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 UNWIRED PLANET LLC  
 16

17 **UNITED STATES DISTRICT COURT**  
 18 **DISTRICT OF NEVADA**

20 UNWIRED PLANET LLC, a Nevada  
 limited liability company,  
 21  
 Plaintiff,  
 22  
 vs.  
 23  
 SQUARE, INC., a Delaware corporation,  
 24  
 Defendant.  
 25

CASE NO. 3:13-cv-00579-RCJ-WGC

**SECOND AMENDED COMPLAINT FOR  
 PATENT INFRINGEMENT**

**(JURY DEMAND)**

1           1.       Plaintiff Unwired Planet LLC (“Plaintiff”) files this Second Amended Complaint  
2 for Patent Infringement against Square, Inc. (“Square” or “Defendant”), and alleges as follows:

3   **JURISDICTION**

4           2.       This is an action arising under the patent laws of the United States, 35 U.S.C.  
5 § 101 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6   **VENUE**

7           3.       This Court has personal jurisdiction over the Defendant Square. Square has  
8 conducted and does conduct business within the State of Nevada. Square, directly or through  
9 subsidiaries or intermediaries (including distributors, retailers, and others), ships, distributes,  
10 offers for sale, sells, and advertises (including the provision of an interactive web page) its  
11 products and/or services in the United States, the State of Nevada, and the District of Nevada.  
12 Square, directly and through subsidiaries or intermediaries (including distributors, retailers, and  
13 others), has purposefully and voluntarily placed one or more of its infringing products and/or  
14 services, as described below, into the stream of commerce with the expectation that they will be  
15 purchased and/or used by consumers in the District of Nevada. These infringing products and/or  
16 services have been and continue to be purchased and/or used by consumers in the District of  
17 Nevada. Square has committed acts of patent infringement within the State and District of  
18 Nevada.

19           4.       Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c) and (d) and  
20 1400(b). A substantial part of the events giving rise to Plaintiff’s claims occurred in the District  
21 of Nevada and Square is subject to personal jurisdiction in the district.

22   **PARTIES**

23           5.       Plaintiff Unwired Planet LLC is a Nevada entity having a principal place of  
24 business at 170 South Virginia Street, Suite 201, Reno, Nevada 89501. Unwired Planet LLC is a  
25 subsidiary of Unwired Planet, Inc. Unwired Planet LLC has more than a dozen employees, some  
26 of whom work for both Unwired Planet LLC and Unwired Planet, Inc. To avoid confusion, we  
27 will refer to Plaintiff Unwired Planet LLC as “Plaintiff” and Unwired Planet, Inc. as “Unwired  
28 Planet” throughout this Complaint, except at otherwise noted.



1 the predecessor to the current-day Unwired Planet, in a \$6.4 billion merger. Openwave continued  
2 to grow and innovate. By mid-2001, about 97 percent of internet-ready mobile phones in the  
3 United States and approximately 75 percent overseas used an Openwave browser. By July 2001  
4 Openwave had increased in size to approximately 2,200 employees worldwide, and the company  
5 earned revenues of over \$465 million for fiscal year 2001.

6 12. Through its innovation and technological leadership, Openwave amassed a patent  
7 portfolio comprising over 200 patents. Many of these patents disclose and protect the  
8 foundational aspects of today's most widely-used mobile technologies, such as mobile internet,  
9 location-based services, and e-commerce applications. These patents are now assigned to  
10 Plaintiff.

11 13. Unfortunately, merely having patents did not protect Openwave from infringing  
12 competition. As Openwave's revenues and market share fell, it was forced to downsize its own  
13 employees. In April 2012 Openwave sold its product businesses, but retained the patents it had  
14 been awarded. After selling off its product businesses, Openwave changed its name back to  
15 Unwired Planet. Unwired Planet retained its patents, representing almost two decades of  
16 investment, allowing the company to focus its efforts on licensing its fundamental patent portfolio  
17 to the companies whose infringement put it out of the software and service businesses. Today,  
18 Plaintiff Unwired Planet LLC owns the patents-in-suit and over 2400 additional patent assets.

### 19 **THE PATENTS IN SUIT**

20 14. United States Letters Patent No. 7,711,100 ("the 100 Patent"), entitled "System  
21 and Method for Controlling Financial Transactions Over a Wireless Network" was duly and  
22 legally issued to inventor Charles L. Dennis on May 4, 2010. Plaintiff owns by assignment the  
23 entire right, title, and interest in the 100 Patent, and is entitled to sue for past and future  
24 infringement. A true and correct copy of the 100 Patent is attached hereto as Exhibit A and  
25 incorporated by reference herein. A true and correct copy of the 100 Patent Assignment Abstract  
26 of Title from the United States Patent and Trademark Office ("USPTO") database is attached  
27 hereto as Exhibit D.

28 15. United States Letters Patent No. 7,376,433 ("the 433 Patent"), entitled "Subscriber

1 Delivered Location-Based Services” was duly and legally issued to inventor David Hose on May  
 2 20, 2008. Plaintiff owns by assignment the entire right, title, and interest in the 433 Patent, and is  
 3 entitled to sue for past and future infringement. A true and correct copy of the 433 Patent is  
 4 attached hereto as Exhibit B and incorporated by reference herein. A true and correct copy of the  
 5 433 Patent Assignment Abstract of Title from the USPTO database is attached hereto as Exhibit  
 6 E.

7 16. United States Letters Patent No. 8,275,359 (“the 359 Patent”), entitled “Wireless  
 8 User Based Notification System” was duly and legally issued to inventor Mark Drennan on  
 9 September 25, 2012. Plaintiff owns by assignment the entire right, title, and interest in the 359  
 10 Patent, and is entitled to sue for past and future infringement. A true and correct copy of the 359  
 11 Patent is attached hereto as Exhibit C and incorporated by reference herein. A true and correct  
 12 copy of the 359 Patent Assignment Abstract of Title from the USPTO database is attached hereto  
 13 as Exhibit F.

14 17. The 100, 433 and 359 Patents (collectively, the Asserted Patents) cover inventions  
 15 relating to wireless devices, management of wireless devices, management of messages and data  
 16 for wireless devices, and location services.

17 **CLAIM FOR PATENT INFRINGEMENT**

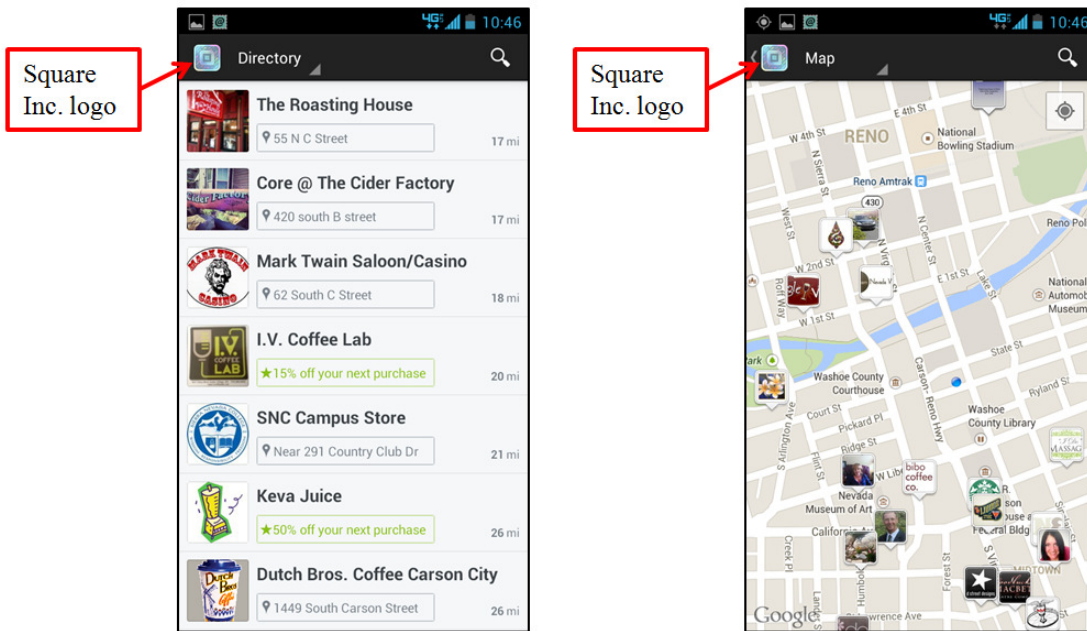
18 18. Plaintiff repeats and realleges the allegations in paragraphs 1-17 as though fully set  
 19 forth herein.

20 19. Square directly infringes one or more claims of each of the Asserted Patents under  
 21 35 U.S.C. § 271(a). Square is making, using, selling, offering for sale, exporting, and/or  
 22 importing Accused Products and Services which infringe one or more claims of each of the  
 23 Asserted Patents, as set forth in the table below. Further discovery may reveal additional  
 24 infringing products and/or models.

<b>Asserted Patents</b>	<b>Accused Products and Services</b>
7,711,100	Mobile App Systems and/or Services (including Square Wallet, Square Register, Square Order 2.0, and Location Services including Local Search), Servers (including servers supporting the aforementioned Systems and/or Services), and Mobile

1		Devices (including mobile phones, tablets, and music players with the iOS operating system (iPhones, iPads, and iPods) and the Android operating system).
2	7,376,433	Mobile App Systems and/or Services (including Square Wallet, Square Register, Square Order 2.0, and Location Services including Local Search), Servers (including servers supporting the aforementioned Systems and/or Services), and Mobile Devices (including mobile phones, tablets, and music players with the iOS operating system (iPhones, iPads, and iPods) and the Android operating system).
3	8,275,359	Mobile App Systems and/or Services (including Square Wallet, Square Register, Square Order 2.0, and Location Services including Local Search), Servers (including servers supporting the aforementioned Systems and/or Services), and Mobile Devices (including mobile phones, tablets, and music players with the iOS operating system (iPhones, iPads, and iPods) and the Android operating system).

9 Screenshots of Square’s Wallet mobile application being utilized in Reno, Nevada are  
 10 below. The Square logo is clearly visible in the top left corner of each image.



22 20. On September 26, 2013, Unwired Planet informed Square of its infringement of at  
 23 least the ‘100 and ‘433 patents. As such, Square has known about at least the ‘100 and ‘433  
 24 patents since at least September 26, 2013.

25 21. Square indirectly infringes one or more claims of each of the Asserted Patents  
 26 under 35 U.S.C. § 271(b). Square has induced and continues to induce its customers and/or users  
 27 of the Accused Products and Services above to infringe one or more claims of the Asserted  
 28

1 Patents above. For example, Square induces others to directly infringe one or more claims of  
2 each of the Asserted Patents by inducing or encouraging the use of the Accused Products and  
3 Services. *See, e.g.*, <https://itunes.apple.com/app/square-wallet/id455018546>,  
4 <https://play.google.com/store/apps/details?id=com.squareup.cardcase>, <https://itunes.apple.com/us/>  
5 [app/square-register/id335393788](https://itunes.apple.com/us/app/square-register/id335393788), <https://play.google.com/store/apps/details?id=com.squareup>, all  
6 last accessed January 2, 2014, screen shots of which are attached hereto as Exhibits G–J,  
7 (showing availability of the Accused Products and Services for mobile devices running the iOS  
8 and Android operating systems, and showing at least inducement of others to sell or offer for sale  
9 the Accused Products and Services, and showing at least inducement of customers and/or users to  
10 download, install and use the Accused Products and Services); *see also, e.g.*,  
11 <https://squareup.com/help/en-us/article/3905-set-up-and-manage-square-wallet#set>,  
12 <https://squareup.com/help/en-us/article/3906-payments-and-receipts-in-square-wallet>,  
13 <https://squareup.com/legal/privacy>, <https://squareup.com/help/en-us/article/3827-your-profile->  
14 [and-square-market](https://squareup.com/help/en-us/article/3827-your-profile-and-square-market), <https://squareup.com/sell-in-store>, <https://squareup.com/help/en-us/article/>  
15 [3844-gps-maps-and-location-services](https://squareup.com/help/en-us/article/3844-gps-maps-and-location-services), <https://squareup.com/help/en-us/article/5159-square-for->  
16 [mobile-merchants](https://squareup.com/help/en-us/article/5159-square-for-mobile-merchants), <https://squareup.com/help/en-us/topic/123-payments-receipts-and-refunds#>  
17 [square-wallet](https://squareup.com/help/en-us/topic/123-payments-receipts-and-refunds#square-wallet), all last accessed January 2, 2014, screen shots of which are attached hereto as  
18 Exhibits K–S (describing at least in part functionality and operation of the Accused Products and  
19 Services which infringe the Asserted Patents, and encouraging, inducing and teaching customers  
20 and/or users how to use the Accused Products and Services so as to infringe the Asserted Patents).  
21 On or around October 8, 2014, Square deployed additional infringing functionality for the  
22 Accused Products and Services – Square Order 2.0. *See, e.g.*,  
23 <https://itunes.apple.com/us/app/id873401154?mt=8>,  
24 <https://play.google.com/store/apps/details?id=com.squareup.pickup>, all last accessed October 27,  
25 2014, screen shots of which are attached hereto as Exhibits T–U, (showing availability of Square  
26 Order 2.0 for mobile devices running the iOS and Android operating systems, and showing at  
27 least inducement of others to sell or offer for sale the Accused Products and Services, and  
28 showing at least inducement of customers and/or users to download, install and use the Accused

1 Products and Services). Since at least September 2013, Square has known about its infringement  
2 of at least the '100 and '433 patents, and since at least the filing of this lawsuit Square has known  
3 about its infringement of the '359 patent as well. By continuing the actions described above and  
4 based on at least the information provided on its website, Square specifically intends for its  
5 customers and/or users of the Accused Products and Services above to infringe one or more  
6 claims of the Asserted Patents above in the United States. Square knew of the Asserted Patents  
7 and designed the Accused Products and Services such that they would each infringe one or more  
8 claims of each of the Asserted Patents if made, used, sold, offered for sale or imported into the  
9 United States, and Square knows that the customers and/or users of the Accused Products and  
10 Services will directly infringe one or more claims of the Asserted Patents when those customers  
11 and/or users make, use, sell, offer to sell, and/or import into the United States, the Accused  
12 Products and Services. In addition, Square has failed to redesign the Accused Products and  
13 Services to cease infringement.

14 22. Square indirectly infringes one or more claims of the Asserted Patents by  
15 contributory infringement under 35 U.S.C. § 271(c). Square has contributed to and continues to  
16 contribute to the direct infringement of one or more claims of the Asserted Patents by customers  
17 and/or users of the Accused Products and Services. Since at least September 2013, Square has  
18 known about its infringement of at least the '100 and '433 patents, and since at least the date of  
19 filing of this lawsuit, Square has known about its infringement of the '359 patent as well. Square  
20 induces others to directly infringe one or more claims of each of the Asserted Patents by inducing  
21 or encouraging the use of the Accused Products and Services. *See, e.g.*, Exhibits G–U. Square  
22 has further sold, offered to sell, and/or imported in and into the United States the Accused  
23 Products, which Square has known to be especially made or adapted for use in infringing the  
24 Asserted Patents and which have no substantial non-infringing uses. Square designed the  
25 Accused Products and Services such that they would infringe one or more claims of the Accused  
26 Patents if made, used, sold, offered for sale or imported into the United States. The Accused  
27 Products and Services are a material part of the invention described in the Asserted Patents, and  
28 are especially made or especially adapted for use in infringing the Asserted Patents and are not a



1 staple article or commodity of commerce. *See, e.g.*, Exhibits G–U. The accused technology has  
2 no substantial use that does not infringe one or more claims of the Asserted Patents. *Id.* Indeed,  
3 the very object of Square’s products and services—including, for example, informing users of  
4 merchants and their locations, informing merchants of users’ identities, and enabling merchants to  
5 wirelessly accept or process payments from users—would not be possible without infringing the  
6 Asserted Patents: but for the infringement, Square would not have a product. To the extent the  
7 accused technology has any non-infringing uses—which it does not—those non-infringing uses  
8 are unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

9 23. Square’s acts of direct, contributory and induced infringement have caused  
10 damage to Plaintiff, and Plaintiff is entitled to recover compensatory damages sustained as a  
11 result of Square’s wrongful acts. Unless enjoined by this Court, Square will continue to infringe  
12 the Asserted Patents, continue to damage Plaintiff and cause irreparable harm.

13 24. Square has known about its infringement of at least the ‘100 and ‘433 patents since  
14 prior to the filing of this lawsuit and it has known of its infringement of the ‘359 patent since at  
15 least the filing of this lawsuit. Moreover, Square lacks justifiable belief that there is no  
16 infringement, or that the infringed claims are invalid, and has acted with objective recklessness in  
17 its infringing activity. Square’s infringement of the 100, 433, and 359 patents is therefore willful,  
18 and Plaintiff is entitled to an award of exemplary damages, attorneys’ fees, and costs in bringing  
19 this action.

20 **DEMAND FOR JURY TRIAL**

21 25. Plaintiff hereby demands a jury for all issue so triable.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in their favor  
24 and grant the following relief:

25 A. Adjudge that Square infringes the Asserted Patents directly under 35 U.S.C.  
26 § 271(a);

27 B. Adjudge that Square has induced infringement of the Asserted patents under 35  
28 U.S.C. § 271(b);

- 1 C. Adjudge that Square has contributorily infringed the Asserted patents under 35
- 2 U.S.C. § 271(c);
- 3 D. Adjudge that Square’s infringement of the 100, 433, and 359 patents was and is
- 4 willful;
- 5 E. Award Plaintiff damages in an amount adequate to compensate it for Square’s
- 6 infringement of the Asserted Patents, but in no event less than a reasonable royalty
- 7 under 35 U.S.C. § 284;
- 8 F. Award enhanced damages by reason of Square’s willful infringement of the 100,
- 9 433, and 359 patents pursuant to 35 U.S.C. § 284;
- 10 G. Award Plaintiff pre-judgment and post-judgment interest to the full extent allowed
- 11 under the law, as well as its costs;
- 12 H. Enter an order finding that this is an exceptional case and awarding Plaintiff its
- 13 reasonable attorneys’ fees pursuant to 35 U.S.C. § 285;
- 14 I. Enter an injunction enjoining Square, and all others in active concert with Square
- 15 from further infringement of the Asserted Patents;
- 16 J. Award an accounting for damages;
- 17 K. Award a future compulsory royalty in the event full injunctive relief is not
- 18 awarded as requested; and
- 19 L. Award such other relief as the Court may deem appropriate and just under the
- 20 circumstances.

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Dated: February 10, 2015

Respectfully submitted,

By  /s/ Michael D. Rounds  
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**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date a true and correct copy of the foregoing document, **SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT**, will be served upon counsel of record via electronic mail through the United States District Court’s CM/ECF system.

DATED February 10, 2015  
1.

/s/ Jeff Tillison  
An Employee of Watson Rounds