

3. Plaintiff is the owner the Patent-in-Suit with respect to the Defendant, and possesses all right to enforce the Patent-in-Suit, including the right to sue the Defendant for infringement and recover past damages.

4. Upon information and belief, Defendant is a corporation duly organized and existing under the laws of the State of Delaware, having a place of business located at 1600 Amphitheatre Parkway, Mountain View, California 94043. Upon information and belief, Defendant does business through its website, play.google.com, which is accused of infringing the Patent-in-Suit. Defendant can be served via its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

JURISDICTION AND VENUE

5. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.* This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

6. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Delaware Long Arm Statute, due to having availed itself of the rights and benefits of the state of Delaware by engaging in activities including (i) incorporating under Delaware law; (ii) conducting substantial business in this forum; and (iii) engaging in other persistent courses of conduct, and/or deriving substantial revenue from services provided to individuals in Delaware, and this Judicial District.

7. More specifically, Defendant, directly and/or through its intermediaries, distributes, offers for sale, sells, and/or advertises (including the provision of an interactive web page) its services in the United States, the State of Delaware, and this Judicial District. Upon information and belief, Defendant has committed patent infringement in the State of Delaware

and in this District. Defendant solicits customers in the State of Delaware and in this District. On information and belief, Defendant has many paying customers who are residents of the State of Delaware and this District and who use Defendant's products and services in the State of Delaware and in this District.

8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b). On information and belief, Defendant resides in this Judicial District pursuant to 28 U.S.C. § 1391, and engages in activities including transacting business in this district and engaging in acts of infringement in this district.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 5,664,110

9. The '110 patent was duly and legally issued by the United States Patent and Trademark Office on September 2, 1997, after full and fair examination. Plaintiff is the owner under the '110 patent with respect to Defendant, and possesses all right, title and interest in the Patent-in-Suit including the right to enforce the Patent-in-Suit, and the right to sue Defendant for infringement and recover past damages.

10. Plaintiff is informed and believes that Defendant owns, operates, advertises, and controls its website, play.google.com, the operation of which infringes the '110 patent either literally or under the doctrine of equivalents. Upon information and belief, Defendant has infringed and continues to infringe one or more claims of the '110 patent by making, using, and providing a remote ordering terminal, associated with Defendant and its order processing system with attendant item codes, comprised of a user identifier means, a data entry device, a user-specific database, a storage memory, a communication means between the devices and terminal, and a command entry device, in this district and elsewhere in the United States through its website.

11. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

12. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, and interest and costs as fixed by this Court.

13. Defendant's infringement of Plaintiff's rights under the '110 patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

JURY DEMAND

14. Plaintiff demands a trial by jury on all issues.

PRAYER FOR RELIEF

Plaintiff respectfully requests the following relief:

A. An adjudication that one or more claims of the '110 patent have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;

B. An award to Plaintiff of damages adequate to compensate Plaintiff for Defendant's acts of infringement together with prejudgment interest;

C. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining Defendant from further acts of infringement with respect to the claims of the Patent-in-Suit;

D. That this Court declare this to be an exceptional case and award Plaintiff its reasonable experts' fees and attorneys' fees and costs in accordance with U.S.C. § 285; and,

E. Any further relief that this Court deems just and proper.

Dated: September 4, 2013

BAYARD, P.A.

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