

1 Derek A. Newman, State Bar No. 190467
derek@newmanlaw.com
2 NEWMAN DU WORS LLP
3 100 Wilshire Boulevard, Suite 940
4 Telephone: (310) 359-8200
5 Facsimile: (310) 359-8190

6 John Du Wors, State Bar No. 233913
john@newmanlaw.com
7 NEWMAN DU WORS LLP
8 1201 Third Avenue, Suite 1600
9 Seattle, WA 98101
Telephone: (206) 274-2800
Facsimile: (206) 274-2801

10 Attorneys for Plaintiff
11 ESSOCIATE, INC.

12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **SOUTHERN DIVISION**

16 ESSOCIATE, INC., a Delaware
17 corporation,

18 Plaintiff,

19 v.

20 INTEGRATE.COM, INC., a Delaware
21 Corporation,

22 Defendant.
23

Case No. 8:14-cv-00542

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

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1 ESSOCIATE, INC. (“Essociate” or “Plaintiff”) hereby alleges for its
2 complaint against INTEGRATE.COM, INC., a Delaware Corporation
3 (“Defendant”) upon personal information as to Plaintiff’s own activities, and upon
4 information and belief as to the activities of others, as follows:

5 **I. NATURE OF THE CASE**

6 1. This is a claim for patent infringement arising under the patent laws of
7 the United States, Title 35 of the United States Code.

8 **II. JURISDICTION AND VENUE**

9 2. This Court has exclusive subject matter jurisdiction over this action
10 pursuant to 28 U.S.C. §§ 1331 and 1338(a).

11 3. Personal jurisdiction over Defendant is proper in this court. Venue is
12 proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), (c) and/or 1400(b).

13 **III. PARTIES**

14 4. Plaintiff Essociate, Inc. is a Delaware corporation with its principal
15 business address at 548 Market Street #89706, San Francisco, CA 94104.

16 5. Essociate is the owner of U.S. Patent No. 6,804,660 (“the ‘660
17 Patent”), entitled “System Method and Article of Manufacture for Internet Based
18 Affiliate Pooling”, issued October 12, 2004 (copy attached as Exhibit A).

19 6. Essociate is the owner of the entire right, title, and interest in the ‘660
20 Patent and has standing to sue for all past, present, and future infringement of the
21 ‘660 Patent.

22 7. Upon information and belief, Defendant INTEGRATE.COM, INC. is
23 a Delaware Corporation with its headquarters and principal business address at
24 4900 N. Scottsdale Rd., Ste. 400, Scottsdale, AZ 85251. Upon information and
25 belief, Defendant transacts business and has provided to customers in this judicial
26 district and throughout the State of California products and/or services that
27 infringe and/or induce infringement of, and/or contribute to infringement of, one
28 or more claims of the ‘660 Patent.

1 8. Upon information and belief, Defendant manufactures, imports into
2 the United States, sells, offers for sale, and/or uses software products that infringe
3 one or more claims of the '660 Patent. Upon information and belief, such software
4 products are offered for sale to customers in this judicial district and throughout
5 the state of California.

6 **IV. DEFENDANT'S INFRINGEMENT OF THE '660 PATENT**

7 9. Upon information and belief, Defendant has been and is directly
8 infringing the '660 Patent under 35 U.S.C. § 271(a) by making, using, modifying,
9 upgrading, performing quality control, and providing support for their affiliate
10 software and/or other products and/or services provided by means of that software
11 and/or other products, including without limitation Defendant's affiliate marketing
12 network available at <http://www.rextopia.com/>

13 10. Upon information and belief, Defendant has also been and is directly
14 infringing the '660 Patent under 35 U.S.C. § 271(a) by selling, offering for sale,
15 and/or importing into the United States affiliate software and/or other products
16 and/or services that infringe one or more claims of the '660 patent, including, by
17 way of example and not limitation, Claim 1.

18 11. Upon information and belief, Defendant's customers and other users
19 of Defendant's software and other products and the services provided by means of
20 that software and other products, has been and is directly infringing one or more
21 claims of the '660 Patent under 35 U.S.C. § 271(a).

22 12. Upon information and belief, Defendant has been and is actively
23 inducing infringement of one or more claims of the '660 Patent under 35 U.S.C.
24 § 271(b) by providing to customers, including customers in this judicial district,
25 their affiliate software and other products, as well as services provided by means of
26 their affiliate software and other products, along with instructions and directions
27 that result in the use of the methods, computer programs, and systems disclosed
28 and claimed in the '660 Patent. On information and belief, Defendant knew, or

1 should have known, that its customers and other users of its services would use
2 Defendant's affiliate software and other products to infringe the '660 Patent and
3 intended such infringement.

4 13. Upon information and belief, Defendant has been and is contributorily
5 infringing one or more claims of the '660 Patent under 35 U.S.C. § 271(c) by
6 making, selling, and/or offering for sale to customers, including customers in this
7 judicial district, their affiliate software and other products, as well as services
8 provided by means of their affiliate software and other products. Defendant's
9 affiliate software and other products are each a material part of the invention
10 claimed in the '660 patent, are not staple articles or commodities of commerce, and
11 have no substantial non-infringing use. Upon information and belief, Defendants
12 knew, or should have known, that their affiliate software and other products were
13 especially made or adapted for an infringing use.

14 14. Defendant's infringement, contributory infringement, and
15 inducement to infringe the '660 Patent has been willful and has deliberately injured
16 and will continue to injure Essociate unless and until the Court enters a preliminary
17 or permanent injunction prohibiting further infringement and, specifically,
18 enjoining further manufacture, use, importation, sale, and/or offer for sale of
19 products that fall within the scope of the '660 Patent.

20 V. RELIEF REQUESTED

21 WHEREFORE, Essociate asks this Court to enter judgment against
22 Defendant and against Defendant's subsidiaries, affiliates, agents, servants,
23 employees and all persons in active concert or participation with them, granting the
24 following relief:

25 A. A judgment or order declaring that Defendant has infringed, induced
26 others to infringe, and/or contributorily infringed the '660 Patent;

27 B. A judgment, order, or award of damages adequate to compensate
28 Essociate for Defendant's infringement of the '660 Patent, based on lost sales, lost

1 profits, price erosion, loss of market share, or any other applicable theory, together
2 with prejudgment interest from the date infringement of the '660 Patent began;

3 C. A permanent injunction prohibiting further infringement, inducement,
4 and contributory infringement of the '660 Patent;

5 D. A finding that this case is exceptional and an award to Essociate of its
6 attorneys' fees and costs as provided by 35 U.S.C. § 285;

7 E. Increased damages as permitted by 35 U.S.C. § 284, together with
8 prejudgment interest; and

9 F. Such other and further relief as this Court or a jury may deem proper
10 and just.

11
12 Dated this 7th day of April, 2014.

13
14 Respectfully Submitted,

15 **NEWMAN DU WORS LLP**

16
17 By:



18 _____
19 Derek A. Newman, State Bar No. 190467
20 derek@newmanlaw.com
21 John Du Wors, State Bar No. 233913
22 duwors@newmanlaw.com

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24 Attorneys for Plaintiff
25 ESSOCIATE, INC.
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JURY DEMAND

Pursuant to FED. R. CIV. P. 38(b), Plaintiff Essociate, Inc. demands a trial by jury of all issues presented in this complaint which are triable by jury.

Dated this 7th day of April, 2014.

Respectfully Submitted,

NEWMAN DU WORS LLP

By: 
Derek A. Newman, State Bar No. 190467
derek@newmanlaw.com
John Du Wors, State Bar No. 233913
duwors@newmanlaw.com

Attorneys for Plaintiff
ESSOCIATE, INC.