

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

_____		)
FINCO SERVICES, INC.,		)
		)
<i>Plaintiff,</i>		)
		)
v.	Case No. 1:19-cv-9410	)
		)
FACEBOOK, INC., CALIBRA, INC., JLV, LLC,	<b>COMPLAINT</b>	)
and CHARACTER SF, LLC,		)
	<b>JURY TRIAL DEMANDED</b>	)
<i>Defendants.</i>		)
_____		)

Plaintiff Finco Services, Inc. brings this Complaint against defendants Facebook, Inc., Calibra, Inc., JLV, LLC, and Character SF, LLC (together, “Defendants”), and alleges, on knowledge as to its own actions, and otherwise upon information and belief, as follows:

**PRELIMINARY STATEMENT**

1. This is an action for trademark infringement, unfair competition, and false designation of origin under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), and for related state law claims, all arising from the Defendants’ unauthorized use of Plaintiff’s trademarks and service marks in connection with the marketing, advertising, and promotion of the planned launch of the “Calibra” digital wallet and related financial services.
2. Plaintiff seeks preliminary and permanent injunctive relief as well as monetary relief.

**JURISDICTION**

3. This Court has jurisdiction over this action pursuant to 15 U.S.C. § 1121, 28 U.S.C. §§ 1331 and 1338(a) and (b), and pursuant to the principles of supplemental jurisdiction under 28 U.S.C. § 1367.

### VENUE

4. Venue is proper in this district under 28 U.S.C. § 1391(b)(1) because a Defendant resides in the district and all Defendants reside in or are subject to personal jurisdiction in this district, and under § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in this district and a substantial part of property that is the subject of the action is situated in this district.

### PARTIES

5. Plaintiff Finco Services, Inc. is a corporation operating under the name Current (“Current”). It is incorporated in the State of Delaware and has its principal place of business in New York, New York. Current provides online and mobile banking services via a mobile application or “app.”

6. Defendant Facebook, Inc. (“Facebook”) is a Delaware corporation with its principal place of business in Menlo Park, California, and an office in New York City, New York.

7. Defendant Calibra, Inc. (“Calibra”) is a Delaware corporation with its principal place of business in Menlo Park, California, and an office in New York City, New York. Calibra is a subsidiary of Facebook, which plans on launching a digital wallet for the Libra cryptocurrency sometime in 2020.

8. Defendant JLV, LLC (“JLV”) is a Delaware limited liability company with its principal place of business in Menlo Park, California. JLV is a subsidiary of Facebook and, upon information and belief, is the entity that owns the intellectual property, including the infringing trademarks and service marks, related to Calibra.

9. Defendant Character SF, LLC (“Character”) is a California limited liability company with offices in San Francisco, California and Brooklyn, New York. Character is a branding and design agency.

### **STATEMENT OF FACTS**

#### **A. Current and its CURRENT Design Marks**

10. Founded in 2015 by Stuart Sopp, Current provides online banking and financial services, including the electronic transfer of money, via a mobile app.

11. In 2016, Current paid Character to create a branding strategy and identity for the company.

12. As part of this branding strategy and identity, Character created certain logo designs for Current to use in connection with its banking services and mobile app.

13. As a branding agency, Character knew and understood that the purpose of the logo designs was to assist Current in creating a brand identity, and to act as trademarks and service marks that identify Current as the exclusive source of origin of the Current banking services and app.

14. Upon information and belief, one of the logo designs created by Character for Current, and which has been in use by Current since at least as early as 2016, appears below (the “CURRENT Logo”):



15. Upon information and belief, Character also created design iterations incorporating the CURRENT Logo, including, but not limited to, the images below, which

Current has used at various times as an icon in connection with its mobile app and in connection with providing online banking services, among other related uses in commerce (the “CURRENT Icon”):



16. The CURRENT Icon on the left is used in connection with Current’s app offered to consumers using Android devices via the Google Play Store, and the CURRENT Icon on the right is used in connection with Current’s app offered to consumers using Apple devices via the Apple App Store.

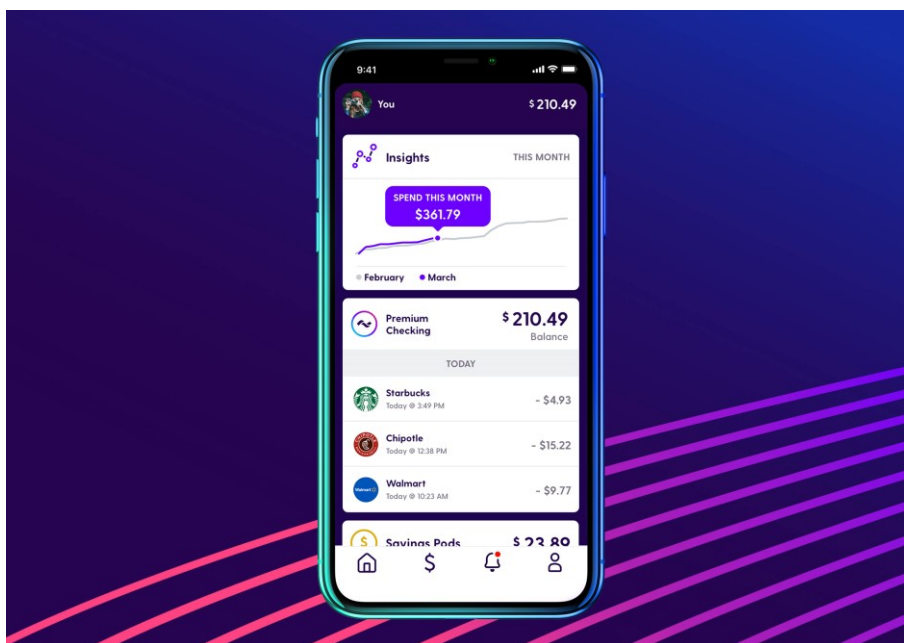
17. Current owns a use-based application to register the CURRENT Logo (without claiming color) in the U.S. Patent and Trademark Office (“USPTO”) in connection with, among other things, banking services in Class 36, downloadable software for enabling the electronic transfer of money between users in Class 9, and providing the use of online non-downloadable software for enabling processing of electronic funds transfer, electronic check, and electronic mobile and online payments in Class 42. (Application Serial No. 88,490,176; *see also* Application Serial No. 88,489,765 (use-based application to register the CURRENT word mark combined with the CURRENT Logo).)

18. Current is also the owner of an intent-to-use application to register the CURRENT Logo (without claiming color) in the USPTO in connection with a mobile computer software application used for enabling cryptocurrency-based transactions in Class 9 and SaaS services

used for enabling cryptocurrency-based transactions in Class 42. (Application Serial No. 88,489,824.)

19. Current has used the CURRENT Logo and CURRENT Icon design marks (together, the “CURRENT Marks”) in commerce throughout the United States continuously since at least as early as August 25, 2016 in connection with the offering for sale, sale, marketing, advertising, and promotion of Current’s online and mobile banking and financial services.

20. For example, Current uses the CURRENT Marks in connection with its mobile App in the Google Play Store and the Apple App Store, as well as on mobile devices:



21. Current brands its debit cards with the CURRENT Marks, such as the below example:

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