



information sufficient to form a belief as to the truth of the allegations of paragraph 2, and therefore denies them.

3. The allegations of paragraph 3 are not directed to MySpace, and therefore no answer is required. To the extent a response is required, MySpace is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3, and therefore denies them.

4. The allegations of paragraph 4 are not directed to MySpace, and therefore no answer is required. To the extent a response is required, MySpace is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4, and therefore denies them.

5. The allegations of paragraph 5 are not directed to MySpace, and therefore no answer is required. To the extent a response is required, MySpace is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5, and therefore denies them.

6. MySpace admits that it is a corporation organized under the laws of the state of Delaware but denies that its principal place of business is at 1223 Wilshire Boulevard, Suite 402, Santa Monica, California 90403-5400. For the purposes of this action only, MySpace admits that it is doing business in the Eastern District of Texas and elsewhere in the United States. MySpace denies that it is infringing or has infringed any valid and enforceable patent claim and that Bedrock is entitled to any relief therefrom. MySpace denies all remaining allegations of paragraph 6.

7. The allegations of paragraph 7 are not directed to MySpace, and therefore no answer is required. To the extent a response is required, MySpace is without knowledge or

information sufficient to form a belief as to the truth of the allegations of paragraph 7, and therefore denies them.

8. The allegations of paragraph 8 are not directed to MySpace, and therefore no answer is required. To the extent a response is required, MySpace is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8, and therefore denies them.

9. The allegations of paragraph 9 are not directed to MySpace, and therefore no answer is required. To the extent a response is required, MySpace is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9, and therefore denies them.

10. The allegations of paragraph 10 are not directed to MySpace, and therefore no answer is required. To the extent a response is required, MySpace is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10, and therefore denies them.

11. The allegations of paragraph 11 are not directed to MySpace, and therefore no answer is required. To the extent a response is required, MySpace is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11, and therefore denies them.

### **JURISDICTION AND VENUE**

12. MySpace admits that Bedrock's Third Amended Complaint alleges infringement under the United States patent laws, and that this Court has subject matter jurisdiction over patent law claims. Consistent with the denial of the allegations of paragraph 16 below, on information and belief, MySpace denies that Bedrock has standing, and accordingly denies that this Court has subject matter jurisdiction over Bedrock's patent claims in this particular case.

13. MySpace admits that venue is proper in the Eastern District of Texas for purposes of this particular action only, but states that this case should be transferred to the Northern District of California pursuant to Federal Rule of Civil Procedure § 1404(a).

14. MySpace admits that it has transacted business in the State of Texas and this District for the purpose of this particular action only, and that this Court has personal jurisdiction over it in this particular action only. MySpace admits that its website can be accessed in the State of Texas and the Eastern District of Texas. MySpace denies that it is infringing or has infringed any valid and enforceable patent claim and that Bedrock is entitled to any relief therefrom. To the extent any remaining allegations of paragraph 14 are directed at MySpace, they are denied. To the extent the allegations of paragraph 14 are directed to other defendants, MySpace lacks sufficient information to admit or deny the allegations and therefore denies them.

#### **GENERAL ALLEGATIONS**

15. MySpace admits that U.S. Patent No. 5,893,120 (the “‘120 Patent”) is entitled “Methods and Apparatus for Information Storage and Retrieval Using a Hashing Technique with External Chaining and On-the-Fly Removal of Expired Data.” MySpace denies that Bedrock holds all right, title and interest in and to the ‘120 Patent. MySpace admits that a document that purports to be a true and correct copy of the ‘120 Patent is attached to Bedrock’s Third Amended Complaint as Exhibit A. MySpace denies any remaining allegations of paragraph 15.

16. MySpace denies that Bedrock holds all right, title, and interest in and to the ‘120 Patent. MySpace denies that Bedrock possesses all rights to sue and recover for past and future infringement.

17. MySpace denies that the ‘120 Patent is valid and enforceable.

18. MySpace denies that it uses the method and apparatus falling within one or more claims of the ‘120 Patent. To the extent the allegations of paragraph 18 are directed to other

defendants, MySpace lacks sufficient information to admit or deny the allegations and therefore denies them.

19. MySpace denies that it is infringing or has infringed any valid and enforceable patent claim and that Bedrock is entitled to any relief therefrom. To the extent the allegations of paragraph 19 are directed to other defendants, MySpace lacks sufficient information to admit or deny the allegations and therefore denies them.

20. MySpace admits that it was made aware of the '120 Patent on or after commencement of this action on June 16, 2009. MySpace denies that is infringing or has infringed any valid and/or enforceable patent claim and that Bedrock is entitled to any relief therefrom. MySpace denies that it has engaged in any willful infringement of the '120 Patent. To the extent the allegations of paragraph 20 are directed to other defendants, MySpace lacks sufficient information to admit or deny the allegations and therefore denies them.

21. MySpace admits that an *ex parte* reexamination of the '120 Patent was filed with the USPTO on February 9, 2010.

22. MySpace admits that an amendment to certain original claims of the '120 Patent was filed with the USPTO on November 23, 2010. MySpace denies that these amendments were merely "clarifying" the claims. MySpace admits that the amendments changed claims 3, 4, 7 and 8. MySpace admits that claim 3 is an independent claim and denies that claim 4 is an independent claim. MySpace denies that claim 7 is a dependent claim and admits that claim 8 is a dependent claim. MySpace admits that claims 1, 2, 5, and 6 were unchanged by the amendments.

23. MySpace admits that on January 14, 2011 the USPTO issued a Notice of Intent to Issue Ex Parte Reexamination Certificate, indicating an intent to allow the amendments to the

'120 Patent. MySpace denies that this Notice confirms that the '120 Patent is valid. MySpace denies that the legal scope of the claims of the '120 Patent is unchanged. MySpace admits that a document that purports to be a true and correct copy of the Notice of Intent to Issue Ex Parte Reexamination Certificate is attached to the Third Amended Complaint as Exhibit B.

24. MySpace admits that MySpace became aware of the USPTO's Notice of Intent to Issue Ex Parte Reexamination Certificate on January 14, 2011. MySpace denies that the '120 Patent is valid. MySpace denies that it is infringing or has infringed any valid and enforceable patent claim and that Bedrock is entitled to any relief therefrom. MySpace denies that it has engaged in any willful infringement of the '120 Patent. To the extent the allegations of paragraph 22<sup>2</sup> are directed to other defendants, MySpace lacks sufficient information to admit or deny the allegations and therefore denies them.

**COUNT I**  
**Infringement of the '120 Patent**

25. MySpace incorporates its answers to paragraphs 1 through 24<sup>3</sup> as if set forth fully herein.

26. MySpace denies that it is infringing or has infringed any valid and enforceable patent claim and that Bedrock is entitled to any relief therefrom. MySpace denies that it has engaged in any willful infringement of the '120 Patent. To the extent the allegations of paragraph 26 are directed to other defendants, MySpace lacks sufficient information to admit or deny the allegations and therefore denies them.

27. MySpace denies that it is infringing or has infringed any valid and enforceable patent claim and that Bedrock is entitled to any relief therefrom. MySpace denies that it has

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<sup>2</sup> Bedrock's Complaint contains a numbering error; after paragraphs 22 and 23, the numbering starts again at 22. This Answer is numbered as though the Complaint were properly numbered. This reference to paragraph 22 refers to the second paragraph 22 on page 5 of the Complaint.

<sup>3</sup> This includes the second paragraph numbered 22 of the Complaint, as described in the footnote above.

engaged in any willful infringement of the '120 Patent. To the extent the allegations of paragraph 27 are directed to other defendants, MySpace lacks sufficient information to admit or deny the allegations and therefore denies them.

28. MySpace denies that it is infringing or has infringed any valid and enforceable patent claim and that Bedrock is entitled to any relief therefrom. MySpace denies that it has caused any injury and damage to Bedrock and its affiliates. MySpace therefore denies that it has engaged in any willful infringement of the '120 Patent. To the extent the allegations of paragraph 28 are directed to other defendants, MySpace lacks sufficient information to admit or deny the allegations and therefore denies them.

#### **PRAYER FOR RELIEF**

MySpace denies that Bedrock is entitled to any of the requested relief and denies any allegations in paragraphs 29 through 39 of its prayer for relief.

#### **AFFIRMATIVE DEFENSES**

MySpace alleges and asserts the following affirmative defenses. In addition to the affirmative defenses described below and subject to its responses above, MySpace specifically reserves all rights to allege additional affirmative defenses that become known through the course of discovery.

#### **FIRST AFFIRMATIVE DEFENSE: Non-Infringement of the '120 Patent**

MySpace asserts that it does not infringe and has not infringed (not directly, contributorily, by inducement, nor in any other way) literally or under the doctrine of equivalents any claim of the '120 Patent.

**SECOND AFFIRMATIVE DEFENSE: Invalidity of the ‘120 Patent**

The claims of the ‘120 Patent are invalid for failure to satisfy one or more of the requirements of Title 35 of the United States Code including but not limited to §§ 101, 102, 103, 112 and 132.

**THIRD AFFIRMATIVE DEFENSE: Waiver, Acquiescence and/or Consent**

Bedrock’s claims of infringement under the ‘120 Patent are barred, in whole or in part, by the doctrines of waiver, acquiescence and/or consent.

**FOURTH AFFIRMATIVE DEFENSE: Laches**

Bedrock’s claims of infringement under the ‘120 Patent are barred, in whole or in part, by laches.

**FIFTH AFFIRMATIVE DEFENSE: Lack of Standing**

Bedrock lacks standing to assert infringement of the ‘120 Patent because it did not have sufficient rights in the ‘120 Patent at the time the suit was filed.

**SIXTH AFFIRMATIVE DEFENSE: Failure to Join**

Bedrock has failed to name or join an indispensable party or parties to the present action, including but not limited to certain persons or entities who may have an ownership interest in the ‘120 Patent.

**SEVENTH AFFIRMATIVE DEFENSE: Bar to Damages**

Bedrock’s claims for damages are barred, in whole or in part, under 35 U.S.C. § 286 (six year limitation), 35 U.S.C. § 287 (marking), and 28 U.S.C. § 1498 (government manufacture and use).

**COUNTERCLAIMS**

Pursuant to Rule 13 of the Federal Rules of Civil Procedure, MySpace asserts the following Counterclaims against Bedrock:

### **THE PARTIES**

1. Counterclaim-Plaintiff MySpace is a corporation organized and existing under the laws of the state of Delaware with its principal place of business at 407 N Maple Drive, Beverly Hills, CA 90210.

2. Counterclaim-Defendant Bedrock purports to be a Texas corporation with its principal place of business at 100 E. Ferguson Street, Suite 712, Tyler, Texas 75702.

### **JURISDICTION AND VENUE**

3. Subject to MySpace's affirmative defenses and denials, including those concerning Bedrock's lack of standing, MySpace alleges that this Court has jurisdiction over the subject matter of these Counterclaims under, without limitation, 28 U.S.C. §§ 1331, 1367, 1338(a), 2201, and 2202.

4. Venue for these Counterclaims is proper in this district, but this case should be transferred to the Northern District of California pursuant to Federal Rule of Civil Procedure § 1404(a).

5. This Court has personal jurisdiction over Bedrock.

### **FACTUAL BACKGROUND**

6. In its Third Amended Complaint, Bedrock asserts that MySpace has infringed U.S. Patent No. 5,893,120 (the "'120 Patent"). MySpace denies Bedrock's allegations of infringement and further denies that the '120 patent is valid. Consequently, there is an actual case or controversy between the parties over the non-infringement and invalidity of the '120 Patent.

**COUNT ONE**

**Declaratory Judgment of Non-Infringement of U.S. Patent No. 5,893,120**

7. MySpace restates and incorporates by reference its allegations in paragraphs 1 through 6 of its Counterclaims.

8. An actual case or controversy exists between MySpace and Bedrock as to whether the '120 Patent is infringed by MySpace.

9. MySpace seeks a judicial declaration finding that MySpace has not infringed and does not infringe, directly or indirectly, any claim of the '120 Patent.

**COUNT TWO**

**Declaratory Judgment of Invalidity of U.S. Patent No. 5,893,120**

10. MySpace restates and incorporates by reference its allegations in paragraphs 1 through 9 of its Counterclaims.

11. An actual case or controversy exists between MySpace and Bedrock as to whether the '120 Patent is invalid.

12. MySpace seeks a judicial declaration finding that the '120 Patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with the requirements of Title 35, including but not limited to §§ 101, 102, 103, and/or 112.

**PRAYER FOR RELIEF**

WHEREFORE, MySpace prays for judgment as follows:

- a. A judgment in favor of MySpace denying Bedrock all relief requested in its Third Amended Complaint in this action and dismissing Bedrock's Third Amended Complaint with prejudice;
- b. A judgment in favor of MySpace on all of its Counterclaims;

- c. A declaration that MySpace has not infringed, either directly or indirectly, any valid claims of the '120 Patent;
- d. A declaration that the '120 Patent is invalid;
- e. A declaration that this case is exceptional under 35 U.S.C. § 285 and an award to MySpace of its reasonable costs and expenses of litigation, including attorneys' fees and expert witness fees;
- f. Such other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

In accordance with Rule 38 of the Federal Rules of Civil Procedure and Local Rule CV-38, MySpace respectfully demands a jury trial of all issues triable to a jury in this action.

Dated: February 10, 2011

Respectfully submitted,

*/s/ Louis A. Karasik*

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Louis A. Karasik (pro hac vice)  
lou.karasik@alston.com  
Rachel M. Capoccia  
rachel.capoccia@alston.com  
Casondra K. Ruga  
casondra.ruga@alston.com  
ALSTON & BIRD LLP  
333 South Hope Street  
16th Floor  
Los Angeles, CA 90071  
Telephone: (213) 576-1148  
Facsimile: (213) 576-1100

Frank G. Smith  
frank.smith@alston.com  
ALSTON & BIRD LLP  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, GA 30309  
Telephone: (404) 881-7240  
Facsimile: (404) 256-8184

Alan L. Whitehurst  
alan.whitehurst@alston.com  
Marissa R. Ducca  
marissa.ducca@alston.com  
ALSTON & BIRD LLP  
The Atlantic Building  
950 F Street, N.W.  
Washington, DC 20004  
Telephone: (202) 756-3300  
Facsimile: (202) 756-3333

Michael J. Newton (SBN 24003844)  
mike.newton@alston.com  
ALSTON & BIRD LLP  
Chase Tower  
2200 Ross Avenue, Suite 3601  
Dallas, TX 75201  
Telephone: (214) 922-3423  
Facsimile: (214) 922-3839

*Attorneys for Defendant MySpace Inc.*

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that counsel of record who are deemed to have consented to electronic service are being served with a copy of **DEFENDANT MYSPACE INC.'S ANSWER TO BEDROCK'S THIRD AMENDED COMPLAINT, AFFIRMATIVE DEFENSES, COUNTERCLAIMS, AND JURY DEMAND**, via the Court's CM/ECF system per Local Rule CV-5(a)(3) on February 10, 2011.

By: /s/ Louis A. Karasik  
Louis A. Karasik