

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**PROMOTIONAL TECHNOLOGIES, LLC**

Plaintiff,

v.

**FACEBOOK, INC., and  
ZYNGA, INC.**

Defendants.

Case No. \_\_\_\_\_

**PATENT CASE**

**JURY TRIAL DEMANDED**

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**COMPLAINT**

Plaintiff Promotional Technologies, LLC (“Plaintiff” or “Promotional Technologies”) files this Complaint against Facebook, Inc. (“Facebook”) and Zynga, Inc. (“Zynga”) (collectively, “Defendants”) for infringement of United States Patent No. 6,749,511 (hereinafter “the ‘511 Patent”).

**JURISDICTION**

1. This is an action for patent infringement under Title 35 of the United States Code.
2. This Court has exclusive subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.
3. Plaintiff Promotional Technologies, LLC is a Texas limited liability company with its principal office at 314 E. Highland Mall Blvd., Suite 498, Austin, Texas 78752.
4. Upon information and belief, Defendant Facebook, Inc. is a Delaware corporation, with its principal office located at 1601 S. California Ave. in Palo Alto, CA 94304.

Facebook's website states that Dallas, Texas is "home of our Texas office." See, <http://www.facebook.com/careers/department.php?dept=dallas>.

5. This Court has personal jurisdiction over Facebook because Facebook has committed and continues to commit acts of infringement in the state of Texas, regularly conducts and solicits business in the state of Texas, and engages in continuous and systematic activities in the state of Texas.

6. Upon information and belief, Defendant Zynga is a Delaware corporation, with its principal office located at 699 Eighth Street San Francisco, CA 94103. Zynga's website states that, "We're going big in Texas: With an office in Dallas and another in McKinney, The Dog is leaving its mark on the Metroplex." See, <http://company.zynga.com/about/jobs/location/dallas-tx-united-states>.

7. This Court has personal jurisdiction over Zynga because Zynga has committed and continues to commit acts of infringement in the state of Texas, regularly conducts and solicits business in the state of Texas, and engages in continuous and systematic activities in the state of Texas.

8. Upon information and belief, Defendants' products and systems that are alleged herein to infringe were and continue to be made, used, imported, offered for sale, and/or sold in the Northern District of Texas.

### **VENUE**

9. Venue is proper in the Northern District of Texas pursuant to 28 U.S.C. §§ 1391(c) and 1400(b) because Defendants are deemed to reside in this district. In addition, and in the alternative, Defendants have committed acts of infringement in this district.

**COUNT I**

**(INFRINGEMENT OF UNITED STATES PATENT NO. 6,749,511)**

10. Plaintiff incorporates paragraphs 1 through 9 herein by reference.

11. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

12. Plaintiff is the owner by assignment of the ‘511 Patent and holds exclusive rights and interests under the ‘511 Patent.

13. On August 16, 2001, inventor Adam S. Day filed a United States patent application and that application issued on June 15, 2004 as the ‘511 Patent, entitled “Website Promotional Applet Process,” attached hereto as Exhibit A.

14. The ‘511 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

15. Upon information and belief, Defendant Facebook has infringed and continues to infringe one or more claims, including at least Claim 13, of the ‘511 patent by making, using, importing, selling and/or offering for sale the following products, and/or systems on which the following products operate: Café World; CastleVille; CityVille; Empires & Allies; FarmVille; Fishville; Indiana Jones Adventure World; Mafia Wars; Mafia Wars 2; PetVille; The Pioneer Trail (formerly known as FrontierVille); Treasure Isle; Vampire Wars; Words with Friends; YoVille; Zynga Poker; and other online games in which participants win virtual items. These products, and/or the Facebook systems on which they operate, are covered by one or more claims, including at least Claim 13, of the ‘511 patent. Facebook has infringed and continues to infringe the ‘511 patent either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

16. Upon information and belief, Defendant Zynga has infringed and continues to infringe one or more claims, including at least Claim 13, of the '511 Patent by making, using, importing, selling and/or offering for sale the following products, and/or systems on which the following products operate: Café World; CastleVille; CityVille; Empires & Allies; FarmVille; Fishville; Indiana Jones Adventure World; Mafia Wars; Mafia Wars 2; PetVille; The Pioneer Trail (formerly known as FrontierVille); Treasure Isle; Vampire Wars; Words with Friends; YoVille; Zynga Poker; and other online games in which participants win virtual items. These products, and/or the Zynga systems on which they operate, are covered by one or more claims, including at least Claim 13, of the '511 patent. Zynga has infringed and continues to infringe the '511 patent either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

17. Many, if not all, Zynga online games may be played on Facebook's network and systems. Facebook Credits are the exclusive payment method for Zynga online games.

18. Defendants' actions complained of herein will continue unless Defendants are enjoined by this court.

19. This case is exceptional pursuant to the provisions of 35 U.S.C. § 285.

20. Plaintiff has complied with 35 U.S.C. § 287.

21. Defendants' actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendants are enjoined and restrained by this Court.

**PRAYER FOR RELIEF**

Plaintiff respectfully requests entry of judgment in its favor and against Defendants as follows:

- a) Declaring that Defendants have infringed and continue to infringe the '511 patent;
- b) Enjoining Defendants, their agents, officers, servants, employees, attorneys and all persons in active concert or participation with Defendants from further infringement of United States Patent No. 6,749,511;
- c) Awarding actual damages resulting from Defendants' infringement in accordance with 35 U.S.C. § 284, together with pre-judgment and post judgment interest;
- d) Awarding treble damages in accordance with the provisions of 35 U.S.C. § 284;
- e) Finding the case to be exceptional under the provisions of 35 U.S.C. § 285;
- f) Awarding reasonable attorney fees under 35 U.S.C. § 285; and
- g) Awarding costs and such further relief to which the Court finds Plaintiff is entitled under law or equity.

**DEMAND FOR JURY TRIAL**

Plaintiff respectfully requests a trial by jury on all issues so triable.

Dated: December 15, 2011

Respectfully submitted,

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