

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

SMART SEARCH CONCEPTS, LLC, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. \_\_\_\_\_  
 )  
 NEIMAN MARCUS, INC., ) **JURY TRIAL DEMANDED**  
 THE NEIMAN MARCUS GROUP, INC. and )  
 BERGDORFGOODMAN.COM, LLC, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

**COMPLAINT**

For its Complaint, Plaintiff Smart Search Concepts, LLC ("Smart Search"), by and through the undersigned counsel, alleges as follows:

**THE PARTIES**

1. Smart Search is a Delaware limited liability company with a place of business located at 80 Sanford Place, Southampton, New York 11968.
2. Defendant Neiman Marcus, Inc. ("Neiman Marcus") is a Delaware corporation with, upon information and belief, a place of business located at 1618 Main Street, Dallas, Texas 75201.
3. Defendant The Neiman Marcus Group, Inc. ("NMG") is a Delaware corporation with, upon information and belief, a place of business located at 1618 Main Street, Dallas, Texas 75201.
4. Defendant Bergdorfgoodman.com, LLC ("Bergdorfgoodman.com") is a Delaware limited liability company with, upon information and belief, a place of business located at 1618 Main Street, Dallas, Texas 75201.

5. Upon information and belief, Bergdorfgoodman.com is a subsidiary of NMG.

6. Upon information and belief, NMG is a subsidiary of Neiman Marcus.

### **JURISDICTION AND VENUE**

7. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*

8. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.

9. Upon information and belief, Defendants conduct substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in this district.

10. Venue is proper in this district pursuant to §§ 1391(b), (c) and 1400(b).

### **THE PATENTS-IN-SUIT**

11. On March 6, 2007, United States Patent No. 7,188,100 (the "'100 patent"), entitled "Search-on-the-Fly Report Generator," was duly and lawfully issued by the U.S. Patent and Trademark Office ("USPTO"). A true and correct copy of the '100 patent is attached hereto as Exhibit A.

12. On November 27, 2007, United States Patent No. 7,302,423 (the "'423 patent"), entitled "Search-on-the-Fly with Merge Function," was duly and lawfully issued by the USPTO. A true and correct copy of the '423 patent is attached hereto as Exhibit B.

13. On August 11, 2009, United States Patent No. 7,574,432 (the "'432 patent"), entitled "Search-on-the-Fly/Sort-on-the-Fly Search Engine," was duly and lawfully issued by the USPTO. A true and correct copy of the '432 patent is attached

hereto as Exhibit C.

14. Smart Search is the assignee and owner of the right, title and interest in and to the '100, '423 and '432 patents, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

**COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,188,100**

15. Smart Search repeats and realleges the allegations of paragraphs 1 through 14 as if fully set forth herein.

16. Without license or authorization and in violation of 35 U.S.C. § 271(a), Neiman Marcus and NMG have infringed and continue to infringe at least claim 1 of the '100 patent by making, using, offering for sale, and/or selling within this district and elsewhere in the United States and/or importing into this district and elsewhere in the United States, products or services that, among other features, search a database on-the-fly after receiving a database query, generate a defined query of the database from the received query, access a database using the defined query, generate a search result that includes descriptors of data categories, and create a template that includes links to the data categories, including but not limited to search features of their website [www.neimanmarcus.com](http://www.neimanmarcus.com). A copy of relevant portions of the [www.neimanmarcus.com](http://www.neimanmarcus.com) website is attached hereto as Exhibit D.

17. Without license or authorization and in violation of 35 U.S.C. § 271(a), Neiman Marcus, NMG and Bergdorfgoodman.com have infringed and continue to infringe at least claim 1 of the '100 patent by making, using, offering for sale, and/or selling within this district and elsewhere in the United States and/or importing into this district and elsewhere in the United States, products or services that, among other features, search a database on-the-fly after receiving a database query, generate a defined

query of the database from the received query, access a database using the defined query, generate a search result that includes descriptors of data categories, and create a template that includes links to the data categories, including but not limited to search features of their website [www.bergdorfgoodman.com](http://www.bergdorfgoodman.com). A copy of relevant portions of the [www.bergdorfgoodman.com](http://www.bergdorfgoodman.com) website is attached hereto as Exhibit E.

18. Without license or authorization and in violation of 35 U.S.C. § 271(a), Neiman Marcus has infringed and continue to infringe at least claim 1 of the '100 patent by making, using, offering for sale, and/or selling within this district and elsewhere in the United States and/or importing into this district and elsewhere in the United States, products or services that, among other features, search a database on-the-fly after receiving a database query, generate a defined query of the database from the received query, access a database using the defined query, generate a search result that includes descriptors of data categories, and create a template that includes links to the data categories, including but not limited to search features of Neiman Marcus' websites [www.horchow.com](http://www.horchow.com) and [www.lastcall.com](http://www.lastcall.com). Copies of relevant portions of the [www.horchow.com](http://www.horchow.com) and [www.lastcall.com](http://www.lastcall.com) websites are attached hereto as Exhibits F and G, respectively.

19. Smart Search is entitled to recover from Defendants the damages sustained by Smart Search as a result of Defendants' infringement of the '100 patent 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.

**COUNT II – INFRINGEMENT OF U.S. PATENT NO. 7,302,423**

20. Smart Search repeats and realleges the allegations of paragraphs 1 through 19 as if fully set forth herein.

21. Without license or authorization and in violation of 35 U.S.C. § 271(a), Neiman Marcus and NMG have infringed and continue to infringe at least claim 1 of the '423 patent by making, using, offering for sale, and/or selling within this district and elsewhere in the United States and/or importing into this district and elsewhere in the United States, products or services that, among other features, determine a database schema for a database, provide a list of database fields that includes a descriptor indicating a data category, receive a search selection for a database field on the provided list of database fields, determine a number of characters included in each entry in the selected database field, and if the number of characters included in each entry exceeds a specified amount of characters, display a portion of each entry in the selected database field, and if the number of characters included in each entry does not exceed the specified amount, display each entry in its entirety, including but not limited to search features of their website [www.neimanmarcus.com](http://www.neimanmarcus.com). A copy of relevant portions of the [www.neimanmarcus.com](http://www.neimanmarcus.com) website is attached hereto as Exhibit H.

22. Smart Search is entitled to recover from Neiman Marcus and NMG the damages sustained by Smart Search as a result of Neiman Marcus' and NMG's infringement of the '423 patent 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.

**COUNT III – INFRINGEMENT OF U.S. PATENT NO. 7,574,432**

23. Smart Search repeats and realleges the allegations of paragraphs 1 through 22 as if fully set forth herein.

24. Without license or authorization and in violation of 35 U.S.C. § 271(a), Neiman Marcus and NMG have infringed and continue to infringe at least claim 1 of the

'432 patent by making, using, offering for sale, and/or selling within this district and elsewhere in the United States and/or importing into this district and elsewhere in the United States, products or services that, among other features, receive a selection of one or more databases, present a menu with a list of data fields from the selected database(s), receive a selection of data field and storing the selection as a first constraint parameter, search the database(s) based on the first constraint parameter, generate a search result based on the first constraint parameter that includes entries presented in a second menu, receive a selection of data field from the second menu and storing the selection as a second constraint parameter, generate a search result based on the first and second constraint parameters that includes entries presented in a third menu on the same screen as the first and second menus, including but not limited to search features of their website [www.neimanmarcus.com](http://www.neimanmarcus.com). A copy of relevant portions of the [www.neimanmarcus.com](http://www.neimanmarcus.com) website is attached hereto as Exhibit I.

25. Without license or authorization and in violation of 35 U.S.C. § 271(a), Neiman Marcus, NMG and Bergdorfgoodman.com have infringed and continue to infringe at least claim 1 of the '432 patent by making, using, offering for sale, and/or selling within this district and elsewhere in the United States and/or importing into this district and elsewhere in the United States, products or services that, among other features, receive a selection of one or more databases, present a menu with a list of data fields from the selected database(s), receive a selection of data field and storing the selection as a first constraint parameter, search the database(s) based on the first constraint parameter, generate a search result based on the first constraint parameter that includes entries presented in a second menu, receive a selection of data field from the second menu and storing the selection as a second constraint parameter, generate a search

result based on the first and second constraint parameters that includes entries presented in a third menu on the same screen as the first and second menus, including but not limited to search features of their website [www.bergdorfgoodman.com](http://www.bergdorfgoodman.com). A copy of relevant portions of the [www.bergdorfgoodman.com](http://www.bergdorfgoodman.com) website is attached hereto as Exhibit J.

26. Without license or authorization and in violation of 35 U.S.C. § 271(a), Neiman Marcus has infringed and continues to infringe at least claim 1 of the '432 patent by making, using, offering for sale, and/or selling within this district and elsewhere in the United States and/or importing into this district and elsewhere in the United States, products or services that, among other features, receive a selection of one or more databases, present a menu with a list of data fields from the selected database(s), receive a selection of data field and storing the selection as a first constraint parameter, search the database(s) based on the first constraint parameter, generate a search result based on the first constraint parameter that includes entries presented in a second menu, receive a selection of data field from the second menu and storing the selection as a second constraint parameter, generate a search result based on the first and second constraint parameters that includes entries presented in a third menu on the same screen as the first and second menus, including but not limited to search features of Neiman Marcus' websites [www.horchow.com](http://www.horchow.com) and [www.lastcall.com](http://www.lastcall.com).. Copies of relevant portions of the [www.horchow.com](http://www.horchow.com) and [www.lastcall.com](http://www.lastcall.com) websites are attached hereto as Exhibits K and L, respectively.

27. Smart Search is entitled to recover from Defendants the damages sustained by Smart Search as a result of Defendants' infringement of the '432 patent 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.

**JURY DEMAND**

Smart Search hereby demands a trial by jury on all issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, Smart Search requests that this Court enter judgment against Defendants as follows:

- A. An adjudication that Defendants have infringed the '100 and '432 patents;
- B. An adjudication that Neiman Marcus and NMG have infringed the '423 patent;
- C. An award of damages to be paid by Defendants adequate to compensate Smart Search for Defendants' past infringement of the '100 and '432 patents and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- D. An award of damages to be paid by Neiman Marcus and NMG adequate to compensate Smart Search for their past infringement of the '423 patent and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- E. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Smart Search's reasonable attorneys' fees; and
- F. An award to Smart Search of such further relief at law or in equity as the Court deems just and proper.



Dated: June 7, 2013

STAMOULIS & WEINBLATT LLC

*/s/ Richard C. Weinblatt*

Stamatios Stamoulis #4606  
stamoulis@swdelaw.com

Richard C. Weinblatt #5080  
weinblatt@swdelaw.com

Two Fox Point Centre  
6 Denny Road, Suite 307  
Wilmington, DE 19809  
Telephone: (302) 999-1540

*Attorneys for Plaintiff  
Smart Search Concepts, LLC*