

EXHIBIT D1

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Brief Statement of What Leader Intends To Prove in Support of Its Claims and in Defense to Facebook's Counterclaims, Including the Details of the Damages Claimed

Plaintiff and Counterclaim-Defendant Leader Technologies, Inc. ("Leader") submits the following statement of intended proof setting forth a description of what Leader intends to prove at trial in support of its claims, defense, and damages. The following statement is not exhaustive and Leader reserves the right to prove any matters identified in its Complaint, interrogatory responses, and experts' opening and rebuttal reports. Leader also intends to offer proof as to the issues of fact and issues of law identified in the parties' Joint Pretrial Order. Leader further intends to offer proof to rebut items that the Defendant and Counterclaimant Facebook, Inc. ("Facebook") offers. Leader reserves the right to amend and supplement this statement in response to Facebook's pre-trial activities or any subsequently produced discovery. Leader incorporates by reference its expert reports in support of any proof to be presented by expert testimony.

1. INFRINGEMENT

- a. Leader will prove by a preponderance of the evidence that Facebook infringes at least one of claims 1, 4, 7, 9, 11, 16, 21, 23, 25, 31, or 32 of United States Patent No. 7,139,761 ("the '761 Patent") either literally and/or under the doctrine of equivalents in violation of 35 U.S.C. §§ 271 (a)-(c).
- b. Leader will prove by clear and convincing evidence that Facebook's infringement is willful.

2. DEFENSE TO COUNTERCLAIMS OF INVALIDITY AND FALSE-MARKING

- a. Leader will prove that Facebook has failed to meet its burden of proving by clear and convincing evidence that any of the asserted claims of the '761 Patent are invalid

pursuant to 35 U.S.C. §§ 101-103 and/or 112.

- b. Leader will prove that Facebook has failed to meet its burden of proving by clear and convincing evidence that Leader falsely marked its product with the '761 Patent pursuant to 35 U.S.C. § 292.

3. REMEDIES

- a. Leader will prove that it is entitled to damages, and will specifically prove the amount of damages in the form of a reasonable royalty that it is entitled to recover as a result of Facebook's infringement of the asserted claims of the '761 Patent.
- b. Leader will prove that it is entitled to treble or otherwise enhanced damages based on Facebook's willful infringement.
- c. Leader will prove that it has suffered and continues to suffer irreparable harm, for which there is no adequate remedy at law, such that Leader is entitled to a permanent injunction in connection with the accused product, the Facebook website.
- d. Leader will prove that it is entitled to an accounting for all infringing sales, including all sales up until the entry of a final judgment, damages, costs, pre-judgment interest, post-judgment interest and injunctive relief.
- e. Leader will prove that this is an exceptional case within the meaning of 35 U.S.C. § 285 and that it is entitled to attorneys fees from Facebook.
- f. Any other relief that the Court deems appropriate.