

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

STRAGENT, LLC and SEESAW  
FOUNDATION,

Plaintiffs,

vs.

CLASSMATES ONLINE, INC.;  
CLASSMATES MEDIA CORPORATION;  
UNITED ONLINE, INC.; GANNETT CO.,  
INC.; LINDEN RESEARCH, INC.; MEEBO,  
INC.; MTV NETWORKS; VIACOM INC.;  
MYLIFE.COM, INC.; MYSPACE, INC.;  
NOVELL, INC.; PLAXO, INC.; and  
TWITTER, INC.,

Defendants.

Case No. 6:10-cv-00242-LED

**DECLARATION OF VICTOR DE GYARFAS IN SUPPORT OF DEFENDANT  
CLASSMATES ONLINE, INC.'S MOTION TO DISMISS FOR FAILURE TO STATE A  
CLAIM, FED. R. CIV. P. 12(B)(6) BASED ON THE FAILURE OF THE PATENT-IN-  
SUIT TO CLAIM PATENTABLE SUBJECT MATTER UNDER 35 U.S.C. § 101**

I, Victor de Gyarmas, declare:

1. I make this declaration on the basis of personal knowledge, and if called to testify as a witness, I would and could competently testify hereto.

2. I am a partner at the law firm Foley & Lardner LLP, and counsel of record for Defendant Classmates Online, Inc. in this action. I make this declaration in support of Defendant Classmates Online Inc.'s Motion To Dismiss For Failure To State A Claim, Fed. R. Civ. P. 12(b)(6) Based On The Failure Of The Patent-In-Suit To Claim Patentable Subject Matter Under 35 U.S.C. § 101.

3. Attached hereto as Exhibit A is a true and correct copy of U.S. Patent No. 6,665,722.

4. Attached hereto as Exhibit B is a true and correct copy *Ex parte Cornea-Hasegan*, 89 U.S.P.Q.2d 1557 (B.P.A.I. 2009).

5. Attached hereto as Exhibit C is a true and correct copy of *Every Penny Counts, Inc. v. Bank of America Corp.*, No. 2:07-cv-042, 2009 U.S. Dist. LEXIS 53626 (M.D. Fla. May 27, 2009).

6. Attached hereto as Exhibit D is a true and correct copy of *Ex parte Atkin*, No. 2008-4352, 2009 WL 247868 (B.P.A.I. Jan. 30, 2009).

7. Attached hereto as Exhibit E is a true and correct copy of *Ex parte Birger*, No. 2009-6556, 2010 WL 2800803 (B.P.A.I. July 13, 2010).

8. Attached hereto as Exhibit F is a true and correct copy of *Ex parte Holtz*, No. 2008-004440, 2009 WL 2586625 (B.P.A.I. Aug. 24, 2009).

9. Attached hereto as Exhibit G is a true and correct copy of *Ex parte Mitchell*, No. 2008-2012, 2009 WL 460662 (B.P.A.I. Feb. 23, 2009).

10. Attached hereto as Exhibit H is a true and correct copy of *Ex parte Proudler*, No. 2009-6599, 2010 WL 2727840 (B.P.A.I. July 8, 2010).

11. Attached hereto as Exhibit I is a true and correct copy of *Fuzzysharp Techs. Inc. v. 3D Labs Inc.*, No. C 07-5948 SBA, 2009 WL 4899215 (N.D. Cal. Dec. 11, 2009).

12. Attached hereto as Exhibit J is a true and correct copy of *Perfect Web Techs., Inc. v. InfoUSA, Inc.*, No. 07-80286-CIV, 2008 WL 6153736 (S.D. Fla. Oct. 27, 2008).

13. Attached hereto as Exhibit K is a true and correct copy of *Ultramercial, LLC v. Hulu, LLC*, No. CV 09-06918 RGK(PLAx), 2010 WL 3360098 (C.D. Cal. Aug. 13, 2010).

14. Attached hereto as Exhibit L is a true and correct copy of *Ex Parte Greene*, No. 2008-4073, 2009 WL 1134839 (B.P.A.I. Apr. 24, 2009).

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration is executed on this 18<sup>th</sup> day of October, 2010, at Los Angeles, California.

/s/ Victor de Gyrfas