, 1305 (Fed. Cir. 2008). "Once it has established a prima facie case of invalidity and its burden is met, the party relying on validity is then obligated to come forward with evidence to the contrary." *Id.* (citation omitted).

Summary judgment is appropriate when the moving party demonstrates that there is "no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). There is no genuine dispute of material fact when "the record taken as a whole could not lead a rational trier of fact to find for the non-moving party." *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986). Summary judgment of

invalidity is proper when, as here, no reasonable jury could find the patent valid over the prior art. *See Telemac Cellular Corp. v. Topp Telecom, Inc.*, 247 F.3d 1316, 1327 (Fed. Cir. 2001).

B. SWARTZ ANTICIPATES CLAIMS 1, 4, 7, 9, 11, 21, 23, 25, 31 AND 32

It should come as no surprise that the Swartz '994 previously disclosed each and every element later claimed by Mr. McKibben. They were both trying to solve the problem, in their own words, of information loss over time and use by many people. Therefore, both needed tracking and metadata updating systems.

The most straight-forward way to demonstrate that the Swartz '994 patent disclosure anticipates each and every element of claims 1, 4, 7, 9, 11, 21, 23, 25, 31 and 32 is by way of the following claim chart. On the left hand side of the chart the claim language from the relevant claim of the '761 patent is quoted. For the sake of clarity, some elements of the claims of the '761 patent have been broken down into smaller fragments in the chart to more clearly demonstrate that the Swartz '994 patent discloses the elements of the asserted claims. Directly opposite, on the right hand side, is a short explanation in italics followed by the exact language from the specification of Swartz that anticipates the corresponding element from the '761 patent. Unless otherwise noted, underlining has been added for clarity and emphasis.

Claim Language	**Anticipating Material From Swartz '994**
Claim 1 of '761 Patent	
1. A computer-implemented network-based system that facilitates management of data, comprising:	*Swartz discloses a system that facilitates management of data:* "This invention relates generally to an architecture for the integration of data, information and knowledge, and more particularly to a method and apparatus that manages and utilizes a knowledge repository for the purpose of enabling easy access, manipulation and visualization of synchronized data, information and knowledge contained in different types of software systems." Ex. B at Col. 1:10-16. *The system of Swartz is network-based:* "In accordance with the present invention, there is provided a knowledge integration system for providing application

Claim Language	Anticipating Material From Swartz '994
	interoperability and synchronization between heterogeneous document and data sources, comprising . . . a document source, including a document database memory, for . . . making the captured knowledge available across a network. . . ." *Id.* at Col. 3:61-64; Col. 4:4-5.
[a1] a computer-implemented context component of the network-based system for capturing context information associated with user-defined data created by user interaction of a user in a first context of the network-based system,	*Swartz discloses a computer-implemented context component (e.g., DataDocket middleware) for capturing context information associated with user-defined data (e.g., documents, images) created by a user interaction in a first context (e.g., an information management application and the data it manages), explained below.* *First, the DataDocket system supports the creation of user-defined data by user interaction in a first context (e.g., through one or more user applications):* "Within information management level **300** [of Fig. 5] reside the plurality of independent information management applications controlled by the DataDocket system, for example, image data and associated image applications (reference numerals **310A, 310B**). . . . ." *Id.* at Col. 17:49-53; *see also id.* at Fig. 5 (showing Data Applications 314B, Document Applications 312B and Image Applications 310B). *The first context may comprise, for example, a first workspace or software environment (e.g., the clinical data analysis system and the data that it manages):* "Such a system also preferably captures metadata associated with the information shared, stored and accessed by the users of the data so as to characterize the 'context' in which the information is being used. As depicted, for example in FIGS. 2A and 2B, the customer data analysis software application (e.g., SAS/PH-Clinical) **50** is separate and distinct from the enterprise document management system (e.g., Documentum or PC Docs) **55**." *Id.* at Col. 8:55-63. *The DataDocket system captures context information associated with the user-defined data:* "Aspects of the present invention include . . . use of a knowledge repository containing record of integration transactions, context information from users and applications . . . ." *Id.* at Col. 4:18, 4:33-35. "As used herein, the term 'knowledge integration middleware' represents any software used to assist in the integration of

Claim Language	Anticipating Material From Swartz '994
	disparate information sources and their corresponding applications for the purposes of recording, distributing, and activating knowledge, knowledge applications, or knowledge services. More specifically, knowledge integration middleware is preferably employed to identify (including tracking, monitoring, analyzing) the context in which information is employed so as to enable the use of such context in the management of knowledge." *Id.* at Col. 6:17-26. "Some key advantages of the present invention are the saving of 'context' and having ability to visualize and explore past, present and potential decisions, infrastructure setup for individual and enterprise learning, structuring processes, practices, and applications and the interactions between them, that to date has been mostly unstructured and unrecorded." *Id.* at Col. 7:49-55.
[a2] the context component dynamically storing the context information in metadata associated with the user-defined data, the user-defined data and metadata stored on a storage component of the network-based system; and	*Swartz discloses that the context component dynamically stores the context information in metadata associated with the user-defined data:* "'Metadata' refers to data about data; as used herein, Metadata characterizes how, when and by whom a particular set of data was collected, and how the data is formatted." *Id.* at Col. 6:64-67. "Such a system also preferably captures metadata associated with the information shared, stored and accessed by the users of the data so as to characterize the 'context' in which the information is being used." *Id.* at Col. 8:56-60. *The user-defined data and metadata are stored on a storage component (e.g., repositories, databases):* "As inputs, the knowledge integration block supplies records of transactions, context information from users and applications, and information to populate an information metadata catalog in the knowledge repository **330**." *Id.* at Col. 18:9-12. "As illustrated in FIG. 3 data analysis and review block **90** includes a data review subcomponent having access to the analysis results & meta data stored in database **94**, and providing access to such information to the user **101**." *Id.* at Col. 10:22-25. "Similarly, the document management and review block **100** [of Fig. 3] preferably contains a document review subcomponent **102**, that enables a user **101** to review reference and assertion documents stored in the document database **104**." *Id.* at Col.

Claim Language	Anticipating Material From Swartz '994
	10:32-35.
[b] a computer-implemented tracking component of the network-based system for tracking a change of the user from the first context to a second context of the network-based system and dynamically updating the stored metadata based on the change, wherein the user accesses the data from the second context.	*Swartz discloses a computer-implemented tracking component (e.g., DataDocket middleware) for tracking a change of the user from a first context to a second context, and dynamically updating the stored metadata based on the change, as described below.* *The first context can comprise a first workspace or environment (e.g., a clinical data analysis system and the data it manages), and the second context can comprise a second workspace or environment and its associated data (e.g., an enterprise document management system such as Documentum and the data it manages):* "Such a system also preferably captures metadata associated with the information shared, stored and accessed by the users of the data so as to characterize the 'context' in which the information is being used. As depicted, for example in FIGS. 2A and 2B, the customer data analysis software application (e.g., SAS/PH-Clinical) **50** is separate and distinct from the enterprise document management system (e.g., Documentum or PC Docs) **55**." *Id.* at Col. 8:55-63. "The preferred DataDocket architecture, depicted in FIGS. 2A or 2B, is characterized by 'middleware' **60** that manages the flow of information between two or more applications that comprise the information system of an enterprise." *Id.* at Col. 9:5-8. *Swartz discloses tracking a change of the user from the first to the second context, and dynamically updating the stored metadata based on the change:* "More specifically, knowledge integration middleware is preferably employed to identify (including tracking, monitoring, analyzing) the context in which information is employed so as to enable the use of such context in the management of knowledge." *Id.* at Col. 6:22-26. "Some key advantages of the present invention are the saving of 'context' and having ability to visualize and explore past, present and potential decisions, infrastructure setup for individual and enterprise learning, structuring processes, practices, and applications and the interactions between them, that to date has been mostly unstructured and unrecorded." *Id.* at Col. 7:49-55. *For example, the user's movement to a second context is tracked and*

Claim Language	Anticipating Material From Swartz '994
	the metadata is automatically updated resulting in a "knowledge path" recording the user's interaction with the data: "Vital to the design and implementation of the mechanisms specified in this architecture is the capturing of the 'knowledge path' of all the work required as part of building the proof for filing a regulatory application. Ultimately, anyone reviewing the proof should be able to retrace all steps taken from the finished application, back to the generation of the arguments and assertions made during analysis, and finally back to the original data. Accordingly, the capturing of the context for all transactions supporting the decisions made is essential. Such functionality is likely to require recording a textual account of the transaction—such as a knowledge worker indicating 'why' they are doing something. However, whenever possible, the recording of information should be done electronically, automatically with dynamic (or 'live') linkages to the source information and the system that manages such information." *Id.* at Col. 19:15-30.
Claim 4 of '761 Patent	
4. The system of claim **1**, the context information includes a relationship between the user and at least one of an application, application data, and user environment.	*The context information (e.g., through the metadata) includes a relationship between the user and at least one of an application, application data and user environment.* "Such a system also preferably captures metadata associated with the information shared, stored and accessed by the users of the data so as to characterize the 'context' in which the information is being used." *Id.* at Col. 8:56-60. "'Metadata' refers to data about data; as used herein, Metadata characterizes how, when and by whom a particular set of data was collected, and how the data is formatted." *Id.* at Col. 6:64-67. *The context information therefore includes a relationship between the user ("by whom a particular set of data was collected") and an application and/or application data ("how the data is formatted").*
Claim 7 of '761 Patent	
7. The system of claim **1**, wherein data created in the first context is associated with data created in the second	*Swartz discloses that data created in the first context is associated with data created in the second context.* *For example, data created in the first context can be associated with data created in the second context through the "knowledge path"*

Claim Language	Anticipating Material From Swartz '994
context.	*functionality as described in claim 1[b], above.* *As another example, Swartz discloses the creation of dynamic links between data and the application in which it was created. As described below, these links allow data created in the first context (e.g., the environment provided by the data analysis system) to accessed through another context (e.g., through the environment provided by the enterprise document management system (EDMS) and the data it manages).* "Another aspect of the present invention is the establishment of dynamic links from documents back to the data analysis system. For example, as illustrated by FIG. 13, a user may, from the Documentum EDMS interface, drill down into the supporting source data. More specifically, a user may, by double-clicking to select the highlighted object in Virtual Document Manager window **1310**, initiate the option of viewing the selected object. If the 'view' button **1330** is selected in window **1320**, the object is displayed by linking to the analysis database and invoking, in one embodiment, the SAS/PH-Clinical environment, where the Anova plots can be displayed as shown by FIG. 14." *Id.* at Col. 20:14-24. *The dynamic links allowing the ability to access, from the second context, the data created in the first context demonstrate that data created in the first context is associated with data created in the second context.*
Claim 9 of '761 Patent	
9. A computer-implemented method of managing data, comprising computer-executable acts of:	*Swartz discloses a computer-implemented method of managing data, as described in the preamble of claim 1 above:*
[a] creating data within a user environment of a web-based computing platform via user interaction with the user environment by a user using an application, the data in the form of at least files and documents;	*Swartz discloses creating data within a user environment of a web-based computing platform (e.g., SAS/PH-Clinical environment and the data it manages) via user interaction with the user environment by a user running an application program, the data in the form of at least documents and files (e.g., documents within folders):* "FIG. 6 is a representation of the user interface for an exemplary system employing SAS/PH-Clinical™ software for managing clinical data. In particular, the figure shows the folder structure of data and reports managed for an imaginary drug 'Dockazol'. Along the left of the window are the various

Claim Language	Anticipating Material From Swartz '994
	submission reports, and along the right column are the contents of a particular folder, all displayed in a MS-Windows® based environment as is proposed for the SAS/PH-Clinical software environment." *Id.* at Col. 19:43-51. *The computing platform may be web-based:* "The software will run on a client server system (e.g., Windows NT) as depicted in FIG. 3 to provide web-based operability and users will operate PC client systems having Windows NT/95 operating system software." *Id.* at Col. 9:11-15; *see also id.* Fig. 3 (showing web-based DataDocket server).
[b1] dynamically associating metadata with the data, the data and metadata stored on a storage component of the web-based computing platform,	*Swartz discloses dynamically associating metadata with the data (e.g., context information), the data and metadata stored on a storage component of the web-based computing platform:* "'Metadata' refers to data about data; as used herein, Metadata characterizes how, when and by whom a particular set of data was collected, and how the data is formatted." *Id.* at Col. 6:64-67. "Such a system also preferably captures metadata associated with the information shared, stored and accessed by the users of the data so as to characterize the 'context' in which the information is being used." *Id.* at Col. 8:56-60. *The data and metadata are stored on a storage component (e.g., repositories, databases), as described in element [a2] of claim 1 above.*
[b2] the metadata includes information related to the user, the data, the application, and the user environment;	*Swartz discloses that the metadata includes information related to the user, the data, the application and the user environment (e.g., the current context):* "'Metadata' refers to data about data; as used herein, Metadata characterizes how, when and by whom a particular set of data was collected, and how the data is formatted." *Id.* at Col. 6:64-67. *The metadata therefore includes a relationship between the user ("by whom a particular set of data was collected") the data ("how, when . . . a particular set of data was collected") and an application ("how the data is formatted").* *The metadata also includes further information related to the application and the user environment (e.g., the context in which the information was employed):* "As used herein, the term 'knowledge integration middleware'

Claim Language	Anticipating Material From Swartz '994
	represents any software used to assist in the integration of disparate information sources and their corresponding applications for the purposes of recording, distributing, and activating knowledge, knowledge applications, or knowledge services. More specifically, knowledge integration middleware is preferably employed to identify (including tracking, monitoring, analyzing) the context in which information is employed so as to enable the use of such context in the management of knowledge." *Id.* at Col. 6:17-26.
[c] tracking movement of the user from the user environment of the web-based computing platform to a second user environment of the web-based computing platform; and	*Swartz discloses tracking movement of the user from the user environment of the web-based computing platform to a second user environment of the web-based computing platform, as described below.* *For purposes of invalidity of this claim, the first user environments may be view as synonymous with the first and second "contexts," as described in connection with claim 1[b] above. As explained in conection with claim 1[b] above, the first user environment may comprise the SAS/PH-Clinical analysis environment and the data it manages, and the second user environment may comprise an enterprise document management system such as Documentum and the data it manages. See disclosures for claim 1[b], above.*
[d] dynamically updating the stored metadata with an association of the data, the application, and the second user environment wherein the user employs at least one of the application and the data from the second environment.	*Swartz discloses dynamically updating the stored metadata with an association of the data, the application and the second user environment wherein the user employs at least one of the application and the data from the second environment, as explained below.* *Swartz discloses dynamically updating the stored metadata with an association of the data, the application and the second user environment:* "More specifically, knowledge integration middleware is preferably employed to identify (including tracking, monitoring, analyzing) the context in which information is employed so as to enable the use of such context in the management of knowledge." *Id.* at Col. 6:17-26. "Accordingly, the capturing of the context for all transactions supporting the decisions made is essential. Such functionality is likely to require recording a textual account of the transaction—such as a knowledge worker indicating 'why' they are doing something. However, whenever possible, the recording of information should be done electronically, automatically with dynamic (or 'live') linkages to the source information and the

Claim Language	Anticipating Material From Swartz '994
	system that manages such information." *Id.* at Col. 19:22-30. *Through these dynamic links, for example, the user can employ the application (SAS/PH-Clinical software) and then access the data from the second user environment (e.g., the document management system (Documentum)):* "Another aspect of the present invention is the establishment of dynamic links from documents back to the data analysis system. For example, as illustrated by FIG. 13, a user may, from the Documentum EDMS interface, drill down into the supporting source data. More specifically, a user may, by double-clicking to select the highlighted object in Virtual Document Manager window **1310**, initiate the option of viewing the selected object. If the 'view' button **1330** is selected in window **1320**, the object is displayed by linking to the analysis database and invoking, in one embodiment, the SAS/PH-Clinical environment, where the Anova plots can be displayed as shown by FIG. 14." *Id.* at Col. 20:14-24.
Claim 11 of '761 Patent	
11. The method of claim **9**, further comprising indexing content of the user environment such that a plurality of users can access the content from an associated plurality of user environments.	*Swartz discloses indexing content of the user environment (e.g., through the metadata and context information) such that a plurality of users can access the content from an associated plurality of user environments. For example, using the dynamic links feature, clinical data created in the SAS/PH Clinical user environment is indexed and can be accessed from there and from the environment associated with the enterprise document management system (EDMS):* "Another aspect of the present invention is the establishment of dynamic links from documents back to the data analysis system. For example, as illustrated by FIG. 13, a user may, from the Documentum EDMS interface, drill down into the supporting source data. More specifically, a user may, by double-clicking to select the highlighted object in Virtual Document Manager window **1310**, initiate the option of viewing the selected object. If the 'view' button **1330** is selected in window **1320**, the object is displayed by linking to the analysis database and invoking, in one embodiment, the SAS/PH-Clinical environment, where the Anova plots can be displayed as shown by FIG. 14." *Id.* at Col. 20:14-24.
Claim 21 of '761 Patent	
21. A computer-readable	*The preamble and limitations [a] through [d] of claim 21 are*

Claim Language	Anticipating Material From Swartz '994
medium for storing computer-executable instructions for a method of managing data, the method comprising:	*substantially similar to claim 9. As such, in the interests of brevity and in light of the applicable page limits, the full explanation provided in connection with claim 9 above will not be repeated here.*[1] *As explained in connection with the preamble of claim 9, Swartz discloses a method of managing data. Swartz also discloses a computer-readable medium for storing computer-executable instructions to carry out the methods disclosed therein. See id. at Fig. 3 (showing DataDocket Controller Server); Fig. 5 (storage devices).*
[a] creating data related to user interaction of a user within a user workspace of a web-based computing platform using an application;	*As explained in connection with element [a] of claim 9, Swartz discloses creating data related to user interaction of a user within a user workspace of a web-based computing platform using an application. See generally, Id. at Col. 19:43-51; Col. 9:11-15 (web-based).*
[b] dynamically associating metadata with the data, the data and metadata stored on the web-based computing platform, the metadata includes information related to the user of the user workspace, to the data, to the application and to the user workspace;	*As explained in connection with limitation [b] of claim 9, Swartz discloses dynamically associating metadata with the data, and storing it on the web-based computing platform, the metadata includes information related to the user of the user workspace, to the data, to the application and to the user workspace. See id. at Col. 6:64-67 (metadata); Col. 8:56-60 (capture of metadata); Col. 6:22-26 (context recording); Col. 18:9-12 (storage of metadata); Col. 10:22-25 (same); Col. 10:32-35 (storage of data).*
[c] tracking movement of the user from the user workspace to a second user workspace of the web-based computing platform; [d] dynamically	*As explained in connection with limitation [c] and [d] of claim 9, Swartz discloses tracking movement of the user from the first to the second workspace of the web-based computing platform (e.g., from the SAS/PH-Clinical environment to the document management environment), and dynamically associating the data and the application with the second user workspace in the metadata such that the user employs the application and data from the second user*

[1] LTI has asserted independent claims 1, 9, 21 and 23 of the '761 patent. Claims 21 and 23 contain elements that are similar to claims 9 and 1, respectively. In the interests of avoiding needless repetition, claims 21 and 23 may refer back to and incorporate the discussion of similar elements in earlier claims.

Claim Language	Anticipating Material From Swartz '994
associating the data and the application with the second user workspace in the metadata such that the user employs the application and data from the second user workspace; and	*workspace. See id. at Col. 8:59-63 (identifying two user environments); Col. 9:5-8 (tracking flow of information between applications); Col. 6:22-26 (context tracking); Col. 7:49-55 (saving context and recording interactions); Col. 9:14-33 (creation of audit trail); Col. 19:15-30 (creation of knowledge path and dynamic links); Col. 19:38-63 (example movement from SAS/PH-Clinical to Documentum and access of data from Documentum); Col. 20:14-28 (movement the other direction).*
[e] indexing the data created in the user workspace such that a plurality of different users can access the data via the metadata from a corresponding plurality of different user workspaces.	*For the purposes of this Request, this element is substantially similar to claim 11. As such, in the interests of brevity, the full explanation provided in connection with claim 11 need not be repeated here.* *Swartz discloses indexing content of the user workspace (e.g., through the metadata and context information) such that a plurality of users can access the content from an associated plurality of user environments (e.g., using the dynamic links feature). Id.* at Col. 20:14-24.
Claim 23 of '761 Patent	
23. A computer-implemented system that facilitates management of data, comprising:	*Swartz discloses a computer-implemented network-based system that facilitates management of data, as described in connection with the preamble of claim 1 above.*
[a1] a computer-implemented context component of a web-based server for defining a first user workspace of the web-based server,	*Swartz discloses a computer-implemented context component (e.g., DataDocket middleware) for defining a first user workspace, as described below.* *The first user workspace can be, for example, a first workspace or software environment (e.g., clinical data analysis system and the data it manages). See description of the "context component" in claim 1[a1], above.* *The system of Swartz operates on a web-based server:* "The software will run on a client server system (e.g., Windows NT) as depicted in FIG. 3 to provide web-based operability and users will operate PC client systems having Windows NT/95 operating system software." *Id.* at Col. 9:11-15; *see also id.* at Fig. 3 (showing web-based DataDocket server).
[a2] assigning one or more applications to the first user workspace,	*Swartz discloses that the context component assigns an application (e.g., SAS/PH-Clinical software) to the first user workspace:* "Within information management level **300** [of Fig. 5] reside

Claim Language	Anticipating Material From Swartz '994
	the plurality of independent information management applications controlled by the DataDocket system, for example, image data and associated image applications (reference numerals **310A, 310B**). . . . ." *Id.* at Col. 17:49-53; *see also id.* at Fig. 5 (showing Data Applications 314B, Document Applications 312B and Image Applications 310B). "As depicted, for example in FIGS. 2A and 2B, the customer data analysis software application (e.g., SAS/PH-Clinical) **50** is separate and distinct from the enterprise document management system (e.g., Documentum or PC Docs) **55**." *Id.* at Col. 8:60-63.
[a3] capturing context data associated with user interaction of a user while in the first user workspace, and for	*Swartz discloses for capturing context data associated with user interaction of a user while in the first user workspace:* "Such a system also preferably captures metadata associated with the information shared, stored and accessed by the users of the data so as to characterize the 'context' in which the information is being used. As depicted, for example in FIGS. 2A and 2B, the customer data analysis software application (e.g., SAS/PH-Clinical) **50** is separate and distinct from the enterprise document management system (e.g., Documentum or PC Docs) **55**." *Id.* at Col. 8:55-63. *The DataDocket system captures context information associated with the user-defined data:* "Aspects of the present invention include . . . use of a knowledge repository containing record of integration transactions, context information from users and applications . . . ." *Id.* at Col. 4:18, 4:33-35. "As used herein, the term 'knowledge integration middleware' represents any software used to assist in the integration of disparate information sources and their corresponding applications for the purposes of recording, distributing, and activating knowledge, knowledge applications, or knowledge services. More specifically, knowledge integration middleware is preferably employed to identify (including tracking, monitoring, analyzing) the context in which information is employed so as to enable the use of such context in the management of knowledge." *Id.* at Col. 6:17-26.
[a4] dynamically storing the context data as	*Swartz discloses dynamically storing the context data as metadata on a storage component of the web-based server, the metadata*

Claim Language	Anticipating Material From Swartz '994
metadata on a storage component of the web-based server, which metadata is dynamically associated with data created in the first user workspace; and	*dynamically associated with data created in the first user workspace, as explained in connection with claim 1[a1], above.* *The metadata is dynamically associated with data created in the first user workspace (e.g., SAS/PH-Clinical workspace and the data it manages). This is shown by the "dynamic links" feature which demonstrates that the data is associated with the first user workspace:* "Another aspect of the present invention is the establishment of dynamic links from documents back to the data analysis system. For example, as illustrated by FIG. 13, a user may, from the Documentum EDMS interface, drill down into the supporting source data. More specifically, a user may, by double-clicking to select the highlighted object in Virtual Document Manager window **1310**, initiate the option of viewing the selected object. If the 'view' button **1330** is selected in window **1320**, the object is displayed by linking to the analysis database and invoking, in one embodiment, the SAS/PH-Clinical environment, where the Anova plots can be displayed as shown by FIG. 14." *Id.* at Col. 20:14-24. *The metadata is stored on a storage component (e.g., knowledge repository or metadata database) of the web-based server, as explained in connection with claim 1[a2], above.*
[b] a computer-implemented tracking component of the web-based server for tracking change information associated with a change in access of the user from the first user workspace to a second user workspace, and dynamically storing the change information on the storage component as part of the metadata, wherein the user accesses the data from the second user workspace.	*Swartz discloses a computer-implemented tracking component of the web-based server (e.g., DataDocket middleware) for tracking change information associated with a change in access of the user from the first to the second user workspace, and dynamically storing the change information on the storage component as part of the metadata, wherein the user accesses the data from the second user workspace, as described in connection with claim 1[b] above.* *For purposes of invalidity of this claim, the first user workspace can comprise a first workspace or environment (e.g., the SAS/PH Clinical data analysis system and the data it manages), and the second user workspace can comprise a second workspace or environment (e.g., an enterprise document management system (EDMS) such as Documentum and the data it manages). This is fully described in connection with claim 1[b] above.*
Claim 25 of '761 Patent	

Claim Language	Anticipating Material From Swartz '994
25. The system of claim **23**, wherein the context component captures relationship data associated with a relationship between the first user workspace and at least one other user workspace.	*The context component (e.g., DataDocket middleware) captures relationship data (e.g., context information) associated with a relationship between the first user workspace and another workspace. See, e.g., id. at claim 1, element [b], above, for a discussion of capturing relationship (context) information from multiple workspaces to create a "knowledge path" of all work done on the data. See id. at Col. 19:15-30. See also id. at claim 7, above, for a discussion of how the dynamic links feature captures a relationship between the first and second user workspaces.*
Claim 31 of '761 Patent	
31. The system of claim **23**, wherein the storage component stores the data and the metadata according to at least one of a relational and an object storage methodology.	*Swartz discloses that the storage component stores the data (e.g., data items) and metadata (e.g., dynamic links) according to at least, e.g., an object storage methodology:* "Another aspect of the present invention visualizes objects and linkages maintained in the integration knowledge base, preferably using a 3D interface and conceptual schema for access and manipulation of the enterprise information." *Id.* at Col. 5:18-24. "More specifically, a knowledge link may be specified from within either a source document or published document, linking back to a related object in the data analysis system." *Id.* at Col. 18:20-23.
Claim 32 of '761 Patent	
32. The system of claim **23**, wherein storing of the metadata in the storage component in association with data facilitates many-to-many functionality of the data via the metadata.	*Swartz discloses that storing of the metadata in the storage component in association with data facilitates many-to-many functionality of the data via the metadata (e.g., via the context information).* *In particular, Swartz discloses the ability of two or more users to access two or more data files.* "Users will be able to define and execute multiple tasks to be performed by one or more information management (data or document) applications from anywhere within the actual information content." *Id.* at Col. 18:18-20. "As used herein, the term 'knowledge integration middleware' represents any software used to assist in the integration of disparate information sources and their corresponding applications for the purposes of recording, distributing, and activating knowledge, knowledge applications, or knowledge

Claim Language	Anticipating Material From Swartz '994
	services." *Id.* at Col. 6:17-26. "In accordance with the present invention, there is provided a knowledge integration system for providing application interoperability and synchronization between heterogeneous document and data sources. . ." *Id.* at Col. 3:61-64.

As shown in the chart above, Swartz anticipates claims 1, 4, 7, 9, 11, 21, 23, 25, 31 and 32, rendering each invalid.

C. CLAIM 16 IS OBVIOUS

Claim 16 of the '761 patent reads in its entirety: "The method of claim 9, further comprising accessing the user environment via a portable wireless device." Although Swartz does not explicitly disclose the use of a portable wireless device, claim 16 adds nothing of patentable significance and is invalid as obvious.

A patent claim is invalid if the differences between patented subject matter and the prior art are such that the subject matter as a whole would have been "obvious" to a person having ordinary skill in the art. *See* 35 U.S.C § 103(a). A court assesses obviousness by considering the following factors: (1) the scope and content of the prior art; (2) the differences between the prior art and the claims at issue; and (3) the level of ordinary skill in the art. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007) (quoting *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966)) ("KSR"). "Where, as here, the content of the prior art, the scope of the patent claim, and the level of ordinary skill in the art are not in material dispute, and the obviousness of the claim is apparent in light of these factors, summary judgment is appropriate." *KSR*, 550 U.S. at 427. Summary judgment of obviousness of claim 16 should therefore be entered.[2]

Claim 16 recites nothing more than the trivial additional element of accessing a user environment from "a portable wireless device." It is beyond dispute that portable wireless

[2] LTI has defined a person having ordinary skill in the art for purposes of the '761 patent as someone with a bachelor's degree or higher in computer science and/or several years of experience in the computer industry. Although Facebook adopted a different formulation of who a person of ordinary skill in the art would be, it will adopt LTI's formulation for purposes of this motion because the obviousness of claim 16 is clear even under that standard.

devices, such as laptop computers or handheld personal digital assistants, were well-known long before the application for the '761 patent was filed. One example was disclosed in U.S. Patent No. 6,434,403 B1 to Michael R. Ausems et al. entitled "Personal Digital Assistant with Wireless Telephone." *See* Ex. C. Ausems discloses a handheld wireless communications device that combines a personal digital assistant (PDA) with a wireless telephone. *See id.* at Col. 1:5-9, 1:54-58. The portable wireless device includes a processor (CPU), runs the Microsoft Windows operating system and includes a web browser to facilitate wireless Internet access. *Id.* at Col. 7:63-8:4. Ausems further discloses that the device "may remotely communicate with a computer system." *Id.* at Col. 9:17-18.

The Supreme Court in *KSR* has held that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." 550 U.S. at 416. In other words, "when a patent 'simply arranges old elements with each performing the same function it had been known to perform' and yields no more than one would expect from such an arrangement, the combination is obvious." *Id.* at 417 (citation omitted). Claim 16, which presents a textbook example of this principle, is obvious in view of the combination of Swartz and Ausems. Using the portable wireless device of Ausems to access a user environment as recited in claim 16 would have entailed a simple substitution of a portable wireless device in place of a fixed-location, non-wireless device (such as a conventional desktop computer), predictably resulting in a method in which the user environment was accessed from a portable wireless device. There is simply nothing inventive or non-trivial about claim 16. Summary judgment should therefore be granted as to claim 16 on the ground of obviousness.

V. CONCLUSION

For the foregoing reasons, Facebook respectfully requests that its motion for summary judgment of invalidity be granted.

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