

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SMART SEARCH CONCEPTS, LLC,)
)
Plaintiff,)
)
v.) Civil Action No. _____
)
THE GAP, INC., ATHLETA, INC., BANANA) **JURY TRIAL DEMANDED**
REPUBLIC, LLC and OLD NAVY, 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 The GAP, Inc. ("GAP") is a Delaware corporation with, upon information and belief, a place of business located at Two Folsom Street, San Francisco, California 94105.
3. Defendant Athleta, Inc. ("Athleta") is a Delaware corporation with, upon information and belief, a place of business located at 2100 South McDowell Street, Suite 150, Petaluma, California 94954.
4. Defendant Banana Republic, LLC ("Banana Republic") is a Delaware limited liability company with, upon information and belief, a place of business located at Two Folsom Street, San Francisco, California 94105.
5. Defendant Old Navy, LLC ("Old Navy") is a Delaware limited liability company with, upon information and belief, a place of business located at Two Folsom

Street, San Francisco, California 94105.

6. Upon information and belief, Athleta, Banana Republic and Old Navy are wholly owned subsidiaries of GAP.

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 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 B.

13. Smart Search is the assignee and owner of the right, title and interest in and to the '100 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

14. Smart Search repeats and realleges the allegations of paragraphs 1 through 13 as if fully set forth herein.

15. Without license or authorization and in violation of 35 U.S.C. § 271(a), GAP has infringed and continues 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 GAP's websites www.gap.com and www.piperlime.com. Copies of relevant portions of the www.gap.com and www.piperlime.com websites are attached hereto as Exhibits C and D, respectively.

16. Without license or authorization and in violation of 35 U.S.C. § 271(a), Athleta has infringed and continues 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 Athleta's website

www.athleta.gap.com. A copy of relevant portions of the www.athleta.gap.com website is attached hereto as Exhibit E.

17. Without license or authorization and in violation of 35 U.S.C. § 271(a), Banana Republic has infringed and continues 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 Banana Republic's website www.bananarepublic.gap.com. A copy of relevant portions of the www.bananarepublic.gap.com website is attached hereto as Exhibit F.

18. Without license or authorization and in violation of 35 U.S.C. § 271(a), Old Navy has infringed and continues 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 Old Navy's website www.oldnavy.gap.com. A copy of relevant portions of the www.oldnavy.gap.com website is attached hereto as Exhibit G.

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. 7,574,432

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), GAP 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 GAP's websites www.gap.com and www.piperlime.com. Copies of relevant portions of the www.gap.com and www.piperlime.com websites are attached hereto as Exhibits H and I, respectively.

22. Without license or authorization and in violation of 35 U.S.C. § 271(a), Athleta 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 Athleta's website www.athleta.gap.com. A copy of relevant portions of the www.athleta.gap.com is attached hereto as Exhibit J.

23. Without license or authorization and in violation of 35 U.S.C. § 271(a), Banana Republic 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 Banana Republic's website www.bananarepublic.gap.com. A copy of relevant portions of the www.bananarepublic.gap.com is attached hereto as Exhibit K.

24. Without license or authorization and in violation of 35 U.S.C. § 271(a), Old Navy 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 Old Navy's website www.oldnavy.gap.com. A copy of relevant portions of the www.athleta.gap.com is attached hereto as Exhibit L.

25. 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 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;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Smart Search's reasonable attorneys' fees; and
- D. 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

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