

EXHIBIT D2

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Brief Statement of What Facebook Intends To Prove in Support of Its Defenses and Counterclaims, Including the Details of Its Damages Defenses and Claims

Defendant and Counterclaim-Plaintiff Facebook, Inc. (“Facebook”) submits the following statement of intended proof setting forth a description of what Facebook intends to prove at trial in support of its defenses, counterclaims and damages pleas. The following statement is not exhaustive and Facebook reserves the right to prove any matters identified in its Third Amended Answer, its responses to Leader’s Interrogatories, its responses to Leader’s Requests for Admission, and its experts’ opening and rebuttal reports. Facebook also intends to offer proof as to the issues of fact and issues of law identified in the parties’ Joint Pretrial Order. Facebook further intends to offer proof to rebut items that the Plaintiff and Counterclaim- Defendant Leader offers. Facebook reserves the right to amend and supplement this statement in response to Leader’s pre-trial activities or any subsequently produced discovery. Facebook incorporates by reference its experts’ reports in support of any proof to be presented by expert testimony.

1. NON-INFRINGEMENT

- a.** In defense of Leader’s claim of infringement, Facebook will show that Leader has failed to carry its burden to prove that Facebook has infringed any claim of the ’761 patent, either literally or under the doctrine of equivalents in violation of 35 U.S.C. §§ 271 (a)-(c).
- b.** In support of its declaratory judgment claim, Facebook will prove by a preponderance of the evidence that Facebook has not and does not infringe any claim of the ’761 patent, either literally or under the doctrine of equivalents in violation of 35 U.S.C. §§ 271 (a)-(c).

2. INVALIDITY

- a.** Facebook will prove by clear and convincing evidence that the '761 patent is invalid, and therefore unenforceable, for failure to meet one or more of the conditions of patentability specified in 35 U.S.C. §§ 101-103 and/or 112.