

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WRINKL, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. _____
)	
FACEBOOK, INC., WHATSAPP, INC.,)	JURY TRIAL DEMANDED
and INSTAGRAM, LLC,)	
)	
Defendants.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Wrinkl, Inc. (“Wrinkl”) files this Complaint for Patent Infringement and Demand for Jury Trial against Facebook, Inc., WhatsApp, Inc., and Instagram, LLC (collectively, “Defendants”) and alleges as follows:

THE PARTIES

1. Plaintiff Wrinkl, Inc. is a Delaware Corporation with its principal place of business in Blue Bell, PA.
2. Defendant Facebook, Inc. (“Facebook”) is a Delaware Corporation with its principal place of business at 1 Hacker Way, Menlo Park, CA 94025.
3. Defendant WhatsApp, Inc. (“WhatsApp”) is a Delaware corporation with its principal place of business at 1601 Willow Road, Menlo Park, CA 94025. Upon information and belief, WhatsApp is a wholly owned subsidiary of Facebook.
4. Defendant Instagram, LLC (“Instagram”) is a Delaware Corporation with its principal place of business at 1601 Willow Road, Menlo Park, CA 94025. Upon information and belief, Instagram is a wholly owned subsidiary of Facebook.

JURISDICTION AND VENUE

5. This action arises under the Patent Act, 35 U.S.C. § 101 *et seq.* This Court has original jurisdiction over this controversy under 28 U.S.C. §§ 1331 and 1338.

6. This Court has personal jurisdiction over Defendant Facebook, Inc. because Facebook, Inc. is a Delaware corporation and because, on information and belief, Facebook, Inc. has regularly and systematically transacted business in this judicial district, directly or through intermediaries, and/or committed acts of infringement in this judicial district.

7. This Court has personal jurisdiction over Defendant WhatsApp, Inc. because WhatsApp, Inc. is a Delaware corporation and because, on information and belief, WhatsApp, Inc. has regularly and systematically transacted business in this judicial district, directly or through intermediaries, and/or committed acts of infringement in this judicial district.

8. This Court has personal jurisdiction over Defendant Instagram, LLC because Instagram, LLC is a Delaware limited liability company and because, on information and belief, Instagram, LLC has regularly and systematically transacted business in this judicial district, directly or through intermediaries, and/or committed acts of infringement in this judicial district.

9. Defendants' Registered Agent in the State of Delaware is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, County of New Castle, 19808.

10. Venue is proper in this Court pursuant to 28 U.S.C. § 1400(b).

11. Upon information and belief and as further explained below, Defendants have been and are acting in concert, and are otherwise liable jointly, severally or otherwise for a right to relief related to or arising out of the same transaction, occurrence, or series of transactions or occurrences related to the making, using, selling, offering for sale or otherwise distributing the Facebook Messenger, Facebook Workplace Chat, WhatsApp Messenger, and Instagram apps in

this District and elsewhere in the United States. In addition, this action involves questions of law and fact that are common to all Defendants.

12. Facebook’s Form 10-Q filing to the Securities Exchange Commission for the period ending on June 30, 2020, uses the term “Family” to refer to “our Facebook, Instagram, Messenger, and WhatsApp products” and reports “estimates of the numbers of our daily active people (DAP), monthly active people (MAP), and average revenue per person (ARPP) (collectively, our ‘Family metrics’) based on the activity of users who visited at least one of Facebook, Instagram, Messenger, and WhatsApp (collectively, our ‘Family’ of products) during the applicable period of measurement.”¹ Upon information and belief, Facebook does not separately report revenue from the Accused Products in its filings to the Securities Exchange Commission, but rather reports combined revenue.

13. Market analysis indicates that Facebook, WhatsApp, and Instagram and their respective products are viewed in the market as an integrated package with each of the products benefiting from substantial network effects.²

¹ <https://investor.fb.com/financials/sec-filings-details/default.aspx?FilingId=14302237> (accessed Sept. 24, 2020).

² See <https://www.marketwatch.com/story/the-youtube-and-instagram-secret-that-google-and-facebook-dont-want-you-to-know-2018-01-26> (accessed Sept. 24, 2020) (“For some analysts, the question of breaking out revenue for Instagram is moot, however, because the company essentially sells ads for Facebook and Instagram as a single package. . . .”); <http://markets.businessinsider.com/news/stocks/facebook-stock-price-analyst-interview-2017-8-1002276065> (accessed Sept. 24, 2020) (“More and more people are spending more of their daily waking hours on Facebook. We estimate that across Facebook’s different properties - Facebook.com, WhatsApp, Messenger, and Instagram - users spend on average close to an hour every day. That metric was a lot lower two or three years ago. By having people spend more time on the sites or apps, they’re obviously consuming more content, more pages, and giving Facebook the ability to monetize against that content and pages.”); <https://www.morningstar.in/posts/59194/3/5-global-stocks-you-can-invest-in.aspx> (accessed Sept. 24, 2020) (“Now that Facebook has emerged as the clear-cut social media leader, we believe that the company’s offerings, consisting mainly of Facebook, Instagram, Messenger, and

14. Upon information and belief, between 2017 and the filing of this Complaint, Facebook migrated the Instagram app and WhatsApp Messenger messaging services from third party servers onto servers in Facebook's own data centers.

15. Upon information and belief, Facebook not only "owns," but also "operates" both the Instagram app and WhatsApp Messenger, such operation including the cooperative development, improvement, and/or support of their respective services.³

16. Upon information and belief, user information is shared between Facebook, Instagram and WhatsApp. For example, upon information and belief, Facebook "shares information about" Facebook's users with Instagram and WhatsApp "to facilitate, support and integrate [the Instagram app's and WhatsApp Messenger's] activities and improve our services."⁴ Likewise, upon information and belief, Instagram processes information "to support Facebook, Instagram, Messenger and other products and features offered by Facebook (Facebook Products or Products)."⁵ Similarly, "[a]s part of the Facebook family of companies, WhatsApp receives information from, and shares information with, this family of companies [including Facebook]. We may use the information we receive from them, and they may use the

WhatsApp, have further strengthened network effects for the firm, where all of these platforms become more valuable to its users as people both join the networks and use these services.").

³ See <https://www.facebook.com/help/111814505650678> (accessed Sept. 24, 2020); see also <https://help.instagram.com/155833707900388> (accessed Sept. 24, 2020).

⁴ See <https://www.facebook.com/help/111814505650678> (accessed Sept. 24, 2020); see also <https://help.instagram.com/155833707900388> (accessed Sept. 24, 2020).

⁵ See <https://help.instagram.com/155833707900388> (accessed Sept. 24, 2020).

information we share with them, to help operate, provide, improve, understand, customize, support, and market our Services and their offerings.”⁶

17. Upon information and belief, WhatsApp and Instagram have endeavored to integrate their messaging applications from a technical standpoint including, but not limited to: the Instagram app allowing users to double-post Instagram stories directly to Facebook from the Instagram app;⁷ Facebook offering a unified messages inbox that lets businesses see and reply to their Facebook Messenger, WhatsApp Messenger, and Instagram app interactions in one place;⁸ Facebook Messenger, WhatsApp Messenger, and the Instagram app providing cross-application notifications;⁹ and Facebook providing features allowing users to click a button on a business’s Facebook page to open a WhatsApp Messenger chat with that business.¹⁰ Accordingly, Facebook is acting in concert with WhatsApp and Instagram in connection with the provision of their messaging services, which are at issue in this action.

18. Accordingly, Defendants may be joined in a single action for patent infringement, pursuant to 35 U.S.C. § 299(a).

PATENTS-IN-SUIT

19. Wrinkl is the owner of all right, title, and interest in U.S. Patent No. 9,860,198 (“the ’198 Patent”), titled “Apparatus and Method for Message Reference Management.” On

⁶ See <https://www.whatsapp.com/legal/>; <https://blog.whatsapp.com/10000627/Looking-ahead-for-WhatsApp> (accessed Sept. 30, 2020).

⁷ See <https://techcrunch.com/2017/10/04/instaface/> (accessed Sept. 30, 2020).

⁸ See <https://www.engadget.com/2016/11/15/facebook-and-instagram-unified-business-inbox/> (accessed Sept. 30, 2020).

⁹ See <https://www.cnet.com/news/facebook-messenger-instagram-cross-notifications/> (accessed Nov. 15, 2016); <https://techcrunch.com/2017/05/18/instafacemess/> (accessed Sept. 30, 2020).

¹⁰ See, e.g., <https://www.theverge.com/2020/8/14/21369737/facebook-merging-instagram-messenger-chats-update> (accessed Sept. 30, 2020).

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