

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

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| -----X | |
| TLI COMMUNICATIONS LLC, | : |
| | : |
| | : C.A. No. 13-1932 (GMS) |
| Plaintiff, | : |
| | : |
| | : |
| v. | : |
| | : |
| | : JURY TRIAL DEMANDED |
| TRIPADVISOR, INC. | : |
| | : |
| and | : |
| | : |
| TRIPADVISOR LLC | : |
| | : |
| Defendants. | : |
| -----X | |

First Amended Complaint for Patent Infringement

Plaintiff TLI Communications LLC (“TLI”) files this First Amended Complaint for Patent Infringement 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 a 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. 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.

3. 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.

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. 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 mobile devices having 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.

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 to be the world's largest travel site and the world's largest online travel company, and that it is hosting over 17 million photos, with more than 260 million

unique monthly visitors.¹ Tripadvisor purports that it has 80 million average monthly mobile visitors, with “more than one-third of [its] traffic coming to TripAdvisor from a tablet or smartphone device”² Tripadvisor purports that its image uploading software is pre-installed on millions of mobile devices and 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.”³

19. Tripadvisor offers websites, software and downloadable applications, especially designed for mobile devices having telephones, including iPhone and Android mobile telephones, and other mobile telephone platforms, which allow telephone users to easily characterize and upload digital images to Tripadvisor servers. On information and belief, Tripadvisor’s website can be directly accessed from many mobile telephones, which also uploads digital images characterized with user-information. In addition, Tripadvisor provides downloadable applications, which also provide for uploading digital images to Tripadvisor servers. Tripadvisor entices its users to upload digital images by providing easy-to-use platforms and instructions, and Tripadvisor stores and archives the digital images uploaded to its servers using the characterization information provided by its users. As a result, visitors are attracted to Tripadvisor where they can easily view, retrieve and share those images, resulting in more visitors to Tripadvisor, and increased Tripadvisor revenues.

20. So that these digital images could be captured, uploaded, stored and organized, Tripadvisor fashioned products and processes that, on information and belief, employ TLI’s

¹ Tripadvisor Form 10-K (2012 Annual Report), for the fiscal year ended December 31, 2012 at 3.

² http://www.tripadvisor.com/PressCenter-i6325-c1-Press_Releases.html.

³ http://www.tripadvisor.com/PressCenter-i5809-c1-Press_Releases.html; Tripadvisor Form 10-K (2012 Annual Report), for the fiscal year ended December 31, 2012 at cover letter to shareholders, pp.1-2.

patented technology. The infringing products include, but are not limited to, the products and processes that Tripadvisor uses to capture, upload, store and organize the digital images it receives from mobile devices having telephones, including via www.tripadvisor.com. 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

COUNT I (Tripadvisor, Inc.'s Infringement of the '295 Patent)

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

Direct Infringement

22. 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 aforementioned platforms that upload and store digital images from mobile devices having telephones. 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 1 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 devices having telephones onto Tripadvisor, Inc. and/or Tripadvisor LLC servers (or onto servers operated on or for Tripadvisor, Inc.'s or Tripadvisor LLC's behalf ("Tripadvisor servers")), (ii) its testing of its Tripadvisor, Inc. products by uploading images from mobile devices having telephones onto Tripadvisor servers within the

United States, and (iii) its maintaining Tripadvisor servers that categorize and store images that were uploaded via mobile devices having telephones. Tripadvisor, Inc. also directs and/or controls its employees, executives, customers and agents to use the aforementioned digital image uploading platforms to upload images from mobile devices having telephones onto Tripadvisor servers within the United States.

24. To the extent that claim 1 of the '295 Patent is construed to require a system with a claim element not practiced by Tripadvisor, Inc., Tripadvisor, Inc. would also directly infringe claim 1 at least because it directs and/or controls the practicing of all claim elements or because it places the invention into service. For example, Tripadvisor, Inc. provides websites, platforms and software to mobile telephone users that provide and enable image uploading, thereby putting the invention into service. Moreover, Tripadvisor, Inc. directs and/or controls the practicing of all claim elements, as shown for example, by Tripadvisor, Inc. entering into contracts with its users, Tripadvisor, Inc. instructing its users how to upload digital images from mobile devices having telephones, Tripadvisor, Inc. automatically syncing digital images from mobile devices having telephones onto its servers, Tripadvisor, Inc. automatically uploading digital images from mobile devices having telephones onto its servers, Tripadvisor, Inc. automatically tagging digital images that it uploads onto its servers from mobile devices having telephones with characterization information of the users, and Tripadvisor, Inc. automatically archiving the digital images that it uploads onto its servers with characterization information of the users.

25. To the extent that claim 17 of the '295 Patent is construed to require a method with a step not practiced by Tripadvisor, Inc., Tripadvisor, Inc. would also directly infringe claim 17 at least because it directs and/or controls the practicing of all claimed steps. Tripadvisor, Inc. directs and/or controls the practicing of all claim elements, as shown for example, by

Tripadvisor, Inc. entering into contracts with its users, Tripadvisor, Inc. instructing its users how to upload digital images from mobile devices having telephones, Tripadvisor, Inc. automatically syncing digital images from mobile devices having telephones onto its servers, Tripadvisor, Inc. automatically uploading digital images from mobile devices having telephones onto its servers, Tripadvisor, Inc. pre-loading image uploading software on mobile devices having telephones, Tripadvisor, Inc. automatically tagging digital images that it uploads onto its servers from mobile devices having telephones with characterization information of the users, and Tripadvisor, Inc. automatically archiving the digital images that it uploads onto its servers with characterization information of the users.

26. At least as a result of the computer software and hardware that performs these activities, Tripadvisor, Inc. is liable for literal direct infringement of the '295 Patent pursuant to 35 U.S.C. § 271(a).

27. To the extent that any fact finder deems any of the elements of the '295 patent claims not literally satisfied by the structure or use of the Tripadvisor, Inc. platform, these elements are satisfied under the doctrine of equivalents.

Indirect Infringement

28. Alternatively, and in addition to its liability for direct infringement of the '295 Patent, Tripadvisor, Inc. is also liable for indirectly infringing the '295 Patent in this judicial district and elsewhere in the United States by inducing direct infringement in violation of 35 U.S.C. § 271(b) and contributing to direct infringement in violation of 35 U.S.C. § 271(c).

29. Tripadvisor, Inc. has been aware of the '295 Patent since at least November 20, 2013, when it was served with the original complaint in this action (D.I. 1), which was filed on November 18, 2013. The original complaint is incorporated herein by reference.

30. Upon Tripadvisor, Inc.'s gaining knowledge of the '295 patent, it was, or became, apparent to Tripadvisor, Inc. that the operation of its digital image uploading platforms and software resulted in infringement of the '295 Patent. Tripadvisor, Inc. has continued to engage in the aforementioned activities constituting inducement of infringement, notwithstanding its knowledge (or willful blindness thereto) that the activities it was inducing result in infringement of the '295 Patent.

31. The direct infringement induced and contributed to by Tripadvisor, Inc. includes at least the uploading of digital images from mobile devices having telephones to Tripadvisor servers by end users acting alone or in combination with Tripadvisor, Inc. For example, and without limitation, to the extent that claim 1 is construed to require a system with the system placed into service by a user who uploads digital images from a mobile device having a telephone (and it is determined, for example, that Tripadvisor, Inc. does not direct and/or control that user), the user would be considered to be a direct infringer of claim 1. Tripadvisor, Inc. knows that these users are infringing the '295 Patent and Tripadvisor, Inc. has specific intent to encourage the users to infringe the '295 Patent. As another example, to the extent that claim 17 is construed to require a method with steps performed by one or more entities other than Tripadvisor, Inc., for example, a user (and it is determined, for example, that Tripadvisor, Inc. does not direct and/or control these entities), Tripadvisor, Inc. induces those entities to perform those infringing acts, knowing that the acts constitute infringement of the '295 Patent and with specific intent to encourage those acts and encourage infringement.

32. Tripadvisor, Inc. encourages direct infringement of the '295 Patent at least by widely publicizing its social network, by providing image-uploading tools via its website, by providing image-uploading software, by automatically syncing images from mobile devices

having telephones, by automatically tagging images uploaded from mobile devices having telephones, by automatically characterizing images with user information when uploaded from mobile devices having telephones, by providing image storage, by storing images uploaded from mobile devices having telephones according to user-characterization information, by providing image-uploading, downloadable applications for mobile devices having telephones, and by providing instructions for conducting the directly infringing use of uploading digital images from mobile devices.⁴

33. Tripadvisor, Inc. induces infringement at least by encouraging, facilitating and instructing users to use the '295 Patent's inventions by uploading digital images to Tripadvisor servers from mobile devices having telephones. Tripadvisor, Inc. does this by providing image uploading software and platforms (including, for example, automatic upload software, and pre-loaded, downloadable and/or directly accessible upload software via Tripadvisor, Inc. websites and platforms) to its users, and by instructing its users how to upload images to Tripadvisor servers, thereby inducing the use of the claimed inventions.⁵

34. Tripadvisor, Inc. is inducing infringement of the '295 Patent by, among other things, knowingly and with specific intent, actively encouraging its customers, suppliers, agents and affiliates to make, use, sell and/or offer for sale the aforementioned Tripadvisor, Inc. image uploading platforms in a manner that constitutes infringement of one or more claims of the '295 Patent, knowing that such activities infringe at least one claim of the '295 Patent, and with the knowledge and specific intent to encourage, direct and facilitate those infringing activities,

⁴ *See, for example*, <http://help.tripadvisor.com/articles/200615327-What-is-the-TripAdvisor-mobile-application->; <http://help.tripadvisor.com/articles/200615337-How-can-I-access-TripAdvisor-on-my-phone-or-tablet->; <http://www.tripadvisor.com/apps>; <http://www.tripadvisor.com/apps-itamobile-ciphone>; <http://www.tripadvisor.com/apps-itamobile-candroid>.

⁵ *See id.*

including through the creation and dissemination of promotional and marketing materials, instructional materials, product materials and technical materials.

35. By inducing its customers', suppliers', users', agents' and affiliates' use of the methods claimed in the '295 Patent and their making and/or using the aforementioned Tripadvisor, Inc. image uploading platforms, Tripadvisor, Inc. has been and is now indirectly infringing under 35 U.S.C. § 271(b) one or more claims of the '295 Patent, either literally or under the doctrine of equivalents.

36. Tripadvisor, Inc. contributes to the '295 Patent's direct infringement by, among other things, knowingly and with specific intent, actively encouraging its customers, suppliers, agents, users and affiliates to make, use, sell and/or offer for sale Tripadvisor, Inc.'s aforementioned image uploading platforms and services that constitutes infringement of at least claims 1 and 17 of the '295 Patent. For example, to the extent that any claim is construed to require a system, Tripadvisor, Inc. provides components, including image-uploading, pre-loaded software, websites and/or downloadable applications, for use in systems, which facilitate the uploading of digital images from mobile devices having telephones. Tripadvisor, Inc. knows that such products constitute a material part of the inventions of the '295 Patent, knows those products to be especially made or adapted to infringe the '295 Patent, and knows that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use. Tripadvisor, Inc. knows that by providing such components to its customers, its customers will infringe at least one claim of the '295 Patent, and Tripadvisor, Inc. knows that its customers do infringe the '295 Patent. Tripadvisor, Inc. image uploading software has no substantial non-infringing uses.

37. By contributing to its customers', suppliers', agents', users' and affiliates' use of the methods claimed in the '295 Patent and their making and/or using the aforementioned Tripadvisor, Inc. image uploading platforms, Tripadvisor, Inc. has been and is now indirectly infringing under 35 U.S.C. § 271(c) one or more claims of the '295 Patent, either literally or under the doctrine of equivalents.

271(f) Infringement

38. Tripadvisor, Inc. is liable for infringement under 35 U.S.C. § 271(f) when the end user is outside the United States by supplying its software components for combination outside the United States.

Joint Infringement

39. Alternatively, the actions alleged above establish joint infringement of at least claims 1 and 17 by Tripadvisor, Inc. and its customers, users, suppliers, agents and affiliates for which they should be found jointly and severally liable.

Remedy for Tripadvisor, Inc.'s Infringement

40. 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.

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

42. 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.

COUNT II (Tripadvisor LLC's Infringement of the '295 Patent)

43. TLI incorporates by reference paragraphs 1 through 42 of the Complaint as if set forth here in full.

Direct Infringement

44. 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 aforementioned platforms that upload and store digital images from mobile devices having telephones. 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.

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

46. To the extent that claim 1 of the '295 Patent is construed to require a system with a claim element not practiced by Tripadvisor LLC, Tripadvisor LLC would also directly infringe claim 1 at least because it directs and/or controls the practicing of all claim elements or because

it places the invention into service. For example, Tripadvisor LLC provides websites, platforms and software to mobile telephone users that provide and enable image uploading, thereby putting the invention into service. Moreover, Tripadvisor LLC directs and/or controls the practicing of all claim elements, as shown for example, by Tripadvisor LLC entering into contracts with its users, Tripadvisor LLC instructing its users how to upload digital images from mobile devices having telephones, Tripadvisor LLC automatically syncing digital images from mobile devices having telephones onto its servers, Tripadvisor LLC automatically uploading digital images from mobile devices having telephones onto its servers, Tripadvisor LLC automatically tagging digital images that it uploads onto its servers from mobile devices having telephones with characterization information of the users, and Tripadvisor LLC automatically archiving the digital images that it uploads onto its servers with characterization information of the users.

47. To the extent that claim 17 of the '295 Patent is construed to require a method with a step not practiced by Tripadvisor LLC, Tripadvisor LLC would also directly infringe claim 17 at least because it directs and/or controls the practicing of all claimed steps.

Tripadvisor LLC directs and/or controls the practicing of all claim elements, as shown for example, by Tripadvisor LLC entering into contracts with its users, Tripadvisor LLC instructing its users how to upload digital images from mobile devices having telephones, Tripadvisor LLC automatically syncing digital images from mobile devices having telephones onto its servers, Tripadvisor LLC automatically uploading digital images from mobile devices having telephones onto its servers, Tripadvisor LLC pre-loading image uploading software on mobile devices having telephones, Tripadvisor LLC automatically tagging digital images that it uploads onto its servers from mobile devices having telephones with characterization information of the users,

and Tripadvisor LLC automatically archiving the digital images that it uploads onto its servers with characterization information of the users.

48. At least as a result of the computer software and hardware that performs these activities, Tripadvisor LLC is liable for literal direct infringement of the '295 Patent pursuant to 35 U.S.C. § 271(a).

49. To the extent that any fact finder deems any of the elements of the '295 patent claims not literally satisfied by the structure or use of the Tripadvisor LLC platform, these elements are satisfied under the doctrine of equivalents.

Indirect Infringement

50. Alternatively, and in addition to its liability for direct infringement of the '295 Patent, Tripadvisor LLC is also liable for indirectly infringing the '295 Patent in this judicial district and elsewhere in the United States by inducing direct infringement in violation of 35 U.S.C. § 271(b) and contributing to direct infringement in violation of 35 U.S.C. § 271(c).

51. Tripadvisor LLC has been aware of the '295 Patent since at least November 20, 2013, when it was served with the original complaint in this action (D.I. 1), which was filed on November 18, 2013. The original complaint is incorporated herein by reference.

52. Upon Tripadvisor LLC's gaining knowledge of the '295 patent, it was, or became, apparent to Tripadvisor LLC that the operation of its digital image uploading platforms and software resulted in infringement of the '295 Patent. Tripadvisor LLC has continued to engage in the aforementioned activities constituting inducement of infringement, notwithstanding its knowledge (or willful blindness thereto) that the activities it was inducing result in infringement of the '295 Patent.

53. The direct infringement induced and contributed to by Tripadvisor LLC includes at least the uploading of digital images from mobile devices having telephones to Tripadvisor servers by end users acting alone or in combination with Tripadvisor LLC. For example, and without limitation, to the extent that claim 1 is construed to require a system with the system placed into service by a user who uploads digital images from a mobile device having a telephone (and it is determined, for example, that Tripadvisor LLC does not direct and/or control that user), the user would be considered to be a direct infringer of claim 1. Tripadvisor LLC knows that these users are infringing the '295 Patent and Tripadvisor LLC has specific intent to encourage the users to infringe the '295 Patent. As another example, to the extent that claim 17 is construed to require a method with steps performed by one or more entities other than Tripadvisor LLC, for example, a user (and it is determined, for example, that Tripadvisor LLC does not direct and/or control these entities), Tripadvisor LLC induces those entities to perform those infringing acts, knowing that the acts constitute infringement of the '295 Patent and with specific intent to encourage those acts and encourage infringement.

54. Tripadvisor LLC encourages direct infringement of the '295 Patent at least by widely publicizing its social network, by providing image-uploading tools via its website, by providing image-uploading software, by automatically syncing images from mobile devices having telephones, by automatically tagging images uploaded from mobile devices having telephones, by automatically characterizing images with user information when uploaded from mobile devices having telephones, by providing image storage, by storing images uploaded from mobile devices having telephones according to user-characterization information, by providing image-uploading, downloadable applications for mobile devices having telephones, and by

providing instructions for conducting the directly infringing use of uploading digital images from mobile devices.⁶

55. Tripadvisor LLC induces infringement at least by encouraging, facilitating and instructing users to use the '295 Patent's inventions by uploading digital images to Tripadvisor servers from mobile devices having telephones. Tripadvisor LLC does this by providing image uploading software and platforms (including, for example, automatic upload software, and pre-loaded, downloadable and/or directly accessible upload software via Tripadvisor LLC websites and platforms) to its users, and by instructing its users how to upload images to Tripadvisor servers, thereby inducing the use of the claimed inventions.⁷

56. Tripadvisor LLC is inducing infringement of the '295 Patent by, among other things, knowingly and with specific intent, actively encouraging its customers, suppliers, agents and affiliates to make, use, sell and/or offer for sale the aforementioned Tripadvisor LLC image uploading platforms in a manner that constitutes infringement of one or more claims of the '295 Patent, knowing that such activities infringe at least one claim of the '295 Patent, and with the knowledge and specific intent to encourage, direct and facilitate those infringing activities, including through the creation and dissemination of promotional and marketing materials, instructional materials, product materials and technical materials.

57. By inducing its customers', suppliers', users', agents' and affiliates' use of the methods claimed in the '295 Patent and their making and/or using the aforementioned Tripadvisor LLC image uploading platforms, Tripadvisor LLC has been and is now indirectly

⁶ See, for example, <http://help.tripadvisor.com/articles/200615327-What-is-the-TripAdvisor-mobile-application->; <http://help.tripadvisor.com/articles/200615337-How-can-I-access-TripAdvisor-on-my-phone-or-tablet->; <http://www.tripadvisor.com/apps>; <http://www.tripadvisor.com/apps-itamobile-ciphone>; <http://www.tripadvisor.com/apps-itamobile-candroid>.

⁷ See *id.*

infringing under 35 U.S.C. § 271(b) one or more claims of the '295 Patent, either literally or under the doctrine of equivalents.

58. Tripadvisor LLC contributes to the '295 Patent's direct infringement by, among other things, knowingly and with specific intent, actively encouraging its customers, suppliers, agents, users and affiliates to make, use, sell and/or offer for sale Tripadvisor LLC's aforementioned image uploading platforms and services that constitutes infringement of at least claims 1 and 17 of the '295 Patent. For example, to the extent that any claim is construed to require a system, Tripadvisor LLC provides components, including image-uploading, pre-loaded software, websites and/or downloadable applications, for use in systems, which facilitate the uploading of digital images from mobile devices having telephones. Tripadvisor LLC knows that such products constitute a material part of the inventions of the '295 Patent, knows those products to be especially made or adapted to infringe the '295 Patent, and knows that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use. Tripadvisor LLC knows that by providing such components to its customers, its customers will infringe at least one claim of the '295 Patent, and Tripadvisor LLC knows that its customers do infringe the '295 Patent. Tripadvisor LLC image uploading software has no substantial non-infringing uses.

59. By contributing to its customers', suppliers', agents', users' and affiliates' use of the methods claimed in the '295 Patent and their making and/or using the aforementioned Tripadvisor LLC image uploading platforms, Tripadvisor LLC has been and is now indirectly infringing under 35 U.S.C. § 271(c) one or more claims of the '295 Patent, either literally or under the doctrine of equivalents.

271(f) Infringement

60. Tripadvisor LLC is liable for infringement under 35 U.S.C. § 271(f) when the end user is outside the United States by supplying its software components for combination outside the United States.

Joint Infringement

61. Alternatively, the actions alleged above establish joint infringement of at least claims 1 and 17 by Tripadvisor LLC and its customers, users, suppliers, agents and affiliates for which they should be found jointly and severally liable.

Remedy for Tripadvisor LLC's Infringement

62. 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.

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

64. 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 Defendants have directly infringed the '295 Patent;
- B. That Defendants have indirectly infringed the '295 Patent;
- C. That Tripadvisor, Inc. and its customers, users, suppliers, agents and affiliates have jointly infringed the '295 Patent;

D. That Tripadvisor LLC and its customers, users, suppliers, agents and affiliates have jointly infringed the '295 Patent;

E. An order preliminarily and permanently enjoining Defendants and their 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;

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

G. That this case is "exceptional" within the meaning of 35 U.S.C. § 285;

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

I. 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: February 10, 2014

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