

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LUMEN VIEW TECHNOLOGY LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Case No. _____
	:	
EVOLV INC.	:	JURY TRIAL DEMANDED
	:	
Defendant.	:	
	:	

COMPLAINT

Plaintiff Lumen View Technology LLC ("Plaintiff"), for its Complaint against Defendant Evolv Inc. ("Defendant"), hereby alleges as follows:

PARTIES

1. Plaintiff is a Delaware limited liability company.
2. Upon information and belief, Defendant is a Delaware corporation having a principal place of business at 524 2nd Street, San Francisco, California 94107. Upon information and belief, Defendant may be served with process through its registered agent, Corporation Service Company, at 2711 Centerville Road, Suite 400, Wilmington, DE 19808.

NATURE OF THE ACTION

3. This is a civil action for the infringement of United States Patent No. 7,184,968 (the "'968 Patent") and United States Patent No. 8,069,073 (the "'073 Patent") (collectively, the "Patents-In-Suit") under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the Patent Laws of the United States, 35 U.S.C. § 271 *et seq.*

5. This Court has personal jurisdiction over Defendant because it is incorporated in Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

6. Upon information and belief, more specifically, Defendant, directly and/or through authorized intermediaries, ships, distributes, offers for sale, sells, and/or advertises (including the provision of an interactive web page) its products and services in the United States and the State of Delaware. Upon information and belief, Defendant has committed patent infringement in the State of Delaware. Defendant solicits customers in the State of Delaware. Defendant has many paying customers who are residents of the State of Delaware and who each use Defendant's products and services in the State of Delaware.

7. Venue is proper in this judicial district as to Defendant pursuant to 28 U.S.C. §§ 1391 and 1400(b).

THE PATENTS-IN SUIT

8. Paragraphs 1-7 are incorporated by reference as if fully set forth herein.

9. On May 27, 2003, the '968 Patent entitled "System and Method For Facilitating Bilateral And Multilateral Decision-Making" was duly and lawfully issued by the United States Patent and Trademark Office ("PTO"). The '968 Patent is attached hereto as Exhibit A.

10. On November 29, 2011, the '073 Patent entitled "System And Method For Facilitating Bilateral And Multilateral Decision-Making" was duly and lawfully issued by the United States Patent and Trademark Office ("PTO"). The '073 Patent is attached hereto as Exhibit B.

11. Plaintiff is the exclusive licensee of the Patents-In-Suit and possesses all rights of recovery under the Patents-In-Suit, including the right to sue and recover all damages for infringement thereof, including past infringement.

COUNT I – PATENT INFRINGEMENT

12. Paragraphs 1-11 are incorporated by reference as if fully restated herein.

13. Upon information and belief and in violation of 35 U.S.C. § 271(a), Defendant has infringed and continues to infringe one or more claims of the '968 Patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States by providing a method for facilitating evaluation, in connection with the procurement or delivery of products or services, in a context of at least one of a financial transaction and operation of an enterprise, such context involving a member of a first class of parties in a first (job candidates) role and a member of a second class of counterparties in a second role (employers, job requirements), using Defendant's candidate matching system offered for sale via the www.evolvondemand.com website ("Workforce Science").

14. For purposes of the '968 Patent, Defendant's Workforce Science derives in a first computer process using conjoint analysis, from responses to forced choice questions, such responses attributable to each party and to each counterparty, a preference profile for each such party and counterparty. Defendant's Workforce Science also analyzes in a second computer

process the preference profiles of the parties and the counterparties to derive a list by which parties and counterparties are matched according to preferences determined by conjoint analysis of responses of both the parties and the counterparties to forced choice questions. More specifically, Defendant's Workforce Science is described as providing a unique process to screen, assess and rank applicants based on how they will fit and perform in each client's specific environment.

15. Upon information and belief and in violation of 35 U.S.C. § 271(a), Defendant has infringed and continues to infringe one or more claims of the '073 Patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, a computer implemented method for facilitating evaluation, in connection with the procurement or delivery of products or services, in a context of at least one of a financial transaction and operation of an enterprise, such context involving a first class of parties in a first role and a second class of counterparties in a second role. More specifically, and by way of non-limiting example, Defendant's Workforce Science candidate matching service "offer[s] a unique process to screen, assess and rank applicants based on how they'll fit and perform in each client's specific environment."

16. For purposes of the '073 Patent, Defendant's Workforce Science utilizes a computer-implemented method for facilitating evaluation, in connection with the procurement or delivery of products or services, in a context of the operation of an enterprise, such context involving a first class of parties (e.g., job candidates/employers) in a first role and a second class of counterparties in a second role (e.g., job candidates/employers). Defendant's Workforce Science retrieves first preference data from a digital storage medium, the first preference data

received from a web-based survey engine integrated within client online application processes, and assigns attribute levels based on the choices made by the individuals (first class of parties). Defendant's Workforce Science retrieves the second preference data from a digital storage medium, the second preference data received from the individuals registering on and/or using the Website, and assigns attribute levels based on the choices made by the individuals (counterparties). Defendant's Workforce Science performs multilateral analyses of the selected party's preference data, e.g., candidate characteristics, and the preference data for each of the counterparties, e.g., job requirements, and computes a closeness-of-fit value based thereon. Further, Defendant Website uses the closeness-of-fit value to derive and provides a list to the selected party matching at least one of the counterparties. Namely, Defendant's Workforce Science is stated as using "a unique process to screen, assess and rank applicants based on how they'll fit and perform in each client's specific environment."

17. To the extent such notice may be required, Defendant received actual notice of its infringement of the Patents-In-Suit at least as early as the filing of the original complaint in this action, pursuant to 35 U.S.C. § 287(a).

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

19. Plaintiff is entitled to recover from the Defendant the damages sustained by Plaintiff as a result of the Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

20. Defendant's infringement of Plaintiff's exclusive rights under the Patents-In-Suit will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Lumen View Technology LLC respectfully requests that this Court enter judgment against Defendant Evolv Inc. as follows:

- A. An adjudication that Defendant has infringed the Patents-In-Suit;
- B. An award of damages to be paid by Defendant adequate to compensate Plaintiff for its past infringement and any continuing or future infringement up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary to adequately compensate Plaintiff for Defendant's infringement, an accounting of all infringing sales including, but not limited to, those sales not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285;
- D. An award to Plaintiff of its attorney fees, costs, and expenses incurred in prosecuting this action; and
- E. An award to Plaintiff of such further relief at law or in equity as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury on all claims and issues so triable.

Dated: May 24, 2013

STAMOULIS & WEINBLATT LLC

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