

<b>UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK</b>	
SHOLEM WEISNER,  Plaintiff, -against-  GOOGLE LLC and SHMUEL NEMANOV,  Defendant and Involuntary Party.	Case No.:  <b>COMPLAINT FOR PATENT INFRINGEMENT</b>  <b>DEMAND FOR JURY TRIAL</b>

Plaintiff Sholem Weisner (“Weisner” or “Plaintiff” or “Inventor”), by his attorney, for his Complaint against Defendant Google LLC (“Complaint”) and Involuntary Party Shmuel Nemanov (“Nemanov”, collectively with Weisner - “Weisner”, “Plaintiff” or “Inventor”) allege as follows:

#### **THE PARTIES**

1. Sholem Weisner (“Weisner”) is an individual having his residence at 227 Hewes Street, Brooklyn, New York 11211.

2. Google LLC (“Google”) is a Delaware Limited Liability Company with its principal place of business at 1600 Amphitheatre Parkway, Mountain View, CA 94043. Google has registered with the New York State Department of State as a Foreign Limited Liability Company and has identified the Corporation Service Company, 80 State Street, Albany, New York, 12207-2543 as its Agent for Service of Process.

3. Upon information and belief, Google LLC maintains a large office in this District at 111 Eighth Avenue, New York, New York.

4. Involuntary Party Shmuel Nemanov (“Nemanov”) is joined as an involuntary party in this action, pursuant to Rule 19(a) of the Federal Rules of Civil Procedure. See *Indep. Wireless Tel. Co. v. Radio Corp. of Am.*, 269 U.S. 459, 468 (1926) (“If the owner of a patent, being within the jurisdiction, refuses or is unable to join an exclusive licensee as coplaintiff, the licensee may make him a party defendant by process and [\*3] he will be lined up by the court in the party character which he should assume.”); *AsymmetRx, Inv. v. Biocare Med.*, 582 F.3d 1314, 1322 (Fed. Cir. 2009) (“A patentee

that does not voluntarily join an action prosecuted by its exclusive licensee can be joined as a defendant ...." (citation omitted)); *Int'l Rediscount Corp. v. Hartford Accident & Indem. Co.*, 425 F. Supp. 669, 674-75 (D. Del. 1997)("An involuntary plaintiff is a party who is obligated to assist in prosecuting an action or to permit its name to be used but refuses to do so and who is thereafter joined ... If a party is subject to service, however, it is not joined as an 'involuntary plaintiff.' Rather, it is served, joined as a defendant, and then realigned by the Court in the 'character which [it] should assume."").

5. In *Weisner, et al. v. Google, et al.*, 20-cv-02862- AKH a Patent Infringement suit involving Google's Infringement of Weisner's '905 and '911 Patents, before the Hon. Alvin K. Hellerstein, USDJ ("Patent Suit #1") Nemanov was first named an Involuntary Defendant then realigned as an Involuntary Plaintiff. (ECF #67).

6. Involuntary Party Shmuel Nemanov ("Nemanov") at all times hereinafter mentioned, was and now is a resident of Kings County, New York.

### **JURISDICTION AND VENUE**

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

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

9. This Court has personal jurisdiction over Google. Google has committed acts of infringement in this District and has a regular and established place of business in this District. For example, Google regularly and continuously does business in this District and has infringed or induced infringement or contributorily infringed, and continues to do so, in this District. Upon information and belief, Google maintains an office within this District (New York, New York). Defendant's office in New York, New York is a regular and established place of business. In addition, the Court has personal jurisdiction over Google because minimum contacts have been established with the forum and the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

10. Nemanov is an owner of a minority, undivided interest in certain of

Plaintiff Weisner's Patents pursuant to the **Exhibit A** Agreement Between Owners ("Agreement", infra).

11. Under that Agreement, Plaintiff Weisner, as the majority owner of the undivided interest in certain patents and patent applications including those identified hereinbelow, has exclusive rights to sue for patent infringement.

12. As indicated above, in Patent Suit #1, Nemanov was first joined as an involuntary Defendant, pursuant to Rule 19(a) of the Federal Rules of Civil Procedure. Nemanov was then realigned as an Involuntary Plaintiff. (Patent Suit #1, ECF #67).

13. Demand has been made on Nemanov pursuant to the Plaintiff's Agreement with Nemanov a true copy of which is annexed hereto as **Exhibit A**.

14. Nemanov has refused to join the Complaint pursuant to the **Exhibit A** Agreement.

15. Due to Nemanov's breach of and repudiation of the **Exhibit A** Agreement, Plaintiff has sued Nemanov *et al* in that certain State Court proceeding styled as Weisner v. Nemanov, et al. (Kings County Index #502269/2020).

16. Nemanov is subject to service in New York because he is a resident of Kings County, New York. After Nemanov has been served with the Complaint, Plaintiff will respectfully request that the Court realign Nemanov as an Involuntary Plaintiff as in Patent Suit #1.

### **GOOGLE'S PATENT INFRINGEMENT**

17. On November 2nd, 2021, the United States Patent and Trademark Office ("the USPTO") issued United States Patent No. 11,163,839 , entitled Mobile communication device with location histories configured to link individual member to vendor members of network (the "'839 Patent"). A true and correct copy of the '839 Patent is attached to this Complaint as **Exhibit B**.

18. Independent claim 1 of the '839 Patent states:

A handheld

mobile communication device configured for communication with at least one processing system to create and use location histories on the device that are configured to link an

individual member of a member network to a plurality of vendor members of the network, the device comprising software, the software for configuring the device to, upon instances of a physical encounter between the individual member who is mobile and has an account associated with a URL and a vendor member from among the plurality of vendor members at a physical premises of the vendor member, transmit to, or generate on, the at least one processing system a location history entry of the physical encounter in at least the account of the individual member, that includes (i) key data of, and a location of, the vendor member, and (ii) a time of the physical encounter, the key data being the URL of the vendor member or data associated with the URL of the vendor member, the software configured to interact with a positioning system that identifies a location of the device, the software configured to accumulate a location history from the location history entries, the software also for maintaining a viewable physical encounter history on the device that, upon logging in to the individual member's account, is searchable by the time, by the URL or data associated with the URL of the vendor member, and by the location of the vendor member, the physical encounter history including key data from multiple vendor members of the plurality and includes in at least one mode a visual timeline of physical encounters of the individual member, the key data associated with the account of the individual member before the physical encounter between the individual member and the vendor member, wherein the individual member's account is configured to allow the physical encounter history to be accumulated from the device or from multiple such devices of the individual member over time, wherein the location history is configured to include advertisements from the plurality of vendor members, wherein the content of the advertisements comprise the key data of particular vendor members of the plurality of vendor members, wherein the advertisements are clickable such that when the individual member clicks on a particular advertisement of a particular vendor member of the plurality, the individual member is taken by the at least one processing system to a web site of the particular vendor member.

19. The '839 Patent is generally directed towards a method and a system of creating a novel advertising network, on handheld mobile communication devices such as cellphones or handheld computers, for businesses and individual consumers, through offering membership

profiles for individuals and business who are members of the proposed network.

20. An improvement in digital business advertising over the world wide web is achieved through linking individual members of the network with business members of the network, by employ of the physical interaction histories of the individual members with business members, towards serving custom tailored digital business advertisements for the consumers who are members of the network.

21. The proposed invention requires the individual user to operate at least one mobile communication device on which software is installed through which the individual user's physical encounters with businesses can be recorded and stored.

22. The proposed invention further describes the mobile software to provide a user interface where the individual user can log in to their account and access their physical encounters with businesses in a viewable, searchable and clickable manner.

23. Business members of the proposed network who have experienced a physical encounter with an individual user of the proposed network can have their business advertisement appear on, and be displayed on, the individual member's applications location history interface.

24. The business advertisement which is displayed on the individual user's location history interface contains the key data of the business.

25. Additionally, the business advertisement which is displayed on the individual's location history is in URL format, or on a webpage associated with a URL, through which the individual member of the network can click and access the business profile URL.

26. The business participants of the network can have their advertisement appear and be displayed for individual members of the network, on their electronic devices, on any number of websites and applications which have access to the individual members location history.

27. Additionally, if the business has a website the inter-networked advertisement may also contain a link to an external website of the business to which the individual user-member can be redirected towards.

28. The '839 invention proports to eliminate the randomness of how digital advertising and business marketing on the world wide web is served for potential consumers, towards serving useful and relevant advertisements for individuals by employ of their past physical encounters with business enterprises.

29. In the "Background of The Invention and Discussion of Prior Art", the advantage of the new advertising venue with its improvement in digital internet advertising is clearly delineated.

30. Column II lines: 14:20, state: "Another basic need among businesses in society is advertising. Businesses are always looking for new venues in which to advertise. When use of the Internet became commonplace in the late 1990's business advertising on the Internet exploded. **A digital leg history that is attractive to users would provide a new venue for businesses to advertise in.**"

31. Objects and Advantages 7, 8, and 9 of the present invention are exemplary in describing how entries of businesses which appear in the individual members location history, functions as a business advertisement for the businesses who participate in the network. They state:

32. "(7) to provide such a method and apparatus that also serves the function of allowing a business to advertise itself on the digital history thereby creating a new venue for business advertising;"

33. "(8) to provide such a method and apparatus as in Object and Advantage "(7)" that allows the business to have an entry in the digital history which functions as an advertisement for that business;"

34. "(9) to provide such a method and apparatus as in Object and Advantage "(8)" that includes the URL of the business or a more elaborate advertisement;"

35. The '839 Patent was issued to Weisner and to Shmuel Nemanov ("Nemanov"). On or about July 9, 2019 Weisner and Nemanov executed an "Agreement Between Owners of Undivided Interests in the Patent" ("Agreement Between Owners"), under which Weisner, as the majority owner of the undivided interest in certain patents and patent applications including the application that matured into the '839 Patent, has exclusive rights to sue for

patent infringement of the '839 Patent. A copy of the "Agreement Between Owners" was recorded on or about September 4, 2019 in the U.S. Patent & Trademark Office Assignment Records under Reel/Frame 050259/0564 and is attached herein to the Complaint as **Exhibit A**.

36. The '839 Patent is currently in full force and effect and has not expired or been abandoned, and there are no known prior adjudications of invalidity of any of the claims of the '839 Patent.

37. On June 16, 2020, the United States Patent and Trademark Office ("the USPTO") issued United States Patent No. 10,685,068, entitled Targeting individuals for advertising using digital physical location histories (the "068 Patent"). A true and correct copy of the '068 Patent is attached to this Complaint as **Exhibit C**.

38. Independent claims 1, 16, and 30 are exemplary claims of the '068 Patent. Claim 1 states:

A computer-implemented

method of targeting individuals for advertising using digital physical location histories, comprising: maintaining a processing system in communication with a positioning system, the processing system configured to provide an account to an individual member, and to a stationary vendor member, of a member network, the account associated with key data;

providing an application that configures a mobile communication device of each individual member, the device in communication with the positioning system, to, upon instances of a physical encounter between the individual member carrying the device, and a stationary vendor member of the member network, at a physical premises of the stationary vendor member, automatically transmit to, or generate on, the processing system an entry of the physical encounter including the key data of the individual member and key data of the stationary vendor member, a location of the individual member at the physical premises determined by the positioning system, the key data being a URL or another identifier associated with the URL; maintaining, on a database of the processing system, a physical encounter history comprising a location history of the physical encounters with stationary vendor members for each of the individual members, the individual member's

account is configured to allow the physical encounter history to be accumulated from multiple devices of the individual member over time; the application maintaining a viewable, searchable physical encounter history on the device that includes key data from multiple stationary vendor members and includes in at least one mode a visual timeline of physical encounters of a particular individual member; and

servicing, by the processing system, advertisements of particular stationary vendor members on the physical encounter history of the particular individual member, a content of the advertisements based on a profile of the key data recorded in the physical encounter history accumulated from as many devices as are associated with the particular individual member's account,

wherein the content of the advertisements comprise the key data of the particular stationary vendor member.

39. Claim 16 recites:

A system for targeting individuals for advertising using digital physical location histories, comprising:

a processing system in communication with a positioning system, the processing system configured to provide an account to an individual member, and to a stationary vendor member, of a member network, the account associated with key data; an application that configures a mobile communication device of each individual member, the device in communication with the positioning system, to, upon instances of a physical encounter between the individual member carrying the device, and a stationary vendor member of the member network, at a physical premises of the stationary vendor member, automatically transmit to, or generate on, the processing system an entry of the physical encounter including the key data of the individual member and key data of the stationary vendor member, a location of the individual member at the physical premises determined by the positioning system, the key data being a URL or another identifier associated with the URL;

a database of the processing system having a physical encounter history comprising a location history of each of the physical encounters for each individual member, the individual member's account is configured to allow the location history to be accumulated from multiple devices of the individual member over time;

the application maintaining a viewable, searchable physical encounter history on



the device that includes key data from multiple stationary vendor members and includes in at least one mode a visual timeline of physical encounters of a particular individual member; and the processing system configured to serve advertisements of particular stationary vendor members on the physical encounter history of the particular individual member, a content of the advertisements based on a profile of the key data recorded in the physical encounter history accumulated from as many devices as are associated with the particular individual member's account, wherein the content of the advertisements comprise the key data of the particular stationary vendor member.

40. Claim 30 states:

A computer-implemented method of targeting individuals for advertising using digital physical location histories, comprising: maintaining a processing system in communication with a positioning system, the processing system configured to provide an account to an individual member, and to a stationary vendor member, of a member network, the account associated with key data;

providing an application that configures a mobile communication device of each individual member, the device in communication with the positioning system, to, upon instances of a physical encounter between the individual member carrying the device, and a stationary vendor member of the member network, at a physical premises of the stationary vendor member, automatically transmit to, or generate on, the processing system an entry of the physical encounter including the key data of the individual member and key data of the stationary vendor member, a location of the individual member at the physical premises determined by the positioning system, the key data being a URL or another identifier associated with the URL or with the account; maintaining, on a database of the processing system, a physical encounter history comprising a location history of the physical encounters with stationary vendor members for each of the individual members, the individual member's account is configured to allow the physical encounter history to be accumulated from multiple devices of the individual member;

the application maintaining a viewable, searchable physical encounter history on the device that includes key data from multiple stationary vendor members and includes in at

least one mode a visual timeline of physical encounters of a particular individual member; and serving, by the processing system, advertisements of particular stationary vendor members on the physical encounter history of the particular individual member, a content of the advertisements based on a profile of the key data recorded in the physical encounter history of the particular individual member accumulated from as many devices as are associated with the particular individual member's account, wherein the advertisements comprise the key data of the particular stationary vendor member.

41. The '068 Patent is generally directed towards a method and a system of creating a unique advertising platform for businesses through a proposed online membership network for businesses and individual consumer participants of the network.

42. An improvement in digital business advertising is achieved through linking individual members of the network with business members of the network by use of the physical interaction histories of the individual members with the business members.

43. The proposed invention requires the individual user to operate at least one mobile communication device on which software is installed and through which the individual user's physical location history can be recorded and stored.

44. The proposed invention further describes the proposed software to provide a user interface where the individual user can log in to their account and have access to the entries of the physical encounter history in a viewable, searchable and clickable manner.

45. Business members of the proposed network who have experienced a physical encounter with an individual user of the proposed network can have their business profile advertisement appear on the individual's location history interface.

46. Individual members of the network can also be served business advertisements of businesses who don't appear in the individual's location history, having not received a physical encounter from the individual, but are similar in profile to business advertisements of businesses which do appear on the individual's location history.

47. The business advertisement which is displayed on the individual user's location history interface contains the key data of the business.

48. Additionally, the business advertisement which is displayed on the individual's location history is in URL format, or on a webpage associated with a URL, through which the individual can click and access the businesses key data. If the business has a website the inter-networked advertisement may also contain a link to an external website of the business which the user can be redirected towards.

49. The '068 invention proports to eliminate the randomness of how digital advertising and business marketing on the world wide web is served, towards serving useful and relevant advertisements for individuals by employ of their past physical encounters with specific business enterprises.

50. This improvement in digital internet marketing is achieved through serving business advertisements for the individual consumer only for those physical establishment businesses towards which the consumer has shown a interest in, either by way of a personal visit to said physical establishment, or by way of the business being similar in profile to a business (or businesses) with which the individual consumer has experienced a physical encounter as evidenced by the business entries accumulated in their location history.

51. The '068 Patent was issued to Weisner and to Shmuel Nemanov ("Nemanov"). On or about July 9, 2019 Weisner and Nemanov executed an "Agreement Between Owners of Undivided Interests in the Patent" ("Agreement Between Owners"), under which Weisner, as the majority owner of the undivided interest in certain patents and patent applications including the application that matured into the '068 Patent, has exclusive rights to sue for patent infringement of the '068 Patent. A copy of the "Agreement Between Owners" was recorded on or about September 4, 2019 in the U.S. Patent & Trademark Office Assignment Records under Reel/Frame 050259/0564 and is attached herein to the Complaint as **Exhibit A**.

52. The '068 Patent is currently in full force and effect and has not expired or been abandoned, and there are no known prior adjudications of invalidity of any of the claims of the '068 Patent.

53. On December 8, 2020, the United States Patent and Trademark Office ("the USPTO") issued United States Patent No. 10,860,667, entitled Physical location history with key data using positioning system (the "'667 Patent"). A true and correct copy of the '667

Patent is attached to this Complaint as **Exhibit D**. Independent claims 1, 9, and 17 are exemplary claims of the '667 Patent.

54. Claim 1 states:

A method of

creating and/or using physical location histories, comprising: maintaining a processing system having access to a telecommunications network and configured to provide an account associated with a URL to an individual member of a member network and to a vendor member of the member network; providing an application that configures a mobile communication device of each individual member of the member network, the device in communication with the processing system, to, upon instances of a physical encounter between the individual member and the vendor member at a physical premises of the vendor member, a location of the physical encounter determined by a positioning system in communication with either the mobile communication device or a communication device of the vendor member, transmit to, or generate on, the processing system a location history entry of the physical encounter in at least the account of the individual member, that includes (i) key data, of, and a location of, the vendor member, and (ii) a time of the physical encounter, the key data being the URL of the vendor member or data associated with the URL of the vendor member, the application maintaining a viewable physical encounter history on the mobile communication device that, upon logging in to the individual member's account, is searchable by the time, by the data associated with the URL of the vendor member, and by the location of the vendor member, the URL associated with the account of the individual member before the physical encounter between the individual member and the vendor member; the physical encounter history includes key data from multiple vendor members and includes in at least one mode a visual timeline of physical encounters of a particular individual member, maintaining, on a database of the processing system, the physical encounter history, and physical encounter histories of other individual members, comprising, for each of the individual members, a location history of the physical encounters with vendor members, wherein the individual member's account is configured to allow the physical encounter history to be accumulated from multiple devices of the individual member over time.

55. Claim 9 of the '667 Patent recites:

A system

for creating and/or using physical location histories, comprising: a processing system having access to a telecommunications network and configured to provide an account associated with a URL to an individual member and to a stationary vendor member of a member network;

an application that configures a mobile

communication device of each individual member of the member network, the device in communication with the processing system, to, upon instances of a physical encounter between the individual member and the vendor member at a physical premises of the vendor member, a location of the physical encounter determined by a positioning system in communication with either the mobile communication device or a communication device of the vendor member, transmit to, or generate on, the processing system a location history entry of the physical encounter in at least the account of the individual member, that includes (i) key data of, and a location of, the vendor member, and (ii) a time of the physical encounter, the key data being the URL of the vendor member or data associated with the URL of the vendor member,

the application maintaining a viewable

physical encounter history on the mobile communication device that, upon logging in to the individual member's account, is searchable by the time, by the data associated with the URL of the vendor member, and by the location of the vendor member,

the URL associated with the account of the individual member

before the physical encounter between the individual member and the vendor member;

the physical encounter history includes key data from multiple vendor members

and includes in at least one mode a visual timeline of physical encounters of a particular individual member,

a database of the

processing system maintaining the physical encounter history, and physical encounter histories of other individual members, comprising, for each of the individual members, a location history of the physical encounters with vendor members, wherein the individual member's account is configured to allow the physical encounter history to be accumulated from multiple devices of the individual member over time

56. Claim 17 of the '667 Patent recites:

A non-

transitory computer-readable medium having stored thereon application executable by one or more hardware processors, the execution performing: configuring a mobile communication device that is in communication with a positioning system and a processing system to, upon instances of a physical encounter between an individual member of a member network who is mobile and has an account associated with a URL and a vendor member of the member network at a physical premises of the vendor member, a location of the physical encounter determined by a positioning system in communication with either the mobile communication device or a communication device of the vendor member, transmit to, or generate on, the processing system a location history entry of the physical encounter in at least the account of the individual member, that includes (i) key data of, and a location of, the vendor member, and (ii) a time of the physical encounter, the key data being the URL of the vendor member or data associated with the URL of the vendor member,

maintaining a viewable physical encounter history on the mobile communication device that, upon logging in to the individual member's account, is searchable by the time, by the data associated with the URL of the vendor member, and by the location of the vendor member, the physical encounter history including key data from multiple vendor members and includes in at least one mode a visual timeline of physical encounters of a particular individual member, the URL associated with the account of the individual member before the physical encounter between the individual member and the vendor member, wherein the individual member's account is configured to allow the physical encounter history to be accumulated from multiple devices of the individual member over time.

57. Dependent Claim 6 illustrates how the data collection process is member centric and oriented towards eliminating wholesale and indiscriminate collection of data, through allowing the members to confirm data entries prior to being entered in their location history.

58. Dependent claim 6 reads:

The method of claim 1, further comprising presenting the individual member with an option to confirm an entry of a physical encounter between the individual member and the vendor member into the physical encounter history. (Dependent Claim 6)

59. Dependent claim 7 and 8 further expound on additional advantages of the

independent claims in further detail.

60. Claim 7 and 8 state:

The method of claim 1, wherein the physical encounter history of the particular individual member viewable on the mobile communication device includes an advertisement of at least one of the vendor members, the advertisement comprising a location history entry in the location history. (Dependent Claim 7)

The method of claim 1, wherein the physical encounter history of the particular individual member viewable on the mobile communication device includes an advertisement of at least one of the vendor members, wherein the advertisement appears in the location history separate from any location history entry and is viewable on the mobile communication device. (Dependent Claim 8)

61. The '667 Patent is generally directed to a method and system of creating a membership network for individuals and businesses with one of the advantages of the proposed membership-only network being towards documenting and chronicling physical interactions between the business members and the individual members of the network.

62. The advantage of a membership only network is the elimination of the randomness and irrelevancy of data available over the world wide web.

63. The '667 patent proposes aggregating and collecting data exclusively and only from members who are participants in the network which can subsequently be used and manipulated in a number of highly inventive and innovative systems and methods, thus refining the data set and eliminating unwanted and irrelevant data.

64. Independent claims 1, 9, and 17 describe how the individual and business member network is achieved.

65. Dependent claims 7, and 8 describe some of the advantages of this membership-only network.

66. Dependent claim 7 proposes one advantage for a business to join the proposed network so that the member-businesses data can appear and function as an advertisement for the individual members through their location history.

67. Dependent claim 8 furthers the concept in providing privileges for the business

members who are participants in the proposed network to have their business advertisement appear on the individual members mobile communication device on a host of applications or software platforms, apart from the individual members location history, so long as the individual members location history contains an entry of an encounter with said business member of the network.

68. Additionally, the ‘667 patent is not limiting towards only displaying advertisements for businesses which appear in the individual’s location history. Advertisements for businesses which are similar in profile to a business which appears in the location history can also be served for the individual member of the network.

69. The ‘667 Patent was issued to Weisner and to Shmuel Nemanov (“Nemanov”). On or about July 9, 2019 Weisner and Nemanov executed an “Agreement Between Owners of Undivided Interests in the Patent” (“Agreement Between Owners”), under which Weisner, as the majority owner of the undivided interest in certain patents and patent applications including the application that matured into the ‘667 Patent, has exclusive rights to sue for patent infringement of the ‘667 Patent. A copy of the “Agreement Between Owners” was recorded on or about September 4, 2019 in the U.S. Patent & Trademark Office Assignment Records under Reel/Frame 050259/0564 and is attached herein to the Complaint as **Exhibit A**.

70. The ‘667 Patent is currently in full force and effect and has not expired or been abandoned, and there are no known prior adjudications of invalidity of any of the claims of the ‘667 Patent.

#### **Defendant Google’s Infringement of the ‘839 Patent**

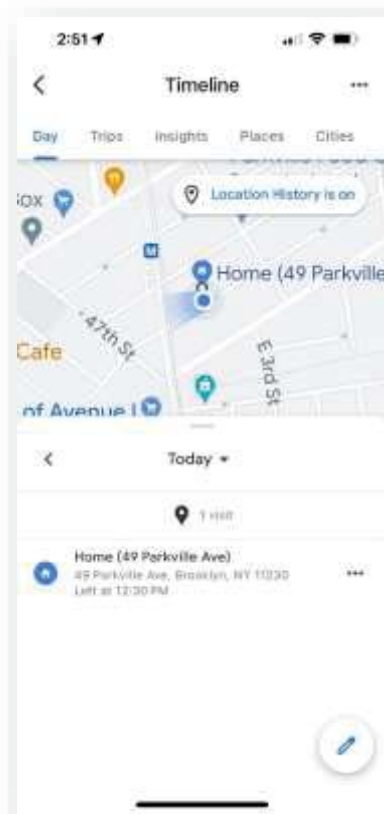
71. Google is making, using and/or selling a copycat method and/or system for mobile communication devices with location histories configured to link individual member to vendor members of network creating and/or using physical location histories as claimed in the ‘839 Patent.

72. Google literally infringes on all aspects and elements of claim 1 of the ‘839 Patent.

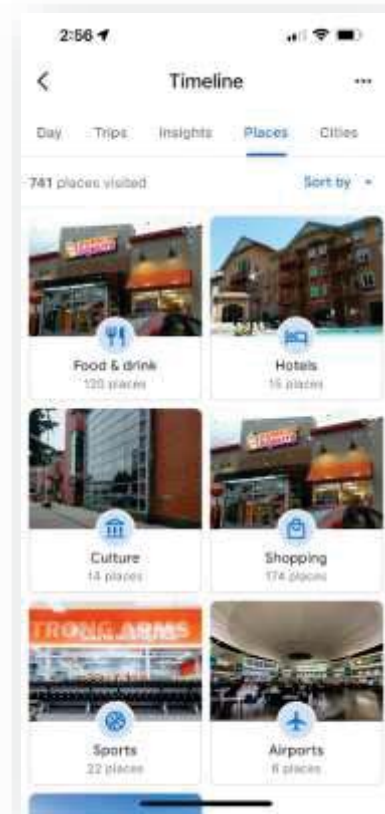
73. Google’s infringement of the ‘839 Patent occurs through its “Google Maps” feature.



74. As shown on the following page of the Complaint, “Google Maps” contains a “Your Timeline” and “Your Places” feature(s):

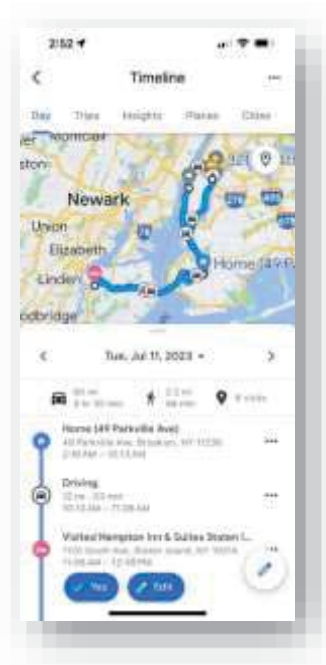


*Google Maps Timeline*



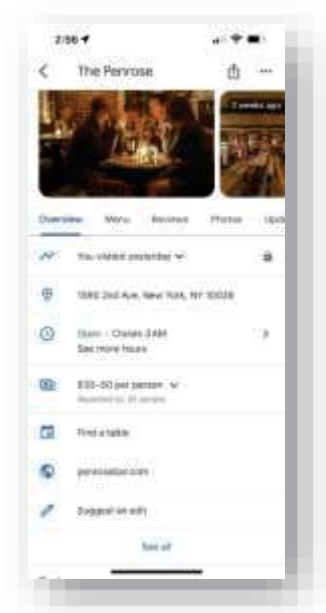
*"Your Places" Feature in Timeline*

75. As shown on the following page of the Complaint, “Your Timeline” and “Your Places” is Google’s software interfaces through which individual Google account members can access, search, and review their past location history:



76. Google Business Profile is a free business profile offered to Businesses who are members of the Google network.

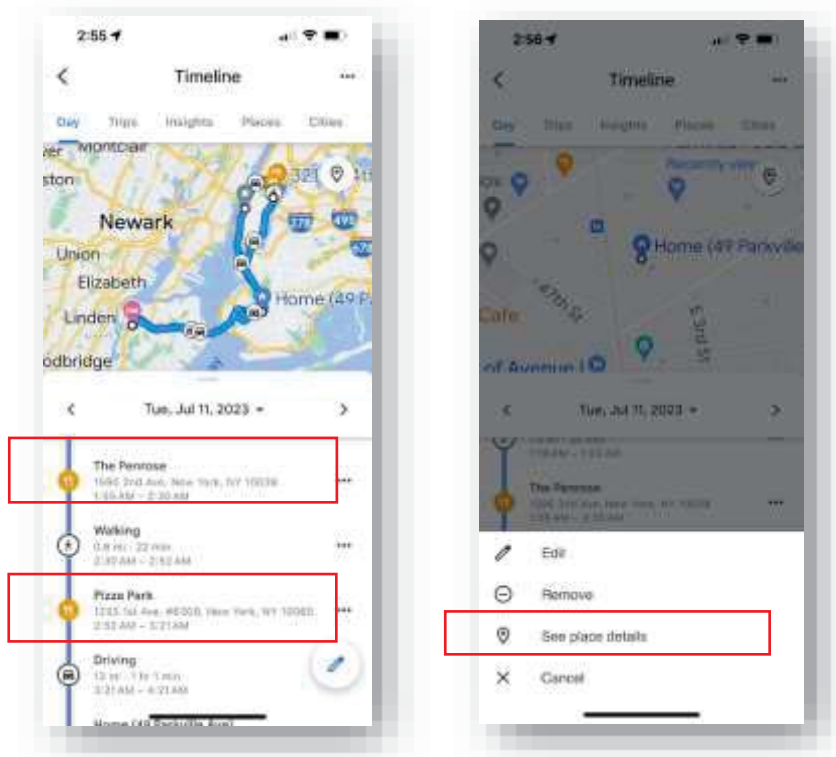
77. The Google Business profile contains the businesses key data:



**Business Advertisement for "The Penrose" with businesses key data present**

78. Through the “Your Timeline” and “Your Places” feature, individuals can view “Google Business” advertisement profiles with which they have had a previous physical

encounter with:



*Clicking on "See place details" leads the user to the business advertisement of the selected vendor member*

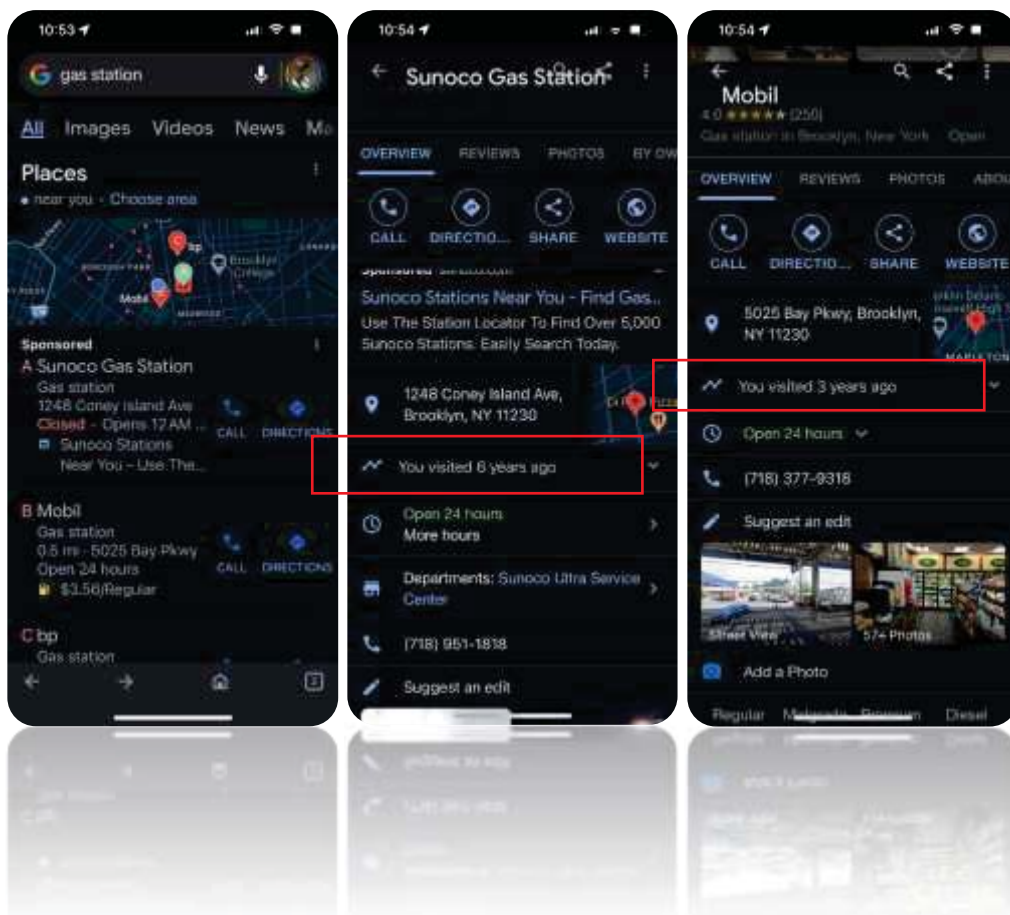
### **Defendant Google's Infringement of the '068 Patent**

79. Google is making, using and/or selling a copycat method and/or system towards targeting individuals for advertising through using their digital physical location histories.

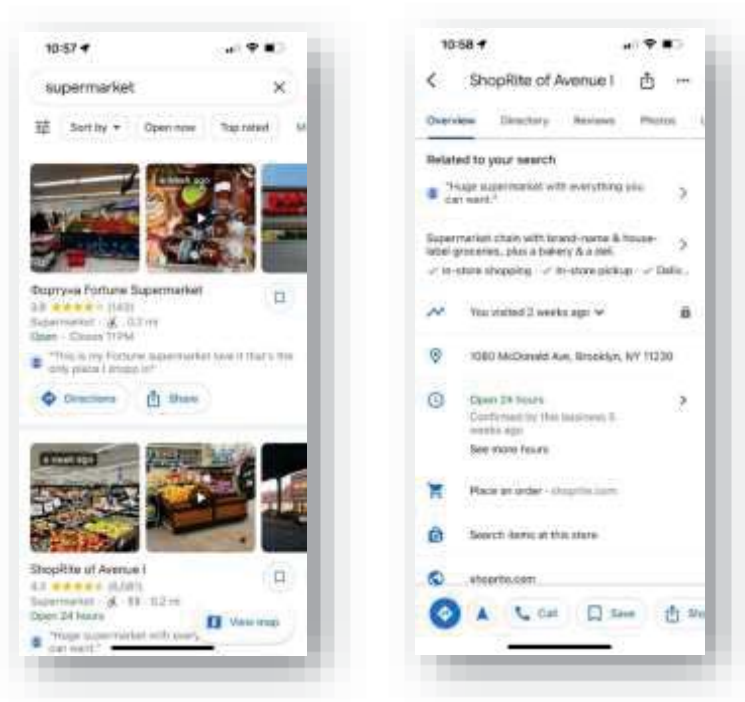
80. Google literally infringes all claims of the '068 Patent. Google's infringement of the '068 Patent occurs through its Google Maps feature. For example, Google Maps contains a "Your Timeline" and "Your Places" feature(s) that infringe the '068 Patent when Google's search engine provides search results to a mobile device or to a non-mobile device, and in doing so utilizes location history data obtained in connection with the Google Maps feature(s).

81. As shown below in the paragraph 81 (a),(b),(c) of the Complaint, as one non-limiting example, one of the ways Google infringes the '068 patent, is through serving business advertisements for individual Google account holders when they search for a business on "Google.com" or on "Google Maps" which is taken from the individuals location history:

a) Search on Google.com for a “gas station” produces an advertisement for a gas station which has experienced a previous physical encounter with the individual:

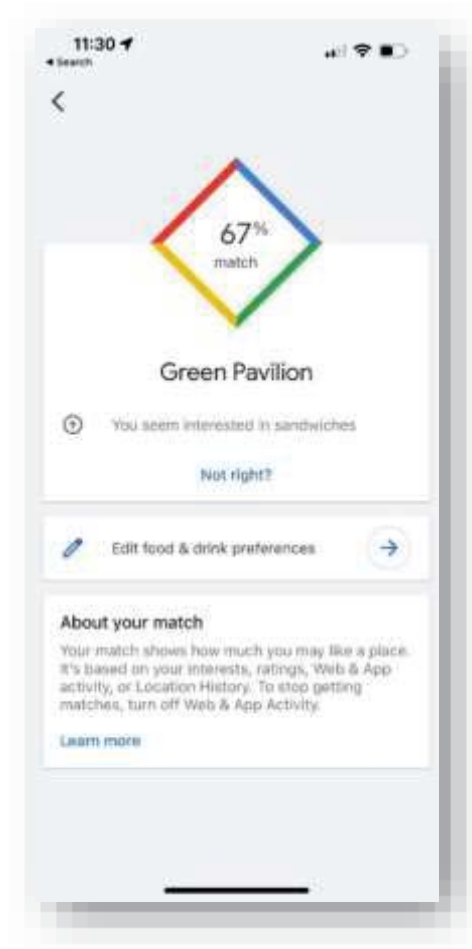


b) A search on “Google Maps” for the search phrase “supermarket” elicits a search result for a business advertisement which has previously been frequented by the searching individual:



c) Google is infringing on claim 1 of the '068 with serving advertisements to individuals, for businesses with which they have not had a physical encounter in the past but are similar in profile with a business with which they have experienced a physical encounter in the past:





82. As shown above in the preceding paragraph 81 (c) of the Complaint, “Green Pavilion” is a restaurant that has never received a visit from the individual member, nevertheless the ad for Green Pavilion appears in response to a search for “restaurants” because it is deemed to be a 67% match with what the individual is searching for. One of the parameters Google uses to rate business ads as potential matches is based on the individuals “location history”

### **Defendant Google’s Infringement of the ‘667 Patent**

83. Google is making, using and/or selling a copycat method and/or system for creating a member network for businesses and individuals with one component of this member network being utilized to link individual members to business members through business advertisements for the business members which appear on the individual members location history or on other platforms on their networked mobile devices.

84. Google literally infringes all the claims of the ‘667 Patent. Google’s infringement of the ‘667 Patent occurs through its Google Maps feature. For example, Google Maps contains a “Your Timeline” and “Your Places” feature(s) that infringe the ‘667 Patent. Google offers membership accounts for individuals and businesses alike.

85. The Google membership accounts can be customized via settings to interact with positioning systems through which interactions individual members have with businesses can be documented and displayed for the individual member in the “Your Timeline” of the individual member.

86. Google also offers member privileges to businesses who participate in the Google member network to have their business advertisement appear on software applications and Google webpages to which the individual member surfs.

#### **WEISNER’S NOTICE OF INFRINGEMENT TO GOOGLE**

87. Google is well aware of the ‘839 Patent and has continued its unauthorized infringing activity despite this knowledge. Weisner gave written notice to Google of its infringement of the ‘839 Patent on or about May 8, 2022.- As such, Google has continued to willfully, wantonly, and deliberately engage in acts of infringement of the ‘839 Patent permitting increased damages under 35 U.S.C. § 284, and attorneys’ fees and costs incurred under 35 U.S.C. § 285.

88. Google is well aware of the ‘068 Patent, and the ‘667 patent and has continued its unauthorized infringing activity of each despite this knowledge. Weisner gave written notice to Google of its infringement of the ‘068 patent on and about June 18, 2020 and of the ‘667 Patent on and about December 8, 2020.

89. The written notice identifies features used by Google that infringe the ‘068 Patent, and the ‘667 Patent. Google did not provide a refutation of infringement as to any claims of the ‘068 Patent, and the ‘667 Patent. As such, Google has continued to willfully, wantonly, and deliberately engage in acts of infringement of the ‘839 Patent, of the ‘068 Patent, and of the ‘667 Patent permitting increased damages under 35 U.S.C. § 284, and attorneys’ fees and costs incurred under 35 U.S.C. § 285.



90. As a result of Google's infringement of the '839, '068, and '667 Patents, Weisner has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law.

91. Google's infringement of the '839, '068, and '667 Patents causes harm to Weisner in the form of price erosion, loss of goodwill, damage to reputation, loss of business opportunities, inadequacy of money damages, and direct and indirect competition.

92. Monetary damages alone relating to the '839, '068, and '667 Patents are likely to be shown as insufficient to compensate Weisner for these harms. Accordingly, Weisner is entitled to injunctive relief against Google's future acts of infringement, including manufacture, sale, and importation.

93. Google's infringement of the '839, '068, and '667 Patent also has injured and continues to injure Weisner in an amount to be proven at trial, but not less than a reasonable royalty.

**Google's Knowledge of the '839, the '068, and the '667 Patents  
and Willful Patent Infringement**

94. Google has actual knowledge of and about the '839, '068, and '667 Patent and had such knowledge before the filing of the Complaint.

95. In his cease and desist letters sent to Google, Weisner informed Google that Google is infringing the claims of the '839, the '068, and '667 Patents if Google continues to make, use, offer to sell and/or sell its "Your Timeline" and "Your Places" feature(s) under Google Maps that literally infringe each and every one of the independent claims of the '839, the '068, and '667 patents as well as at least several of the dependent claims for each of the patents.

96. In his May 8, 2020 cease and desist letter Weisner informed Google that they were infringing on Claim 1 of the '839 patent, and advised them that they, ~~it~~ had "to cease and desist from making, using, selling, offering to sell in the United States, or importing into the United States, any features, methods, systems or devices that infringe any of the claims of the patent including ceasing and desisting from any further making, using, selling or offering to sell in the U.S., or importing into the U.S., of Google's "Your Timeline" feature under Google Maps or Google's "Your Places" feature under Google Maps" and that "failure to comply with the above would result in Google infringing the Patent Act at 35 U.S. Code § 271(a), a statute that

provides for damages for infringement in no event less than a reasonable royalty, including, where appropriate, increased damages up to three times the amount found or assessed, as well as injunctive relief, preliminary and permanent.”

97. Upon information and belief, Google also had knowledge of the ‘839, the ‘068, and the ‘667 patents prior to its receipt of the July 1, 2019 letter.

98. In sum, Google was aware of the ‘839, the ‘068, and the ‘667 Patents but intentionally embarked upon and continued its unauthorized infringing activity despite this knowledge.

99. Google has been making, using, offering for sale, and/or selling products that infringe the ‘839, the ‘068, and the ‘667 Patents, and, despite Weisner’s cease-and-desist letter and additional pre- suit communications, Google continues to do so in blatant and reckless disregard of Weisner’s patent rights.

100. Google has acted recklessly and continues to willfully, wantonly, and deliberately engage in acts of infringement of the ‘839, the ‘068, and the ‘667 Patents, justifying an award to Weisner of increased damages under 35 U.S.C. § 284, attorneys’ fees and costs incurred under 35 U.S.C. § 285, and other remedies that the Court may impose.

### **Count I**

#### **Direct Infringement of the ‘839 Patent Pursuant to 35 U.S.C. § 271(a)**

101. Weisner repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

102. Google has infringed and continues to infringe the independent claim of the ‘839 Patent in violation of 35 U.S.C. § 271(a).

103. Google’s infringement is based upon literal infringement or infringement under the doctrine of equivalents, or both.

### **Count II**

#### **Direct Infringement of the ‘068 Patent Pursuant to 35 U.S.C. § 271(a)**

104. Weisner repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

105. Google has infringed and continues to infringe claims 1- 30 of the ‘068 Patent in

violation of 35 U.S.C. § 271(a).

106. Google's infringement is based upon literal infringement or infringement under the doctrine of equivalents, or both.

### **Count III**

#### **Direct Infringement of the '667 Patent Pursuant to 35 U.S.C. § 271(a)**

107. Weisner repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

108. Google has infringed and continues to infringe claims 1-20 of the '667 Patent in violation of 35 U.S.C. § 271(a).

109. Google's infringement is based upon literal infringement or infringement under the doctrine of equivalents, or both.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Weisner requests judgment in his favor and relief as follows:

- A. An entry of judgment that Google has infringed and is infringing the '839 Patent, the '068 Patent, and the '667 Patent;
- B. A preliminary and permanent injunction against Google and its officers, employees, agents, servants, attorneys, instrumentalities, and/or those in privity with them, from infringing the '839 Patent, the '068 Patent, the '667 Patent, and for all further and proper injunctive relief pursuant to 35 U.S.C. §283;
- C. An award to Weisner of such past damages through the date of judgment, not less than a reasonable royalty, as he shall prove at trial or otherwise against Google in an amount adequate to fully compensate Weisner for Google's infringement of the '839 Patent, the '068 Patent, and the '667 Patent;
- D. A determination that Google's infringement has been willful, wanton, and deliberate and that the damages against Google be increased up to treble on this basis or for any other basis in accordance with the law;
- E. A finding that this case is "exceptional" and an award to Weisner of his costs and reasonable attorneys' fees, as provided by 35 U.S.C. § 285;
- F. An accounting of all infringing sales and revenues, together with post judgment interest and prejudgment interest and costs from the first date of infringement of the '839 Patent, the '068 Patent, and the '667 Patent; and

G. Such further and other relief as the Court may deem proper and just.

**DEMAND FOR JURY TRIAL**

Weisner demands a trial by jury of all issues so triable by right under Rule 38 of the Federal Rules of Civil Procedure.

Dated: September 14, 2023

Respectfully submitted



/s/ Jacob Ginsburg

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