

1 X-PATENTS, APC
2 JONATHAN HANGARTNER, Cal. Bar No. 196268
3 5670 La Jolla Blvd.
4 La Jolla, CA 92037
5 Telephone: 858-454-4313
6 Facsimile: 858-454-4313
7 jon@x-patents.com

8 Jennifer Towle, Cal. Bar No. 225095
9 W. Bryan Farney
10 Steven R. Daniels, Cal. Bar No. 235398
11 FARNEY DANIELS LLP
12 800 S. Austin Ave., Suite 200
13 Georgetown, Texas 78626
14 Telephone: (512) 582-2828
15 Facsimile: (512) 582-2829
16 JTowle@farneydaniels.com
17 BFarney@farneydaniels.com
18 SDaniels@farneydaniels.com

19 Attorneys for Plaintiff
20 Mobile Commerce Framework Inc.

21 UNITED STATES DISTRICT COURT
22 SOUTHERN DISTRICT OF CALIFORNIA

23 MOBILE COMMERCE FRAMEWORK
24 INC.,

Case No. '11 CV2586 MMAWMc

25 Plaintiff,

COMPLAINT

26 v.

JURY TRIAL DEMANDED

27 Groupon, Inc.,

28 Defendant.

Plaintiff Mobile Commerce Framework Inc. ("MCF") for its complaint against Defendant Groupon, Inc. ("Groupon") avers as follows:

PARTIES

1. Plaintiff MCF is a corporation organized under the laws of Delaware, with its principal place of business at 24196 Alicia Parkway, Suite L, Mission Viejo, California 92691.

1 2. On information and belief, Defendant Groupon is a corporation organized under
2 the laws of Delaware, with its principal place of business at 600 W. Chicago Avenue, Ste. 830,
3 Chicago, Illinois 60654-2822.

4 **JURISDICTION**

5 3. This is a civil action for patent infringement arising under the patent laws of the
6 United States of America, 35 U.S.C. § 1, et seq.

7 4. This Court has jurisdiction over the subject matter of the Complaint pursuant to
8 28 U.S.C. §§ 1331 & 1338.

9 5. This Court has personal jurisdiction over Groupon because Groupon purposefully
10 offers and provides the infringing products through established distribution channels into the
11 State of California and the Southern District of California.

12 6. Venue is proper under 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because
13 Groupon offers the infringing products to customers in the Southern District of California and
14 because Groupon is subject to personal jurisdiction in the Southern District of California.

15 7. This case involves the same patent at issue in the matter *Mobile Commerce*
16 *Framework, Inc. v. Foursquare Labs, Inc.*, Civil Action No. 3:11-cv-00481-BEN-BLM, which is
17 currently pending in the United States Court for the Southern District of California.

18 **BACKGROUND**

19 8. On April 6, 2010, United States Patent No. 7,693,752 (the '752 patent), on an
20 invention entitled "MOBILE COMMERCE FRAMEWORK," was duly and legally issued by the
21 United States Patent and Trademark Office. Attached as Exhibit A is a copy of the '752 patent.

22 9. The '752 patent has been in force and effect since its issuance. MCF is the owner
23 of the entire right, title and interest in and to the '752 patent.

24 10. Groupon has made and distributes to customers throughout the United States
25 various software applications for mobile devices that can be used to subscribe to the Groupon
26 platform to obtain information and offers from merchants based on their merchant type and
27 physical location.

1 **COUNT I**

2 **(INFRINGEMENT OF THE '752 PATENT)**

3 11. MCF realleges and incorporates the previous paragraphs of this Complaint as
4 though set forth in full herein.

5 12. Groupon has used, offered for sale, sold, and/or imported in the United States
6 products, including at least various Groupon mobile applications, such as, for example, Groupon
7 for iPhone, Groupon for iPad, Groupon for Android, Groupon for Blackberry, and Groupon for
8 Windows Phone 7, which literally and under the doctrine of equivalents infringe one or more
9 claims of the '752 patent in violation of 35 U.S.C. § 271.

10 13. MCF has been damaged and has suffered irreparable injury due to acts of
11 infringement by Groupon and will continue to suffer irreparable injury unless Groupon's
12 activities are enjoined.

13 14. MCF has suffered and will continue to suffer substantial damages by reason of
14 Groupon's acts of patent infringement alleged above, and MCF is entitled to recover from
15 Groupon for the damages sustained as a result of Groupon's acts.

16 **PRAYER**

17 WHEREFORE, MCF prays that judgment be entered by this Court in its favor and
18 against Groupon as follows:

19 A. That Groupon has infringed the '752 patent;

20 B. Permanently enjoining and restraining Groupon, its agents, affiliates, subsidiaries,
21 servants, employees, officers, directors, attorneys and those persons in active concert with or
22 controlled by Groupon from further infringing the '752 patent;

23 C. For an award of damages adequate to compensate MCF for the damages it has
24 suffered as a result of Groupon's conduct, including pre-judgment interest;

25 D. That Groupon be directed to withdraw from distribution all infringing products,
26 whether in the possession of Groupon or its distributors or retailers, and that all infringing
27 products or materials be impounded or destroyed;

28 E. For monetary damages in an amount according to proof;

1 F. For interest on said damages at the legal rate from and after the date such damages
2 were incurred;

3 G. For such other relief as the Court may deem just and proper.

4 **DEMAND FOR JURY TRIAL**

5 Plaintiff MCF hereby demands a jury trial as to all issues that are so triable.

6
7 Dated: November 7, 2011

X-PATENTS, APC

8
9 By: /s/ Jonathan Hangartner
Jonathan Hangartner

10 Attorneys for Plaintiff Mobile Commerce
11 Framework Inc.

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
MOBILE COMMERCE FRAMEWORK INC.

(b) County of Residence of First Listed Plaintiff Orange
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
X-Patents, APC, 5670 La Jolla Blvd., La Jolla, CA 92037; tel: 858-454-4313

DEFENDANTS
GROUPON, INC.

County of Residence of First Listed Defendant _____
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. **'11 CV2586 MMAWMc**

Attorneys (If Known) _____

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
35 U.S.C. section 1, et seq.

Brief description of cause:
Patent infringement

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE Roger T. Benitez DOCKET NUMBER 11-cv-00481-BEN-BLM

DATE 11/07/2011 SIGNATURE OF ATTORNEY OF RECORD s/ Jonathan Hangartner

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____