

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CROSS ATLANTIC CAPITAL PARTNERS, INC.,

Plaintiff,

v.

FACEBOOK, INC. and THEFACEBOOK, LLC,

Defendants.

**CIVIL ACTION**

**NO. 07-CV- 02768-JP**

**ORAL ARGUMENT REQUESTED**

**FACEBOOK MOTION NO. 4**

**FACEBOOK'S STATEMENT OF MATERIAL FACTS IN SUPPORT OF ITS MOTION  
FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT**

**[REDACTED VERSION FOR PUBLIC FILING]**

**(Unredacted version filed separately under seal pursuant to Protective Order)**

Defendants Facebook, Inc. and Thefacebook, LLC (collectively, “Facebook”) submit the following statement of undisputed material facts in support of its Motion for Summary Judgment of Non-infringement:

1. U.S. Patent No. 6,519,629 entitled “System for Creating a Community for Users with Common Interests to Interact in” (the “’629 patent”) issued on February 11, 2003.

Declaration of Jeremiah J. Burke to Motion for Summary Judgment of Non-infringement (“Burke Decl.”), Ex. A (’629 patent).

2. The ’629 patent has 32 claims. Four of the 32 claims, Claims 1, 9, 17, and 25 of the ’629 patent, are independent. Claims 2-8 are dependent claims of Claim 1, Claims 10-17 are dependent claims of Claim 17, Claims 18-24 are dependent claims of claim 17, and Claims 26-32 are dependent claims of claim 25. *Id.* Ex A.

3. Facebook operates the website at facebook.com. Declaration of Blake Ross in Support of Motion for Summary Judgment of Non-Infringement (“Ross Decl.”), ¶ 2.

### **Community Identification Information**

4. To create Facebook Groups or Events, users enter required information and, if desired, optional information into an electronic form provided by Facebook and click on the “Create a Group” or “Create Event” button, respectively. Ross Decl. ¶¶ 5-9, 15-19.

5. Ross Decl. ¶¶ 3, 14.

Redacted

6. The user, and not Facebook, decides whether to send a transmission seeking to

create a Group or Event and what information should be supplied. Ross Decl. ¶¶ 5-9, 15-19.

7. **Redacted**

. Ross Decl. ¶¶ 10-15.

8. **Redacted**

Ross Decl. ¶¶ 18-19.

9. Facebook does not generate Groups or Events based on any user provided information. Ross Decl. ¶¶ 9-19.

10. **Redacted**

Ross Decl. ¶¶ 9-12,  
18-19.

11. Cross Atlantic Capital Partners, Inc.’s (“XACP”) response to Facebook Interrogatory No. 1 states that: “facebook.com allows registered users to create ‘groups’ through which users with common interests can interact in ....” Burke Decl. Ex. B (*XACP’s First Response to Interrogatories*) at 13 (emphasis added).

12. XACP also states that: “creation transmission is transmitted *when a user clicks* on a ‘Create a New Group’ or ‘+ Create a New Group’ button on Facebook’s website.” Burke Decl. Ex. B at 13 (emphasis added).

13. XACP further states that the user’s selection of the “Create a New Group” or “+

Create a New Group” “indicates a desires [sic] to create a community.” Burke Decl. Ex. B at 13.

14. The Specification of the '629 patent states, “[a]t step 204, central controller screens community identification information to determine if it is valid. If community identification information is already in use, such as a community name already in use, a creator may be informed of this event at step 206 and may be returned to step 202 to provide different community identification information.” Burke Decl. Ex. A at col. 8, ll. 24-29.

15. Figure 2 of the '629 patent shows:

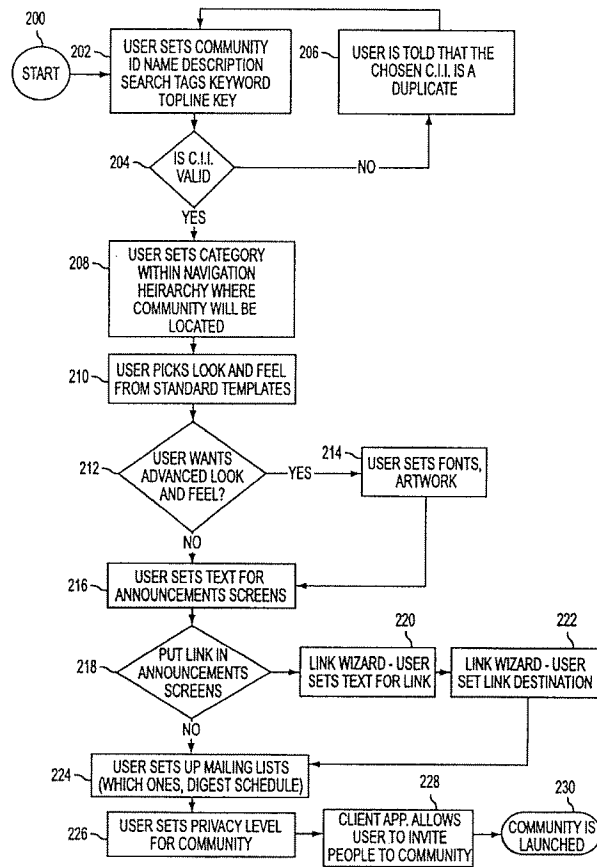


FIG. 2

Burke Decl. Ex. A Fig. 2.

16. Mr. Yourdon, XACP's expert, testified,

Redacted

Burke Decl. Ex. C (*Deposition of Edward Yourdan*) at 181:23-182:8.

**Display Hardware**

17. Facebook does not make, sell, offer to sell, import or otherwise provide display hardware for its users. Ross Decl. ¶ 24.

18. Facebook plays no role in selecting display hardware for its users and does not advise or even encourage users to procure any display hardware. Ross Decl. ¶ 24.

**Vendor Fields**

19.

Ross Decl. ¶ 23.

20. Mr. Yourdon, XACP's expert, testified at his deposition:

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Burke Decl. Ex. C. at 272:22–273:19.

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*Id.* Ex. C at 281:20-283:8.

**Transmitting Community**

21. All Facebook Groups and Events remain, at all times, on the Facebook servers.

Ross Decl. ¶¶ 20-21.

22. Facebook does not send or otherwise transmit the actual Group or Event to invitees. Ross Decl. ¶¶ 20-21.

23. Mr. Yourdon, XACP's expert, testified at his deposition:

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**CERTIFICATE OF SERVICE**

This is to hereby certify that on June 20, 2008, I caused a true and correct copy of the foregoing **Facebook's Statement of Material Facts in Support of Its Motion for Summary Judgment of Non-Infringement** to be served *via* this Court's Electronic Filing ("ECF") System, upon the following:

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