

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

QOMMERCE SYSTEMS, LLC,

Plaintiff,

v.

CABELA'S INCORPORATED,

Defendant.

Case No. 6:14-cv-110

PATENT CASE

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Qommerce Systems, LLC, files this Complaint against Defendant Cabela's Incorporated, for infringement of United States Patent No. 7,356,606 (the "606 Patent").

PARTIES AND JURISDICTION

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Plaintiff Qommerce Systems, LLC ("Plaintiff" or "Qommerce"), is a Texas limited liability company with its principal office located in the Eastern District of Texas, at 719 W. Front Street, Suite 211, Tyler, Texas 75702.

4. Upon information and belief, Defendant Cabela's Incorporated ("Defendant"), is a Delaware corporation with a principal office located at 115 Cabela Drive, Sidney, NE 69160. This Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in the state of Texas, has conducted business in the

state of Texas, has directed an interactive website at Texas, and/or has engaged in continuous and systematic activities in the state of Texas.

5. On information and belief, within the State of Texas and the Eastern District of Texas, Defendant has made and/or used the patented invention with the website(s) and functionality identified herein below. In addition, on information and belief, Defendant has derived substantial revenues from its infringing acts within the State of Texas and the Eastern District of Texas.

VENUE

6. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391(c) and 1400(b) because Defendant is deemed to reside in this district. In addition, and in the alternative, Defendant has committed acts of infringement in this district.

COUNT I **(INFRINGEMENT OF UNITED STATES PATENT NO. 7,356,606)**

7. Plaintiff incorporates paragraphs 1 through 6 herein by reference.

8. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

9. Plaintiff is the owner by assignment of the '606 Patent with sole rights to enforce the '606 Patent and sue infringers.

10. A copy of the '606 Patent, titled "Dynamic Web Storefront Technology," is attached hereto as Exhibit A.

11. The '606 Patent is valid and enforceable, and it was duly issued in full compliance with Title 35 of the United States Code.

12. The '606 Patent has been forward-cited as prior art in connection with the examination of several subsequently-issued U.S. patents, including patents originally assigned to such prominent technology companies as IBM, Oracle, Google, SAP, and Sprint.

(Direct Infringement)

13. Upon information and belief, Defendant has infringed and continues to directly infringe one or more claims of the '606 Patent, including at least claim 11, by actions comprising making and/or using one or more websites used in conducting commerce over the Internet, including without limitation the website www.cabelas.com and associated sub sites, web pages and functionality within that website (the "Accused Instrumentalities").

14. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

15. Plaintiff is in compliance with 35 U.S.C. § 287.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of all issues so triable by right.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court to:

- a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;
- b) Enjoin Defendant, its agents, officers, servants, employees, attorneys and all persons in active concert or participation with Defendant who receive notice of the order from further infringement of United States Patent No. 7,356,606 (or, in the

alternative, awarding Plaintiff a running royalty from the time of judgment going forward);

- c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;
- d) Award Plaintiff pre-judgment and post-judgment interest and costs; and
- e) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: February 17, 2014

Respectfully submitted,

/s/ Craig Tadlock

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