

Exhibit 36

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TIMELINES, INC.

Plaintiff,

v.

FACEBOOK, INC.

Defendant.

)
)
)
)
)
)
)
)
)

Civil Action No.: 11 CV 6867

AFFIDAVIT OF JAN BATTEM

1. I, Jan Battem, am founder and owner of TimelineIndex.com, doing business at Leidsekade 85 hs, 1017 PN Amsterdam, The Netherlands. This affidavit is based on my own personal knowledge and on the basis of information derived from TimelineIndex.com’s records to which I have full access and, if called and sworn as a witness, I could and would testify as to the matters set forth herein.

2. TimelineIndex.com is a website that offers historical information and other content in the form of various timelines, as well as timeline creation services (“timeline services”).

3. Attached hereto as Exhibit A is a true and correct copy of TimelineIndex.com’s home page, located at www.timelineindex.com.

4. Attached hereto as Exhibit B is a true and correct copy of TimelineIndex.com’s login page, located at <http://timelineindex.com/content/insertMain.php>.

5. We began offering our timeline services in October 2003. Attached hereto as Exhibit C is a true and correct copy of a record from the Internet Archive Wayback Machine of TimelineIndex.com’s website from December 24, 2003.

6. The term “timeline” identifies our services in that our services enable users to

view and create timelines. We use the term "timeline(s)" to identify our services because it is the generic name for the services we are providing.

7. Attached hereto as Exhibit D is a true and correct copy of our About page, located at <http://timelineindex.com/content/about.php>.

8. Since we began offering our timeline services in October 2003, we have used the generic term "timeline(s)" continuously without interruption.

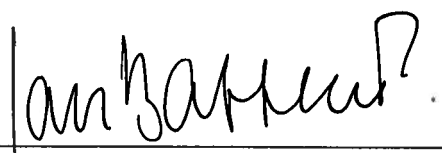
9. If we were not allowed to use the term "timeline" to identify our timeline services, my company would be at a competitive disadvantage in the marketplace.

10. To date, over 5 million visitors have visited over 20 million pages offered at our website TimelineIndex.com, 58% of those visitors are from the United States.

11. To date, we are not aware of any instances of confusion arising from our use of the term "timeline(s)" in connection with our timeline services. In addition, we have never been asked by Timelines, Inc. or any third party to cease using the term "timeline(s)" in connection with our timeline services.

The statements made by me in this affidavit have been made by me under oath, and I swear that these statements are true and I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this declaration was executed in Amsterdam, The Netherlands on September 28, 2012.

Date: September 28, 2012



Jan Battem, Owner of TimelineIndex.com

SWORN by the above-named)
Jan Battem)
this September 28, 2012)
at Amsterdam)
before me, R.M. Rieter)
Civil Law Notary in The Hague)



EXHIBIT A

TIMELINE INDEX

[Home](#) • [About](#) • [Login](#) • [Widgets](#)

WHO • WHAT • WHERE • WHEN •

[Ads by Google](#) [Timeline](#) [Timelines](#) [History](#) [Renaissance](#)

Timelines

Who, What, Where, When ...

WHO



People, Personalities, Heros ...

[Philosophers](#) • [Writers](#) • [Explorers](#) • [Composers](#) • [Painters](#) • [Scientists](#) • [Royalty](#) • [Directors](#) • [Woman](#) ...

WHAT



Events, Subjects, Issues ...

[Arts](#) • [Science](#) • [Exploration](#) • [Nature](#) • [Cultures](#) • [Religion](#) • [Sports](#) • [Conflict](#) • [Issues](#) • [Kids](#) ...

WHERE



Places, Countries, Continents...

[World](#) • [America](#) • [Africa](#) • [Europe](#) • [Asia](#) • [Oceania](#) • [Arctics](#) • [Universe](#) ...

WHEN



Periods, Ages, Centuries ...

[Hellenistic](#) • [Roman](#) • [Byzantine](#) • [Middle Ages](#) • [Renaissance](#) • [Enlightenment](#) • [Industrial Age](#) • [20thCentury](#) ...

[Ads by Google](#) [Timeline](#) [Timelines](#) [History](#) [Renaissance](#)

TIMELINE INDEX

Get the free Timeline Poster



WHO • WHAT • WHERE • WHEN •     

Get the free Timeline Widgets... in lots of Categories

TIMELINE : US PRESIDENTS

- 1721  John Hanson, 1st US President?
- 1732  George Washington, 1st US President
- 1735  John Adams, 2nd US President
- 1743  Thomas Jefferson, 3rd US President
- 1751  James Madison, 4th US President
-  James Monroe, 5th US President

[Get Widget](#)

TIMELINE : SCIENTISTS

- 2650 BC  Imhotep, Architect Pyramid of Djoser
- 624 BC  Thales, 1st Greek Philosopher
- 610 BC  Anaximander of Miletus, Philosopher
- 570 BC  Pythagoras of Samos
- 475 BC  Leucippus, 1st Theory of Atomism
- 460  Hippocrates of Kos

[Get Widget](#)

EXHIBIT B

TIMELINE INDEX

Home • About • Login • Widgets

WHO • WHAT • WHERE • WHEN • Search



[Ads by Google](#)

[Timeline](#)

[Timelines](#)

[History](#)

[History Info](#)

Timeline

Create or Edit Items

Contact : Not Logged On

Create



New Timeline or Item

Create your Timeline Items and link to your favorite websites. We welcome time related subjects like chronologies, biographies, collections, etc. in any category.

Edit



My Timeline Items

Find and edit your Timeline Items if needed.

Edit



My Contact Info

Keep your contact info up-to-date so we can keep you informed about activities we are planning.

End



Logout

TIMELINE INDEX

WHO • WHAT • WHERE • WHEN •

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TIMELINE : US PRESIDENTS

- 1721 John Hanson, 1st US President?
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Get Widget

TIMELINE : SCIENTISTS

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- 624 BC Thales, 1st Greek Philosopher
- 610 BC Anaximander of Miletus, Philosopher
- 570 BC Pythagoras of Samos
- 475 BC Leucippus, 1st Theory of Atomism
- 460 BC Hippocrates of Kos

Get Widget

EXHIBIT C

Timeline Index

Create and Update Links
About Timeline Index

Timeline

* Random Selection

5000 BC - 1940



5000 BC - 1689



1300 - 2003



40000 BC - 2003



1917 - 1945



Search >

Category > Arts • Science • Period • Politics • Region • People
• Exploration • Health • Nature • Cultures • Domestic • Religion •
Sports • Conflict • Education • Industry • Events • Other

Index : 5 of 5 *

Next > 1 < Previous

DIN World History Timelines

Din Timelines is a world history timeline divided into over 200 pages where culture and climate do not matter...

Timeline of British History

Britannia's History Department has the internet's most comprehensive treatment of Britain's history from the prehistoric era to modern times...

Classical Music Archives - Timeline

Most composers are represented including music files...

US History Timeline

From the World Almanac for Kids...

World War II Timeline

With text of complete Versailles Treaty of 1919...

Next > 1 < Previous



EXHIBIT D

TIMELINE INDEX

[Home](#) • [About](#) • [Login](#) • [Widgets](#)

WHO • WHAT • WHERE • WHEN • 

[Ads by Google](#) [Timeline](#) [Timelines](#) [Music Events](#) [History](#)

About

Timeline Index

[Timeline Index: Who, What, Where, When ...](#)

People, Periods, Places and Events in a chronological context.

Search

You can search and browse the Timeline Index in many ways:

- Find your subjects by inserting keywords
- Insert dates to find items from a specific year or period
- Or combine keywords by using a [+], try for instance: [1400 + composers + italy](#)

Select

Or simply [select by category](#) to find the items in a chronological order and context:

- Just click [Who](#), [What](#), [Where](#), [When](#) ... at the top
- Click the dates to view all items from that year onwards
- To see the Timeline items in another context, click the categories below the dates on the left
- Click on 'More' (or on the pictures) to discover more about the items, linked websites and related items, URL's and categories

Sort and Filter

You can also sort the timelines from the present or from the past, and filter only people, events or icons to get a better overview.

Related Links

[Add a related link](#) (URL) to an item and create more relevant information. We welcome time related items like chronologies, biographies, events, collections, etc. in any category. For quality reasons we reserve the right to edit/remove contributed links.

Translate this Website



 Gadgets powered by Google

AnswerTips enabled



Contact

contact@TimelineIndex.com

Timeline Index is an ongoing project. We aim to provide a useful structure to help put information into context.

TIMELINE INDEX

Get the free Timeline Poster



WHO · WHAT · WHERE · WHEN ·









Get the free Timeline Widgets... in lots of Categories

TIMELINE : US PRESIDENTS

- 1721  John Hanson, 1st US President?
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Get Widget

TIMELINE : SCIENTISTS

- 2650 BC  Imhotep, Architect Pyramid of Djoser
- 624 BC  Thales, 1st Greek Philosopher
- 610 BC  Anaximander of Miletus, Philosopher
- 570 BC  Pythagoras of Samos
- 475 BC  Leucippus, 1st Theory of Atomism
- 460 BC  Hippocrates of Kos

Get Widget

Exhibit 37

▼ **Login**

Email:

Password:

[Forgot your password?](#)

Remember me

👤 **New to xtimeline?**

xtimeline is a place for you to create, share and discuss interesting timelines.

Sign up now. It's free to open an account.

Setting up your own account allows you to create and comment on timelines.

To learn more about our site, please take the [tour](#).

Exhibit 38

公 证 书

中华人民共和国上海市东方公证处

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TIMELINES, INC.)		
)		
Plaintiff,)		
)		
v.)	Civil Action No.:	11 CV 6867
)		
FACEBOOK, INC.)		
)		
Defendant.)		

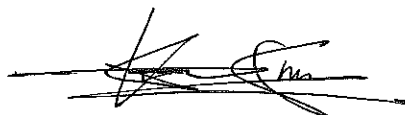
AFFIDAVIT OF KEVIN CHEN

1. I, Kevin Chen, am co-founder of Famento, Inc. ("Famento"), a Delaware corporation, doing business at 972 Saigon Road, McLean, VA 22102. This affidavit is based on my own personal knowledge and on the basis of information derived from Famento's records to which I have full access and, if called and sworn as a witness, I could and would testify as to the matters set forth herein.

2. Famento makes social tools that help people capture and share their interests and personal stories.

3. One of Famento's tools is a timeline tool called xtimeline, which through our website (www.xtimeline.com) we offer historical information and other content in the form of various timelines, as well as timeline creation services ("timeline services").

4. Attached hereto as Exhibit A is a true and correct copy of xtimeline's home page, located at www.xtimeline.com.



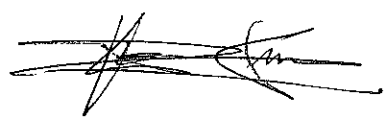
5. Attached hereto as Exhibit B is a true and correct copy of xtimeline's about page, located at <http://www.xtimeline.com/about.aspx>.
6. We began offering our timeline services in July 2007.
7. The term "timeline" identifies our services in that our services enable users to view and create timelines. We use the term "timeline(s)" to identify our services because it is the generic name for the services we are providing.
8. Since we began offering our timeline services in July 2007, we have used the generic term "timeline(s)" continuously without interruption.
9. If we were not allowed to use the term "timeline" to identify our timeline services, my company would be at a competitive disadvantage in the marketplace.
10. To date, we have (1) over 30,000 users on xtimeline.com, approximately 70% of those users are located within the United States, (2) over 239,000 monthly unique visitors to xtimeline.com, approximately 55% of those visitors are located in the United States, and (3) over 747,000 monthly pageviews on xtimeline.com.
11. To date, we are not aware of any instances of confusion arising from our use of the term "timeline(s)" in connection with our timeline services. In addition, we have never been asked by Timelines, Inc. or any third party to cease using the term "timeline(s)" in connection with our timeline services.

The statements made by me in this affidavit have been made by me under oath, and I swear that these statements are true and I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this declaration was executed in Shanghai, China on September 28, 2012.

Date: September 28, 2012


Kevin Chen, Co-founder of Famento, Inc.

SWORN by the above-named)
Kevin Chen)
this September 28, 2012)
at)
before me,)

A handwritten signature in black ink, consisting of several overlapping horizontal strokes and a vertical stroke on the right side.

28 SEP 2012

公 证 书

(2012)沪东证外字第 51903 号

申请人：CHEN KEVIN，男，一九七六年三月二十日出生
美国护照号码：421661704

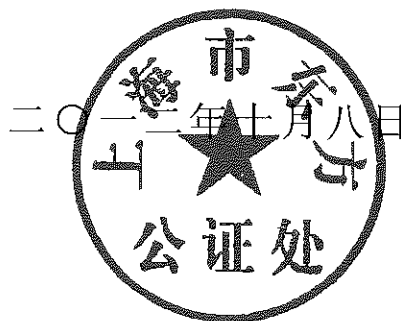
公证事项：签名

兹证明 CHEN KEVIN 于二〇一二年九月二十八日在上海市，在本处公证员的面前，在前面的英文文件上签名。

中华人民共和国上海市东方公证处

公 证 员

叶国建



I I 27661051

Translation

NOTARIAL CERTIFICATE

(2012)H.D. Z.W.Z.No.51903

Applicant:

CHEN KEVIN, male, born on March 20, 1976

American Passport No.: 421661704

Notarized Matter: Signature

This is to certify that CHEN KEVIN affixed signature to the foregoing English document before the notary public in Shanghai on September 28, 2012.

YE Guojian (Seal)

Notary Public

The People's Republic of China

Shanghai Oriental Notary Public Office

(Seal)

October 8, 2012

1127671798

公 证 书

(2012)沪东证外字第 51904 号

申请人：CHEN KEVIN，男，一九七六年三月二十日出生
美国护照号码：421661704

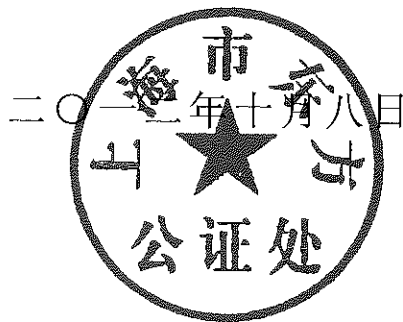
公证事项：译文与原本相符

兹证明前面的英文译本内容与 CHEN KEVIN 的 (2012)
沪东证外字第 51903 号公证书中文原本相符。

中华人民共和国上海市东方公证处

公 证 员

叶国建



1127661053

Translation

NOTARIAL CERTIFICATE

(2012)H.D. Z.W.Z.No.51904

Applicant:

CHEN KEVIN, male, born on March 20, 1976
American Passport No.: 421661704

Notarized Matter: True and Faithful Translation

This is to certify that the foregoing English translation is true and faithful to the original Chinese (2012)H.D.Z.W.Z. No. 51903 Notarial Certificate for CHEN KEVIN.

YE Guojian (Seal)
Notary Public

The People's Republic of China
Shanghai Oriental Notary Public Office
(Seal)

October 8, 2012

Exhibit A

Featured Timelines

1 2 3 4 5 >



History of Mumbai

[Photo: Gateway of India, Mumbai] The History of Mumbai recounts the growth of a collection of Mumbai from seven islands on the western coast of India becoming the commercial capital of the nation and one of the most populous cities in the world. Although human habitation existed during the Stone...

Events: **30**

Views: 1535

By: [manasu](#)



George Washington

George Washington (February 22, 1732– December 14, 1799) was the first President of the United States, after leading the Continental Army to victory over the Kingdom of Great Britain in the American Revolutionary War. Washington is seen as a symbol of the United States and republicanism in practice...

Events: **30**

Views: 2415

By: [Chukee](#)



History of United Kingdom

[Picture: Flag of the United Kingdom] The United Kingdom of Great Britain and Northern Ireland, commonly known as the United Kingdom, the UK, or Britain, is a sovereign island country located off the northwestern coast of mainland Europe. The UK includes the island of Great Britain, the northea...

Events: **30**

Views: 1640

By: [Tinguraja](#)



The History of the Santa Cruz Beach Boardwalk

The family-operated Santa Cruz Beach Boardwalk celebrated its Centennial in 2007. As one of the last of the great seaside amusement parks in the United States, the Boardwalk gets better every year. It's greatness today can only be truly appreciated with a knowledge of it's rich history.

Events: **32**

Views: 711

By: [riley](#)



Historia de la Filosofía II Bachillerato

Historia de la filosofía

Events: **18**

Views: 371

By: [jibarte](#)



核 力史

核能是20世出的能核科的展是人科展史上的重成就。核能的和平利用于能、染具有重要的意。我国十分重核能的开利用在国家研究展划863划中能域研制开三先反堆是快中子堆、温冷堆、聚裂混合堆。目前核裂能已人提供了能耗的6。而将来利用子核的聚反生的核聚能得到工用后人将从根本上决能的。核聚能是个子核合在一由于生量而放出的能量。核聚的料是水重的。早在1934年物理学家瑟福、奥利芬特和哈特克就在静速器上用反制取...

Events: **17**

Views: 480

By: [Asimo](#)



Anne Frank

Born on June 12, 1929, Anne Frank was a German-Jewish teenager who was forced to go into hiding during the Holocaust. She and her family, along with four others, spent 25 months during World War II in an annex of rooms above her father's office in Amsterdam, the Netherlands. After being betrayed ...

Events: **39**

Views: 3811

By: [gurumantra](#)

Create a timeline!

xtimeline is a free web-based timeline. Easily create and share timelines with pictures and videos.



Recent Timeline Lists



[new list](#)
1 timelines 249 views



[new list](#)
1 timelines 290 views



[new list](#)
1 timelines 434 views



[new list](#)
1 timelines 734 views



[new list](#)
1 timelines 958 views

Timeline Categories

- [biography](#)
- [organizations](#)
- [arts-entertainment](#)
- [history](#)
- [science-tech](#)
- [other](#)



Star Trek History

Star Trek is an American science fiction entertainment series and media franchise. The Star Trek fictional universe created by Gene Roddenberry is the setting of six television series including the original 1966 Star Trek, in addition to ten feature films (with an eleventh in post-production), dozen...

Events: **23**

Views: 1942

By: [dumbu](#)



History of Solar Power

[Photo: solar power plant] Solar energy is the light and radiant heat from the Sun that influences Earth's climate and weather and sustains life. Solar power is sometimes used as a synonym for solar energy or more specifically to refer to electricity generated from solar radiation. Since ancient ...

Events: **31**

Views: 2296

By: [manasu](#)



Tudor Dynasty

The Tudor Dynasty

Events: **19**

Views: 40

By: [fordycent](#)

Exhibit B

Please donate to xtimeline

Since xtimeline's services are offered to users for free, the site is kept running through advertisements and donations. If you believe xtimeline is useful and would like to see



continued development on it, please make a contribution. We appreciate your generosity, and your commitment to improving online education.



About xtimeline

When we developed the timeline tool, our friends thought of many ways to creatively use the timeline. Some of them thought the timeline could become a great public service, a resource for history education and for debate over current issues. Others wanted to create biographical timelines for celebrities and their scandalous relationships.

The ability of these timelines to entertain and educate convinced us that other people would enjoy our timeline as much we do. And that's how xtimeline came to have a home of its own.

About Famento Inc.

Famento Inc. is making social tools that help people capture and share their interests and personal stories.

Feedback and Comments

If you have any questions, comments or feedback about our site, contact us at info@xtimeline.com. We'd love to hear from you.

In the Media

lifehacker.com

[Create a timeline from RSS feeds with XTimeline](#)

Mashable.com

[xtimeline is Wikipedia for History Buffs](#)

Golem.de

[xTimeline: Wer! Wann! Was!](#)

infos-du-net.com

[Tout savoir avec xTimeline](#)

schoollibraryjournal.com

[Timelining \(a 2.0 approach\)](#)

edutopia.org

[The George Lucas Educational Foundation
Timelines 2.0: A Fun, Easy, and Free Classroom
Tool](#)

Exhibit 39

Steve Jobs: 1955-2011

164

Timeline Flipbook List Map View in Dipity Search

vs-Compatible iPods

Option Backdating Scanda
Apr 2007

Jobs Announces Another Medical Leave
Jan 17, 2011

Opens iTunes Music Store
2003

Receives Liver Transplant
Apr 2009

Introduces iPhone
Jan 9, 2007

First Public Appearance of 2009
Sep 9, 2009

Powered by dipity

Feedback



Relative Region

The Spring 787

1955-2011

2001-

Relative Verticals

Black History



What is Dipity?

Who is Dipity for?

Why use Dipity?

Dipity is a free digital timeline website. Our mission is to organize the web's content by date and time. Users can create, share, embed and collaborate on interactive, visually engaging timelines that integrate video, audio, images, text, links, social media, location and timestamps.

Dipity timelines are for anyone who uses the Internet. Newspapers, journalists, celebrities, government organizations, politicians, financial institutions, community managers, museums, universities, teachers, students, non-profits and bloggers all use Dipity to create timelines.

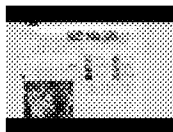
Dipity allows users to create free timelines online. Digital timelines are a great way to increase traffic and user engagement on your website. Dipity is the fastest and easiest way to bring history to life with stunning multimedia timelines.

Branding Topics

Timeline



Donald Driver



Facebook Stock



Memorial Day



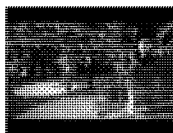
Bob Moog



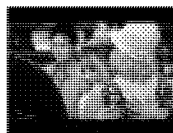
Great Gatsby



Phillip Phillips



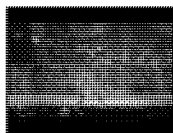
Katherine Jenkins



Glee Finale



Los Angeles Kings



Lea Michele

Dipity Premium

- Custom Branding and Backgrounds
- Ad-Free and Kiosk Mode
- Single Sign On, Multi User Support
- Stats and Analytics
- Custom API and CSM Support
- Custom iPhone Apps
- Hosting by Dipity
- Plans Start at \$4.95/month

[Learn More about Dipity Premium](#)

A B C D E F G H I J K L M N O P Q R S T U V
W X Y Z

Exhibit 40

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4
5 TIMELINES, INC.,

6 Plaintiff-Counterdefendant,

7 vs.

8 FACEBOOK, INC.,

9 Defendant-Counterplaintiff.

Case No.

11-cv-06867

10
11
12
13 CONTAINS PORTIONS MARKED
14 HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY

15
16 DEPOSITION OF DEREK DUKES
17 San Francisco, California
18 Friday, September 21, 2012

19
20
21
22
23
24 REPORTED BY:

 CYNTHIA MANNING, CSR No. 7645, CLR, CCRR

25 JOB NO. 53590

1 April 2007?

2 A. No.

3 Q. When was it available?

4 A. The Facebook application was available in,
5 I believe October of 2007, when the platform was
6 available or broadly available.

7 Q. "The platform" meaning Facebook?

8 A. Facebook platform.

9 Q. Do you still offer that Facebook
10 application?

11 A. No, we do not.

12 Q. When did you stop offering that?

13 A. I believe it was in March of 2008.

14 Q. And while you were offering the Facebook
15 application, did you offer any other goods and
16 services?

17 MS. MOORE: Object to form.

18 THE WITNESS: There may have been a time
19 when we offered both the Facebook platform and our
20 website. If so, that would have been for the -- for
21 no more than a month.

22 BY MS. MAYALL:

23 Q. And what was your website?

24 A. Dipity.com.

25 Q. Okay. And what type of goods or services

1 were offered through your website?

2 A. Dipity.com is a place where users can make
3 timelines about topics.

4 Q. And when did you start offering those
5 services?

6 A. February or March of 2008.

7 Q. And does Dipity -- or excuse me --
8 Underlying continue to offer the services -- strike
9 that.

10 Does Underlying continue to offer timelines
11 by topic at Dipity.com?

12 A. Yes.

13 Q. Has there been ever a time where Underlying
14 did not offer those services at Dipity.com?

15 A. No.

16 Q. So other than the Facebook application that
17 allowed the aggregate of information -- or strike
18 that.

19 In order to use the Facebook application
20 that Underlying provided, did you have to be a
21 Facebook user?

22 A. Yes.

23 Q. And what type of information -- strike
24 that.

25 So other than the Facebook application and

1 that there are happy accidents, so discovery through
2 happy accidents.

3 MS. MOORE: I apologize. It's just a
4 little difficult to hear today by telephone. So
5 forgive me for interrupting.

6 BY MS. MAYALL:

7 Q. And how does Underlying use Dipity?

8 A. Dipity is the main brand for Underlying.
9 Consumers don't know Underlying as a brand.

10 Q. So the services we've discussed have been
11 marketed to consumers as Dipity services?

12 A. Yes.

13 Q. And as a registered user of Dipity, you're
14 able to create timelines; is that correct?

15 A. Correct.

16 Q. Is there anything else that you're able to
17 do?

18 A. You can embed the timelines.

19 Q. What do you mean by that?

20 A. If a user owned and operated a secondary
21 website, say a newspaper website, and they created a
22 timeline about a topic that they were going to write
23 about, they could grab some HTML code for that
24 particular topic and support their article on their
25 secondary website.

1 A. People have heard of Dipity. When you
2 Google "Dipity," a ton of information comes up about
3 the company. There is news articles; there is other
4 people describing the service; there is testimonials
5 from teachers and newspapers who use the service.
6 We have a footprint on the web that we didn't have
7 in 2007.

8 Q. So if you were pitching -- or, excuse me,
9 trying to offer your services to a new consumer
10 today, how would you describe your services?

11 A. I would say Dipity is a service that lets
12 you create visual timelines and other presentations
13 on the web.

14 Q. And what if you were not able to use the
15 term "timeline" to describe your services? How
16 would you describe it?

17 MS. MOORE: Objection; form, foundation.

18 THE WITNESS: Dipity is a service where you
19 can collect information that has been timestamped
20 either automatically or manually and organized in a
21 time series fashion.

22 BY MS. MAYALL:

23 Q. Do you think Underlying would be
24 disadvantaged in the marketplace if it couldn't use
25 the term "timelines" to describe its services?

1 A. Yes.

2 Q. Has Underlying ever -- strike that.

3 Has Underlying continuously used the term
4 "timeline" to describe its services since 2007?

5 A. Yes.

6 Q. Has it ever stopped using the term
7 "timeline" for any reason?

8 A. No, not that I can recall.

9 Q. Has Underlying ever received any letters
10 stating an objection to its use of the term
11 timeline?

12 A. Not to my knowledge.

13 Q. E-mails?

14 A. Not to my knowledge.

15 Q. Phone calls?

16 A. Not to my knowledge.

17 Q. Any communications whatsoever?

18 A. Not to my knowledge.

19 Q. Has Underlying ever been asked to stop
20 using the term "timeline" in connection with its
21 service?

22 A. Not to my knowledge.

23 Q. Is Underlying aware of any instances of
24 consumer confusion arising from its use of the term
25 "timeline" in connection with its service?

1 A. Not to my knowledge.

2 MS. MOORE: Object to form, foundation.

3 BY MS. MAYALL:

4 Q. Going back to the document that you have in
5 front of you, which is the Dipity "About" page
6 located at www.dipity.com, does this appear to be a
7 true and correct copy of the Dipity About page?

8 A. Yes.

9 MS. MAYALL: Ms. Manning, I'd like to mark
10 this, then, as Exhibit No. 6.

11 (Deposition Exhibit 6 was marked for
12 identification)

13 BY MS. MAYALL:

14 Q. Mr. Dukes, are you familiar with Timelines,
15 Inc.?

16 A. Yes.

17 Q. Are you familiar with the services that it
18 offers?

19 A. In the fact that they are a competitor,
20 yes.

21 Q. And how would you describe their services?

22 A. A place where users can go and create
23 timelines about topics.

24 Q. And why do you consider them a competitor?

25 A. We offer the same service.



About Dipity

History

Help/FAQ

Refund Policy

Privacy Policy

Terms of Service

Partner Plans

dip·i·ty (dīp'ī-tē)
n. pl. dip·i·ties

Related forms:
dip·it·er, dip·i·tist

1. The instance of making an unexpected and exciting discovery while researching a topic.
2. The act of sharing eye-opening information with others in an easy to follow, chronological order.
3. The occurrence of sagaciously following a trail of digital breadcrumbs until that special "eureka" moment.

Defendant's Exhibit 6
D. Dukes 9.21.12
Cynthia Manning, CSr, CLR, CCRR

Feedback

You don't know Dipity?

Dipity's mission is to take the most useful information on the Internet and organize it by time. By providing digital timeline technology, Dipity allows users to gather real-time sources from social media, traditional search services and RSS to aggregate them in a single, easy to use, fun to navigate interface.

Become a Dipster: Make Dipity your first and only timeline resource.

It starts with a timeline, but Dipsters can also...

Find Serendipity:

Dipity is a fun, innovative and powerful way to visually research any topic and create free timelines. Dipity serves as a forum where users can generate, edit and share content. Dipsters have made timelines for everything from World War II to the BP Oil Spill, The 2010 FIFA World Cup, presidential elections, technological breakthroughs and more. Dipity is the perfect tool for teachers, politicians, celebrities, community managers, bloggers, journalists and anyone with access to the internet; that's a big market!

Act All Web 2.0:

Dipity timelines implement the latest in Web 2.0, combining the power of multimedia and social media content with trends like timestamps, geolocation and realtime updates. You can manually create timeline events or easily connect your existing web services like YouTube, Facebook, Google, Twitter, Pandora, Flickr, Blogspot to import content to your free timeline.

Spark a Buzz:

Leverage existing content to create a truly unique experience that attracts and retains a strong online community. Promote your cause, business, candidate, website, concert, art show or blog. Track your tweets, organize a YouTube TV show or use timelines to collaborate with students on a unique classroom project.

Pad the Stats:

Embed your timeline nearly anywhere that uses HTML and watch as your page's statistics shoot through the roof. On average, users spend almost twice as much time on websites with Dipity timeline embeds than those without.

Take It Up a Notch:

Authors, bloggers, reporters, financial institutes, politicians and celebrities all use Dipity to add an interactive

and visual element to existing web content. Newspapers like the Washington Post, Seattle Times, Guardian UK and Chicago Sun Times embed Dipity timelines to supplement online news coverage.

Explore New Frontiers:

The Dipity team believes there is no limit to the applications of timeline technology. Over the past couple of years users have continued to surprise us with new and exciting ways of implementing Dipity. Join Dipity today and show us what you've got.

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,519,345

Registered Oct. 21, 2008

SERVICE MARK
PRINCIPAL REGISTER

DIPITY

UNDERLYING INC. (DELAWARE CORPORATION)
1010 PENNSYLVANIA AVENUE
SAN FRANCISCO, CA 94107

FOR: COMPUTER SERVICES, NAMELY, PROVIDING ON-LINE, NON-DOWNLOADABLE SOFTWARE FOR THE CREATION OF TIMELINES BASED ON USER-SUPPLIED INFORMATION; COMPUTER SERVICES, NAMELY, HOSTING AND MAINTAINING AN ONLINE WEBSITE FOR USERS TO CREATE TIMELINES BASED ON USER-SUPPLIED INFORMATION, AS WELL AS VIEW THE

TIMELINES OF OTHERS, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 10-15-2007; IN COMMERCE 10-15-2007.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 77-324,598, FILED 11-8-2007.

JASON LOTT, EXAMINING ATTORNEY

Plaintiff's Exhibit 2

D. Dukes 9.21.12

Cynthia Manning, CSr, CLR, CCRR

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,592,405

Registered Mar. 17, 2009

SERVICE MARK
PRINCIPAL REGISTER

DIPITY

UNDERLYING INC. (DELAWARE CORPORATION)
1010 PENNSYLVANIA AVENUE
SAN FRANCISCO, CA 94107

FOR: COMPUTER SERVICES, NAMELY, PROVIDING ON-LINE, NON-DOWNLOADABLE SOFTWARE FOR THE CREATION OF TIMELINES BASED ON INTERNET SEARCHES, INDEXES AND USER-SUPPLIED INFORMATION; COMPUTER SERVICES, NAMELY, HOSTING AND MAINTAINING AN ONLINE WEBSITE FOR USERS TO CREATE TIMELINES BASED ON INTERNET SEARCHES, INDEXES AND USER-SUPPLIED INFORMATION,

AS WELL AS VIEW THE TIMELINES OF OTHERS, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 4-20-2008; IN COMMERCE 4-20-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-324,593, FILED 11-8-2007.

JASON LOTT, EXAMINING ATTORNEY

Int. Cl.: 42

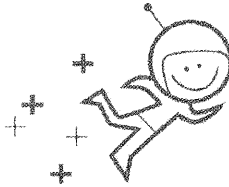
Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,592,452

Registered Mar. 17, 2009

SERVICE MARK
PRINCIPAL REGISTER



UNDERLYING INC. (DELAWARE CORPORATION)
1010 PENNSYLVANIA AVENUE
SAN FRANCISCO, CA 94107

FOR: COMPUTER SERVICES, NAMELY, PROVIDING ON-LINE, NON-DOWNLOADABLE SOFTWARE FOR THE CREATION OF TIMELINES BASED ON INTERNET SEARCHES, INDEXES AND USER-SUPPLIED INFORMATION; COMPUTER SERVICES, NAMELY, HOSTING AND MAINTAINING AN ONLINE WEBSITE FOR USERS TO CREATE TIMELINES BASED ON INTERNET SEARCHES, INDEXES AND USER-SUPPLIED INFORMATION,

AS WELL AS VIEW THE TIMELINES OF OTHERS, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 4-20-2008; IN COMMERCE 4-20-2008.

THE MARK CONSISTS OF A REPRESENTATION OF A MAN WITH ANTENNA WITH PLUS SYMBOLS SUPERIMPOSED TO THE LEFT OF THE REPRESENTATION.

SN 77-331,324, FILED 11-16-2007.

JASON LOTT, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,595,994

Registered Mar. 24, 2009

**SERVICE MARK
PRINCIPAL REGISTER**

ALL THE TIME

UNDERLYING INC. (DELAWARE CORPORATION)
1010 PENNSYLVANIA AVENUE
SAN FRANCISCO, CA 94107

FOR: COMPUTER SERVICES, NAMELY, PROVIDING ON-LINE, NON-DOWNLOADABLE SOFTWARE FOR THE CREATION OF TIMELINES BASED ON INTERNET SEARCHES, INDEXES AND USER-SUPPLIED INFORMATION; COMPUTER SERVICES, NAMELY, HOSTING AND MAINTAINING AN ONLINE WEBSITE FOR USERS TO CREATE TIMELINES BASED ON INTERNET SEARCHES, INDEXES AND USER-SUPPLIED INFORMA-

TION, AS WELL AS VIEW THE TIMELINES OF OTHERS, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 4-20-2008; IN COMMERCE 4-20-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-341,687, FILED 11-30-2007.

JASON LOTT, EXAMINING ATTORNEY