

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

DATA CARRIERS, LLC,

Plaintiff,

v.

PETCO ANIMAL SUPPLIES INC.,

Defendant.

C.A. No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Data Carriers, LLC alleges the following for its complaint against Defendant Petco Animal Supplies Inc.

**THE PARTIES**

1. Plaintiff is a Delaware limited liability company having a principal place of business at 4023 Kennett Pike, Suite 531, Wilmington, Delaware 19807-2018.

2. Defendant is a corporation organized under the laws of the State of Delaware with a principal office at 9125 Rehco Road, San Diego, California 92121. Defendant may be served with process via its registered agent Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808.

**JURISDICTION AND VENUE**

3. This is a patent infringement action. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

4. The Court has personal jurisdiction over Defendant, because Defendant conducts business in this jurisdiction, including by offering and promoting products for sale via the internet, which is accessible to and accessed by residents of this District, and by having physical

stores in this District. The Court also has personal jurisdiction over Defendant, because it is a Delaware corporation.

5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b), because Defendant resides in this district and substantial acts of infringement have occurred in this District.

**COUNT ONE**  
**INFRINGEMENT OF U.S. PATENT NO. 5,388,198**

6. Plaintiff is the owner by assignment of United States Patent No. 5,388,198 (the “’198 patent”), entitled “Proactive Presentation of Automating Features to a Computer User.” The application for the ’198 patent was filed on April 16, 1992. The patent issued on February 7, 1995 and was originally assigned to Symantec Corporation. A true and correct copy of the ’198 Patent is attached as Exhibit A hereto.

7. Plaintiff holds the exclusive right to take all actions, including the filing of this patent infringement lawsuit, necessary to enforce its rights to the ’198 Patent. Plaintiff also has the right to recover all damages for past, present, and future infringement of the ’198 Patent and to seek injunctive relief as appropriate under the law.

8. Defendant has directly infringed, either literally or by equivalents, one or more claims of the ’198 Patent, including at least Claim 5, by using the claimed method in operating the website [www.petco.com](http://www.petco.com) in a way that automatically intervenes in a customer or potential customer’s use of the website to suggest or present features based on information on the use of the system, including but not limited to autocomplete features. While a user is accessing the website, Defendant continuously monitors and compares user manipulations and program context with feature templates stored in memory and presents automating features if a match is found.

9. Defendant's operation of its website in the above-described manner in the United States is without the permission of Plaintiff and constitutes infringement under 35 U.S.C. § 271 for which Defendant is liable.

10. As a result of Defendant's infringement, Plaintiff has been damaged monetarily and is entitled to adequate compensation of no less than a reasonable royalty pursuant to 35 U.S.C. § 284.

**JURY DEMAND**

Plaintiff requests a jury on all issues so triable.

**PRAYER**

WHEREFORE, Plaintiff respectfully requests that the Court:

- A. Enter judgment that Defendant has infringed, either literally or by equivalents, the '198 Patent;
- B. Award Plaintiff damages for Defendant's infringement in an amount to be determined at trial, including enhanced damages, costs, and pre and post-judgment interest; and
- C. Award any other relief deemed just and proper.

February 5, 2014

BAYARD, P.A.

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