

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

TANGELO IP, LLC,	§	
	§	
Plaintiff,	§	
	§	
V.	§	Civil Action No. 2:15-cv-01693-JRG
	§	
EUROMARKET DESIGNS, INC. d/b/a	§	
CRATE & BARREL and d/b/a CB2 and	§	<b>JURY TRIAL DEMANDED</b>
MEADOWBROOK, L.L.C. d/b/a	§	
THE LAND OF NOD,	§	
	§	
Defendants.	§	

**AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

This is an action for patent infringement in which Plaintiff, Tangelo IP, LLC, by and through its undersigned counsel, submits this Amended Complaint against the above-named Defendants, as follows:

**NATURE OF THE ACTION**

1. This is a patent infringement action to stop Defendants’ infringement of United States Patent No. 8,429,005 (the “‘005 patent” or “Patent-in-Suit”).

**THE PARTIES**

2. Plaintiff, Tangelo IP, LLC (“Tangelo”), is a Texas company with its principal place of business at 555 Republic Drive, 2nd Floor #42, Plano, Texas 75074.

3. Upon information and belief, Defendant, Euromarket Design, Inc. d/b/a Crate & Barrel and d/b/a CB2 (“EDI”) is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business at 1250 Techny Road, Northbrook, Illinois, 60062.

4. Upon information and belief, Defendant, Meadowbrook L.L.C. d/b/a The Land of Nod (“Meadowbrook”) is a limited liability company organized and existing under the laws of the State

of Illinois, with its principal place of business at 8315 River Drive, Morton Grove, Illinois 60053.

5. Defendant EDI and Defendant Meadowbrook are collectively referred to herein as Defendants.

### **JURISDICTION AND VENUE**

6. This action arises under the patent laws of the United States, 35 U.S.C. § 1 et seq., including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. The Court has personal jurisdiction over Defendants, including because Defendants have minimum contacts within the State of Texas; Defendants have purposefully availed themselves of the privileges of conducting business in the State of Texas; Defendants regularly conduct business within the State of Texas; and Plaintiff's cause of action arises directly from Defendants' business contacts and other activities in the State of Texas, including at least by virtue of Defendants' interactive websites that comprise infringing methods and apparatuses, including those accused methods and apparatuses described herein, which are at least used in and/or accessible in the State of Texas. Further, this Court has general jurisdiction over Defendants, including due to their continuous and systematic contacts with the State of Texas. Further, on information and belief, Defendants re subject to the Court's jurisdiction, including because Defendants have committed patent infringement in the State of Texas.

8. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391 and 1400(b), including because Defendants have purposefully availed themselves of the privileges of conducting business in this District; Defendants regularly conduct business within this District; and Plaintiff's cause of action arises directly from Defendants' business contacts and other activities in this District, including at least by virtue of Defendants' interactive websites that

comprise infringing methods and apparatuses, including those accused methods and apparatuses described herein, which are at least used in and/or accessible in this District.

## INTRODUCTION

### A. Tangelo LLC

9. Plaintiff's closely related operating entity is Tangelo, LLC (formerly known as Active8media, LLC), a developer of advanced interactive and shoppable image products. Tangelo's technology is already used by many major publishers to drive sales and connect readers and customers. Tangelo, LLC was awarded a MAX Marketing Award for its interactive image technology. It was also showcased on CNBC's Power Lunch for the implementation of Vogue Magazine's interactive ad images and the resulting highest revenue issue in Vogue's 110-year history.

10. Among other things, Tangelo, LLC operates Tangelo Images, a user interface application for creating interactive brand and user-generated photos. In addition, Tangelo, LLC launched Tangelo Tags within the Facebook app center to allow brand and individual users to create interactive and shoppable photos within Facebook's timeline. Tangelo, LLC has been recognized as a TAG Top 40 - Georgia's Most Innovative Companies.

11. Todd Mannik is a co-founder of Tangelo, LLC. Since at least 1999, Mr. Mannik has dedicated his career to focusing on the interactivity of photo images and the discovery of what's "inside" a photo. Mr. Mannik is the co-inventor of several patents, including the Patent-In-Suit, which represent pioneering advances in the transformation of images into interactive and shoppable images online.

### B. Patent-in-Suit

12. Mr. Mannik is the first listed co-inventor on the Patent-In-Suit, which is U.S. Patent No.

8,429,005 (the “‘005 patent”). The ‘005 patent is a continuation-in-part of U.S. Patent No. 6,535,889, which is a continuation-in-part of U.S. Patent No. 6,557,006. The earliest filing in the priority chain leading up to the ‘005 patent is U.S. Patent Application No. 09/406,171, filed on Sep. 23, 1999.

13. The technology recited in the claims of the ‘005 patent provides an inventive concept and does not claim an abstract idea. The inventive concept greatly enhances and facilitates technological methods and apparatuses which comprise providing of electronic and interactive catalogs comprising replications of product images appearing in a corresponding physical catalogs, wherein the electronic and interactive replications include selectable portions corresponding with the image replications, and wherein selection of the selectable portions provides additional product information and enables a user to initiate an online purchase of the product.

14. One inventive component of the ‘005 patent is improving electronic catalogs in ways that are necessarily rooted in computer technology to overcome problems specifically arising in the realm of computer networks, including the Internet. The claims recite an invention that was not merely a routine or conventional use of the Internet.

15. The technology claimed in the ‘005 patent does not preempt all types of electronic catalogs or anything else. For example, the prior art cited on the face of the ‘005 patent remains available for practice by the Defendants, and the ‘005 patent claims do not preempt practice of those prior art methods.

16. The ‘005 patent claims cannot be practiced by a human alone and there exists no human analogue to the methods claimed in the ‘005 patent. The claims are specifically directed to, *inter alia*, the electronic and interactive replication of product images appearing in a corresponding physical publication page, wherein the electronic and interactive replications include selectable

portions corresponding with duplications of the appearance of the product, and wherein selection of the selectable portions provides additional product information and enables a user to initiate an online purchase of the product. These things exist only in the context of computers.

17. Tangelo is the owner of the '005 patent and it has all substantial rights, including the right and standing to sue and recover damages for past, present, and future infringement of the patent.

**COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,429,005**

18. Plaintiff refers to and incorporates herein the allegations of Paragraphs 1-17 above.

19. The '005 patent, entitled “Method for Determining Effectiveness of Display of Objects in Advertising Images,” was duly and legally issued by the USPTO on April 23, 2013 after full and fair examination.

20. The claims of the '005 patent cover, *inter alia*, methods, apparatuses, and computer readable media, including associated with websites and/or apps, for providing an electronic and interactive replication of product images appearing in a corresponding physical publication page comprising: a host computer that associates a page number of a physical publication page with an electronic and interactive replication of at least a portion of the physical publication page, wherein the physical publication page has products appearing thereon with the page number, wherein the electronic and interactive replication comprises exact duplications of the appearances of the products, wherein the electronic and interactive replication includes selectable portions corresponding with duplication of the appearance of the products, and wherein selection of the selectable portions provides additional product information about the products and enables a user to initiate an online purchase of products, and an application executed by the host computer that provides the electronic and interactive representation to a computing device of a user and in response to receiving input representing the page number.

21. Defendants have infringed and are now infringing, including literally, jointly, and/or equivalently, the '005 patent, including claims 1, 3, 5-11, 13-17 and 19-20, in this judicial district, the State of Texas, and elsewhere in the United States, in violation of 35 U.S.C. § 271 through actions comprising the practicing, making, using, offering for sale, selling, and/or hosting, without authority from Plaintiff, methods and computer readable media for methods, apparatuses, and computer readable media, including associated with websites and/or apps, for providing an electronic and interactive replication of product images appearing in a corresponding physical publication page comprising: a host computer that associates a page number of a physical publication page with an electronic and interactive replication of at least a portion of the physical publication page, wherein the physical publication page has products appearing thereon with the page number, wherein the electronic and interactive replication comprises exact duplications of the appearances of the products, wherein the electronic and interactive replication includes selectable portions corresponding with duplication of the appearance of the products, and wherein selection of the selectable portions provides additional product information about the products and enables a user to initiate an online purchase of products, and an application executed by the host computer that provides the electronic and interactive representation to a computing device of a user and in response to receiving input representing the page number.

22. An exemplary description of Defendants' infringement of exemplary independent claim 15 of the '005 Patent is set forth below (claim language in italics):

(a) *A system for providing an electronic and interactive replication of product images* (e.g., electronic catalogs such as those appearing at <http://www.crateandbarrel.com/Catalogs>, <http://www.cb2.com/Catalog>, and <http://www.landofnod.com/Catalog>), *appearing in a corresponding physical publication page* (e.g., a page from Defendants' printed catalogs)

*comprising:*

(b) *a host computer comprising at least one computer processor (e.g., a server) that associates a page number of a physical publication page with an electronic and interactive replication of at least a portion of the physical publication page – shown below is an exemplary portion of the Crate & Barrel electronic catalog which associates the page number (e.g., 2-3) with the thumbnails showing pages 2 and 3 corresponding to the printed Crate & Barrel catalog.*



The Crate & Barrel electronic catalog is a replication of the printed catalog. It is interactive including due to the selectable portions for providing additional product information about the products and enabling a user to initiate an online purchase of products (see below).

(c) *wherein the physical publication page has at least two different products appearing on the physical publication page with the page number – the Crate & Barrel printed catalog includes a number of Crate & Barrel products and further includes page numbers, for example as shown below:*



(d) wherein the electronic and interactive replication comprises exact duplications of the appearances of the at least two different products – for example:



*Print Catalog*



*Electronic Catalog*

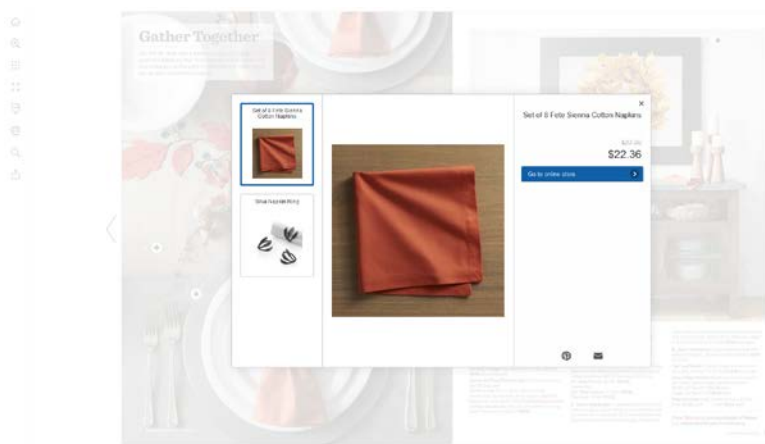
(e) wherein the electronic and interactive replication includes a first selectable portion corresponding with duplication of the appearance of a first product of the at least two different products and wherein selection of the first selectable portion provides additional product information about the first product and enables a user to initiate an online purchase of the first



*product* – the Crate & Barrel electronic catalog provides or allows, *inter alia*, a user to select portions, for example, by clicking on the picture of a product for which more information is desired, for example:



which then opens a window showing information relative to said item for example:



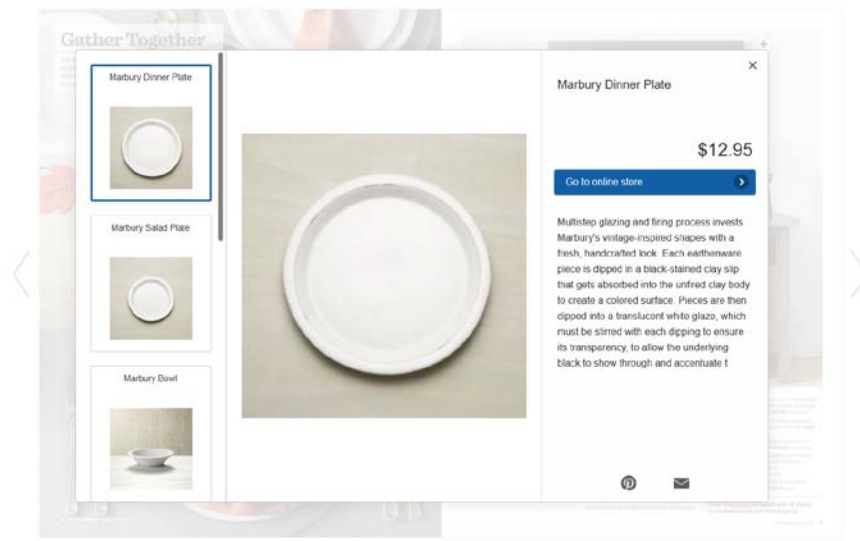
and further allows the initiation of an online purchase of said product, for example by clicking on the “Go to online store” button.

(f) *wherein the electronic and interactive replication includes a second selectable portion corresponding with duplication of the appearance of a second product of the at least two different products and wherein selection of the second selectable portion provides additional product information about the second product and enables a user to initiate online purchase of*

*the second product* – the Crate & Barrel electronic catalog provides or allows, *inter alia*, a user to select portions, for example, by clicking on the picture of other products for which more information is desired, for example:



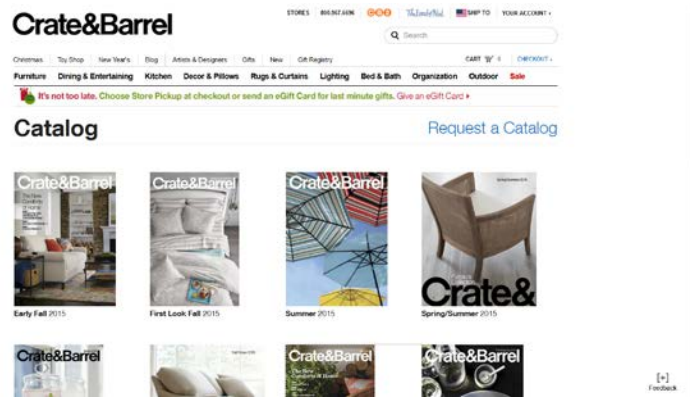
which then opens a window showing information relative to said item for example:



and further allows the initiation of an online purchase of said product, for example by clicking on the “Go to online store” button.

(g) a web server application executed by the host computer that provides the electronic and interactive representation to a computing device of a user and in response to receiving input

*representing the page number* – the host computer (see above re host computer) comprises the server providing the user with the interactive online catalog representation via the web server (*e.g.*, www.crateandbarrel.com) to said user devices, for example:



23. An exemplary description of Defendants' infringement of exemplary independent claim 1 of the '005 Patent is set forth below (claim language in italics):

(a) *a method for providing to a user an interactive and electronic replication of at least a portion of a corresponding physical publication page, comprising* – The Crate & Barrel website (which, inter alia, corresponds with Crate & Barrel's printed catalog) comprises code and data implemented via a web interface for at least computers and mobile devices. The web interface is executed on at least Crate & Barrel's hardware (*e.g.*, a server), in communication with a user's device (*e.g.*, a computer, tablet, or mobile phone) via software (*e.g.*, a web browser and/or web interface), including providing to a user an interactive and electronic replication of at least a portion of a corresponding physical publication page, for example:



*Print Catalog*



*Electronic Catalog*

(b) associating a page number of a physical publication page with an interactive and electronic replication of at least a portion of a physical publication page – see ¶23(a) above showing the printed catalog having a page number and the corresponding electronic catalog having the same page number.

(c) the physical publication page having at least two different products appearing on the physical publication page – see ¶23(a) above showing a plurality of products shown in the printed Crate & Barrel catalog.

(d) the page number appearing on the physical publication page along with the at least two different products – see ¶¶23(a) and (b) above showing the page number from the printed Crate & Barrel catalog.

(e) the page number and the two different products being visible on the physical publication page - see ¶¶23(a) and (b) above showing a plurality of products and a page number from the printed Crate & Barrel catalog.

(f) receiving by a host computer comprising at least one computer processor an input

*representing the page number* – including as shown below, a the host computer (e.g., Crate & Barrel’s server(s)) may receive input representing a page number at least via a slider bar, for example as shown below:



(g) *providing from the host computer the interactive and electronic replication of the at least a portion of the physical publication page in response to receiving the input representing the page number* – upon receiving the input (see ¶23(f) above), the Crate & Barrel server provides an interactive and electronic portion of the corresponding printed catalog based upon the page selected, *inter alia*, via the slider bar.

(h) *the interactive and electronic replication of the at least a portion of the physical publication page including duplications of the appearances of the at least two different products* – see ¶23(a) above showing that the electronic Crate & Barrel catalog is a duplication of the printed Crate & Barrel catalog which contains pictures of a plurality of products.

(i) *the duplications of the appearances of the at least two different products being exact reproductions of the appearances of the at least two different products contained within the physical publication page* - see ¶23(a) above. The duplications of the appearances of the products are exact reproductions from the physical publication page.

(j) *the interactive and electronic replication enabling the user to obtain additional information on the at least two different products contained within the interactive and electronic replication* – see ¶23(a) above; the electronic catalog allows a user to obtain additional information about a plurality of products, including as described in ¶¶22(e) and (f) above.



(k) *wherein the user is able to see the interactive and electronic replication and the at least two different products in the physical publication page and can obtain the additional information on the at least two different products contained within the interactive and electronic replication of the at least a portion of the physical publication page by receiving the interactive and electronic replication – see ¶¶22(e) and (f) above.*

24. An exemplary description of Defendants’ infringement of exemplary independent claim 14 of the ’005 Patent is set forth below (claim language in italics):

(a) *a method for displaying to a user an interactive and electronic replication of a corresponding physical publication page, comprising – see ¶23(a) above.*

(b) *creating, by a host computer comprising at least one computer processor, an association between a page number imprinted on a physical publication page and an interactive and electronic replication of at least a portion of the physical publication page – see above re host computer;* further, the Crate & Barrel website comprises an electronic catalog having an interactive, electronic replication of at least a portion of the printed Crate & Barrel catalog, for example:



*Print Catalog*



*Electronic Catalog*

The electronic catalog comprises page numbers that correspond to the page numbers of the printed catalog.

(c) *the physical publication page having an image with at least two different products appearing on the physical publication page and forming part of the image – see ¶24(b) above showing a page from the printed Crate & Barrel catalog which comprises a plurality of different products appearing therein which form, inter alia, the images on the catalog.*

(d) *the page number appearing on the physical publication page along with the image having the at least two different products – see ¶24(b) above showing a page from the printed Crate & Barrel catalog having a page number thereon, as well as an image having a plurality of products.*

(e) *the page number and the image with the two different products being visible to the user on the physical publication page – see ¶24(b) above showing the page number and the image in the printed Crate & Barrel catalog being visible to a user.*

(f) *receiving an input representing the page number at a web server executed by the host computer – see ¶23(f) above.*

(g) *providing, from the host computer an interactive and electronic replication of the at least a portion of the physical publication page in response to receiving the input representing the page number – see ¶23(g) above.*

(h) *the interactive and electronic replication having a duplicate image of the image in the physical publication page – see ¶23(h) above.*

(i) *the duplicate image being an exact reproduction of the image contained within the publication page – see ¶24(b) above showing that the image in the electronic Crate & Barrel catalog is an exact reproduction of the image in the printed Crate & Barrel catalog.*

(j) *the interactive and electronic replication enabling the user to obtain additional*

*information on the at least two different products contained within the duplicate image – see ¶23(i) above.*

*(k) wherein the user is able to see the image of the at least two different products in the physical publication page and can obtain the additional information on the at least two different products contained within the interactive and electronic replication of the at least a portion of the physical publication page by receiving the interactive and electronic replication – see ¶¶22(e) and (f) above.*

25. An exemplary description of Defendants’ infringement of exemplary independent claim 17 of the ’005 Patent is set forth below (claim language in italics):

*(a) a non-transitory computer-readable medium having instructions stored thereon which when executed cause a data processing system to perform the following – see ¶23(a) above. The code and/or instructions comprising the Crate & Barrel website are stored on non-transitory media, for example one or more hard drives. When executed, the code and/or instructions comprising the Crate & Barrel website cause a data processing system to perform the actions in Claim Elements 17.I.a-17.III.iv below.*

*(b) associate a page number of a physical publication page with an interactive and electronic replication of at least a portion of the physical publication page – see ¶24(a) above showing that the page number of the printed Crate & Barrel catalog corresponds with the associated electronic replication of such page in the electronic Crate & Barrel catalog.*

*(c) wherein the physical publication page has at least two different products appearing on the physical publication page – see ¶24(c) above.*

*(d) wherein the page number appears on the physical publication page along with the at least two different products – see ¶24(d) above.*



(e) *wherein the page number and the two different products are visible on the physical publication page – see ¶24(e) above.*

(f) *process a received input representing the page number -- the Crate & Barrel website receives the clicks of the user representing the pages of the catalog and processes the clicks to present the user with the represented pages, for example, a user may select a particular page, for example, using the slider bar shown below:*



The Crate & Barrel website then processes this input, including to display the page selected by the user.

(g) *provide the interactive and electronic replication of the at least a portion of the publication page in response to receiving the input representing page number – see ¶24(g) above.*

(h) *wherein the interactive and electronic replication of the at least a portion of the physical publication page includes duplications of the appearances of the at least two different products – see ¶¶24(g) – (i) above.*

(i) *wherein the duplications of the appearances of the at least two different products being exact reproductions of the appearances of the at least two different products contained within the physical publication page – see ¶24(i) above.*

(j) *wherein the interactive and electronic replication enables the user to obtain additional information beyond information from the physical publication page on the at least two different products contained within the interactive and electronic replication – see ¶24(j) above.*

(k) *wherein a user is able to see the interactive and electronic replication and at least two*

*different products in the physical publication page and can obtain the additional information on the at least two different products contained within the interactive and electronic replication of the at least a portion of the physical publication page by receiving the interactive and electronic replication – see ¶24(k) above.*

26. Defendant EDI infringes the ‘005 patent, including claims 1, 3, 5-11, 13-17 and 19-20, by and through at least its practicing, making, and using of electronic catalogs at [www.crateandbarrel.com](http://www.crateandbarrel.com), including the electronic catalogs at <http://www.crateandbarrel.com/Catalogs>, [www.cb2.com](http://www.cb2.com), including the electronic catalogs at <http://www.cb2.com/Catalog>, and [www.landofnod.com](http://www.landofnod.com), including the electronic catalogs at <http://www.landofnod.com/Catalog>, including in the same or at least substantially the same way as set forth above in Paragraphs 22-25.

27. Defendant Meadowbrook infringes the ‘005 patent, including claims 1, 3, 5-11, 13-17 and 19-20, by and through at least its practicing, making, and using of electronic catalogs at [www.landofnod.com](http://www.landofnod.com), including the electronic catalogs at <http://www.landofnod.com/Catalog>, including in the same or at least substantially the same way as set forth above in Paragraphs 22-25.

28. On information and belief, Defendants have had at least constructive notice of the ‘005 patent pursuant to the Patent Act. Plaintiff reserves the right to take discovery regarding Defendants’ first actual notice of the ‘005 patent.

29. Each of Defendants’ aforesaid activities have been without authority and/or license from Plaintiff.

30. By way of its infringing activities, Defendants have caused and continue to cause Plaintiff to suffer damages, and Plaintiff is entitled to recover from Defendants the damages sustained by

Plaintiff as a result of Defendants' wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

31. Defendants' infringement of Plaintiff's rights under the Patent-in-Suit will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

32. Plaintiff also requests that the Court make a finding that this is an exceptional case entitling Plaintiff to recover its attorneys' fees and costs pursuant to 35 U.S.C. § 285.

### **JURY DEMAND**

33. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure on all issues so triable.

### **PRAYER FOR RELIEF**

34. Plaintiff respectfully requests that the Court find in its favor and against Defendants, and that the Court grant Plaintiff the following relief:

- A. An adjudication that one or more claims of the Patent-in-Suit has been directly infringed, either literally and/or under the doctrine of equivalents, by Defendants;
- B. An award to Plaintiff of damages adequate to compensate Plaintiff for Defendants' acts of infringement, together with pre-judgment and post-judgment interest;
- C. A grant of preliminary and permanent injunction pursuant to 35 U.S.C. § 283, enjoining Defendants and all persons acting in concert therewith from further acts of infringement with respect to the claims of the Patent-in-Suit;
- D. That this Court declare this to be an exceptional case and award Plaintiff reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and

- E. A judgment and order requiring Defendants to pay Plaintiff its damages, costs, expenses, fees, and prejudgment and post-judgment interest for Defendants' infringement of the Patent-in-Suit as provided under 35 U.S.C. §§ 284 and/or 285; and
- F. Any and all further relief for which Plaintiff may show itself justly entitled that this Court deems just and proper.

December 24, 2015

Respectfully submitted,

/s/ John J. Edmonds

John J. Edmonds – Lead Counsel

Texas Bar No. 789758

Stephen F. Schlather, Esq.

Texas Bar No. 24007993

Shea Palavan, Esq.

Texas Bar No. 24083616

Brandon G. Moore

Texas Bar No. 24082372

**COLLINS EDMONDS**

**SCHLATHER & TOWER, PLLC**

1616 S. Voss Road, Suite 125

Houston, Texas 77057

Telephone: (281) 501-3425

Facsimile: (832) 415-2535

Email: jedmonds@ip-lit.com

sschlather@ip-lit.com

spalavan@ip-lit.com

bmoore@ip-lit.com

*Attorneys for Plaintiff*

*Tangelo IP, LLC*

**CERTIFICATE OF SERVICE**

The undersigned certifies that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this date. Any other counsel of record will be served by first class mail.

December 24, 2015

/s/ John J. Edmonds

John J. Edmonds