

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NETSOC, LLC,

Plaintiff,

v.

CHEGG INC., *et al.*,

Defendants.

**USDC-SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#:
DATE FILED:**

18-CV-10262 (RA)

NETSOC, LLC,

Plaintiff,

v.

OATH INC.,

Defendant.

18-CV-12267 (RA)

NETSOC, LLC,

Plaintiff,

v.

QUORA, INC.,

Defendant.

18-CV-12250 (RA)

MEMORANDUM
OPINION & ORDER

RONNIE ABRAMS, United States District Judge:

Plaintiff NetSoc, LLC filed patent infringement actions against Defendants Oath Inc.¹ and Quora, Inc., which were consolidated at the parties' request with similar cases pending before the Court against LinkedIn Corp. and Chegg Inc. *See* No. 18-CV-10262 (RA), Dkt. 35.² The claims involved U.S. Patent No. 9,978,107 (the "'107 Patent"), entitled "Method and System for Establishing and Using a Social Network to Facilitate People in Life Issues."

Other than the instant motion, all other issues in this consolidated case have been resolved. Claims against Quora and LinkedIn were transferred to the Northern District of California. *See* Dkt. 101; *see also NetSoc, LLC v. LinkedIn Corporation*, No. 19-CV-12215 (RA) at Dkt. 73. The actions against Oath and Chegg were dismissed on collateral estoppel grounds. *See* Dkt. 111; *see also* No. 18-CV-12267 (RA) at Dkt. 92. Remaining for resolution are Defendants Oath and Quora's (together, "Defendants") motions for attorneys' fees and Oath's related motion to seal in part its filings in support of its motion for attorneys' fees. Dkt. 89. For the following reasons, the motion to seal is denied, and the motion for attorneys' fees under 35 U.S.C. § 285 is granted with modification.

BACKGROUND

Plaintiff NetSoc, LLC filed separate actions against Defendants Oath Inc. and Quora, Inc. alleging infringement of the '107 Patent. *See* First Am. Oath Compl., No. 18-CV-12267 (RA), Dkt. 22, at 1; *NetSoc, LLC v. Quora, Inc.*, No. 18-CV-12250 (RA), Dkt. 5, at 1 (Quora Compl.); '107 Patent, No. 18-CV-12267 (RA), Dkt. 1-1. On March 25, 2019, NetSoc's claims against Oath and Quora were consolidated at the parties' request with similar cases against Chegg and LinkedIn, all asserting

¹ NetSoc originally sued Yahoo! Inc. On July 29, 2019, by stipulation of the parties, this Court amended the case caption to reflect the substitution of Oath Inc. for Yahoo! Inc. in this case. *See* No. 18-CV-10262 (RA), Dkt. 69. This Opinion refers throughout to "Oath."

² All docket references in this Opinion refer to the consolidated docket, No. 18-CV-10262 (RA), unless otherwise noted.

infringement of the '107 Patent. *See* Dkt. 35. Only Oath and Quora now move for attorneys' fees; Chegg and LinkedIn do not.

NetSoc's First Amended Complaint against Oath and Complaint against Quora both contain a chart comparing what is labeled "Claim 1" of the '107 Patent to Defendants' websites and descriptions of their services. *See* First Am. Oath Compl. ¶ 10; Quora Compl. ¶ 10. These charts were intended to demonstrate the alleged infringement. However, Claim 1 as alleged in the Complaints does not accurately quote Claim 1 of the '107 Patent. Though the claims charted in the Complaints deal with similar subject matter to Claim 1 of the '107 Patent, they are materially different, as shown in the table below:

Claim 1 (from Oath Complaint)	Claim 1 (from '107 Patent)
A method for establishing a social network, the network comprising:	A method for establishing a social network, the method being implemented on a network computer system and comprising:
maintaining a list comprising a plurality of participants, wherein each participant in the plurality of participants corresponds to one or more individuals, wherein the list also includes information associated with at least one of each participant or the one or more individuals that correspond to each participant;	maintaining a list comprising a plurality of participants, wherein each participant in the plurality of participants corresponds to one or more individuals, wherein the list also includes information associated with at least one of each participant or the one or more individuals that correspond to each participant;
presenting a user with a plurality of categories from which the user may make a selection of a category from the plurality of categories;	presenting a user with an interface from which the user makes a selection of a category from a plurality of categories;
receiving the selection of the category by the user; in conjunction with the selection of the category, receiving an electronic communication from the user for an unidentified respondent, wherein the	in response to receiving the selection of the category by the user, displaying, for the user, some of the information associated with each of multiple participants from the plurality of participants which match the selection of the category by the user, while shielding

electronic communication contains an inquiry of the user;	contact information associated with each of the multiple participants;
after receiving the selection of the category by the user, selecting one or more participants from the list to receive the electronic communication, wherein selecting is based at least in part on the selection of the category or the information associated with at least one of each participant or the one or more individuals that correspond to each participant;	wherein displaying some of the information associated with each of the multiple participants is based at least in part on a rating of individual participants in the plurality of participants;
sending the inquiry to the selected one or more participants;	enabling the user to send an inquiry message to one or more of the multiple participants, while shielding the contact information from the user, the contact information including any messaging identifier that is associated with each of the one or more participants;
receiving a response to the inquiry from the selected one or more participants, the response from each of the one or more participants including biographical information about that participant;	tracking a response time of each of the one or more participants who received the message from the user; and
publishing at least a portion of the response from each of the selected one or more participants for other users to view, wherein publishing is performed without identifying the user but includes providing biographical information about the participant who provided the response;	updating the rating associated with each of the one or more participants based at least in part on the tracked response time.
tracking feedback for each of the selected one or more participants based at least in part on the published portion of the response, including determining a rating from the user for at least one of the selected one or more participants.	

On March 25 and March 26, 2019, respectively, Quora and Oath moved to dismiss the actions against them, arguing that the discrepancy between the claims of the '107 Patent and the claims as alleged in NetSoc's complaint made it impossible to defend themselves. *See* Oath Mot. to Dismiss, No. 18-CV-

12267 (RA), Dkt. 28, at 16–19 (“NetSoc has failed to allege how Oath allegedly infringes the ‘107 patent because all the facts relating to Oath’s infringement are provided as purported evidence of satisfying language that is not even found in the ‘107 patent’s claims.”); Quora Mot. to Dismiss, No. 18-CV-12250 (RA), Dkt. 22, at 16–19 (“[T]he claim language provided in Paragraph 10 [of NetSoc’s complaint] is not the language that claim 1 of the ‘107 patent actually recites.”). Both argued alternative grounds for dismissal, including that the ‘107 Patent’s subject matter was too abstract to be patentable. *See* Quora Mot. to Dismiss at 7–13; Oath Mot. to Dismiss at 8–14.

NetSoc’s oppositions to the motions to dismiss did not address the contention that the language attributed to the ‘107 Patent in its complaints differed from the actual language of the ‘107 Patent’s claims. Rather, NetSoc’s response to Oath’s motion to dismiss repeatedly refers to the “embedded, detailed infringement chart” as demonstrating that the claim could survive a motion to dismiss. *See* Pl. Opp’n to Oath Mot. to Dismiss, No. 18-CV-12267 (RA), Dkt. 33, at 9, 14, 15. In their reply briefing, Oath and Quora both reiterated that NetSoc had alleged infringement of patent claims that did not exist in the ‘107 Patent. *See* Quora Repl., No. 18-CV-12250 (RA), Dkt. 43, at 1 (“[T]he Complaint identifies a claim that does not exist and Plaintiff does not address this fundamental flaw.”); Oath Repl., No. 18-CV-12267 (RA), Dkt. 38, at 1 (“Indeed, the Amended Complaint identifies a claim that does not exist.”).

On July 8, 2019, over three months after Defendants filed their motions to dismiss, Plaintiff’s counsel William Ramey admitted for the first time to counsel for Oath and Quora that the charts in the original complaints were incorrect. He acknowledged via email that the charts in fact identified claims from U.S. Patent No. 9,218,591 (the “‘591 Patent”), not the ‘107 Patent. *See* Dkt. 91 Ex. 2 (email from William Ramey to counsel for Oath stating that “our charts were for the ‘591 patent not the ‘107 patent. The Complaint listed the wrong patent number but the correct chart.”); Dkt. 93 Ex. 2 (email from William Ramey to counsel for Quora stating that “our complaint charted the correct claim language but misidentified the patent. [W]e listed the related ‘107 patent when it should have been the ‘591 patent”).

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