

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHAL DIVISION**

PA ADVISORS, LLC
Plaintiff,

v.

- (1) **GOOGLE, INC., et al.,**
- (2) **YAHOO! INC.,**
- (3) **FACEBOOK, INC.,**
- (4) **CONTEXTWEB, INC.,**
- (5) **SPECIFIC MEDIA, INC.,**
- (6) **FAST SEARCH & TRANSFER ASA**
- (7) **FAST SEARCH & TRANSFER, INC.,**
- (8) **AGENTARTS, INC.,**
- (9) **SEEVAST CORPORATION,**
- (10) **PULSE 360, INC.,**
- (11) **WPP GROUP USA, INC.,**
- (12) **WPP GROUP PLC, AND**
- (13) **24/7 REAL MEDIA, INC.**

Defendants.

Civil No.: 2:07-cv-00480-TJW

**DEFENDANT CONTEXTWEB, INC.’S MOTION TO
DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(6)**

Defendant ContextWeb, Inc. (“ContextWeb”) moves to dismiss the claims against it pursuant to Fed. R. Civ. P. 12(b)(6). The supporting memorandum and arguments submitted by Yahoo! Inc. and Facebook, Inc. are incorporated by reference, with facts specific to ContextWeb set forth below.

Plaintiff PA Advisors, LLC (“PA Advisors”) asserts U.S. Patent No. 6,199,067 against ContextWeb. The sole “facts” relating to infringement asserted against ContextWeb are made on information and belief, and fail to identify any specific product of, or act committed by, ContextWeb:

Upon information and belief, Defendant ContextWeb has been and now is directly, literally and/or, upon information and belief, jointly, equivalently and/or indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the ‘067 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by providing, among other things, methods and systems implemented by and through various websites that comprise systems and methods for automatically generating personalized user profiles and for utilizing the generated profiles to perform adaptive internet or computer data searches as covered by one or more claims of the ‘067 Patent. Defendant ContextWeb is thus liable for infringement pursuant to 35 U.S.C. § 271.

Original Complaint for Patent Infringement, ¶ 23.

PA Advisors allegations against ContextWeb are legally insufficient because they lack facts sufficient to support patent infringement. The Federal Rules of Civil Procedure require identification of specific facts, including the products accused of infringement. *See* Form 16, Appendix of Forms to the Federal Rules of Civil Procedure (identifying specific “electric motors” in sample Complaint for Infringement of Patent). As discussed extensively by Yahoo! Inc. and Facebook, Inc., the Supreme Court in *Bell Atlantic Corp. v. Twombly*, 127 S.Ct. 1955 (2007) requires the pleading of facts sufficient to raise a right to relief above the speculative level. PA Advisors has failed to present even a single fact relating to ContextWeb’s allegedly infringing activities. Instead, PA Advisors simply re-states the alleged coverage of the patent claims and attributes such actions to Contextweb. As such, it has failed to meet the required pleading standards.

Accordingly, ContextWeb respectfully requests that the Court dismiss the claims against them pursuant to Fed. R. Civ. P. 12(b)(6).

Respectfully Submitted,

Dated: December 26, 2007

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a) and served on all counsel who have consented to electronic service pursuant to Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d), all counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by U.S. Mail, on this 26th day of December, 2007.

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