

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

OPINIONLAB, INC.,	)	Civil Action No. 13-CV-1574
	)	
Plaintiff,	)	(consolidated with Civil Action
	)	No. 12-CV-5662)
v.	)	
	)	Judge Harry D. Leinenweber
QUALTRICS LABS, INC.,	)	Magistrate Judge Jeffrey Cole
	)	
Defendant.	)	JURY TRIAL DEMANDED
	)	

**AMENDED COMPLAINT**

Plaintiff OpinionLab, Inc. (hereinafter “Plaintiff or “OpinionLab”) by its counsel, Paul Hastings LLP, for its Amended Complaint for injunctive relief, damages, and attorneys’ fees and costs against Qualtrics Labs, Inc. (hereinafter “Defendant” or “Qualtrics Labs”) alleges as follows:

**I. NATURE OF THE ACTION**

1. This is a case for willful patent infringement under the Patent Act, 35 U.S.C. § 1, *et seq.*

2. Plaintiff OpinionLab is a pioneer and industry leader in assisting international corporations, prestigious institutions of higher learning, and numerous public service agencies in collecting and analyzing data regarding consumer experiences with respect to websites, mobile platforms, “brick-and-mortar” stores, and consumer products and services. OpinionLab has a stellar reputation, has received numerous awards, and is widely regarded as one of the most sophisticated and advanced businesses operating in this highly competitive technological space.

OpinionLab owns numerous federally-registered trademarks, patents, and copyrights, and zealously guards and enforces those intellectual proprietary rights against infringers.

3. Defendant Qualtrics Labs is in direct competition with OpinionLab. OpinionLab has become aware that Qualtrics Labs, in providing its competing services to several companies and their websites, including sears.com and others, and has intentionally and willfully infringed numerous of OpinionLab's United States Patents. In so doing, Qualtrics Labs intentionally and willfully copied OpinionLab's proprietary, Internet-based software code representing particular embodiments of at least portions of its patented technology.

4. OpinionLab seeks permanent injunctive relief and damages, disgorgement of profits, attorneys' fees, and all other relief available at law or equity.

## **II. PARTIES, JURISDICTION, AND VENUE**

5. OpinionLab is a Delaware corporation with its principal place of business in this judicial district located at 600 Central Ave., Suite 265, Highland Park, Illinois. OpinionLab is duly registered to conduct business in Illinois.

6. Qualtrics Labs is a Utah corporation with its principal place of business located at 1377 S. 1140 E, Orem, Utah.

7. This action arises under the patent laws of the United States pursuant to 35 U.S.C. § 1, *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

8. On information and belief, Qualtrics Labs is subject to this Court's jurisdiction because it has transacted business in the District and in the State of Illinois. Specifically, Qualtrics Labs either directly and/or through intermediaries ships, distributes, offers for sale, and sells (including via the provision of such services over the Internet) infringing products and services in this District to Sears Holdings Management Corporation, as well as others.

9. Venue is proper in this district under 28 U.S.C. § 1391.

### **III. FACTS SUPPORTING CAUSES OF ACTION**

#### **A. OpinionLab and Its Intellectual Property Rights**

10. OpinionLab provides online user feedback and web page analytics to clients located throughout the world. OpinionLab's "Online User Feedback Technology" allows OpinionLab to collect and analyze data gathered from consumers regarding their online experiences with respect to a given website. Hundreds of clients license the Online User Feedback Technology from OpinionLab because of its known track record of assisting companies to dramatically improve their online offerings and enhance the end user's overall website experience.

11. OpinionLab has been operating for over a decade in this technological space. OpinionLab's Online User Feedback Technology has been the subject of numerous awards, noted industry recognitions, and positive commentary by third parties and clients alike. For example, an article in Crain's Chicago Business listed OpinionLab as second in Chicago-based companies with the most impressive patent portfolios. A true and correct copy of the article as it appears on [www.chicagobusiness.com](http://www.chicagobusiness.com) is attached hereto as Exhibit A.

12. Many of OpinionLab's clients are "Fortune 500" companies with extensive business operations throughout the world. Nearly half of the "Fortune 50" companies are OpinionLab clients.

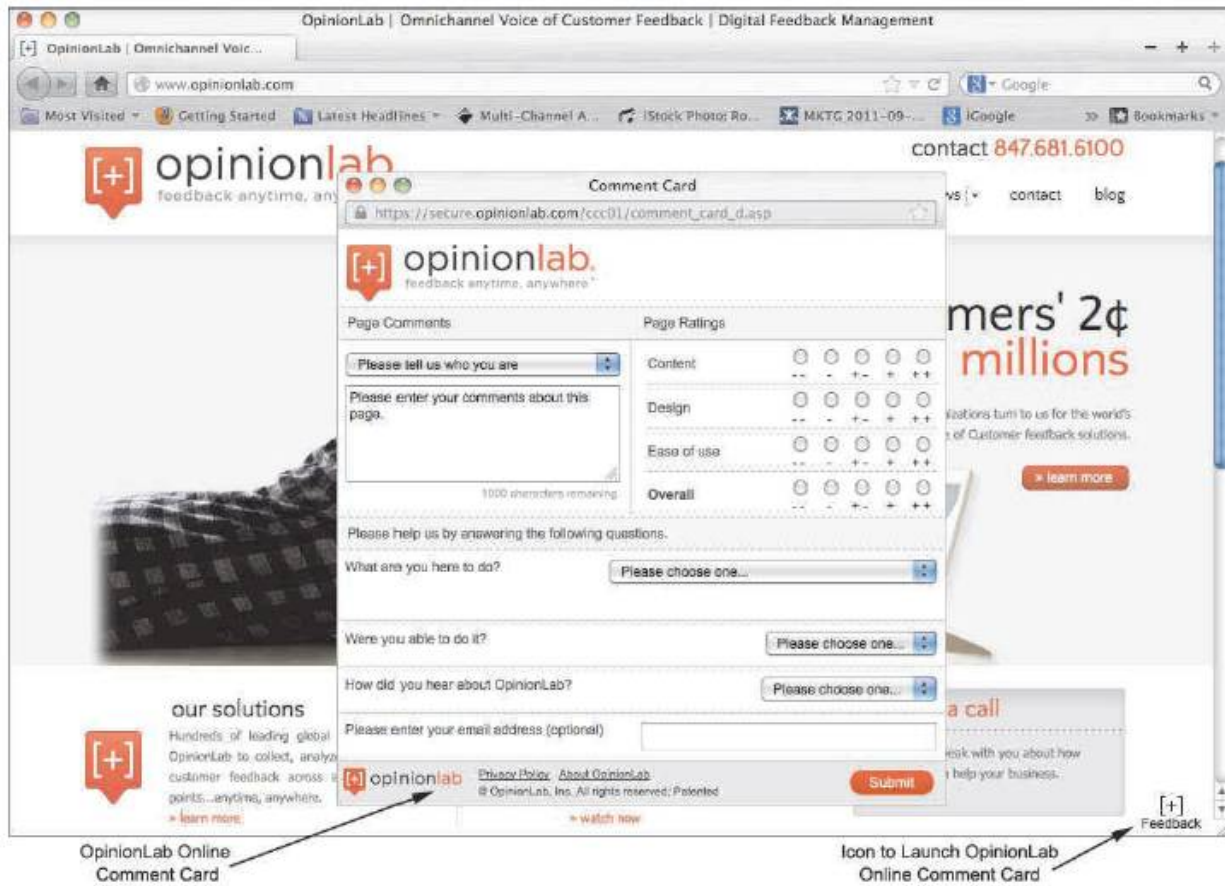
13. The central component of OpinionLab's Online User Feedback Technology includes OpinionLab's proprietary JavaScript OnlineOpinion Computer Software Code (the "OpinionLab OnlineOpinion Software Code") authored by OpinionLab employees and owned by OpinionLab. OpinionLab registered the copyright in the original version of the OpinionLab

OnlineOpinion Software Code, as well as subsequent updates and enhancements thereto (the “OpinionLab Registered Copyrights”). True and correct copies of the U.S. Copyright Registrations corresponding to the OnlineOpinion Software Code are attached hereto as Exhibit B. The OpinionLab Registered Copyrights include the code blatantly copied by Qualtrics Labs as described herein.

14. Another important component of OpinionLab’s Online User Feedback Technology is the “[+]” interactive feedback icons that are placed on OpinionLab’s customers’ websites. By clicking on a [+] feedback icon, the end user launches the OpinionLab electronic comment card. Due to the widespread licensed use of OpinionLab’s Online User Feedback Technology (including the [+] feedback icons), the [+] feedback icons are ubiquitous and appear prominently on some of the most heavily-visited websites in the world. The [+] feedback icons appear as a static [+] image or a rotating [+] image. The [+] feedback icons are federally registered trademarks with the United States Patent and Trademark Office and bear U.S. Trademark Registration Nos. 3,665,615 and 3,014,484 (the “[+] Registered Marks” or “[+] Registered Mark” as appropriate). U.S. Trademark Registration No. 3,014,484 is incontestable and, as such, is conclusive evidence of the validity of the mark and its registration, of OpinionLab’s ownership of the mark, and of OpinionLab’s exclusive right to use the mark in commerce. True and correct copies of the Certificates of Registration for the [+] Registered Marks are attached hereto as Exhibit C. The [+] Registered Marks represent the tremendous goodwill and reputation of OpinionLab and its Online User Feedback Technology.

15. One common example illustrating how OpinionLab’s Online User Feedback Technology operates can be seen on the OpinionLab website, [www.opinionlab.com](http://www.opinionlab.com). The

OpinionLab electronic comment card is opened by an end user by clicking on the [+] Registered Mark on the right side of the web page, as depicted in the following screen shot:



16. The user then provides feedback on the web page through the OpinionLab electronic comment card, which OpinionLab then analyzes for reporting to the operator of the website (e.g., OpinionLab itself in this example).

17. The OpinionLab OnlineOpinion Software Code generates the “look and feel” of the OpinionLab electronic comment card. OpinionLab has expended a considerable amount of time and energy in selecting and arranging the layout, drop down menu choices, and various details and fields that appear on its electronic comment cards. Some typical embodiments of OpinionLab’s electronic comment card generated by the OpinionLab OnlineOpinion Software Code are depicted in the following cards from fingerhut.com and cancer.org, respectively:

Comment Card

Go to a Website

# FiNGERHUT.

We'd love to hear your feedback about our site as we continue to make improvements. While we review every comment, we can not respond directly to your comment. If you need assistance, please visit our [Customer Service Page](#).

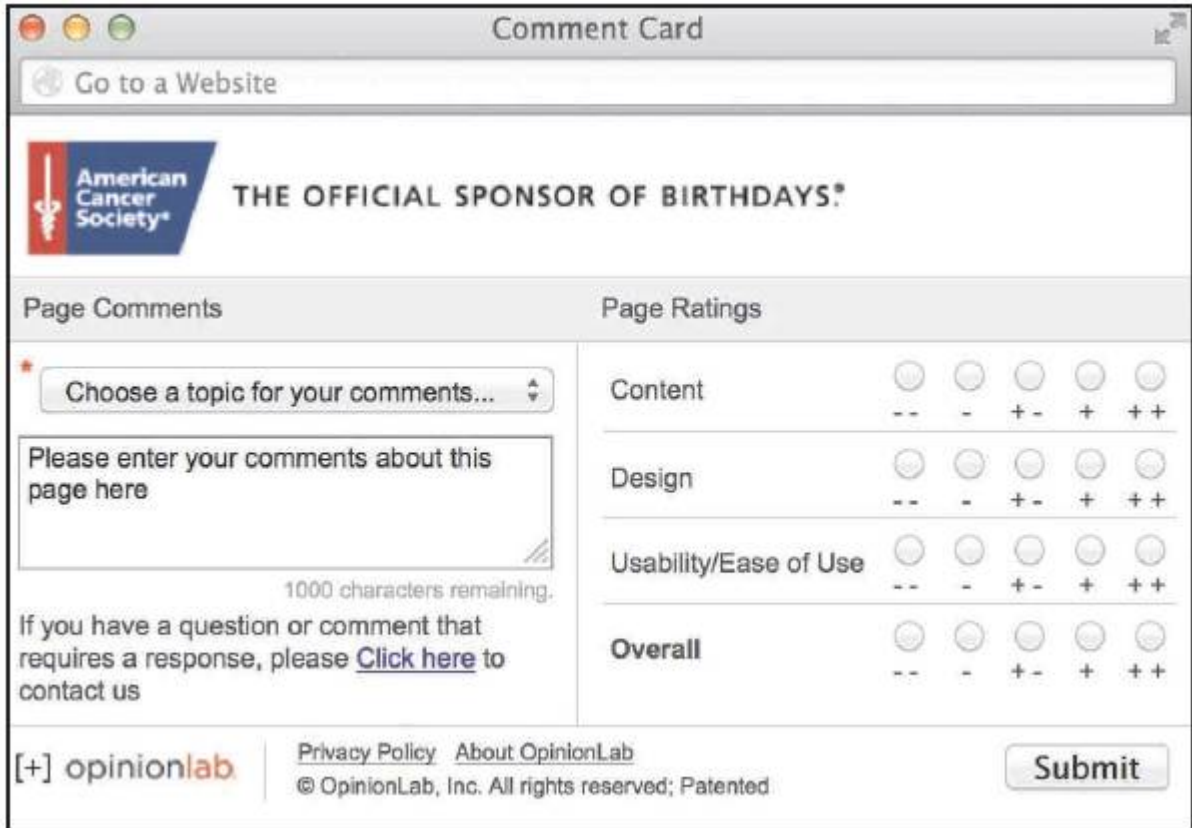
Page Comments	Page Ratings
<p>Choose a topic for your comments...</p> <p>Please enter your comments here</p> <p>1000 characters remaining.</p>	<p></p> <p>Product Information -- - +- + ++</p> <p>Look and Feel -- - +- + ++</p> <p>Ease of Use -- - +- + ++</p> <p>Overall -- - +- + ++</p>

How frequently do you visit Fingerhut.com?

What was the primary purpose of your visit today?

Please use "Write a review" link on product pages to submit a product review.

[+] **opinionlab.** | [Privacy Policy](#) [About OpinionLab](#)  
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18. In addition to the copyright and trademark protection afforded to various facets of OpinionLab’s Online User Feedback Technology, the technology is also protected by several patents in the U.S. and abroad. The U.S. patents that cover the OpinionLab Online User Feedback Technology include, but are not limited to, the following: U.S. Patent 6,421,724 (“the ’724 Patent”); U.S. Patent 6,606,581 (“the ’581 Patent”); U.S. Patent 7,085,820 (“the ’820 Patent”); U.S. Patent 7,370,285 (“the ’285 Patent”); U.S. Patent 8,024,668 (“the ’668 Patent”); and U.S. Patent 8,041,805 (“the ’805 Patent”) (collectively the “OpinionLab Patents”). True and correct copies of the OpinionLab Patents are attached hereto as Exhibits D-I.

19. OpinionLab has invested tremendous sums of money and untold hours of time in developing, updating, and licensing the Online User Feedback Technology. This technology

represents a significant financial asset to OpinionLab and is the source of substantial revenue to OpinionLab.

**B. Qualtrics Labs' Acts of Intentional Copying**

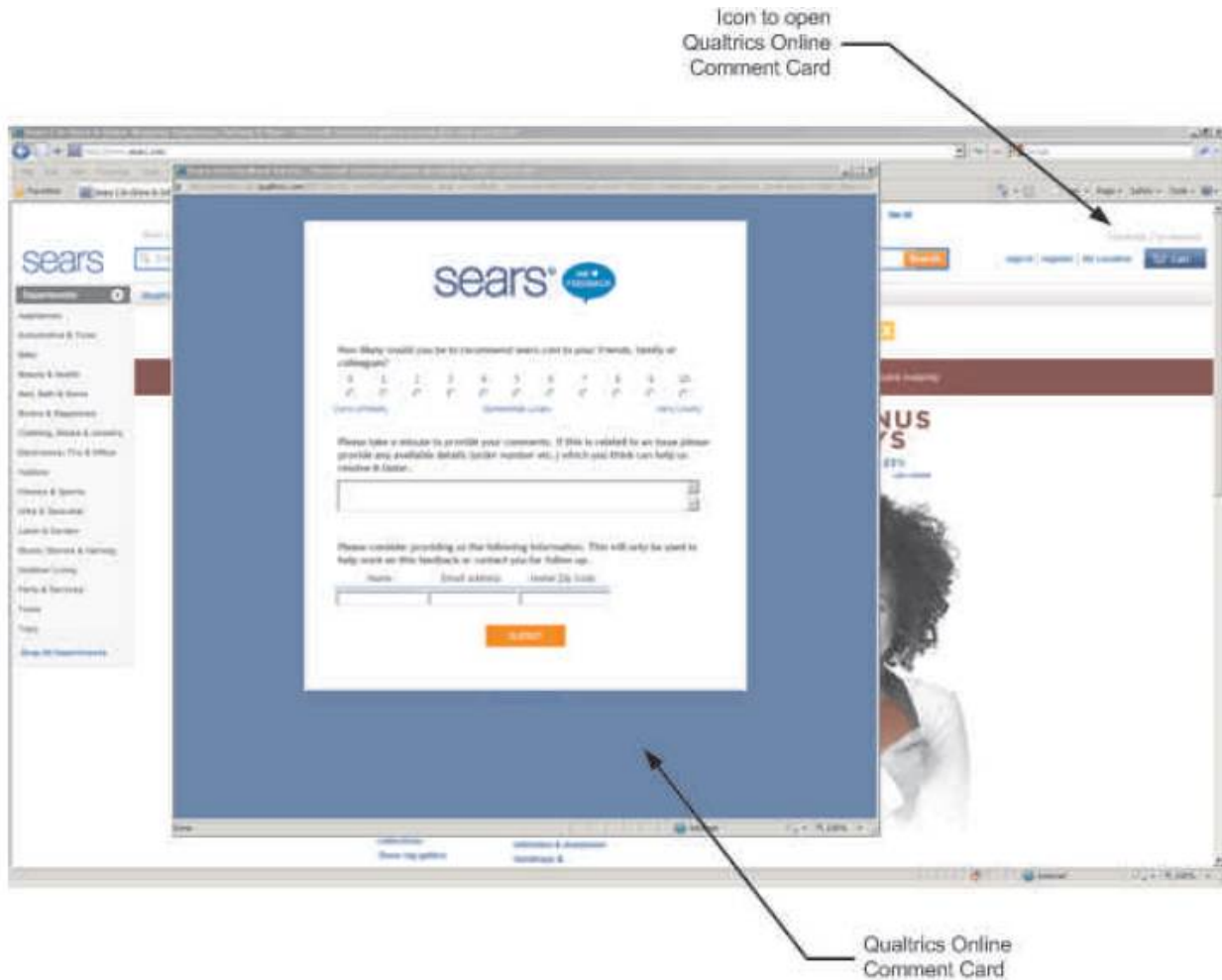
20. In April 2009, OpinionLab entered into a "Master Services" and "Statement of Work" Agreement (the "Agreement") with Sears Holdings Management Corporation ("Sears"). Pursuant to that Agreement, OpinionLab licensed its OpinionLab OnlineOpinion Software Code to Sears so that users of its webpage could provide feedback through OpinionLab's online, electronic comment card about their respective online experiences at sears.com and kmart.com. At the end of 2011, Sears cancelled the aforementioned Agreement with OpinionLab.

21. Prior to Sears terminating the Agreement, the OpinionLab OnlineOpinion Software Code ran in the "background" of the aforementioned websites and controlled several operations including: (a) the process by which the website's visitors accessed the electronic comment card; and (b) the process by which the collected data was stored and provided to OpinionLab for its review and analysis.

22. At some point after Sears cancelled the Agreement with OpinionLab, Qualtrics Labs began providing online customer comment feedback services to sears.com and kmart.com. In doing so, Qualtrics Labs copied OpinionLab's proprietary OpinionLab OnlineOpinion Software Code and online customer comment card.

23. Much like the OpinionLab online comment cards, Qualtrics Labs' online comment cards are opened when a viewer/user of a web page clicks the icon to provide feedback, as shown in the example below from the sears.com home page:





24. Qualtrics Labs copied the OpinionLab OnlineOpinion Software Code for opening the comment card window on the sears.com web page, among others.

25. Attached as Exhibit J is a copy of the source code of a recent version of the Qualtrics Labs software code that ran in the background of the sears.com website (the “Qualtrics Labs Code”). The Qualtrics Labs Code was accessed by using a Microsoft Internet Explorer browser, logging on to sears.com, and clicking on the “View” tab followed by clicking on “Source” in the resulting drop down menu. When the OpinionLab OnlineOpinion Software Code is compared to the Qualtrics Labs Code, it is unmistakably clear that the Qualtrics Labs

Code contains a virtually identical copy of substantial portions of the proprietary OpinionLab OnlineOpinion Software Code.

26. At least with respect to the Qualtrics Labs Code used on the sears.com website, Qualtrics Labs slavishly copied the variables and the sequence of the variables from the OpinionLab OnlineOpinion Software Code.

27. Qualtrics Labs did not coincidentally come up with the same variables, and use them in the same order, as the OpinionLab OnlineOpinion Software Code. Rather, Qualtrics Labs surreptitiously, intentionally, willfully, and maliciously copied the OpinionLab OnlineOpinion Software Code.

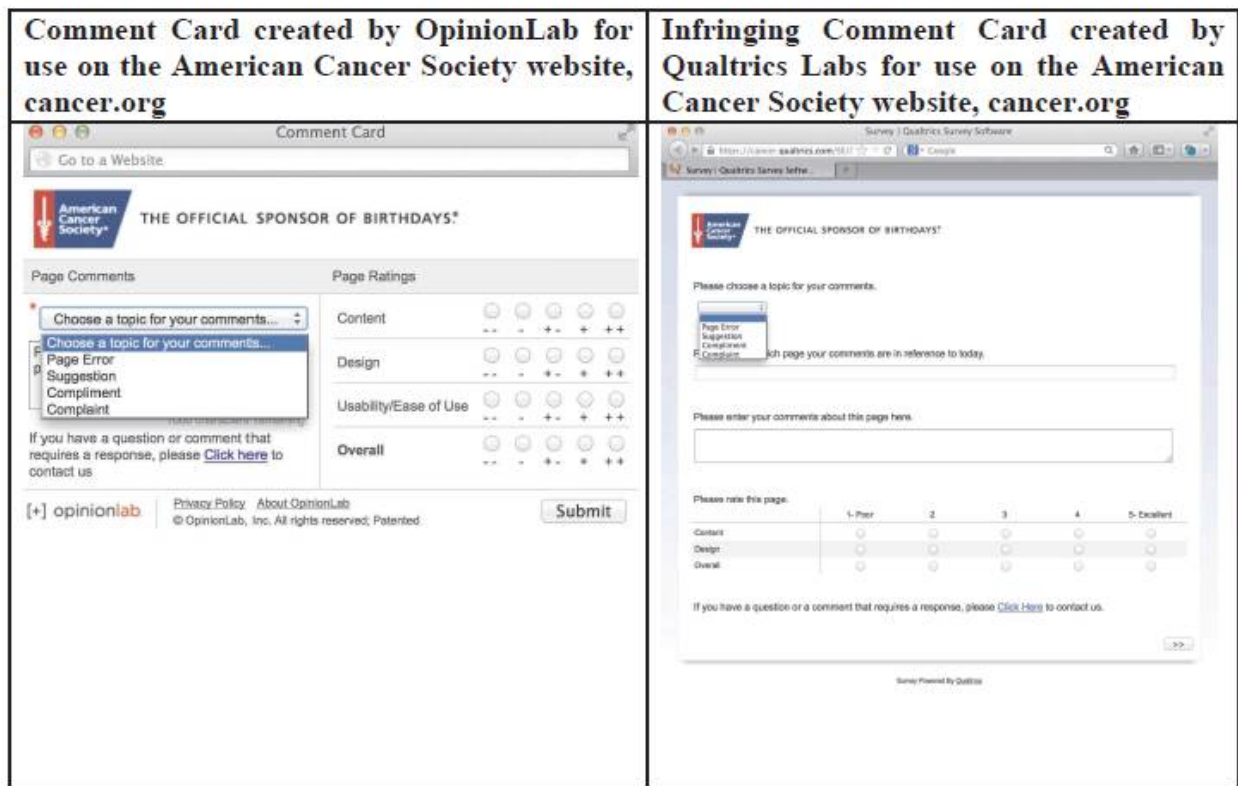
28. Sometime subsequent to launching the Qualtrics Labs Code that ran behind the sears.com website, the copied code was modified. But even this new version of Qualtrics Labs' code (the "Current Qualtrics Labs Code") copies key aspects of the OpinionLab OnlineOpinion Software Code. A copy of the Current Qualtrics Labs Code, as of the date of the original Complaint, is attached as Exhibit K.

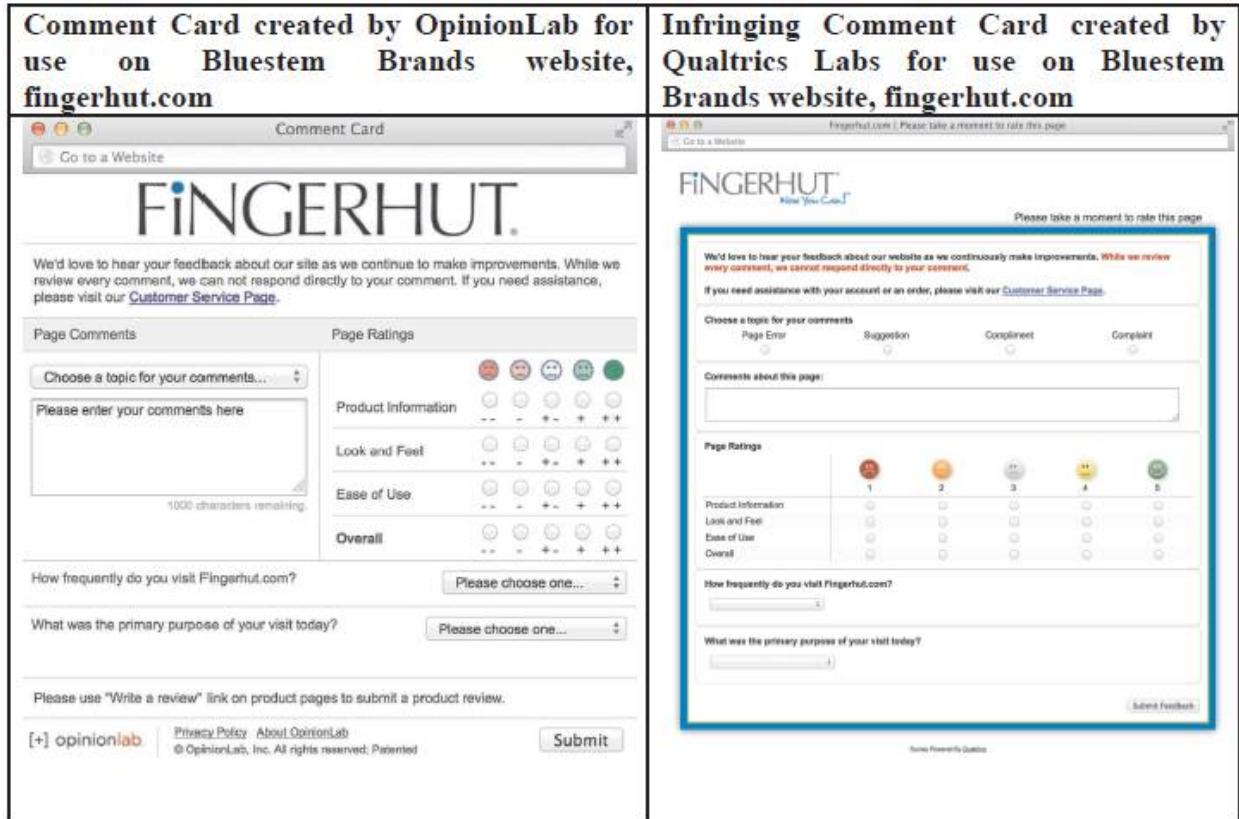
29. Sears owns K-Mart and, just like with the sears.com website, the kmart.com website also uses Qualtrics Labs comment cards. A copy of the Current Qualtrics Labs Code running on the kmart.com website, as of the date of the original Complaint, is attached as Exhibit L.

30. Qualtrics Labs' act of copying the OpinionLab OnlineOpinion Software Code is indisputable, and was intentional, knowing, willful, and malicious.

31. The intentional, knowing, willful, and malicious copying by Qualtrics Labs did not stop with copying the OpinionLab OnlineOpinion Software Code. Qualtrics Labs also


copied the “look and feel” of at least two of OpinionLab’s electronic comment cards down to very minute detail, as shown by the following comparisons:





32. As the above comparison shows, Qualtrics Labs created virtually identical copies of these OpinionLab comment cards, all the way down to copying the exact text, layout, design, comment fields, and drop down choices.

33. Moreover, during the copying of the OpinionLab OnlineOpinion Software Code and the copying of the OpinionLab electronic comment cards as described above, Qualtrics Labs removed from the OpinionLab OnlineOpinion Software Code the reference to “opinionlab.com” and inserted its own “qualtrics.com.” Qualtrics Labs intentionally did so in order to conceal, and to facilitate, its copying of the OpinionLab OnlineOpinion Software Code.

34. Further, in copying the OpinionLab electronic comment cards from the cancer.org and fingerhut.com websites, Qualtrics Labs removed the  logo on the OpinionLab

electronic comment cards. Qualtrics Labs intentionally did so in order to conceal, and to facilitate, its copying of the OpinionLab electronic comment card.

**C. Qualtrics Labs' Acts of Patent Infringement**

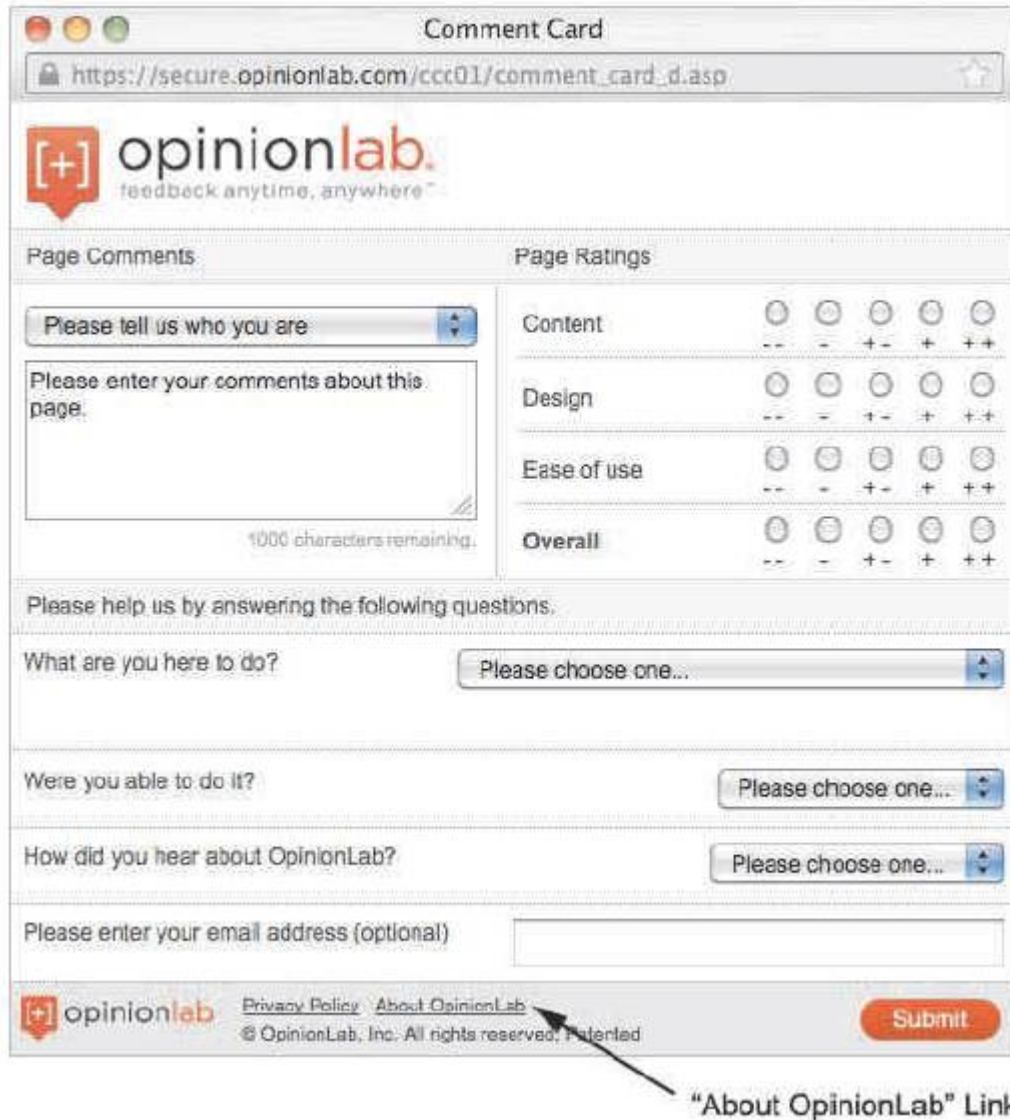
**-- Qualtrics Labs' Knowledge of the OpinionLab Patents --**

35. Through its copying of the OpinionLab OnlineOpinion Software Code, Qualtrics Labs was exposed to a patent notice that disclosed that the OpinionLab OnlineOpinion Software Code was covered by various patents owned by OpinionLab.

36. For example, OpinionLab included the following patent notice in copies of its OpinionLab OnlineOpinion Software Code: "This product and other products of OpinionLab, Inc. are protected by U.S. Patent No. 6606581, 6421724, 6785717 B1 and other patents pending."

37. This patent notice specifically mentions two of the OpinionLab patents identified in this complaint – the '724 and '581 Patents, and additionally notes that there are "other patents pending."

38. Further, the OpinionLab comment cards have an "About OpinionLab" link, such as shown in the example below for the OpinionLab website:



39. The "About OpinionLab" link links to a web page on the OpinionLab website [www.opinionlab.com/company/about/](http://www.opinionlab.com/company/about/), which has the following patent notice:

## intellectual property

One or more patents owned by OpinionLab apply to this site and to the features and services accessible via the site. Portions of this site operate under license of one or more patents: 6,421,724; 6,606,581; 6,785,717; 6,928,392; 7,085,820; 7,370,285; 7,478,121; 7,809,602; 7,827,487; 7,865,455; CA2,489,322; CA2,490,828; 7,970,887; 8,024,668; 8,037,128; 8,041,805; 8,082,295; 8,332,232. OpinionLab also has rights to patents owned by Lodsys.

40. The above patent notice lists each of the OpinionLab Patents specified in this Amended Complaint.

41. By virtue of its copying of the OpinionLab online comment cards, Qualtrics had notice of, or was willfully blind to, the OpinionLab Patents.

**-- American Cancer Society --**

42. The American Cancer Society maintains a website having the homepage [www.cancer.org](http://www.cancer.org), which presently and/or in the past used Qualtrics Labs for online customer comment feedback services.

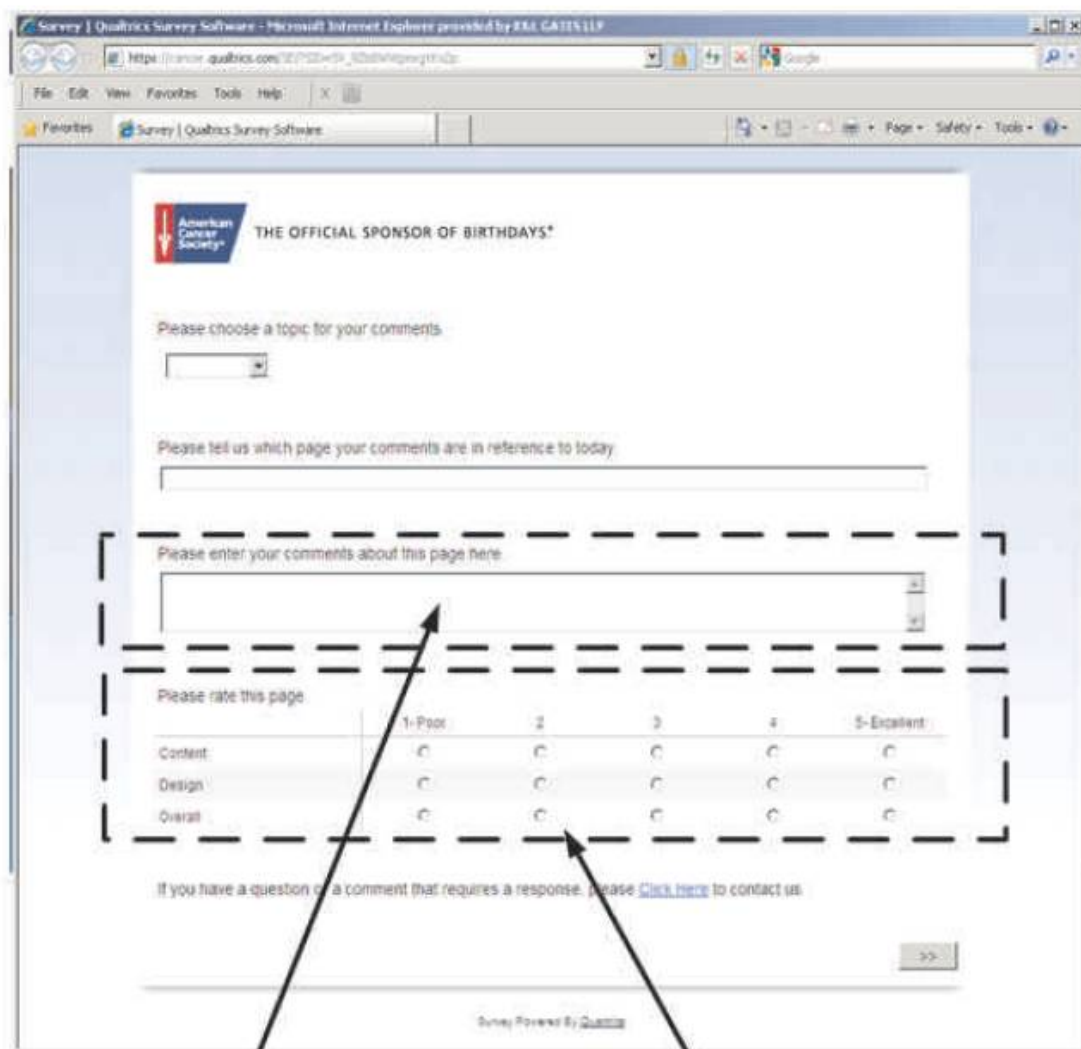
43. The pages of the [cancer.org](http://cancer.org) website depict OpinionLab's [+] Registered Marks toward the bottom right of the respective pages:



44. OpinionLab's [+] Registered Marks appear on multiple web pages of the [cancer.org](http://cancer.org) website.

45. When the American Cancer Society was a customer of OpinionLab, OpinionLab delivered the image of its [+] Registered Marks to [www.cancer.org](http://www.cancer.org) in a file OpinionLab named as "sm\_545454\_oo.gif." Not only is Qualtrics Labs using OpinionLab's [+] Registered Marks, Qualtrics Labs is also using the exact same file with the exact same file name to deliver this mark to [www.cancer.org](http://www.cancer.org). This can be seen by going to [www.cancer.org](http://www.cancer.org), right-clicking on the [+] icon in the bottom right-hand corner of the page, and choosing "save as" or "save picture as" from the pop-out menu options. The default file name is exactly the same, "sm\_545454\_oo.gif." This shows that Qualtrics Labs did not even attempt to design its own [+] mark but instead copied the exact same file to ensure it copied OpinionLab's [+] Registered Marks.

46. The following online comment card is displayed for the visitor of the cancer.org website upon the visitor clicking on OpinionLab's [+] Registered Marks:



Field for Open-Ended  
Comments

Multi-Level Rating Scale

47. As can be seen in the above image, this comment card indicates that it is “Powered By Qualtrics” and includes both (a) a field where the user can enter open-ended comments about the web page, and (b) a multi-level rating scale where the user can provide a



rating for the web page for various characteristics of the web page (i.e., “Content” and “Design”) and the “Overall” quality of the web page.

48. As shown above, the multi-level rating scale includes a positive rating (5-Excellent), a neutral rating (3), and a negative rating (1-Poor).

49. Also as shown above, the URL for the comment card is cancer.qualtrics.com/SE/?SID=SV\_9Zb8WWpmsgYKo2p, which is for a Qualtrics Labs web server. This shows that the Qualtrics online comment card is served by a different web server – one from Qualtrics Labs – than the pages of the cancer.org website.

50. The source code for the cancer.org web pages (obtained by right-clicking on the cancer.org website and selecting “View Source” using a Microsoft Internet Explorer browser), as of the date of the original Complaint, is provided as Exhibit M hereto. Similar to what is described above, this code contains the following patent notice from OpinionLab:

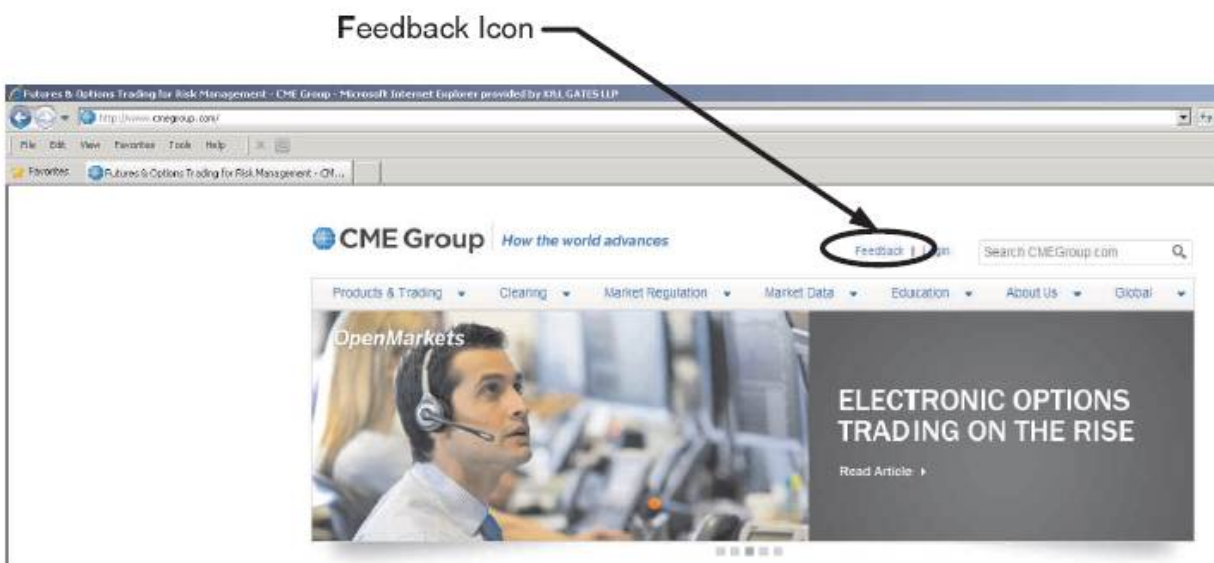
```
125 <!-- BEGIN: OnlineOpinion v4.1.7
126 * The following code is Copyright 1998-2010
    Opinionlab, Inc.
127 * All rights reserved. Unauthorized use is
    prohibited.
128 * This product and other products of OpinionLab,
    Inc. are protected by U.S. Patent No. US 6606581,
    6421724, 6785717 B1 and other patents pending.
129 * http://www.opinionlab.com
130
```

51. The functionality as detailed above evidences direct and/or indirect infringement of several of the OpinionLab Patents, including the '724 Patent, the '581 Patent, the '820 Patent, the '285 Patent, and the '668 Patent. For indirect infringement, the direct infringers of the OpinionLab Patents include end-users of the websites of Qualtrics Labs' customers (e.g., end-users of the cancer.org website).

**-- CME Group --**

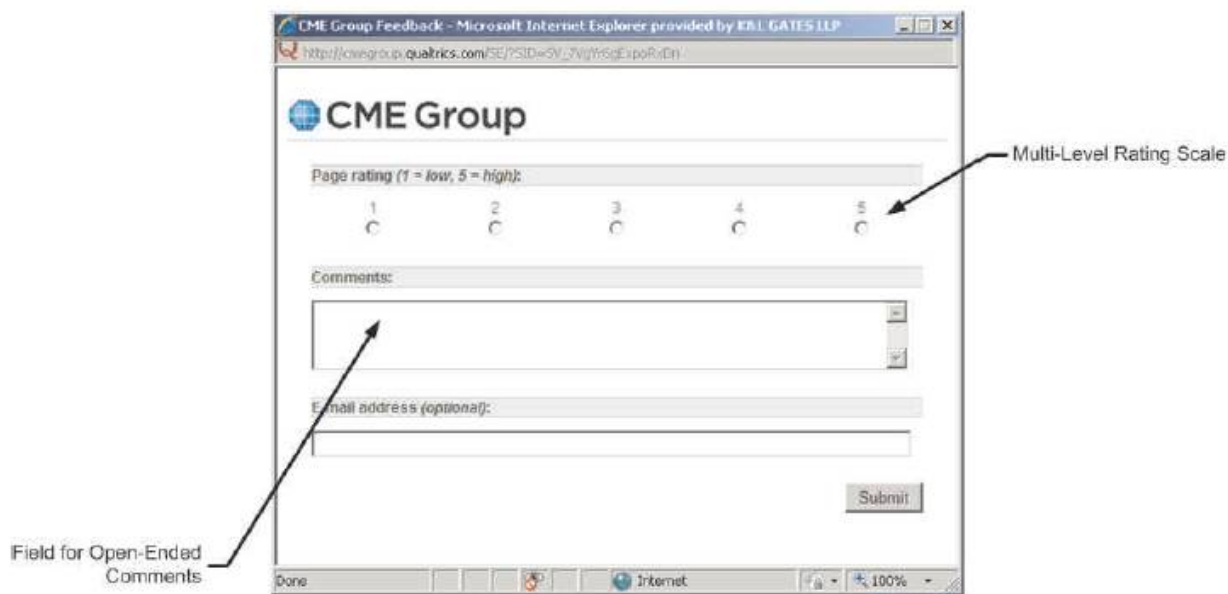
52. CME Group Inc. maintains a website having the homepage www.cmegroup.com, which presently and/or in the past used Qualtrics Labs for online customer comment feedback services.

53. The pages of the cmegroup.com website have the following feedback icon toward the upper-right corner of the respective pages that launches, upon invocation, the Qualtrics online customer comment card:



54. The above icon appears on multiple web pages of the cmegroup.com website.

55. The following online comment card is displayed for the visitor of the cmegroup.com website upon invocation of the above feedback icon, on top of the cmegroup.com web page from which the feedback icon was invoked:



56. As can be seen in the above image, this comment card includes both (a) a field where the user can enter open-ended comments about the web page, and (b) a multi-level rating scale where the user can provide a rating for the web page.

57. As shown above, the multi-level rating scale includes a positive rating (5 = high), a neutral rating (3), and a negative rating (1 = low).

58. Also as shown above, the URL for the comment card is [http://cmegroup.qualtrics.com/SE/?SID=SV\\_7VgYr6gExpoRxDn](http://cmegroup.qualtrics.com/SE/?SID=SV_7VgYr6gExpoRxDn), which is for a Qualtrics Labs web server. This shows that the Qualtrics online comment card is served by a different web server – one from Qualtrics Labs – than the pages of the cmegroup.com website.

59. The functionality as detailed above evidences direct and/or indirect infringement of several of the OpinionLab Patents, including the '724 Patent, the '581 Patent, the '820 Patent, the '285 Patent, and the '668 Patent. For indirect infringement, the direct infringers of the OpinionLab Patents include end-users of the websites of Qualtrics Labs' customers (e.g., end-users of the cmegroup.com website).

**-- Fingerhut --**

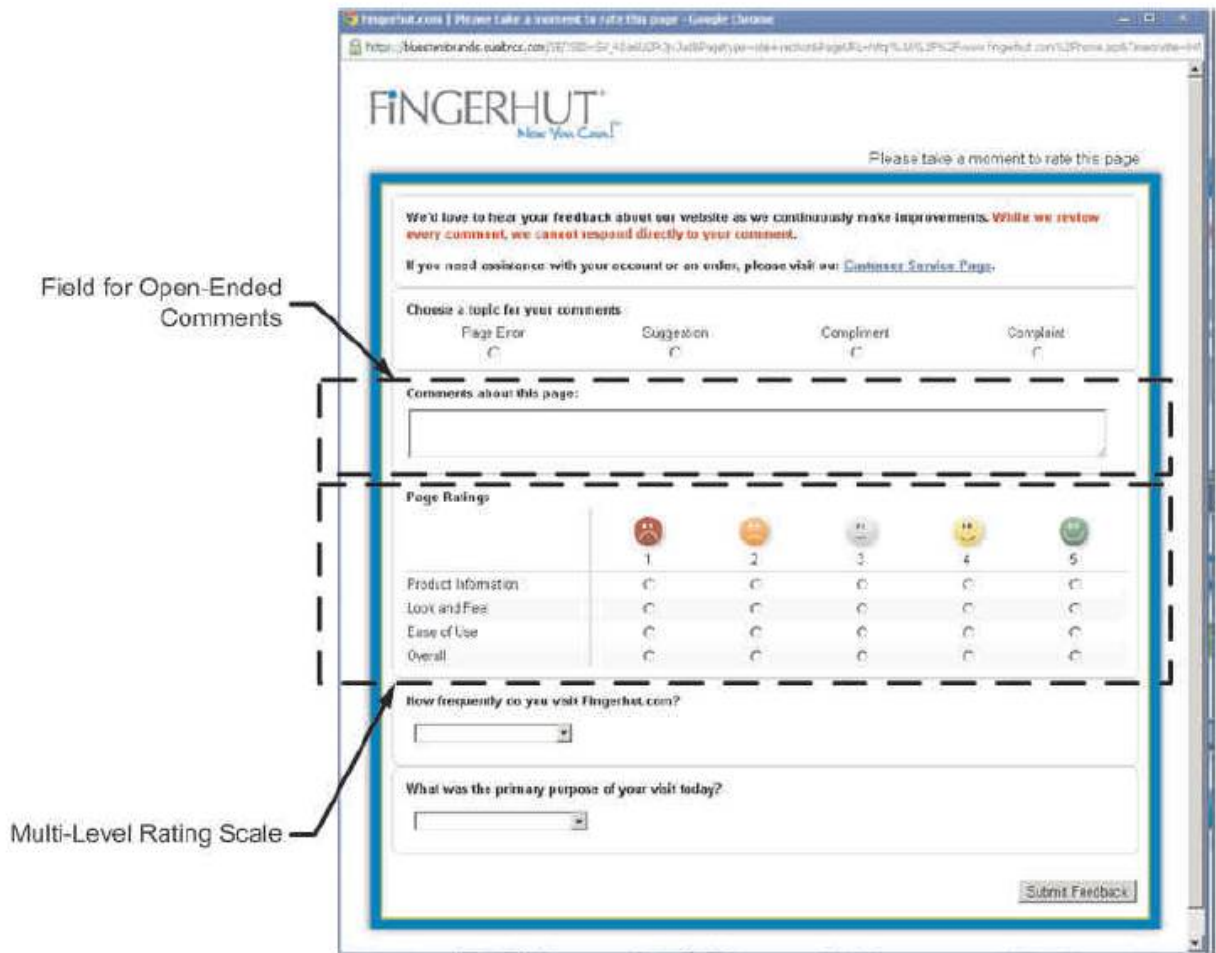
60. Bluestem Brands, Inc. maintains the website www.fingerhut.com, which presently and/or in the past used Qualtrics Labs for online customer comment feedback services.

61. The pages of the www.fingerhut.com website have the following feedback icon that is maintained in the lower-right corner of the browser display for the respective pages regardless of user scrolling that launches, upon invocation, the Qualtrics online customer comment card:



62. The above icon appears on multiple web pages of the www.fingerhut.com website.

63. The following online comment card is displayed for the visitor of the www.fingerhut.com website upon invocation of the above feedback icon, on top of the www.fingerhut.com web page from which the feedback icon was invoked.



64. As can be seen in the above image, this comment card includes both (a) a field where the user can enter open-ended comments about the web page, and (b) a multi-level rating scale where the user can provide a rating for the web page for various characteristics of the web page (i.e., “Product Information,” “Look and Feel,” and “Ease of Use”) as well as the “Overall” quality of the web page.

65. As shown above, the multi-level rating scale includes a positive rating (5, with a smiley face), a neutral rating (3, with a face that is neither smiling nor frowning), and a negative rating (1, with a frowny face).

66. Also as shown above, the URL for the comment card is [https://bluestembrands.qualtrics.com/SE/?SID=SV\\_411e6U2PrJvJad&Pagetype=site+section&PageURL=http%3A%2F%2Fwww.fingerhut.com%2Fhome.jsp&Timeonsite=845%7C32&CustomerID=undefined&pagecount=3](https://bluestembrands.qualtrics.com/SE/?SID=SV_411e6U2PrJvJad&Pagetype=site+section&PageURL=http%3A%2F%2Fwww.fingerhut.com%2Fhome.jsp&Timeonsite=845%7C32&CustomerID=undefined&pagecount=3), which is for a Qualtrics Labs web server. This shows that the Qualtrics Online Comment Card is served by a different web server – one from Qualtrics Labs – than the pages of the fingerhut.com website.

67. The functionality as detailed above evidences direct and/or indirect infringement of all of the OpinionLab Patents, including the '724 Patent, the '581 Patent, the '820 Patent, the '285 Patent, the '668 Patent, and the '805 Patent. For indirect infringement, the direct infringers of the OpinionLab Patents include end-users of the websites of Qualtrics Labs' customers (*e.g.*, end-users of the fingerhut.com website).

#### **IV. CAUSE OF ACTION**

##### **COUNT I**

##### **WILLFUL PATENT INFRINGEMENT IN VIOLATION OF 35 U.S.C. § 271**

###### **A. INFRINGEMENT OF THE '724 PATENT**

68. OpinionLab realleges and incorporates ¶¶ 1-67 above as if fully set forth herein.

69. On July 16, 2002, the United States Patent and Trademark Office (“USPTO”) issued the '724 Patent, entitled “Web Site Response Measurement Tool,” with the following named inventors: Rand B. Nickerson; Mark A. Treschl; Kathryn L. Kidd; and Matthew J. Crofoot. A true and correct copy of the '724 Patent is provided as Exhibit D.

70. OpinionLab is the owner of the '724 Patent by assignment.

71. Qualtrics Labs is now and/or has been directly, indirectly, and/or by inducement infringing the '724 Patent, literally and/or under the doctrine of equivalents, as proscribed by 35 U.S.C. § 271, *et. seq.*, by, without permission or authority from OpinionLab, selling, offering to sell, making, using, and/or inducing others to use and sell within the United States, including this District, products and/or components of products and/or services that infringe at least one claim of the '724 Patent, through, but not limited to, Qualtrics Labs' web page comment cards available on websites such as cancer.org, cmegroup.com, and fingerhut.com, examples of which are set forth above.

72. For indirect infringement, the direct infringers of the OpinionLab Patents include end-users of the websites of Qualtrics Labs' customers (*e.g.*, cancer.org, cmegroup.com, and fingerhut.com websites).

73. Qualtrics Labs had knowledge of or was willfully blind to the existence of the '724 Patent.

74. Based on information and belief, Qualtrics Labs knew that its customers' acts of providing the Qualtrics Labs' online comment cards to the end-users constituted infringement of the '724 Patent.

75. Qualtrics Labs is not, and has not been at any time, licensed under the '724 Patent.

76. Upon information and belief, Qualtrics Labs' foregoing acts of infringement have been and continue to be willful and deliberate.

77. OpinionLab has been damaged by the foregoing acts of infringement of the '724 Patent by Qualtrics Labs and will continue to be damaged by such infringement unless enjoined by this Court.

**B. INFRINGEMENT OF THE '581 PATENT**

78. OpinionLab realleges and incorporates ¶¶ 1-77 above as if fully set forth herein.

79. On August 12, 2003, the USPTO issued the '581 Patent, entitled "System and Method for Measuring and Reporting User Reactions to Particular Web Pages of a Website," with the following named inventors: Rand B. Nickerson; Mark A. Treschl; Kathryn L. Kidd; Matthew J. Crofoot; A. Gregory Samata; and David E. Mason. A true and correct copy of the '581 Patent is provided as Exhibit E.

80. OpinionLab is the owner of the '581 Patent by assignment.

81. Qualtrics Labs is now and/or has been directly, indirectly, and/or by inducement infringing the '581 Patent, literally and/or under the doctrine of equivalents, as proscribed by 35 U.S.C. § 271, *et. seq.*, by, without permission or authority from OpinionLab, selling, offering to sell, making, using, and/or inducing others to use and sell within the United States, including this District, products and/or components of products and/or services that infringe at least one claim of the '581 Patent, through, but not limited to, Qualtrics Labs' web page comment cards available on websites such as cancer.org, cmegroup.com, and fingerhut.com, examples of which are set forth above.

82. For indirect infringement, the direct infringers of the OpinionLab Patents include end-users of the websites of Qualtrics Labs' customers (*e.g.*, end-users of the cancer.org, cmegroup.com, and fingerhut.com websites).



83. Based on information and belief, Qualtrics Labs knew that its customers' acts of providing the Qualtrics Labs' online comment cards to the end-users constituted infringement of the '581 Patent.

84. Qualtrics Labs had knowledge of or was willfully blind to the existence of the '581 Patent.

85. Qualtrics Labs is not, and has not been at any time, licensed under the '581 Patent.

86. Upon information and belief, Qualtrics Labs' foregoing acts of infringement have been and continue to be willful and deliberate.

87. OpinionLab has been damaged by the foregoing acts of infringement of the '581 Patent by Qualtrics Labs and will continue to be damaged by such infringement unless enjoined by this Court.

**C. INFRINGEMENT OF THE '820 PATENT**

88. OpinionLab realleges and incorporates ¶¶ 1-87 above as if fully set forth herein.

89. On August 1, 2006, the USPTO issued the '820 Patent, entitled "System and Method for Reporting to a Website Owner User Reactions to Particular Web Pages of a Website," with the following named inventors: Rand B. Nickerson; Mark A. Treschl; Kathryn L. Kidd; Matthew J. Crofoot; A. Gregory Samata; and David E. Mason. A true and correct copy of the '820 Patent is provided as Exhibit F.

90. OpinionLab is the owner of the '820 Patent by assignment.

91. Qualtrics Labs is now and/or has been directly, indirectly, and/or by inducement infringing the '820 Patent, literally and/or under the doctrine of equivalents, as proscribed by 35 U.S.C. § 271, *et. seq.*, by, without permission or authority from OpinionLab, selling, offering to

sell, making, using, and/or inducing others to use and sell within the United States, including this District, products and/or components of products and/or services that infringe at least one claim of the '820 Patent, through, but not limited to Qualtrics Labs' web page comment cards available on websites such as cancer.org, cmegroup.com, and fingerhut.com, examples of which are set forth above.

92. For indirect infringement, the direct infringers of the OpinionLab Patents include end-users of the websites of Qualtrics Labs' customers (*e.g.*, end-users of the cancer.org, cmegroup.com, and fingerhut.com websites).

93. Based on information and belief, Qualtrics Labs knew that its customers' acts of providing the Qualtrics Labs' online comment cards to the end-users constituted infringement of the '820 Patent.

94. Qualtrics Labs had knowledge of or was willfully blind to the existence of the '820 Patent.

95. Qualtrics Labs is not, and has not been at any time, licensed under the '820 Patent.

96. Upon information and belief, Qualtrics Labs' foregoing acts of infringement have been and continue to be willful and deliberate.

97. OpinionLab has been damaged by the foregoing acts of infringement of the '820 Patent by Qualtrics Labs and will continue to be damaged by such infringement unless enjoined by this Court.

**D. INFRINGEMENT OF THE '285 PATENT**

98. OpinionLab realleges and incorporates ¶¶ 1-97 above as if fully set forth herein.

99. On May 6, 2008, the USPTO issued the '285 Patent, entitled "Receiving and Reporting Page-Specific User Feedback Concerning One or More Particular Web Pages of a Website," with the following named inventors: Rand B. Nickerson; Mark A. Treschl; Jay S. Rudman; and Mark D. Krebs. A true and correct copy of the '285 Patent is provided as Exhibit G.

100. OpinionLab is the owner of the '285 Patent by assignment.

101. Qualtrics Labs is now and/or has been directly, indirectly, and/or by inducement infringing the '285 Patent, literally and/or under the doctrine of equivalents, as proscribed by 35 U.S.C. § 271, *et. seq.*, by, without permission or authority from OpinionLab, selling, offering to sell, making, using, and/or inducing others to use and sell within the United States, including this District, products and/or components of products and/or services that infringe at least one claim of the '285 Patent, through, but not limited to, Qualtrics Labs' web page comment cards available on websites such as cancer.org, cmegroup.com, and fingerhut.com, examples of which are set forth above.

102. For indirect infringement, the direct infringers of the OpinionLab Patents include end-users of the websites of Qualtrics Labs' customers (*e.g.*, end-users of the cancer.org, cmegroup.com, and fingerhut.com websites).

103. Based on information and belief, Qualtrics Labs knew that its customers' acts of providing the Qualtrics Labs' online comment cards to the end-users constituted infringement of the '285 Patent.

104. Qualtrics Labs had knowledge of or was willfully blind to the existence of the '285 Patent.

105. Qualtrics Labs is not, and has not been at any time, licensed under the '285 Patent.

106. Upon information and belief, Qualtrics Labs' foregoing acts of infringement have been and continue to be willful and deliberate.

107. OpinionLab has been damaged by the foregoing acts of infringement of the '285 Patent by Qualtrics Labs and will continue to be damaged by such infringement unless enjoined by this Court.

**E. INFRINGEMENT OF THE '668 PATENT**

108. OpinionLab realleges and incorporates ¶¶ 1-107 above as if fully set forth herein.

109. On September 20, 2011, the USPTO issued the '668 Patent, entitled "Receiving and Reporting Page-Specific User Feedback Concerning One or More Particular Web Pages of a Website," with the following named inventors: Rand B. Nickerson; Mark A. Treschl; Jay S. Rudman; and Mark D. Krebs. A true and correct copy of the '668 Patent is provided as Exhibit H.

110. OpinionLab is the owner of the '668 Patent by assignment.

111. Qualtrics Labs is now and/or has been directly, indirectly, and/or by inducement infringing the '668 Patent, literally and/or under the doctrine of equivalents, as proscribed by 35 U.S.C. § 271, *et. seq.*, by, without permission or authority from OpinionLab, selling, offering to sell, making, using, and/or inducing others to use and sell within the United States, including this District, products and/or components of products and/or services that infringe at least one claim of the '668 Patent, through, but not limited to, Qualtrics Labs' web page comment cards available on websites such as cancer.org, cmegroup.com, and fingerhut.com, examples of which are set forth above.

112. For indirect infringement, the direct infringers of the OpinionLab Patents include end-users of the websites of Qualtrics Labs' customers (*e.g.*, end-users of the cancer.org, cmegroup.com, and fingerhut.com websites).

113. Based on information and belief, Qualtrics Labs knew that its customers' acts of providing the Qualtrics Labs' online comment cards to the end-users constituted infringement of the '668 Patent.

114. Qualtrics Labs had knowledge of or was willfully blind to the existence of the '668 Patent.

115. Qualtrics Labs is not, and has not been at any time, licensed under the '668 Patent.

116. Upon information and belief, Qualtrics Labs' foregoing acts of infringement have been and continue to be willful and deliberate.

117. OpinionLab has been damaged by the foregoing acts of infringement of the '668 Patent by Qualtrics Labs and will continue to be damaged by such infringement unless enjoined by this Court.

**F. INFRINGEMENT OF THE '805 PATENT**

118. OpinionLab realleges and incorporates ¶¶ 1-117 above as if fully set forth herein.

119. On October 18, 2011, the USPTO issued the '805 Patent, entitled "System and Method for Reporting to a Website Owner User Reactions to Particular Web Pages of a Website," with the following named inventors: Rand B. Nickerson; Mark A. Treschl; Kathryn L. Kidd; Matthew J. Crofoot; A. Gregory Samata; and David E. Mason. A true and correct copy of the '805 Patent is provided as Exhibit I.

120. OpinionLab is the owner of the '805 Patent by assignment.

121. Qualtrics Labs is now and/or has been directly, indirectly, and/or by inducement infringing the '805 Patent, literally and/or under the doctrine of equivalents, as proscribed by 35 U.S.C. § 271, *et. seq.*, by, without permission or authority from OpinionLab, selling, offering to sell, making, using, and/or inducing others to use and sell within the United States, including this District, products and/or components of products and/or services that infringe at least one claim of the '805 Patent, through, but not limited to, Qualtrics Labs' web page comment cards available on websites such as fingerhut.com, an example of which is set forth above.

122. For indirect infringement, the direct infringers of the '805 Patent include end-users of the fingerhut.com website.

123. Based on information and belief, Qualtrics Labs knew that its customers' acts of providing the Qualtrics Labs' online comment cards to the end-users constituted infringement of the '805 Patent.

124. Qualtrics Labs had knowledge of or was willfully blind to the existence of the '805 Patent.

125. Qualtrics Labs is not, and has not been at any time, licensed under the '805 Patent.

126. Upon information and belief, Qualtrics Labs' foregoing acts of infringement have been and continue to be willful and deliberate.

127. OpinionLab has been damaged by the foregoing acts of infringement of the '805 Patent by Qualtrics Labs and will continue to be damaged by such infringement unless enjoined by this Court.

**RELIEF REQUESTED**

Wherefore, OpinionLab respectfully requests that this Court enter judgment against Qualtrics Labs as follows:

- A. That the OpinionLab Patents are valid and enforceable;
- B. That the OpinionLab Patents have been infringed by Qualtrics Labs;
- C. That infringement of the OpinionLab Patents by Qualtrics Labs has been willful, deliberate, and intentional;
- D. That Qualtrics Labs be ordered to make or be subjected to a full accounting for and pay OpinionLab all damages to which OpinionLab is entitled (together with prejudgment interest and OpinionLab's costs and disbursements) as a consequence of Qualtrics Labs' infringing acts in accordance with 35 U.S.C. § 284, including but not limited to a reasonable royalty for Qualtrics Labs' use of the patented technology and/or OpinionLab's lost profits;
- E. That such damages be trebled for the willful, deliberate, and intentional nature of Qualtrics Labs' infringing acts as set forth above;
- F. That this case be declared exceptional, and that OpinionLab be awarded its reasonable attorneys' fees in accordance with 35 U.S.C. § 285;
- G. That a permanent injunction be entered prohibiting the further manufacture, sale, offer for sale, use or importation by Qualtrics Labs of all infringing products and services; and
- H. Such other relief that this Court deems proper, just, and equitable.

**JURY TRIAL DEMAND**

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

Dated: October 18, 2013

Respectfully submitted,

By: /s/ Christopher W. Kennerly  
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**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that on October 18, 2013, he caused a true and correct copy of the attached AMENDED COMPLAINT to be served on counsel listed below via e-mail:

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The undersigned attorney also hereby certifies that on October 18, 2013, he caused a true and correct copy of the attached AMENDED COMPLAINT to be served on counsel listed below through the CM/ECF system.

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Dated: October 18, 2013

Respectfully submitted,

By: /s/ Christopher W. Kennerly  
Christopher W. Kennerly