UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

I/P ENGINE, INC. Plaintiff, v. AOL, INC., *et al.*, Defendants.	Civil Action No. 2:11-cv-512

DEFENDANT TARGET CORPORATION'S FIRST AMENDED ANSWER, DEFENSES AND COUNTERCLAIMS TO PLAINTIFF I/P ENGINE, INC.'S COMPLAINT

Defendant Target Corporation ("Target"), by and through its undersigned counsel, hereby answers Plaintiff I/P Engine, Inc.'s ("I/P Engine") Complaint ("Complaint").

NATURE OF ACTION

1. Target admits that this purports to be an action for infringement of U.S. Patent Nos. 6,314,420 ("the '420 patent") and 6,775,664 ("the '664 patent"). Target is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 1 and, on that basis, denies them. To the extent that the allegations set forth in paragraph 1 relate to other defendants, such allegations require no response from Target.

JURISDICTION AND VENUE

2. Target admits that Plaintiff's claims purport to arise under the United States Patent Act, but denies that such claims have merit.

3. Target does not contest that the Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

4. Target does not contest personal jurisdiction in this District for this case. Target denies infringing the ‘420 and ‘664 patent. In addition, to the extent that the remaining allegations set forth in paragraph are directed to Target, Target denies the remaining allegations in paragraph 4. To the extent that the allegations set forth in paragraph 4 relate to other defendants, such allegations require no response from Target.

5. Target does not contest venue in this District for this case. Target denies infringing the '420 and '664 patent. In addition, to the extent that the remaining allegations set forth in paragraph are directed to Target, Target denies the remaining allegations in paragraph 5. To the extent that the allegations set forth in paragraph 5 relate to other defendants, such allegations require no response from Target.

PARTIES

6. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 6 and, on that basis, denies them.

7. The allegations of paragraph 7 of the Complaint are not directed to Target, and therefore no answer is required.

8. The allegations of paragraph 8 of the Complaint are not directed to Target, and therefore no answer is required.

9. The allegations of paragraph 9 of the Complaint are not directed to Target, and therefore no answer is required.

10. The allegations of paragraph 10 of the Complaint are not directed to Target, and therefore no answer is required.

11. Target admits that it is a corporation organized under the laws of the State of Minnesota, with its corporate headquarters and principal place of business at 1000 Nicollet Mall,

Minneapolis, Minnesota 55403. Target admits that residents of this District use Target's website[s].

FACTUAL BACKGROUND

The Inventors' Involvement in Early Search Companies

12. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 12 and, on that basis, denies them.

13. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 13 and, on that basis, denies them.

14. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 14 and, on that basis, denies them.

15. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 15 and, on that basis, denies them.

16. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 16 and, on that basis, denies them.

17. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 17 and, on that basis, denies them.

18. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 18 and, on that basis, denies them.

19. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 19 and, on that basis, denies them.

20. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 20 and, on that basis, denies them.

21. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 21 and, on that basis, denies them.

22. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 22 and, on that basis, denies them.

23. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 23 and, on that basis, denies them.

24. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 24 and, on that basis, denies them.

25. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 25 and, on that basis, denies them.

The Search Engine Industry

26. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 26 and, on that basis, denies them.

27. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 27 and, on that basis, denies them.

28. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 28 and, on that basis, denies them.

29. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 29 and, on that basis, denies them.

30. Target lacks sufficient information to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 30 and, on that basis, denies them.

The '420 and '664 Patents

Development of the Search Engine Industry

31. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 31 and, on that basis, denies them.

32. Target admits the ‘420 patent is directed to search engines. Target denies any remaining allegations in paragraph 32.

33. Target admits the '664 patent is related to the '420 patent and relates to search engines. Target denies any remaining allegations in paragraph 33.

34. Target denies incorporating any technology claimed by the ‘420 and ‘664 patents into any of its products. To the extent that the allegations set forth in paragraph 34 are not directed to Target, no answer is required. Target lacks sufficient information to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 34 and, on that basis, denies them.

35. Target denies each and every allegation of paragraph 35 of the Complaint.

36. Target admits that claim 10 of the '420 patent includes the following language: “A search engine system comprising: a system for scanning a network to make a demand search for informons relevant to a query from an individual user; a content-based filter system for receiving the informons from the scanning system and for filtering the informons on the basis of applicable content profile data for relevance to the query; and a feedback system for receiving collaborative feedback data from system users relative to informons considered by such users; the filter system combining pertaining feedback data from the feedback system with the content profile data in filtering each informon for relevance to the query.” Target denies any remaining allegations in paragraph 36.

37. Target denies that Target products use the Lang/Kosak Relevance Filtering Technology. In addition, to the extent that the allegations set forth in paragraph are directed to Target, Target denies the remaining allegations in paragraph 37. To the extent that the allegations set forth in paragraph 37 are not directed to Target, no answer is required.

38. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 38 and, on that basis, denies them.

Development of the Search Engine Industry

39. Paragraph 39 does not include a citation for the quotation. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 39 and, on that basis, denies them.

40. Paragraph 40 does not include a citation for the quotation. Target lacks sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 40 and, on that basis, denies them.

41. Target denies that Target products use the Lang/Kosak Relevance Filtering Technology. Target also denies marketing its search advertising systems based on the features of the Lang/Kosak Relevance Filtering Technology. In addition, to the extent that the allegations set forth in paragraph 41 are directed to Target, Target denies the remaining allegations in paragraph 41. To the extent that the allegations set forth in paragraph 41 are not directed to Target, no answer is required.

Google's Use of the Patented Technology

42. The allegations of paragraph 42 of the Complaint are not directed to Target, and therefore no answer is required.

43. The allegations of paragraph 43 of the Complaint are not directed to Target, and therefore no answer is required.

44. The allegations of paragraph 44 of the Complaint are not directed to Target, and therefore no answer is required.

45. The allegations of paragraph 45 of the Complaint are not directed to Target, and therefore no answer is required.

46. The allegations of paragraph 46 of the Complaint are not directed to Target, and therefore no answer is required.

47. The allegations of paragraph 47 of the Complaint are not directed to Target, and therefore no answer is required.

Google's Knowledge of the Patented Technology

48. The allegations of paragraph 48 of the Complaint are not directed to Target, and therefore no answer is required.

49. The allegations of paragraph 49 of the Complaint are not directed to Target, and therefore no answer is required.

50. The allegations of paragraph 50 of the Complaint are not directed to Target, and therefore no answer is required.

51. The allegations of paragraph 51 of the Complaint are not directed to Target, and therefore no answer is required.

52. The allegations of paragraph 52 of the Complaint are not directed to Target, and therefore no answer is required.

53. The allegations of paragraph 53 of the Complaint are not directed to Target, and therefore no answer is required.

AOL's Use of the Patented Technology

54. The allegations of paragraph 54 of the Complaint are not directed to Target, and therefore no answer is required.

55. The allegations of paragraph 55 of the Complaint are not directed to Target, and therefore no answer is required.

56. The allegations of paragraph 56 of the Complaint are not directed to Target, and therefore no answer is required.

57. The allegations of paragraph 57 of the Complaint are not directed to Target, and therefore no answer is required.

58. The allegations of paragraph 58 of the Complaint are not directed to Target, and therefore no answer is required.

59. The allegations of paragraph 59 of the Complaint are not directed to Target, and therefore no answer is required.

60. The allegations of paragraph 60 of the Complaint are not directed to Target, and therefore no answer is required.

AOL's Knowledge of the Patented Technology

61. The allegations of paragraph 61 of the Complaint are not directed to Target, and therefore no answer is required.

62. The allegations of paragraph 62 of the Complaint are not directed to Target, and therefore no answer is required.

63. The allegations of paragraph 63 of the Complaint are not directed to Target, and therefore no answer is required.

64. The allegations of paragraph 64 of the Complaint are not directed to Target, and therefore no answer is required.

65. The allegations of paragraph 65 of the Complaint are not directed to Target, and therefore no answer is required.

IAC's Use of the Patented Technology

66. The allegations of paragraph 66 of the Complaint are not directed to Target, and therefore no answer is required.

67. The allegations of paragraph 67 of the Complaint are not directed to Target, and therefore no answer is required.

68. The allegations of paragraph 68 of the Complaint are not directed to Target, and therefore no answer is required.

69. The allegations of paragraph 69 of the Complaint are not directed to Target, and therefore no answer is required.

70. The allegations of paragraph 70 of the Complaint are not directed to Target, and therefore no answer is required.

71. The allegations of paragraph 71 of the Complaint are not directed to Target, and therefore no answer is required.

Others that Use the Patented Technology

72. To the extent the allegations in paragraph 72 are directed to Target, Target denies the allegations in paragraph 72. To the extent the allegations of paragraph 72 of the Complaint are not directed to Target, no answer is required.

73. Target denies that its e-commerce website[s] uses the Lang/Kosak Relevance Filtering Technology. To the extent the allegations of paragraph 73 of the Complaint are not directed to Target, no answer is required. Target denies any remaining allegations in paragraph 73 of the Complaint.

74. Target admits that its e-commerce website[s] displays advertisements alongside its product search results.

75. Target admits that its website[s] use a Google search engine and allow advertisements to be shown on its website[s] in connection with searches performed through its website[s]. Target denies that any of the functionality on its website[s] uses the Lang/Kosak Relevance Filtering Technology. Target denies that the allegations of paragraph 75 of the Complaint provide a full and complete description of how advertisements are analyzed or ranked on Target's website[s]. Target denies any remaining allegations in paragraph 75 of the Complaint.

76. The allegations of paragraph 76 of the Complaint are not directed to Target, and therefore no answer is required.

77. The allegations of paragraph 77 of the Complaint are not directed to Target, and therefore no answer is required.

FIRST CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 6,314,420)

78. Target incorporates by reference its responses contained in paragraphs 1 through 77 above.

79. Target admits that the '420 patent appears on its face to be entitled "Collaborative/Adaptive Search Engine." In addition, Target admits that the patent on its face states that the named inventors of the '420 patent are Messrs Andrew K. Lang and Donald M. Kosak. Target also admits that what appears to be a true and correct copy of the '420 patent was attached as Exhibit A. Target lacks sufficient information to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 79 and, on that basis, denies them.

80. The allegations of paragraph 80 of the Complaint are not directed to Target, and therefore no answer is required.

81. The allegations of paragraph 81 of the Complaint are not directed to Target, and therefore no answer is required.

82. The allegations of paragraph 82 of the Complaint are not directed to Target, and therefore no answer is required.

83. The allegations of paragraph 83 of the Complaint are not directed to Target, and therefore no answer is required.

84. The allegations of paragraph 84 of the Complaint are not directed to Target, and therefore no answer is required.

85. The allegations of paragraph 85 of the Complaint are not directed to Target, and therefore no answer is required.

86. The allegations of paragraph 86 of the Complaint are not directed to Target, and therefore no answer is required.

87. The allegations of paragraph 87 of the Complaint are not directed to Target, and therefore no answer is required.

88. The allegations of paragraph 88 of the Complaint are not directed to Target, and therefore no answer is required.

89. The allegations of paragraph 89 of the Complaint are not directed to Target, and therefore no answer is required.

90. The allegations of paragraph 90 of the Complaint are not directed to Target, and therefore no answer is required.

91. The allegations of paragraph 91 of the Complaint are not directed to Target, and therefore no answer is required.

92. The allegations of paragraph 92 of the Complaint are not directed to Target, and therefore no answer is required.

93. The allegations of paragraph 93 of the Complaint are not directed to Target, and therefore no answer is required.

94. The allegations of paragraph 94 of the Complaint are not directed to Target, and therefore no answer is required.

95. The allegations of paragraph 95 of the Complaint are not directed to Target, and therefore no answer is required.

96. The allegations of paragraph 96 of the Complaint are not directed to Target, and therefore no answer is required.

97. The allegations of paragraph 97 of the Complaint are not directed to Target, and therefore no answer is required.

98. Target denies the allegations in paragraph 98 of the Complaint.

99. Target denies the allegations in paragraph 99 of the Complaint.

100. Target denies the allegations in paragraph 100 of the Complaint.

101. Target admits that the Complaint contains reference to the '420 patent. Target denies the remaining allegations in paragraph 101.

102. Target admits that the Complaint contains reference to the '420 patent. Target denies the remaining allegations in paragraph 102.

103. To the extent the allegations in paragraph 103 of the Complaint are directed to Target, Target denies the allegations in paragraph 103. To the extent the allegations in paragraph 103 of the Complaint are not directed to Target, no answer is required.

104. To the extent the allegations in paragraph 104 of the Complaint are directed to Target, Target denies the allegations in paragraph 104. To the extent the allegations in paragraph 104 of the Complaint are not directed to Target, no answer is required.

105. To the extent the allegations in paragraph 105 of the Complaint are directed to Target, Target denies the allegations in paragraph 105. To the extent the allegations in paragraph 105 of the Complaint are not directed to Target, no answer is required.

SECOND CLAIM FOR RELIEF
(Infringement of U.S. Patent NO. 6,775,664)

106. Target incorporates by reference its responses contained in paragraphs 1 through 105 above.

107. Target admits that the '664 patent appears on its face to be entitled "Information Filter System and Method for Integrated Content-based and Collaborative/Adaptive Feedback Queries." In addition, Target admits that the patent on its face states that the named inventors of the '664 patent are Messrs Andrew K. Lang and Donald M. Kosak. Target also admits that what appears to be a true and correct copy of the '664 patent was attached as Exhibit B. Target lacks sufficient information to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 107 and, on that basis, denies them.

108. The allegations of paragraph 108 of the Complaint are not directed to Target, and therefore no answer is required.

109. The allegations of paragraph 109 of the Complaint are not directed to Target, and therefore no answer is required.

110. The allegations of paragraph 110 of the Complaint are not directed to Target, and therefore no answer is required.

111. The allegations of paragraph 111 of the Complaint are not directed to Target, and therefore no answer is required.

112. The allegations of paragraph 112 of the Complaint are not directed to Target, and therefore no answer is required.

113. The allegations of paragraph 113 of the Complaint are not directed to Target, and therefore no answer is required.

114. The allegations of paragraph 114 of the Complaint are not directed to Target, and therefore no answer is required.

115. The allegations of paragraph 115 of the Complaint are not directed to Target, and therefore no answer is required.

116. The allegations of paragraph 116 of the Complaint are not directed to Target, and therefore no answer is required.

117. The allegations of paragraph 117 of the Complaint are not directed to Target, and therefore no answer is required.

118. The allegations of paragraph 118 of the Complaint are not directed to Target, and therefore no answer is required.

119. The allegations of paragraph 119 of the Complaint are not directed to Target, and therefore no answer is required.

120. The allegations of paragraph 120 of the Complaint are not directed to Target, and therefore no answer is required.

121. The allegations of paragraph 121 of the Complaint are not directed to Target, and therefore no answer is required.

122. The allegations of paragraph 122 of the Complaint are not directed to Target, and therefore no answer is required.

123. The allegations of paragraph 123 of the Complaint are not directed to Target, and therefore no answer is required.

124. The allegations of paragraph 124 of the Complaint are not directed to Target, and therefore no answer is required.

125. The allegations of paragraph 125 of the Complaint are not directed to Target, and therefore no answer is required.

126. The allegations of paragraph 126 of the Complaint are not directed to Target, and therefore no answer is required.

127. The allegations of paragraph 127 of the Complaint are not directed to Target, and therefore no answer is required.

128. Target denies the allegations of paragraph 128 of the Complaint.

129. Target denies the allegations of paragraph 129 of the Complaint.

130. Target denies the allegations of paragraph 130 of the Complaint.

131. Target admits that the Complaint contains reference to the '664 patent. Target denies the remaining allegations in paragraph 131.

132. Target admits that the Complaint contains reference to the '664 patent. Target denies the remaining allegations in paragraph 132.

133. To the extent the allegations in paragraph 133 of the Complaint are directed to Target, Target denies the allegations in paragraph 133. To the extent the allegations in paragraph 103 of the Complaint are not directed to Target, no answer is required.

134. To the extent the allegations in paragraph 134 of the Complaint are directed to Target, Target denies the allegations in paragraph 134. To the extent the allegations in paragraph 134 of the Complaint are not directed to Target, no answer is required.

135. To the extent the allegations in paragraph 135 of the Complaint are directed to Target, Target denies the allegations in paragraph 135. To the extent the allegations in paragraph 135 of the Complaint are not directed to Target, no answer is required.

DEMAND FOR JURY TRIAL

136. Target admits that plaintiff has requested a trial by jury, and joins in that demand.

PRAYER FOR RELIEF

1. Target denies that it has infringed at least one claim of the ‘420 or ‘664 patents and that Plaintiff is entitled to any relief.

2. Target denies that Plaintiff is entitled to any damages

3. Target denies that Plaintiff is entitled to costs and attorneys' fees.

4. Target denies that Plaintiff is entitled to any further relief.

DEFENSES

137. Without admitting or acknowledging that it bears the burden of proof as to any of them, Target asserts the following affirmative and other defenses.

FIRST DEFENSE
Non-Infringement of the I/P Engine patents

138. Target has not infringed, and is not infringing, any valid claim of the '420 patent or the '664 patent (collectively, the “I/P Engine patents”).

SECOND DEFENSE
Invalidity and/or Enforceability of the I/P Engine patents

139. The claims of the I/P Engine patents are invalid for failure to satisfy one or more conditions of patentability set forth in Title 35 of the United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103 and/or 112.

THIRD DEFENSE
Laches/Estoppel

140. On information and belief, Plaintiff's claims are barred, in whole or in part, by the equitable doctrines of laches and estoppel.

FOURTH DEFENSE
Limitation on Damages and Recovery

141. Plaintiff's ability to recover damages is limited by the provisions of 35 U.S.C. §§ 286-287.

TARGET'S COUNTERCLAIMS FOR DECLARATORY RELIEF

Target, for its counterclaims against Plaintiff I/P Engine, states and alleges as follows:

NATURE OF THE ACTION

142. These counterclaims seek declaratory judgments of non-infringement and invalidity of the '420 and '664 patents asserted by I/P Engine in this action. Target seeks judgment under the patent laws of the United States, 35 U.S.C. § 101 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. § 2201, 2202.

PARTIES

143. Target is a corporation organized under the laws of the State of Minnesota, with its corporate headquarters and principal place of business at 1000 Nicollet Mall, Minneapolis, Minnesota 55403.

144. I/P Engine has alleged that it is a corporation organized and existing under the laws of the Commonwealth of Virginia, with its principal place of business in New York, New York.

JURISDICTION AND VENUE

145. This Court has subject matter jurisdiction over these counterclaims pursuant to 28 U.S.C. §§ 1331, 1338, the patent laws of the United States, 35 U.S.C. §§ 101 et seq., and the Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202.

146. Plaintiff I/P Engine has consented to personal jurisdiction of this Court by commencing its action for patent infringement in this Court.

147. To the extent the action initiated by I/P Engine's Complaint is adjudicated in this District, venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c).

148. The '420 patent was issued by the United States Patent and Trademark Office on November 6, 2001. Plaintiff I/P Engine, based on averments in its Complaint, claims to be the assignee of the '420 patent and claims to hold the right to sue and recover for past, present, and future infringement thereof. Plaintiff I/P Engine also claims that Target has infringed the '420 patent.

149. The '664 patent was issued by the United States Patent and Trademark Office on August 10, 2004. Plaintiff I/P Engine, based on averments in its Complaint, claims to be the assignee of the '664 patent and claims to hold the right to sue and recover for past, present, and future infringement thereof. Plaintiff I/P Engine also claims that Target has infringed the '664 patent.

COUNT I
(DECLARATORY RELIEF REGARDING NON-INFRINGEMENT OF THE '420 PATENT)

150. An actual and justiciable controversy exists between Target and Plaintiff as to Target's non-infringement of the '420 patent, as evidenced by Plaintiff's Complaint and Target's Answer to Plaintiff's Complaint.

151. Pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Target is entitled to a declaration of the Court that Target has not infringed and does not currently infringe any claim of the '420 patent, either directly, contributorily, or by inducement.

COUNT II
(DECLARATORY RELIEF REGARDING NON-INFRINGEMENT OF THE '664 PATENT)

152. An actual and justiciable controversy exists between Target and Plaintiff as to Target's non-infringement of the '664 patent, as evidenced by Plaintiff's Complaint and Target's Answer to Plaintiff's Complaint.

153. Pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Target is entitled to a declaration of the Court that Target has not infringed and does not currently infringe any claim of the '664 patent, either directly, contributorily, or by inducement.

COUNT III
(DECLARATORY RELIEF REGARDING INVALIDITY OF THE '420 PATENT)

154. An actual and justiciable controversy exists between Target and Plaintiff as to the validity of the '420 patent, as evidenced by Plaintiff's Complaint and Target's Answer to Plaintiff's Complaint.

155. Pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Target is entitled to a declaration of the Court that each claim of the '420 patent is invalid for failure to

satisfy one or more of the conditions of patentability set forth in Part II of Title 35 of the United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103 and/or 112.

COUNT IV
(DECLARATORY RELIEF REGARDING INVALIDITY OF THE '664 PATENT)

156. An actual and justiciable controversy exists between Target and Plaintiff as to the validity of the '664 patent, as evidenced by Plaintiff's Complaint and Target's Answer to Plaintiff's Complaint.

157. Pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Target is entitled to a declaration of the Court that each claim of the '664 patent is invalid for failure to satisfy one or more of the conditions of patentability set forth in Part II of Title 35 of the United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103 and/or 112.

REQUEST FOR RELIEF

WHEREFORE, Target respectfully requests:

1) A judgment in favor of Target denying Plaintiff all relief requested in this action and dismissing Plaintiff's Complaint for patent infringement with prejudice;

2) A judgment declaring that each claim of the '420 patent and each claim of the ‘664 patent is invalid and/or unenforceable;

3) A judgment declaring that Target has not infringed and is not infringing any valid and/or enforceable claim of the '420 patent or the ‘664 patent, and that Target has not contributed to or induced and is not contributing to or inducing infringement of any valid and enforceable claim of the '420 patent or the ‘664 patent;

4) A judgment declaring this to be an exceptional case under 35 U.S.C. § 285 and awarding Target its costs, expenses, and reasonable attorneys' fees; and

5) That the Court award Target such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules for Civil Procedure, Target hereby requests a trial by jury for all issues so triable.

DATED: December 5, 2011

/s/ Stephen E. Noona

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CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2011, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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