

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

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|--|---|----------------------------|
| GraphOn Corporation, a Delaware Corporation, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Civil Action No. 2:08cv317 |
| |) | |
| Google Inc., a Delaware Corporation, |) | |
| |) | |
| Defendant. |) | |

COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL

Plaintiff, GraphOn Corporation, alleges the following in support of its Complaint for Patent Infringement and Demand for Jury Trial (“Complaint”) against Defendant Google Inc.

PARTIES

1. Plaintiff GraphOn Corporation (“GraphOn”) is a corporation organized and existing under the laws of the State of Delaware, and has its principal place of business at 5400 Soquel Avenue, Suite A2, Santa Cruz, California.

2. Upon information and belief, Defendant Google Inc. (“Google”) is a corporation duly organized and existing under the laws of the State of Delaware, having a place of business at 1600 Amphitheatre Parkway, Mountain View, CA 94043.

JURISDICTION

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. §§ 101, *et seq.* and 271, *et seq.* This Court has personal jurisdiction over Defendant because it infringes GraphOn's patents by offering online services on its websites to its users and/or customers who reside in, or may be found in, the Eastern District of Texas. Further, Defendant has actually transacted business with users of its websites in the Eastern District of Texas and has current users and customers from the area.

VENUE

4. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and 1400(b) because Defendant resides in this district, has committed acts of infringement in this district and, through its websites, has a regular and established place of business in this district.

GENERAL ALLEGATIONS

5. On November 27, 2001, United States Patent No. 6,324,538 ("the '538 Patent") entitled "Automated On-Line Information Service and Directory, Particularly for the World Wide Web" was duly and legally issued to Ralph E. Wesinger, Jr. and Christopher D. Coley. All rights and interest in the '538 Patent were assigned to GraphOn. A true and correct copy of the '538 Patent is attached hereto as Exhibit A.

6. On February 1, 2005, United States Patent No. 6,850,940 ("the '940 Patent") entitled "Automated On-Line Information Service and Directory, Particularly for the World Wide Web" was duly and legally issued to Ralph E. Wesinger, Jr. and Christopher D. Coley. All rights and interest in the '940 Patent were assigned to GraphOn. A true and correct copy of the '940 Patent is attached hereto as Exhibit B.

7. On April 11, 2006, United States Patent No. 7,028,034 (“the ‘034 Patent”) entitled “Method and Apparatus for Providing a Dynamically-Updating Pay-For-Service Web Site” was duly and legally issued to Ralph E. Wesinger, Jr. and Christopher D. Coley. All rights and interest in the ‘034 Patent were assigned to GraphOn. A true and correct copy of the ‘034 Patent is attached hereto as Exhibit C.

8. On September 11, 2007, United States Patent No. 7,269,591 (“the ‘591 Patent”) entitled “Method and Apparatus for Providing a Pay-For-Service Web Site” was duly and legally issued to Ralph E. Wesinger, Jr. and Christopher D. Coley. All rights and interest in the ‘591 Patent were assigned to GraphOn. A true and correct copy of the ‘591 Patent is attached hereto as Exhibit D.

COUNT 1

(Patent Infringement Against Google Inc.)

9. Paragraphs 1-8 of the Complaint set forth above are incorporated herein by reference.

10. Google offers on the website <http://base.google.com> an online service to allow its users to post searchable entries.

11. Google offers on the website <http://adwords.google.com> an online service to allow its customers to post searchable advertisements.

12. Google offers on the websites <https://www.blogger.com> an online service to allow its users to post searchable blogs.

13. Google offers on the website <https://sites.google.com> an online service to allow its users to post searchable websites.

14. Google offers on the website <http://www.youtube.com> an online service to allow its users to post searchable video media.

15. Upon information and belief, Google has infringed and continues to infringe under 35 U.S.C. § 271 the '538, '940, '034 and '591 patents ("the patents-in-suit"). The infringing acts include, but are not limited to, offering online services on the <http://base.google.com>, <http://adwords.google.com>, <https://www.blogger.com>, <https://sites.google.com> and <http://www.youtube.com> websites that are covered by one or more claims of at least one or more of the patents-in-suit.

16. Google's acts of infringement have caused damage to GraphOn. Under 35 U.S.C. § 284, GraphOn is entitled to recover from Google the damages sustained by GraphOn as a result of its infringement of the patents-in-suit. Google's infringement of GraphOn's exclusive rights under the patents-in-suit will continue to damage GraphOn's business, causing irreparable harm, for which there is no adequate remedy of law, unless enjoined by this Court under 35 U.S.C. § 283.

PRAYER FOR RELIEF

WHEREFORE, GraphOn respectfully requests that this Court enter judgment against Defendant as follows:

(a) For judgment that Defendant has infringed and continues to infringe the patents-in-suit.

(b) For permanent injunctions under 35 U.S.C. § 283 against Defendant and its directors, officers, employees, agents, subsidiaries, parents, attorneys, and all persons acting in concert, on behalf of, in joint venture, or in partnership with Defendant from further acts of infringement;

(c) For damages to be paid by Defendant adequate to compensate GraphOn for its infringement, including interests, costs and disbursements as the Court may deem appropriate under 35 U.S.C. § 284;

(d) For such other and further relief at law and in equity as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to the Federal Rules of Civil Procedure Rule 38, Plaintiff GraphOn Corporation hereby demands a jury trial on all issues triable by jury.

Dated: 08/13/08

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