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**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

Slack Technologies, Inc.,

Plaintiff,

v.

Phoji, Inc.,

Defendant.

Case No. 3:20-cv-01509

**COMPLAINT FOR DECLARATORY  
JUDGMENT OF NONINFRINGEMENT**

**DEMAND FOR JURY TRIAL**

1 Plaintiff Slack Technologies, Inc. (“Slack”) seeks a declaratory judgment that Slack does  
2 not infringe any claim of U.S. Patent No. 9,565,149 (“’149 patent,” Exhibit A).

### 3 NATURE OF THE ACTION

4 1. This is an action for a declaratory judgment arising under the patent laws of the  
5 United States, Title 35 of the United States Code. Slack seeks a declaratory judgment that Slack  
6 does not infringe any claim of the ’149 patent.

### 7 PARTIES

8 2. Slack is a Delaware corporation with its principal place of business at 500 Howard  
9 Street, San Francisco, California 94105. Slack, formerly known as Tiny Speck, Inc., has been  
10 registered with the California Secretary of State since March 2009. Slack employs nearly 1000  
11 employees in its headquarters in San Francisco, California. Slack provides a layer of the business  
12 technology stack that brings together people, applications and data—a hub for collaboration where  
13 people can effectively work together, access critical applications and services, and find important  
14 information to do their best work. People around the world use Slack to connect their teams, unify  
15 their systems and drive their business forward.

16 3. On information and belief, Defendant Phoji, Inc. (“Phoji”)<sup>1</sup> is a company  
17 incorporated and registered under the laws of Delaware. On information and belief, Phoji’s  
18 registered agent is The Corporation Trust Company, Corporation Trust Center, 1209 Orange  
19 Street, Wilmington, Delaware 19801. In correspondence with Slack, representatives of Phoji have  
20 alleged that Phoji has the right to assert the ’149 patent. On information and belief, Phoji  
21 distributes its primary product—a mobile application—almost exclusively through California  
22 businesses, including Google Inc.’s Google Play and Apple Inc.’s App Store.

23 4. On information and belief, Phoji, Inc. was previously known as “Phoji, LLC.”  
24 Phoji, LLC was originally incorporated as “Brilliant Mobile LLC” on October 9, 2012 in  
25 Minnesota. On information and belief, Phoji, LLC was a Minnesota limited liability company  
26 with a principal place of business at 115 Washington Avenue North, Minneapolis, Minnesota

27 \_\_\_\_\_  
28 <sup>1</sup> All references to “Phoji” are to Phoji, Inc. unless otherwise noted.

1 55401, and with a registered address for service of 920 Second Avenue South, 1000 International  
2 Centre, Attn: Daniel J. Young, Minneapolis, Minnesota 55402. On information and belief, the  
3 Manager of Phoji, LLC was Jay Coatta, and its Registered Agent was Jon Christensen.

4 5. On October 23, 2019, Phoji, LLC filed a “Conversion Filing 322C to Other  
5 Jurisdiction—Limited Liability Company (Domestic)” with the Minnesota Secretary of State. *See*  
6 Exhibit B, Oct. 23, 2019 Office of the Minnesota Secretary of State Articles of Conversion filed  
7 by Phoji, LLC. On information and belief, by filing these Articles of Conversion, Phoji, LLC  
8 converted itself to Phoji, Inc., a Delaware organization no longer authorized to transact business  
9 in the state of Minnesota, and whose agent for service of process is 1000 International Center, 920  
10 2nd Avenue S., Minneapolis, Minnesota 55402, c/o Barry O’Neil. As of February 20, 2019, Phoji,  
11 LLC’s status with the Minnesota Secretary of State is “Inactive.” *See* Exhibit C, Office of The  
12 Minnesota Secretary of State, Business Record Details for Phoji, LLC, *available at*  
13 [https://mblsportal.sos.state.mn.us/Business/SearchDetails?filingGuid=2f6a0d51-2612-e211-](https://mblsportal.sos.state.mn.us/Business/SearchDetails?filingGuid=2f6a0d51-2612-e211-bc43-001ec94ffe7f)  
14 [bc43-001ec94ffe7f](https://mblsportal.sos.state.mn.us/Business/SearchDetails?filingGuid=2f6a0d51-2612-e211-bc43-001ec94ffe7f) (last visited Feb. 20, 2020). On information and belief, by filing the Articles  
15 of Conversion pursuant to Chapter 322C.1008 of the Minnesota Statutes, Phoji, Inc. is for all  
16 purposes the same entity as Phoji, LLC, the entity that existed before the conversion. Minnesota  
17 Statue § 322C.1010.1, Effect of Conversion (“An organization that has been converted pursuant  
18 to sections 322C.1007 to 322C.1009 is for all purposes the same entity that existed before the  
19 conversion.”). When the conversion took effect, all property owned by Phoji, LLC vested in the  
20 new entity, Phoji, Inc. *See* Minnesota Statue § 322C.1010.2(1) (“all property owned by the  
21 converting organization remains vested in the converted organization”).

22 6. Additionally, on December 26, 2018, Phoji, Inc. was formed in Delaware. *See*  
23 Exhibit D, Dec. 26, 2018 State of Delaware Articles of Incorporation. On the same day, Phoji,  
24 Inc. filed additional paperwork converting Phoji, LLC (Minnesota) to Phoji, Inc. (Delaware),  
25 pursuant to § 265 of the Delaware General Corporation Law. *See* Exhibit E, Dec. 26, 2018 State  
26 of Delaware Certificate of Conversion from a Limited Liability Company to a Corporation  
27 Pursuant to Section 265 of the Delaware General Corporation Law. Under Section 265 of the  
28 Delaware General Corporation Law, “the corporation of this State shall, for all purposes of the

1 laws of the State of Delaware, be deemed to be the same entity as the converting other entity . . .  
2 and all property, real, personal and mixed . . . and causes of action belonging to such other entity,  
3 shall remain vested in the domestic corporation to which such other entity has converted and shall  
4 be the property of such domestic corporation . . .” Delaware General Corporation Law § 265(f).

5 7. The U.S. Patent Office Patent Assignment Search Database indicates that Phoji,  
6 LLC is the most recent purported assignee of the ’149 patent. Exhibit F, USPTO Patent  
7 Assignment Search for U.S. Patent Application No. 14/072,418 (Feb. 19, 2020). For the reasons  
8 above, Phoji, Inc. is the same entity as the previously-existing Phoji, LLC and holds all property  
9 that Phoji, LLC previously held. Accordingly, on information and belief, the rights to enforce the  
10 ’149 patent are vested in Phoji, Inc. *Id.*

11 8. As described further herein, Phoji has repeatedly asserted to Slack that it (*i.e.*, Phoji,  
12 Inc.) is the owner of the ’149 patent, and has repeatedly asserted that Slack infringes the ’149  
13 patent.

14 9. The Court should not allow the threat of a future lawsuit against Slack to cast a  
15 cloud over Slack’s business, causing uncertainty for Slack regarding the ongoing provision or use  
16 of its products.

17 10. There exists a substantial controversy between Slack and Phoji having adverse legal  
18 interests of sufficient immediacy and reality to warrant the issuance of a declaratory judgment of  
19 noninfringement.

20 **PHOJI HAS ATTEMPTED TO ASSERT THE ’149 PATENT IN CALIFORNIA**

21 11. The U.S. Patent and Trademark Office (“PTO”) issued the ’149 patent, titled  
22 “Media Messaging Methods, Systems, and Devices,” on February 7, 2017. A true and correct  
23 copy of the ’149 patent is attached as Exhibit A.

24 12. Brilliant Mobile, LLC was the named applicant for the ’149 patent when the parent  
25 application, No. 14/072,418, was filed on November 5, 2013.

26 13. On November 11, 2013, named inventor Robert Freidson assigned his interest in  
27 the ’149 patent to Brilliant Mobile, LLC. On November 11, 2013, named inventor Max Freidson  
28 assigned his interest in the ’149 patent to Brilliant Mobile, LLC. On November 13, 2013, named

1 inventor Sergey Toklachev assigned his interest in the '149 patent to Brilliant Mobile, LLC. On  
2 November 18, 2013, named inventor Jay David Coatta assigned his interest in the '149 patent to  
3 Brilliant Mobile, LLC. On July 31, 2014, named inventor John Mikkelsen assigned his interest in  
4 the '149 patent to Brilliant Mobile, LLC. On November 17, 2014, over a year after the first  
5 inventor assignment was executed, the inventors' assignments conveying their interests in the  
6 '149 patent to Brilliant Mobile, LLC—later known as Phoji, LLC and now known as Phoji, Inc.—  
7 were recorded with the PTO.

8 14. In correspondence with Slack, representatives of Phoji have alleged that Phoji is  
9 the owner of the '149 patent. On information and belief, Phoji is the current owner of all  
10 substantial rights in the '149 patent.

11 15. Phoji has taken steps, in this District, to assert the '149 patent against Slack. Phoji's  
12 purposeful efforts to enforce and license the '149 patent in California as described below include  
13 multiple letters accusing Slack of infringing at least claim 1 of the '149 patent, as well as several  
14 telephonic meetings with a Slack representative.

15 16. On June 24, 2019, an agent of Phoji sent a letter to Slack's San Francisco  
16 headquarters, asserting that Phoji is "a Delaware corporation and international SaaS [Software as  
17 a Service] company ([www.phojiapp.com](http://www.phojiapp.com)) . . . approaching companies that may have a business  
18 interest in licensing Phoji's patent portfolio. Phoji, Inc. is the owner of U.S. Patent 9,565,149 B2  
19 entitled, MEDIA MESSAGING, METHODS, SYSTEMS AND DEVICES, which is generally  
20 directed to creating emojis from real media and integrating images and text in messaging and  
21 communication platforms . . . [T]he utilization and deployment of the Slack Emoji and the recent  
22 deployment of the clickable feature make us believe that Slack would find it beneficial to license  
23 Phoji, Inc. intellectual property. We welcome the opportunity to discuss the potential licensing  
24 agreement and terms." Slack responded on June 26, 2019, detailing reasons why Slack does not  
25 infringe any of the '149 patent's claims.

26 17. On October 8, 2019, an agent of Phoji sent a letter to Slack's San Francisco  
27 headquarters, continuing to assert that "Slack infringes the claims of the '149 patent." Phoji  
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