

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

| | | |
|------------------------|---|---------------------|
| PRAGMATUS MOBILE, LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. _____ |
| |) | |
| AMAZON.COM, INC. |) | JURY TRIAL DEMANDED |
| |) | |
| Defendant |) | |

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Pragmatius Mobile, LLC ("Pragmatius") complains and alleges as follows against Defendant Amazon.com, Inc. ("Amazon"):

THE PARTIES

1. Pragmatius is a limited liability company organized and existing under the laws of the Commonwealth of Virginia with its principal place of business at 601 North King Street, Alexandria, Virginia 22314.

2. Pragmatius is informed and believes that Amazon.com, Inc. is a corporation organized under the laws of the Delaware and its principal place of business is 410 Terry Avenue North Seattle, WA 98109-5210. Amazon.com, Inc can be served with process through its agent Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, United States Code, 35 U.S.C. § 271 et seq. This Court has subject matter jurisdiction over this action under Tide 28 United States Code, §§ 1331 and 1338.

4. Pragmatus is informed and believes that this Court has personal jurisdiction over Amazon because Amazon.com, Inc. is incorporated within this district, and/or because Amazon has committed, and continues to commit, acts of infringement in Delaware.

5. Venue is proper under 28 U.S.C. §§ 1391 and 1400 because Amazon has committed acts of infringement in this district.

THE PATENTS-IN-SUIT

6. On June 18, 2013, the United States Patent and Trademark Office ("USPTO") duly and legally issued United States Patent No. 8,466,795 ("the '795 Patent"), entitled "Personal Security And Tracking System." Pragmatus holds all right, title and interest in and to the '795 Patent. A true and correct copy of the '795 Patent is attached as Exhibit A.

7. On information and belief, Amazon had knowledge of at least the '795 Patent no later than October 24, 2013 by virtue of a letter sent by Pragmatus to Amazon.com, Inc.'s Vice President and General Counsel, David A. Zapolsky.

COUNT I

(INFRINGEMENT OF THE '795 PATENT)

8. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 8 above.

9. Amazon has and continues to infringe directly one or more claims of the '795 Patent by making, using, offering for sale, selling and/or practicing the inventions covered by at least claim 27 of the '795 Patent, at least by providing the Amazon Kindle Fire HD 8.9" 4G tablet.

10. Amazon has and continues to infringe indirectly one or more claims of the '795 Patent by inducing others to infringe at least claim 27 of the '795 Patent by knowingly and intentionally encouraging or aiding third parties (e.g., Amazon's users) to use, *inter alia*, the

Amazon Kindle Fire HD 8.9” 4G tablet in a way that infringes and will continue to infringe the '795 Patent. Amazon, through at least its online user manuals, marketing materials and help materials actively induced and continues to induce its users of, *inter alia*, the Amazon Kindle Fire HD 8.9” 4G tablet to infringe the '795 Patent.

11. Amazon has and continues to contributorily infringe one or more claims of the '795 Patent, including at least claim 27, by offering to users of, *inter alia*, the Amazon Kindle Fire HD 8.9” 4G tablet components that embody a material part of the inventions described in the '795 Patent that are known by Amazon to be especially made or especially adapted for use in infringement of the '795 Patent and are not staple articles or commodities suitable for substantial, non-infringing use. Pragmatus is informed and believes that the third party users of, *inter alia*, the Amazon Kindle Fire HD 8.9” 4G tablet have infringed and will continue to infringe the '795 Patent by using the Amazon Kindle Fire HD 8.9” 4G tablet.

12. Pragmatus has provided Amazon written notice of Amazon’s infringement prior to the filing of this suit, and Amazon also has written notice of its infringement by virtue of the filing and service of this Complaint. Pragmatus is informed and believes that from the time that Amazon received notice of its infringement of the '795 patent on or about October 24, 2013 in a letter from William Marino to David A. Zapolsky, Amazon knew that users of, *inter alia*, the Amazon Kindle Fire HD 8.9” 4G tablet infringed the '795 patent and knew that it facilitated infringement by providing the Amazon Kindle Fire HD 8.9” 4G tablet to end users and encouraged infringement by providing online user manuals, marketing materials and help materials that explain how to infringe the '795 Patent. In addition to identifying the '795 Patent in the letter received on October 24, 2013, Mr. Marino also included representative claim comparisons showing how the '795 Patent reads on the Amazon Kindle Fire HD 8.9” 4G tablet.

13. Pragmatus is informed and believes that following notice Amazon did nothing to remedy its infringement and continues to infringe to this day. Amazon has continued to infringe despite an objectively high likelihood that its, *inter alia*, Amazon Kindle Fire HD 8.9" 4G tablet infringes the '795 Patent. Moreover, this risk was either known or so obvious that it should have been known to Amazon. Accordingly, Amazon has willfully infringed the '795 Patent.

14. As a result of Amazon's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

PRAYER FOR RELIEF

WHEREFORE, Pragmatus respectfully requests the following relief:

- a) A judgment that Amazon has infringed one or more claims of United States Patent No. 8,466,795;
- b) A judgment that United States Patent No. 8,466,795 is valid and enforceable;
- c) Pragmatus be awarded damages adequate to compensate Pragmatus for Amazon's infringement of United States Patent No. 8,466,795 up until the date such judgment is entered, including prejudgment and post-judgment interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Pragmatus for Amazon's infringement, an accounting;
- d) A judgment that Pragmatus be awarded attorney fees, costs, and expenses incurred in prosecuting this action;
- e) A judgment that Pragmatus be awarded such further relief at law or in equity as the Court deems just and proper; and
- f) A judgment permanently enjoining Amazon from further infringement of United States Patent No. 8,466,795.

g) A judgment that Amazon's infringement of United States Patent No. 8,466,795 was willful and enhancing Pragmatius' damages to three times its actual damages as a result.

DEMAND FOR JURY TRIAL

Pragmatius hereby demands trial by jury on all claims and issues so triable.

Respectfully submitted,

Dated: April 7, 2014

FARNAN LLP

By: /s/ Brian E. Farnan

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