

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

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TLI COMMUNICATIONS LLC,	:	
	:	C.A. No. _____
Plaintiff,	:	
	:	
v.	:	
	:	JURY TRIAL DEMANDED
TRIPADVISOR, INC.	:	
	:	
and	:	
	:	
TRIPADVISOR LLC	:	
	:	
Defendants.	:	
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Complaint for Patent Infringement

Plaintiff TLI Communications LLC (“TLI”) files this Complaint for Patent Infringement (“Complaint”) against Tripadvisor, Inc. and Tripadvisor LLC (collectively “Defendants” or “Tripadvisor”), wherein, pursuant to 35 U.S.C. §§ 271 and 281, Plaintiff seeks a judgment of infringement by Defendants of U.S. Patent No. 6,038,295 (the “’295 Patent”) and damages resulting therefrom pursuant to 35 U.S.C. § 284, as well as preliminary and permanent injunction of the infringing activity pursuant to 35 U.S.C. § 283, and such other relief as the Court deems just and proper, and in support thereof alleges as follows:

The Parties

1. Plaintiff TLI is a Delaware limited liability company with its principal place of business at 3422 Old Capitol Trail, Suite 72, Wilmington, Delaware 19808.
2. On information and belief, Defendant Tripadvisor, Inc. is a corporation organized under the laws of the state of Delaware, with a principal place of business at 141 Needham

Street, Newton, MA 02461. It can be served with process through its registered agent, National Registered Agents, Inc., 160 Greentree Dr., Suite 101, Dover, Delaware 19904.

3. On information and belief, Defendant Tripadvisor LLC is a limited liability company organized under the laws of the state of Delaware, with a principal place of business at 141 Needham Street, Newton, MA 02461. It can be served with process through its registered agent, National Registered Agents, Inc., 160 Greentree Dr., Suite 101, Dover, Delaware 19904.

Jurisdiction and Venue

4. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action concerns infringement of a United States patent.

6. Upon information and belief, Defendants conduct substantial business in Delaware, 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 Delaware. Further, this Court has personal jurisdiction over Defendants because they are incorporated in Delaware and have purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

7. Venue is proper under 28 U.S.C. §§ 1391 and 1400.

Joinder

8. Defendants are in the business of providing, among other things, travel related services via the website www.tripadvisor.com. Defendants collectively offer customers the ability to post and share reviews, and to upload images to Defendants' web servers. As explained in more detail below, Defendants collectively operate their web servers in a manner

that infringes the '295 Patent, by archiving and storing digital images received from cellular telephones.

9. Defendants are properly joined under 35 U.S.C. §299(a)(1) because a right to relief is asserted against the parties jointly, severally, and in the alternative with respect to the same transactions, occurrences, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, and/or selling the same accused products, namely the operation of Defendants' web servers.

10. Defendants are properly joined under 35 U.S.C. §299(a)(2). Questions of fact will arise that are common to all defendants, including for example, whether Defendants' products have features that meet the features of one or more claims of the '295 Patent, and what reasonable royalty will be adequate to compensate TLI for Defendants' infringement of the '295 Patent.

11. At least one right to relief is asserted against Tripadvisor, Inc. and Tripadvisor LLC jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences related to the making, using, importing into the United States, offering for sale, or selling of the same accused product and/or process.

The Patent-in-Suit

12. TLI is the owner of the '295 Patent entitled "Apparatus and Method for Recording, Communicating and Administering Digital Images," which the United States Patent & Trademark Office lawfully and duly issued on March 14, 2000. A true and correct copy of the '295 Patent is attached hereto as Exhibit A.

Factual Background

13. Dr. Heinz Mattes is the named inventor of the '295 patent.

14. The '295 patent claims priority to an application filed on June 17, 1996. The '295 patent was originally assigned to Siemens Aktiengesellschaft of Munich, Germany. TLI is the current owner of the '295 patent via assignment.

13. In the mid 1990's, Dr. Mattes, while working as a scientist for Siemens, recognized that mobile telephony and digital photography, each then in their infancy, would likely become more and more popular. Dr. Mattes recognized that mobile telephones could be integrated with digital cameras, resulting in a proliferation of the quantity of digital images that could and would be taken.

14. Dr. Mattes invented a revolutionary way of communicating and recording such digital images, which allowed numerous images to be simply and quickly recorded, tracked, accessed and transmitted.

15. In 1996, Dr. Mattes' invention was among the winners of a Siemens idea competition, leading to Siemens initiating a project to develop a cellular telephone with an integrated camera.

16. The '295's patented inventions are applicable to the uploading and organization of digital images from a telephone. Over the past few years, smart cellular telephones that incorporate sophisticated digital cameras have exploded in popularity, as has social media. Today, hundreds of millions of digital images are uploaded onto computer servers and social media websites every day, including onto www.tripadvisor.com. Tripadvisor, Inc.'s and Tripadvisor LLC's products use the '295's patented technology, without license or authority, to classify those images so that they can be easily uploaded, stored, organized, retrieved and shared.

Tripadvisor's Infringing Products

17. Tripadvisor, Inc. and Tripadvisor LLC provide web based products and services, including their www.tripadvisor.com product. Tripadvisor, Inc. and Tripadvisor LLC revenues are attributed to, among other things, display advertising and fee-based services.

18. Tripadvisor purports that they are “the world’s largest online travel company” and that “more than one-third of [their] traffic com[es] to TripAdvisor from a tablet or smartphone device” Tripadvisor further purports (i) that “[w]e averaged 45 million average unique users on smartphones and tablets at the end of the year [2012], up 190% year-over-year according to our traffic log files,” (ii) that they “announced an exciting partnership with Samsung, which will mean the TripAdvisor app and our rich, user-generated content come pre-installed on the new Galaxy 4 smartphone,” and (iii) that “as more travelers have a smartphone in their pocket while on a trip, we believe there are many more innovations and opportunities ahead for TripAdvisor to help that traveler.”

19. Tripadvisor recently offered Tripadvisor applications, especially designed for iPhone and Android mobile telephones, and other mobile telephones, which allow telephone users to easily characterize and upload digital images to Tripadvisor servers.

20. So that these digital images could be uploaded, stored and organized, Tripadvisor had to develop products and processes that, on information and belief, employ TLI’s patented technology. The infringing products include, but are not limited to, the products and processes that Tripadvisor uses to upload, store and organize the digital images it receives from mobile telephones, including onto its www.tripadvisor.com web servers (“Tripadvisor Infringing Products”). Discovery is expected to uncover the full extent of Tripadvisor’s unlawful use of TLI’s patented technology beyond these accused Infringing Products already identified through public information.

CLAIM FOR RELIEF (Infringement of the '295 Patent)

21. TLI incorporates by reference paragraphs 1 through 20 of the Complaint as if set forth here in full.

22. Upon information and belief, Tripadvisor, Inc. has been and is currently directly infringing one or more claims of the '295 Patent by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, without authority, the Tripadvisor Infringing Products. For example, and without limitation, Tripadvisor, Inc. has directly infringed and continues to directly infringe the '295 Patent in this judicial district and elsewhere in the United States. Tripadvisor, Inc.'s infringement includes, without limitation, (i) making and using the apparatus of claim and claims dependent thereon, and (ii) practicing the method of claim 17 and claims dependent thereon.

23. Specifically, Tripadvisor, Inc.'s direct infringement includes, without limitation (i) its uploading of digital images from mobile telephones onto Tripadvisor servers (or onto servers operated on or for Tripadvisor, Inc.'s behalf ("Tripadvisor, Inc.'s servers")), (ii) its testing of its products by uploading images with mobile telephones onto Tripadvisor, Inc. servers within the United States, and (iii) its maintaining Tripadvisor, Inc. servers that categorize and store images that were uploaded via mobile telephones. Tripadvisor, Inc. also directs and/or controls its employees, executives, agents, customers and agents to use its products to upload images from mobile telephones onto Tripadvisor, Inc. servers within the United States. Tripadvisor, Inc. also directly infringes one or more claims of the '295 Patent by providing Tripadvisor applications to mobile telephone users and thus putting the Infringing Products into use.

24. Upon information and belief, upon knowledge of the '295 Patent (at least since the filing date of this Complaint), Tripadvisor, Inc. is contributing to the infringement of the '295

Patent by, among other things, knowingly and with intent, actively encouraging its customers, suppliers, agents and affiliates to make, use, sell and/or offer for sale the Tripadvisor Infringing Products in a manner that constitutes infringement of one or more claims of the '295 Patent. There are no substantial uses of the Infringing Products that do not infringe one or more claims of the '295 Patent. Tripadvisor, Inc.'s mobile telephone applications and Tripadvisor LLC mobile telephone applications that Tripadvisor, Inc. provides to its customers, for example, have no substantial non-infringing use.

25. Upon information and belief, upon knowledge of the '295 Patent (at least since the filing date of this Complaint), Tripadvisor, Inc. is inducing infringement of the '295 Patent by, among other things, knowingly and with intent, actively encouraging its customers, suppliers, agents and affiliates to make, use, sell and/or offer for sale Tripadvisor Infringing Products in a manner that constitutes infringement of one or more claims of the '295 Patent.

26. To the extent that Tripadvisor, Inc.'s customers can be considered to put the Infringing Products into use, then Tripadvisor, Inc. would also be inducing infringement of the '295 Patent by, among other things, knowingly and with intent (at least since the filing date of this Complaint), actively encouraging its customers to make and use the Tripadvisor Infringing Products in a manner that constitutes infringement of one or more claims of the '295 Patent.

27. As a result of Tripadvisor, Inc.'s unlawful infringement of the '295 Patent, TLI has suffered and will continue to suffer damage. TLI is entitled to recover from Tripadvisor, Inc. the damages adequate to compensate for such infringement, which have yet to be determined.

28. Any further manufacturing, sales, offers for sale, uses, or importation by Tripadvisor, Inc. of the Tripadvisor Infringing Products will demonstrate a deliberate and conscious decision to infringe the '295 Patent or, at the very least, a reckless disregard of TLI's

patent rights. If Tripadvisor, Inc. continues to manufacture, use, offer to sell, sell, and/or import the Infringing Products following its notice of the '295 Patent claims, Tripadvisor, Inc.'s infringement will be willful and TLI will be entitled to treble damages and attorneys' fees and costs incurred in this action, along with prejudgment interest under 35 U.S.C. §§ 284, 285.

29. Tripadvisor, Inc. will continue to infringe the '295 Patent unless and until it is enjoined by this Court.

30. Tripadvisor, Inc.'s acts of infringement have caused and will continue to cause irreparable harm to TLI unless and until Tripadvisor, Inc. is enjoined by this Court.

31. Upon information and belief, Tripadvisor LLC has been and is currently directly infringing one or more claims of the '295 Patent by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, without authority, the Tripadvisor Infringing Products. For example, and without limitation, Tripadvisor LLC has directly infringed and continues to directly infringe the '295 Patent in this judicial district and elsewhere in the United States. Tripadvisor LLC's infringement includes, without limitation, (i) making and using the apparatus of claim 1 and claims dependent thereon, and (ii) practicing the method of claim 17 and claims dependent thereon.

32. Specifically, Tripadvisor LLC's direct infringement includes, without limitation (i) its uploading of digital images from mobile telephones onto Tripadvisor LLC servers (or onto servers operated on or for Tripadvisor LLC's behalf ("Tripadvisor LLC servers")), (ii) its testing of its products by uploading images with mobile telephones onto Tripadvisor LLC servers within the United States, and (iii) its maintaining Tripadvisor LLC servers that categorize and store images that were uploaded via mobile telephones. Tripadvisor LLC also directs and/or controls its employees, executives, agents, customers and agents to use its products to upload images

from mobile telephones onto Tripadvisor LLC servers within the United States. Tripadvisor LLC also directly infringes one or more claims of the '295 Patent by providing Tripadvisor applications to mobile telephone users and thus putting the Tripadvisor Infringing Products into use.

33. Upon information and belief, upon knowledge of the '295 Patent (at least since the filing date of this Complaint), Tripadvisor LLC is contributing to the infringement of the '295 Patent by, among other things, knowingly and with intent, actively encouraging its customers, suppliers, agents and affiliates to make, use, sell and/or offer for sale the Tripadvisor Infringing Products in a manner that constitutes infringement of one or more claims of the '295 Patent. There are no substantial uses of the Tripadvisor Infringing Products that do not infringe one or more claims of the '295 Patent. Tripadvisor LLC's mobile telephone applications that Tripadvisor LLC provides to its customers, for example, have no substantial non-infringing use.

34. Upon information and belief, upon knowledge of the '295 Patent (at least since the filing date of this Complaint), Tripadvisor LLC is inducing infringement of the '295 Patent by, among other things, knowingly and with intent, actively encouraging its customers, suppliers, agents and affiliates to make, use, sell and/or offer for sale Tripadvisor Infringing Products in a manner that constitutes infringement of one or more claims of the '295 Patent.

35. To the extent that Tripadvisor LLC's customers can be considered to put the Infringing Products into use, then Tripadvisor LLC would also be inducing infringement of the '295 Patent by, among other things, knowingly and with intent (at least since the filing date of this Complaint), actively encouraging its customers to make and use Tripadvisor's Infringing Products in a manner that constitutes infringement of one or more claims of the '295 Patent.

36. As a result of Tripadvisor LLC's unlawful infringement of the '295 Patent, TLI has suffered and will continue to suffer damage. TLI is entitled to recover from Tripadvisor LLC the damages adequate to compensate for such infringement, which have yet to be determined.

37. Any further manufacturing, sales, offers for sale, uses, or importation by Tripadvisor LLC of the Tripadvisor Infringing Products will demonstrate a deliberate and conscious decision to infringe the '295 Patent or, at the very least, a reckless disregard of TLI's patent rights. If Tripadvisor LLC continues to manufacture, use, offer to sell, sell, and/or import the Infringing Products following its notice of the '295 Patent claims, Tripadvisor LLC's infringement will be willful and TLI will be entitled to treble damages and attorneys' fees and costs incurred in this action, along with prejudgment interest under 35 U.S.C. §§ 284, 285.

38. Tripadvisor LLC will continue to infringe the '295 Patent unless and until it is enjoined by this Court.

39. Tripadvisor LLC's acts of infringement have caused and will continue to cause irreparable harm to TLI unless and until Tripadvisor LLC is enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, TLI prays for a Judgment in favor of TLI and against Defendants as follows:

- A. That Tripadvisor, Inc. has directly infringed the '295 Patent;
- B. That Tripadvisor, Inc. has indirectly infringed the '295 Patent;
- C. That this case is "exceptional" within the meaning of 35 U.S.C. § 285 against Tripadvisor, Inc.;
- D. An order preliminarily and permanently enjoining Tripadvisor, Inc. and its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees,

successors, assigns, and all those acting for them and on their behalf, or acting in concert with them directly or indirectly, from further acts of infringement of the '295 Patent;

E. A full accounting for and an award of damages to TLI for Tripadvisor, Inc.'s infringement of the '295 Patent; including enhanced damages pursuant to 35 U.S.C. § 284, together with pre- and post-judgment interest;

F. That Tripadvisor LLC has directly infringed the '295 Patent;

G. That Tripadvisor LLC has indirectly infringed the '295 Patent;

H. That this case is "exceptional" within the meaning of 35 U.S.C. § 285 against Tripadvisor LLC;

I. An order preliminarily and permanently enjoining Tripadvisor LLC and its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns, and all those acting for them and on their behalf, or acting in concert with them directly or indirectly, from further acts of infringement of the '295 Patent;

J. A full accounting for and an award of damages to TLI for Tripadvisor LLC's infringement of the '295 Patent; including enhanced damages pursuant to 35 U.S.C. § 284, together with pre- and post-judgment interest;

K. An award of TLI's reasonable attorneys' fees, expenses, and costs; and

L. A grant of such other and further equitable or legal relief as this Court deems proper.

DEMAND FOR JURY TRIAL

TLI hereby demands trial by jury on all issues so triable.

Dated: November 18, 2013

Respectfully submitted,

FARNAN LLP

/s/ Brian E. Farnan

Brian E. Farnan (Bar No. 4089)

Michael J. Farnan (Bar No. 5165)

919 North Market Street, 12th Floor

Wilmington, Delaware 19801

302-777-0300

302-777-0301

bfarnan@farnanlaw.com

Attorney for Plaintiff

Of Counsel:

Robert A. Whitman

Mark S. Raskin

Mishcon de Reya New York LLP

750 Seventh Ave, 26th Floor

New York, New York 10019

Telephone (212) 612-3270

Facsimile (212) 612-3297