

CIVIL COVER SHEET

JS 44 (Rev. 12/07) (CAND Rev 1/10)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS: INTERWOVEN, INC. DEFENDANTS: VERTICAL COMPUTER SOFTWARE, INC. (b) County of Residence of First Listed Plaintiff: (EXCEPT IN U.S. PLAINTIFF CASES) (c) Attorney's (Firm Name, Address, and Telephone Number): Bijal V. Vakil (SBN 192878) White & Case LLP 3000 El Camino Real, 5 Palo Alto Square, Floor 9, Palo Alto, CA 94306 Tel. 650.213.0303 Fax. 650.213.8158

ADP FILING

CV 10-4645

JL

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) 1 U.S. Government Plaintiff 2 U.S. Government Defendant 3 Federal Question (U.S. Government Not a Party) 4 Diversity (Indicate Citizenship of Parties in Item III) PTF DEF Citizen of This State 1 1 Incorporated or Principal Place of Business In This State 4 4 Citizen of Another State 2 2 Incorporated and Principal Place of Business In Another State 5 5 Citizen or Subject of a Foreign Country 3 3 Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) CONTRACT: 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment & Enforcement of Judgment, 151 Medicare Act, 152 Recovery of Defaulted Student Loans (Excl. Veterans), 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise. TORTS: PERSONAL INJURY: 310 Airplane, 315 Airplane Product Liability, 320 Assault, Libel & Slander, 330 Federal Employers' Liability, 340 Marine, 345 Marine Product Liability, 350 Motor Vehicle, 355 Motor Vehicle Product Liability, 360 Other Personal Injury. PRISONER PETITIONS: 510 Motions to Vacate Sentence, Habeas Corpus: 530 General, 535 Death Penalty, 540 Mandamus & Other, 550 Civil Rights, 555 Prison Condition. FORFEITURE/PENALTY: 610 Agriculture, 620 Other Food & Drug, 625 Drug Related Seizure of Property 21 USC 881, 630 Liquor Laws, 640 R.R. & Truck, 650 Airline Regs., 660 Occupational Safety/Health, 690 Other. LABOR: 710 Fair Labor Standards Act, 720 Labor/Mgmt. Relations, 730 Labor/Mgmt. Reporting & Disclosure Act, 740 Railway Labor Act, 790 Other Labor Litigation, 791 Empl. Ret. Inc. Security Act. IMMIGRATION: 462 Naturalization Application, 463 Habeas Corpus - Alien Detainee, 465 Other Immigration Actions. BANKRUPTCY: 422 Appeal 28 USC 158, 423 Withdrawal 28 USC 157. SOCIAL SECURITY: 861 HIA (1395ff), 862 Black Lung (923), 863 DIWC/DIWW (405(g)), 864 SSID Title XVI, 865 RSI (405(g)). FEDERAL TAX SUITS: 870 Taxes (U.S. Plaintiff or Defendant), 871 IRS-Third Party 26 USC 7609. OTHER STATUTES: 400 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit, 490 Cable/Sat TV, 810 Selective Service, 850 Securities/Commodities/Exchange, 875 Customer Challenge 12 USC 3410, 890 Other Statutory Actions, 891 Agricultural Acts, 892 Economic Stabilization Act, 893 Environmental Matters, 894 Energy Allocation Act, 895 Freedom of Information Act, 900 Appeal of Fee Determination Under Equal Access to Justice, 950 Constitutionality of State Statutes.

V. ORIGIN (Place an "X" in One Box Only) 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. §§2201-02 and 35 U.S.C. § 100 et seq. Brief description of cause: Action seeking declaratory judgment of invalidity and unenforceability re U.S. Patent 6,826,744 and 7,716,629

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION DEMAND 5 CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY) [] SAN FRANCISCO/OAKLAND [] SAN JOSE [] EUREKA

DATE: 10/14/2010 SIGNATURE OF ATTORNEY OF RECORD: [Signature]

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of California

INTERWOVEN, INC.

Plaintiff

v.

VERTICAL COMPUTER SYSTEMS, INC.

Defendant

Civil Action No.

CV 10- 4645

E-FILING

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Vertical Computer Systems, Inc.
101 W. Renner Road, Suite 300, Richardson, TX 75082

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Registered Agents:
c/o Vcorp Services, LLC & c/o William Kenneth Mills
10101 Fondren Road, Suite 515 865 South Figueroa Street, Suite 3
Houston, TX 77096 Los Angeles, CA 90017

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Bijal V. Vakil
White & Case LLP
3000 El Camino Real
5 Palo Alto Square, Floor 9
Palo Alto, CA 94306
Tel. 650.213.0300

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: 10/14/10

Signature of Clerk or Deputy Clerk

Sandy Morris

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ADR

E-FILING

ORIGINAL FILED

OCT 14 2010

Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

8 ATTORNEYS FOR PLAINTIFF
INTERWOVEN, INC.

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11

WHITE & CASE LLP
ATTORNEYS AT LAW

12 _____
13 INTERWOVEN, INC.,

14 Plaintiff,

15 vs.

16 VERTICAL COMPUTER SYSTEMS, INC.
17

18 Defendant.
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CV 10- 4645
Civil Case No.:

COMPLAINT FOR DECLARATORY
JUDGMENT

JL

JURY DEMAND

1 Plaintiff Interwoven, Inc. (“Interwoven”) for its Complaint against Defendant Vertical
2 Computer Systems, Inc. (“Vertical”), alleges:

3 **NATURE OF THE ACTION**

4 1 This is an action for declaratory judgment of invalidity , unenforceability
5 and non-infringement of United States Patent Nos. 6,826,744 (“the ’744 patent”) (attached hereto
6 as Exhibit A) and 7,716,629 (the “the ’629 patent”) (attached hereto as Exhibit B), pursuant to the
7 Declaratory Judgment Act, 28 U.S.C. §§2201-02, and the patent laws of the United States, 35
8 U.S.C. § 100 *et seq.*, and for such other relief as the Court deems just and proper.

9 **THE PARTIES**

10 2 Plaintiff Interwoven is a corporation duly organized and existing under the
11 laws of the State of Delaware. Interwoven is registered to do business in California and has a
12 principal place of business at 160 East Tasman Drive, San Jose, CA 95134.

13 3 Upon information and belief, Defendant Vertical is a Delaware corporation
14 with a principal place of business at 101 W. Renner Road, Suite 300, Richardson, TX 75082.
15 Upon information and belief, Vertical’s agent of service is Vcorp Services, LLC, and is located at
16 10101 Fondren Road, Suite 515, Houston, TX 77096.

17 **EXISTENCE OF AN ACTUAL CONTROVERSY**

18 4 There is an actual controversy within the jurisdiction of this Court under 28
19 U.S.C. §§2201 and 2202.

20 5 Vertical purports to be the owner of all rights, title and interest in and to the
21 ’744 patent and the ’629 patent (collectively, “patents-in-suit”).

22 6 On or about January 12, 2009, Vertical contacted Interwoven, Inc.
23 (“Interwoven”), taking the position that the ’744 patent contains claims that it believes “cover”
24 Interwoven’s “TeamSite Team XM2, TeamSite Server and TeamSite Live Lite Content
25 Publishing Server products.”

26 7 On or about August 12, 2010, Vertical contacted Interwoven taking the
27 position that the claims of the ’744 patent “cover” Interwoven’s TeamSite 2006 product. It also
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ATTORNEYS AT LAW

1 took the position that the '629 patent that issued on May 11, 2010, entitled "System and Method
2 for Generating Web Sites in an Arbitrary Object Framework," which issued to Vertical from a
3 continuation of the application for the '744 patent, "covers" the TeamSite 2006 product.

4 8 Based upon the above facts, there is an actual and justiciable controversy
5 within the jurisdiction of this Court under 28 U.S.C. §§ 2201 and 2202.

6 **JURISDICTION AND VENUE**

7 9 Plaintiff files this complaint against Vertical pursuant to the patent laws of
8 the United States, Title 35 of the United States Code, with a specific remedy sought based upon
9 the laws authorizing actions for declaratory judgment in the federal courts of the United States, 28
10 U.S.C. §§ 2201 and 2202.

11 10 This Court has subject matter jurisdiction over this action, which arises
12 under the patent laws of the United States, pursuant to 28 U.S.C. §§ 1331, 1338(a), and 2201.

13 11 Venue in this District is proper under 28 U.S.C. §§ 1391 and 1400.

14 12 All of the communications described above were sent to Interwoven at its
15 offices in the Northern District of California.

16 13 In addition to Vertical's directing its allegation of infringement to
17 Interwoven (and its successors-in-interest) at its offices in the Northern District of California, on
18 information and belief, Vertical has repeated, ongoing, extensive, and deliberate contacts with
19 California:

20 A From 2000 through at least mid-2004, Vertical was based in California at
21 6336 Wilshire Boulevard, Los Angeles, CA 90048.

22 B Vertical maintains a registered agent for service of process in California.
23 William Kenneth Mills of 865 South Figueroa Street, Suite 3200, Los Angeles, CA 90017 who
24 has been a director of Vertical since December 2000 and is listed as Vertical's agent for service of
25 process in California.

26 C Based on publicly available information, Vertical is actively acquiring the
27 business and assets of California companies. On May 21, 2010, Vertical Healthcare Solutions,
28

1 Inc., a company wholly-owned by Vertical, purchased the business and substantially all the assets
2 of Pelican Applications, LLC, a California Limited Liability Company.

3 D Based on publicly available information, Vertical has two California-based
4 subsidiaries. Vertical Internet Solutions, Inc. and Pointmail.com, Inc. that are California
5 corporations, and are wholly-owned subsidiaries of Vertical.

6 E Based on publicly available information, Vertical has a royalty interest in
7 TranStar, based in Claremont, CA. TranStar is a systems integrator and consulting firm. Vertical
8 is entitled to receive 3% of any transaction fees generated by TranStar in perpetuity.

9 F Based on publicly available information, Vertical also has a distribution
10 agreement with TranStar, based in Claremont, CA to market Vertical's products.

11 G Vertical maintains a website (www.vcsy.com) that advertises its products,
12 including SiteFlash, ResponseFlash, emPath, and Emily Solutions. These products are the subject
13 of the distribution agreement with TranStar, outlined above, based on publicly available
14 information. The website solicits both customers, through its product and service advertisements
15 and investors, through its investor relations section. It further provides contact information for
16 Vertical for both customers and investors and an interactive form for submitting questions
17 including for residents of California.

18 **FIRST CLAIM**

19 **DECLARATORY JUDGMENT REGARDING THE '774 PATENT**

20 14 The Plaintiff hereby restates and realleges the allegations set forth in
21 paragraphs 1 through 13 and incorporates them by reference.

22 15 No valid, and enforceable, claim of the '744 patent is infringed by the
23 Plaintiff.

24 **SECOND CLAIM**

25 **DECLARATORY JUDGMENT REGARDING THE '629 PATENT**

26 16 The Plaintiff hereby restates and realleges the allegations set forth in
27 paragraphs 1 through 15 and incorporates them by reference.

1 17 No valid and enforceable claim of the '629 patent is infringed by Plaintiff.

2 **PRAAYER FOR RELIEF**

3 WHEREFORE, the Plaintiff prays for judgment as follows:

4
5 18 Declaring that no valid, and enforceable, claim of the patents-in-suit is
6 infringed by Plaintiff;

7 19 Declaring that Vertical and each of its officers, employees, agents, alter
8 egos, attorneys, and any persons in active concert or participation with them be restrained and
9 enjoined from further prosecuting or instituting any action against the Plaintiff claiming that the
10 patents-in-suit are valid, enforceable, or infringed, or from representing that the products or
11 services of the Plaintiff infringe the patents-in-suit;

12 20 A judgment declaring this case exceptional under 35 U.S.C. § 285 and
13 awarding Plaintiff its attorneys' fees and costs in connection with this case;

14 21 Awarding Plaintiff such other and further relief as the Court deems just and
15 proper.

16 Dated: October 14, 2010

17 Respectfully submitted,

18 By: Bijal V. Vakil
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26 ATTORNEYS FOR PLAINTIFF
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ATTORNEYS AT LAW