

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

NOVITAZ, INC.)	
a Delaware Corporation,)	
)	
Plaintiff,)	
)	Civil Action No. _____
v.)	
)	
SHOPKICK, INC.)	
a Delaware Corporation,)	
)	
Defendant.)	JURY TRIAL DEMAND
_____)	

COMPLAINT AND JURY DEMAND

Plaintiff, NOVITAZ, INC., by and through its undersigned attorneys, alleges, upon information and belief, as follows:

THE PARTIES

1. Plaintiff, Novitaz, Inc., is a Delaware corporation, having its principal place of business in California and having an office at 5104 Old Ironsides Drive, Suite 117, Santa Clara, CA 95054.

2. Upon information and belief, Defendant, Shopkick, Inc., is a Delaware corporation, having its principal place of business in California and having an office at 558 Waverly Street, Suite 200, Palo Alto, California 94301.

3. This action has arisen under the patent laws of the United States, Title 35 United States Code, Section 271 *et seq.*

4. Jurisdiction of this action arises under 28 U.S.C. § 1338(a). Venue is predicated under 28 U.S.C. § 1391(c).

5. Upon information and belief, Shopkick, Inc. provides its Shopkick systems and services to retailers located in the State of Connecticut, including but not limited to Best Buy, Walmart, Target, Macy's, American Eagle Outfitters, Old Navy, Petsmart and CVS.

6. Upon information and belief, Shopkick, Inc. provides its Shopkick mobile device app to customers located in the State of Connecticut.

7. Personal jurisdiction exists in the State of Connecticut over Shopkick, Inc. due to the provision of Shopkick systems and services to retailers and Shopkick mobile device app to customers located in the State of Connecticut.

8. Venue is proper in the District based on 28 U.S.C. §1391 (b)(1) and (b)(3).

COUNT I

1. On June 14, 2011, United States Patent Number 7,962,361 (hereinafter "'361 Patent") entitled "Customer Relationship Management System for Physical Locations" was duly and regularly issued. A copy of the '361 Patent is attached hereto as Exhibit "A".

2. Plaintiff is the owner of the '361 Patent.

3. Upon information and belief, Defendant has directly or contributorily infringed or induced the infringement of the claims of the '361 Patent by:

making, using and/or selling the Shopkick systems and services by providing them to retailers, including but not limited to Best Buy, Walmart, Target, Macy's, American Eagle Outfitters, Old Navy, Petsmart and CVS;

making, using and or selling the Shopkick mobile device app to customers for use in the retailer locations having the Shopkick systems and services installed therein.

4. The Plaintiff has been damaged by the acts of infringement complained of herein.

5. The Plaintiff has no adequate remedy without intervention of this Court.
6. This case is “exceptional” within the meaning of 35 U.S.C. § 285.

COUNT II

1. On June 14, 2011, United States Patent Number 8,229,787 (hereinafter “‘787 Patent”) entitled “Customer Relationship Management System for Physical Locations” was duly and regularly issued. A copy of the ‘787 Patent is attached hereto as Exhibit “B”.

2. Plaintiff is the owner of the ‘787 Patent.

3. The ‘787 Patent is a continuation of the ‘361 Patent.

4. Upon information and belief, Defendant has directly or contributorily infringed or induced the infringement of the claims of the ‘361 Patent by:

making, using and/or selling the Shopkick systems and services by providing them to retailers, including but not limited to Best Buy, Walmart, Target, Macy’s, American Eagle Outfitters, Old Navy, Petsmart and CVS;

making, using and or selling the Shopkick mobile device app to customers for use in the retailer locations having the Shopkick systems and services installed therein.

5. The Plaintiff has been damaged by the acts of infringement complained of herein.
6. The Plaintiff has no adequate remedy without intervention of this Court.
7. This case is “exceptional” within the meaning of 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that:

- A. An injunction be granted preliminarily and permanently restraining Defendant

and all those in privity with it from further infringement of Plaintiff's '361 and '787 Patents.

B. Defendant be required to account to Plaintiff for the damages recoverable by Plaintiff under 35 U.S.C. § 284 as a result of the wrongful making, using, and selling of Plaintiff's inventions as claimed in Plaintiff's '281 and '201 Patents, the exact extent of which cannot now be determined by Plaintiff, and that all of such damages be trebled.

C. Plaintiff be awarded reasonable attorney fees;

D. Plaintiff be allowed its costs; and

E. Such other and further relief be granted to which Plaintiff may be justly entitled.

JURY DEMAND

Plaintiff demands a trial by jury.

November 4, 2013

Respectfully submitted,

/s/ Stephen P. McNamara

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