

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

GENTEX CORPORATION and INDIGO
TECHNOLOGIES, LLC,

Plaintiffs,

THALES VISIONIX, INC.,

Involuntary Plaintiff,

v.

FACEBOOK, INC. and FACEBOOK
TECHNOLOGIES, LLC,

Defendants.

Case No.: 6:21-cv-00755

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Gentex Corporation (“Gentex”) and Indigo Technologies, LLC (“Indigo”) file this Complaint for Patent Infringement and Demand for Jury Trial against Facebook, Inc. (“Facebook”) and Facebook Technologies, LLC (“Facebook Technologies”) and allege the following:

NATURE OF THE ACTION

1. This is a civil action for infringement under the patent laws of the United States, 35 U.S.C. § 101 *et seq.*, to redress Defendants’ unauthorized and knowing use of Plaintiffs’ patented virtual reality and motion tracking technologies in Defendants’ Oculus Rift S, Oculus Quest, and Oculus Quest 2 products (collectively, with their respective related instructions, systems, services, and software, the “Accused Products”).
2. Gentex is the exclusive field-of-use licensee of U.S. Patent Nos. 6,757,068 (the “’068 patent”), 7,301,648 (the “’648 patent”), 8,224,024 (the “’024 patent”), 6,922,632 (the

“’632 patent”), and 7,725,253 (the “’253 patent”) (collectively, the “Asserted Patents”) in the market of consumer electronic products in the fields of entertainment and gaming, with the right to sue for infringement thereof in its exclusive fields-of-use.

3. Defendants have infringed and continue to infringe, directly and indirectly, one or more claims of each of the Asserted Patents by making, using, selling, and offering to sell the Accused Products. Plaintiffs seek monetary damages to compensate for the harm caused by such infringement.

THE PARTIES

4. Plaintiff Gentex Corporation is a Delaware corporation with its principal place of business in Carbondale, Pennsylvania.

5. Plaintiff Indigo Technologies, LLC is a Pennsylvania limited liability company with its principal place of business in Simpson, Pennsylvania. Indigo is wholly owned by Gentex. Indigo was previously the exclusive field-of-use licensee of the Asserted Patents in the fields of entertainment and gaming, with the right to sue for infringement thereof in its exclusive field of use. Indigo assigned its rights under its exclusive field-of-use license to Gentex effective July 1, 2021, including the right to sue for infringement before the date of the assignment.

6. Involuntary Plaintiff Thales Visionix, Inc. is a Delaware corporation with its principal place of business at 22605 Gateway Center Drive, Clarksburg, Maryland 20871. Thales Visionix is the assignee and sole and exclusive owner of the Asserted Patents. Thales Visionix is named as an involuntary plaintiff because it is the owner of the Asserted Patents and may have an interest therein. Pursuant to the license agreement Thales Visionix entered into with Indigo, Thales Visionix is obligated to join this action as a party plaintiff but has declined to do so, and Thales Visionix is outside the Court’s jurisdiction.

7. Defendant Facebook, Inc. is a Delaware Corporation with its principal place of

business at 1 Hacker Way, Menlo Park, CA 94025.

8. Defendant Facebook Technologies, LLC is a Delaware limited liability company with its principal place of business at 1601 Willow Road, Menlo Park, CA 94025. On information and belief, Facebook Technologies, LLC is a wholly owned subsidiary of Facebook, Inc.

JURISDICTION AND VENUE

9. This case 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.

10. This Court has personal jurisdiction over Defendants under the Texas Long Arm Statute because, among other things, Defendants “recruit[] Texas residents, directly or through an intermediary located in this state, for employment inside or outside this state.” Tex. Civ. Prac. & Rem. Code § 17.042(3).

11. This Court has personal jurisdiction over Facebook, including because Facebook does continuous and systematic business in this District, including by selling the Accused Products to residents of this District that Facebook knew would be used within this District in an infringing manner, and by soliciting business from residents of this District.

12. Facebook is also subject to personal jurisdiction in this Court because, among other things, it has a regular and established place of business at its offices in this District, including multiple Facebook offices located in Austin, and elsewhere in Texas.

13. Facebook’s newest Austin office is in a large office building known as “Third + Shoal,” occupying 256,500 square feet on 11 stories at 607 West Third Street, Austin, Texas

78703.¹ Facebook also maintains or has maintained offices at 300 West Sixth Street, Austin, Texas 78701, 11601 Alterra Parkway, Austin, Texas 78758, and the Parmer Innovation Center at 13011 McCallen Pass, Austin, Texas 78753.² Facebook's multiple offices in Austin, Texas constitute regular and established places of business.

14. Facebook has also reportedly leased the entire 320,000 square foot Domain 12 building in Austin,³ and is seeking to lease another 1,000,000 square feet in Austin.⁴

15. As of August 2020, Facebook had over 1,300 employees in Austin across its multiple offices.⁵ Facebook's Austin employees work in at least the following teams: AR/VR, Advertising Technology, Business Development & Partnerships, Communications & Public Policy, Software Engineering, Legal, Enterprise Engineering, People & Recruiting, Design & User Experience, Infrastructure, Data & Analytics, and Sales & Marketing.⁶ Facebook is

¹ Erin Edgemon, *First look: Facebook Headcount Swells as Social Media Giant Opens New Austin Office*, <https://www.bizjournals.com/austin/news/2019/09/04/first-look-facebook-headcount-swells-as-social.html> (Sept. 4, 2019).

² *Id.*

³ Paul Thompson, *Facebook Still Hiring in Austin; No Plans To Give Up Splashy Office Space Around Town, Top Local Exec Says*, <https://www.bizjournals.com/austin/news/2020/08/01/facebook-still-growing-in-austin-pandemic.html> (August 1, 2020); Will Anderson & Marissa Luck, *Facebook To Eat Up Big Chunk Of Austin's Second Downtown, Sources Say*, <https://www.bizjournals.com/austin/news/2018/09/06/facebook-to-eat-up-big-chunk-of-austins-second.html> (Sept. 6, 2018).

⁴ Kathryn Hardison, *Sources: Facebook Wants 1M More Square Feet Downtown*, <https://www.bizjournals.com/austin/news/2020/12/04/facebook-could-be-expanding-again-in-austin.html?s=print> (Dec. 4, 2020).

⁵ Paul Thompson, *Facebook Still Hiring in Austin; No Plans To Give Up Splashy Office Space Around Town, Top Local Exec Says*, <https://www.bizjournals.com/austin/news/2020/08/01/facebook-still-growing-in-austin-pandemic.html> (August 1, 2020).

⁶ Facebook, *Jobs in Austin, TX*, [https://www.facebook.com/careers/locations/austin/?p\[offices\]\[0\]=Austin%2C%20TX&offices\[0\]=Austin%2C%20TX&results_per_page=100#](https://www.facebook.com/careers/locations/austin/?p[offices][0]=Austin%2C%20TX&offices[0]=Austin%2C%20TX&results_per_page=100#) (last visited Mar. 13, 2021).

currently advertising about 273 jobs in Austin,⁷ including multiple openings in “VR and AR”— i.e., virtual reality and augmented reality.⁸

16. On information and belief, the “VR and AR” team includes employees who work on the Accused Products. For example, Facebook is recruiting for multiple positions at “Facebook Reality Labs,” including in Austin, Texas, which includes responsibility for “Oculus” products and “AR and VR software and content.”⁹

17. Based on publicly-available information, since 2012, Facebook has employed approximately 289 recipients of H-1B visas who work in Austin.¹⁰

18. Facebook, directly and through agents, regularly conducts, solicits, and transacts business in this District and elsewhere in Texas, including through sales of the Accused Products and by providing services related to the Accused Products.

19. In particular, Facebook has committed and continues to commit acts of infringement in violation of 35 U.S.C. § 271, and has made, used, marketed, distributed, offered for sale, and sold infringing products in Texas, including in this District, and engaged in infringing conduct within and directed at or from this District. The infringing Accused Products and related services have been and continue to be distributed and used in this District.

20. This Court has personal jurisdiction over Facebook Technologies, including

⁷ *Id.*

⁸ Facebook, *Jobs in AR/VR*, [https://www.facebook.com/careers/areas-of-work/arvr/?p\[teams\]\[0\]=AR%2FVR&teams\[0\]=AR%2FVR&offices\[0\]=Austin%2C%20TX#openpositions](https://www.facebook.com/careers/areas-of-work/arvr/?p[teams][0]=AR%2FVR&teams[0]=AR%2FVR&offices[0]=Austin%2C%20TX#openpositions) (last visited June 1, 2021).

⁹ Facebook, *Digital Design Engineer, Facebook Reality Labs*, <https://www.facebook.com/careers/v2/jobs/2280933422206464/> (last visited June 1, 2021); Facebook, *Privacy Product Strategist, Facebook Reality Labs*, <https://www.facebook.com/careers/v2/jobs/725356615060171/> (last visited June 4, 2021).

¹⁰ <https://h1bdata.info/index.php?em=facebook&job=&city=austin&year=All+Years> (last visited July 22, 2021).

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