

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

**EXPRESS MOBILE, INC.,**

**Plaintiff,**

**v.**

**WEBS, INC.,**

**Defendant.**

Civil Action No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff EXPRESS MOBILE, INC. (“EXPRESS MOBILE” or “Plaintiff”), for its Complaint against Defendant WEBS, INC., (“WEBS” or “Defendant”), alleges the following:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

**THE PARTIES**

2. Plaintiff is a corporation organized under the laws of the State of Delaware with a place of business at 3415 Custer Rd. Suite 104, Plano, TX 75023. Express Mobile is registered to conduct business in the State of Texas under the d/b/a Xpressmo, Inc.

3. Upon information and belief, WEBS is a corporation organized and existing under the laws of Maryland, with a place of business at 1100 Wayne Avenue, Suite 801, Silver Springs, Maryland 20910, and can be served through its registered agent, National Corporate Research, LTD., 1519 York Road, Lutherville, Maryland, 21093. Upon information and belief, WEBS sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services that into the stream of commerce and that

incorporate infringing technology knowing that they would be sold in this judicial district and elsewhere in the United States.

**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 under 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c), (d) and/or 1400(b). On information and belief, Defendant conducts business in this District, the claims alleged in this Complaint arise in this District, and the acts of infringement have taken place and are continuing to take place in this District. In addition, the following websites were designed by Webs.com customers that are located in this judicial district: <http://jimfarley.webs.com/>; <http://www.bodyspiritdance.webs.com/>; <http://planoaarp.webs.com/>.

On information and belief, Defendant is subject to this Court's general and specific personal jurisdiction because Defendant has sufficient minimum contacts within the State of Texas and this District, pursuant to due process and/or the Texas Long Arm Statute because Defendant purposefully availed itself of the privileges of conducting business in the State of Texas and in this District, because Defendant regularly conducts and solicits business within the State of Texas and within this District, and because Plaintiff's causes of action arise directly from Defendant's business contacts and other activities in the State of Texas and this District.

**COUNT I – INFRINGEMENT OF U.S. Patent No. 6,546,397**

7. The allegations set forth in the foregoing paragraphs 1 through 7 are incorporated into this First Claim for Relief.

8. On April 8, 2003, U.S. Patent No. 6,546,397 ("the '397 patent"), entitled "*Browser Based Web Site Generation Tool and Run Time Engine*," was duly and legally issued

by the United States Patent and Trademark Office. A true and correct copy of the '397 patent is attached as Exhibit A.

9. The inventions of the '397 patent resolve technical problems related to website creation and generation. For example, the inventions enable the creation of websites through browser-based visual editing tools such as selectable settings panels which describe website elements, with one or more settings corresponding to commands, which features are exclusively implemented utilizing computer technology including a virtual machine.

10. The claims of the '397 patent do not merely recite the performance of some business practice known from the pre-Internet world along with the requirement to perform it on the Internet. Instead, the claims of the '397 patent recite one or more inventive concepts that are rooted in computerized website creation technology, and overcome problems specifically arising in the realm of computerized website creation technologies.

11. The claims of the '397 patent recite an invention that is not merely the routine or conventional use of website creation systems and methods. Instead, the invention describes a browser-based website creation system and method in which the user-selected settings representing website elements are stored in a database, and in which said stored information is retrieved to generate said website.

12. The technology claimed in the '397 patent does not preempt all ways of using website or web page authoring tools nor preempt the use of all website or web page authoring tools, nor preempt any other well-known or prior art technology.

13. Accordingly, each claim of the '397 patent recites a combination of elements sufficient to ensure that the claim in practice amounts to significantly more than a patent on an ineligible concept.

14. Plaintiff is the assignee and owner of the right, title and interest in and to the '397 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

15. Upon information and belief, Defendant has and continues to directly infringe at least claims 1 through 6, 9 through 11, 14, 15, 24, 25, and 37 of the '397 patent by making, using, selling, importing and/or providing and causing to be used a browser-based website and/or web page authoring tool in which the user-selected settings representing website elements are stored in a database, and in which said stored information is retrieved to generate said website (the "Accused Instrumentalities"). The Accused Instrumentalities include but are not limited to Defendant's website building tools.

16. In particular, claim 1 of the '397 patent generally recites a method enabling production of websites on and for computers with browsers and virtual machines, by presenting, through a browser, a selectable settings menu describing elements, such setting(s) corresponding to commands to the virtual machine; generating a display in accordance with selected settings; storing information regarding selected settings in a database; generating a website at least in part by retrieving said information; and building web page(s) to generate said website and a run time file, where the run time file uses the stored information to generate virtual machine commands for the display of at least a portion of web page(s).

17. The Accused Instrumentalities infringe claim 1 of the '397 patent through a combination of features which collectively practice each limitation of claim 1.

18. Modern Internet browsers such as Microsoft Internet Explorer, Mozilla's Firefox, Apple Safari, Google Chrome, and Opera include virtual machines within the meaning of the '397 patent. (*See, e.g.*, <http://dictionary.reference.com/browse/virtual+machine?s=t>). All of

these browsers rely on browser engines to interpret and execute JavaScript and HTML to render web pages on a computer. By way of further example, the Webs platform enables users to produce websites through browsers on users' computers via interaction with an Internet server hosted by Webs.com. A user registers with Webs, logs into the Webs Website, and then designs its own website. Because the Webs-compatible browsers all rely on browser engines (which comprise virtual machines within the meaning of the '397 patent) to generate and display the user-authored web pages on a particular computer, the settings that a user-author selects through the Webs visual editor necessarily correspond to virtual machine commands. For example, JavaScript and HTML code are used by the browser's engine to generate and display a Webs web page for a user viewing the web page on a computer, the author's selections being reflected in the displayed page. This results in a home page with a unique and stable URL, as well as a set of one or more related web pages in the form of pages for products, catalogs, blogs, etc. Additionally, Webs presents a viewable menu with a selectable panel of settings describing elements on a website, and those settings are presented through a browser on a computer adapted to accept one or more of said selectable settings in said panel as inputs therefrom. Furthermore, at least one of the user selectable settings in this panel corresponds to commands to the browser's virtual machine. To build a website, the user registers a website name and logs into a dashboard page, from which a website can be created by clicking on the appropriate button. This adds a preview window, a link to the new website, and a "Manage Website" button which the user can click on to go to a new page in the browser; the dashboard page, which has a menu (bar) of viewable settings describing Website elements from which the user can select and activate a template (Theme). After selecting a theme, a dashboard opens. The user can then start to add and edit page content to the Web Store page by using the "Add Product" panel, for example. By

way of further example, the menu provides for text boxes (an element), and the text may be configured for a desired font size and color (settings regarding the element).

19. Claim 2 of the '397 patent generally recites an apparatus for producing websites on and for computers having a browser and a virtual machine, said apparatus comprising an interface to present a settings menu which describes elements, said panel presented through a browser, where the selectable setting(s) corresponds to commands to the virtual machine; a browser to generate a display in accordance with selected setting(s); a database for storing information regarding selected settings; and a build tool having run time file(s) for generating web page(s) and using stored information to generate commands to the virtual machine for generating at least a portion of web page(s).

20. The Accused Instrumentalities infringe claim 2 of the '397 patent through a combination of features which collectively practice each limitation of claim 2.

21. Modern Internet browsers such as Microsoft Internet Explorer, Mozilla's Firefox, Apple Safari, Google Chrome, and Opera include virtual machines within the meaning of the '397 patent. (*See, e.g.*, <http://dictionary.reference.com/browse/virtual+machine?s=t>). All of these browsers rely on browser engines to interpret and execute JavaScript and HTML to render web pages on a computer. By way of further example, the Webs platform enables users to produce websites through browsers on users' computers via interaction with an Internet server hosted by Webs.com. A user registers with Webs, logs into the Webs Website, and then designs its own website. Because the Webs-compatible browsers all rely on browser engines (which comprise virtual machines within the meaning of the '397 patent) to generate and display the user-authored web pages on a particular computer, the settings that a user-author selects through the Webs visual editor necessarily correspond to virtual machine commands. For example,

JavaScript and HTML code are used by the browser's engine to generate and display a Webs web page for a user viewing the web page on a computer, the author's selections being reflected in the displayed page. This results in a home page with a unique and stable URL, as well as a set of one or more related web pages in the form of pages for products, catalogs, blogs, etc.

Additionally, Webs presents a viewable menu with a selectable panel of settings describing elements on a website, and those settings are presented through a browser on a computer adapted to accept one or more of said selectable settings in said panel as inputs therefrom. Furthermore, at least one of the user selectable settings in this panel corresponds to commands to the browser's virtual machine. To build a website, the user registers a website name and logs into a dashboard page, from which a website can be created by clicking on the appropriate button. This adds a preview window, a link to the new website, and a "Manage Website" button which the user can click on to go to a new page in the browser; the dashboard page, which has a menu (bar) of viewable settings describing Website elements from which the user can select and activate a template (Theme). After selecting a theme, a dashboard opens. The user can then start to add and edit page content to the Web Store page by using the "Add Product" panel, for example. By way of further example, the menu provides for text boxes (an element), and the text may be configured for a desired font size and color (settings regarding the element).

22. Claim 3 of the '397 patent recites the apparatus of claim 2, wherein the database is a multi-dimensional array structured database.

23. The Accused Instrumentalities infringe claim 3 of the '397 patent through, by way of example, patent through a combination of features which collectively practice each limitation of claim 3.

24. By way of example, the JSON strings that are used by Webs to generate, in part, home page id's originate from the actual Webs's database and therefore reflect the database structure and contents showing, on information and belief, the implementation of a multidimensional array structured database. By way of further evidence, the JSON strings show that there are dimensions for the pages, for arrays of columns, for arrays of sections, and for arrays of modules generated using Webs.

25. Claim 4 of the '397 patent recites the apparatus of claim 3, wherein the representative information is Boolean data, numeric data, string data or multi-dimensional arrays of various multimedia objects.

26. The Accused Instrumentalities infringe claim 4 of the '397 patent through a combination of features that practice the limitations of Claim 4.

27. By way of example, the JSON formatted data generated for web pages generated using Webs shows multidimensional arrays of multimedia objects (for example, but not limited to, images, video, and audio) showing, on information and belief, the implementation of a multi-dimensional array structured database.

28. Claim 5 of the '397 patent recites the apparatus of claim 4, wherein said elements include multimedia objects selected from the group consisting of a color, a font, an image, an audio clip, a video clip, a text area and a URL.

29. The Accused Instrumentalities infringe claim 5 of the '397 patent through a combination of features that practice the limitations of Claim 5.

30. By way of example, and according to the JSON data for web pages created with the Webs platform, the Accused Instrumentalities include various multimedia objects contained within a multi-dimensional array structured database.



31. Claim 6 of the '397 patent recites the apparatus of claim 2, wherein said elements are selected from the group consisting of a button, an image, a paragraph, a frame, a table, a form and a vector object.

32. The Accused Instrumentalities infringe claim 6 of the '397 patent through a combination of features that practice the limitations of Claim 6.

33. By way of example, the Accused Instrumentalities include various user selectable menus where various elements can be placed on a web page. By way of further example, note that columns and maps would reside in a frame, and that, dividers, maps and the lines in tables would be, at least in part, vector objects.

34. Claim 9 recites the apparatus of claim 2, wherein said elements include a button or an image, wherein the selectable settings include an element style, and wherein the build engine includes means for storing information representative of selected style in the database.

35. The Accused Instrumentalities infringe claim 9 of the '397 patent through a combination of features which collectively practice each limitation of claim 9.

36. By way of example, the Accused Instrumentalities enable the storing of a selected style in a database. A user can select a theme style for a body title (for example, at a specific pixel level). The css database file is thereafter saved to the Webs server, reflecting the selected font size.

37. Claim 10 recites the apparatus of claim 9, wherein the elements are described by multiple object states.

38. The Accused Instrumentalities infringe claim 10 of the '397 patent through a combination of features which collectively practice each limitation of claim 10.

39. By way of example, the Accused Instrumentalities enable the ability to define a hover state, so that an element has three defined styles depending on whether the mouse is over the object or not, and whether the object has a link to another page.

40. Claim 11 recites the apparatus of claim 9, wherein said elements are described by a transformation or a timelines of said selected styles.

41. The Accused Instrumentalities infringe claim 11 of the '397 patent through a combination of features which collectively practice each limitation of claim 11.

42. By way of example, the Accused Instrumentalities enables the description of elements by a transformation or a timeline for a selected style. By way of further example, Webs.com incorporates various CSS libraries, and css-animations and css-transitions are used extensively for adding transformations and timelines to selected elements.

43. Claim 14 recites the apparatus of claim 2, wherein said elements include buttons or images, wherein said description of elements is a transition or a timeline which is selected according to input from a mouse, and wherein said build engine includes means for storing information representative of said selected description of elements in said database.

44. The Accused Instrumentalities infringe claim 14 of the '397 patent through a combination of features which collectively practice each limitation of claim 14.

45. By way of example, the Accused Instrumentalities include various CSS libraries that are used extensively for adding transformations and timelines to selected elements. By way of further example, Webs incorporates a standard photo gallery feature in which a slide show is defined for a group of images. The information for the timeline and transition for the photo gallery can be stored in a CSS file database that can later be downloaded for execution.

46. Claim 15 recites the apparatus of claim 14, wherein at least one of said description of elements is a timeline or an animation.

47. The Accused Instrumentalities infringe claim 15 of the '397 patent through a combination of features which collectively practice each limitation of claim 15.

48. By way of example, Webs enables the definition of a transformation or a timeline for photo gallery elements.

49. Claim 24 recites the apparatus of claim 2, wherein said run time files include one compressed website specific, customized run time engine program file and one compressed website specific, customized run time engine library file.

50. The Accused Instrumentalities infringe claim 24 of the '397 patent through a combination of features which collectively practice each limitation of claim 24.

51. By way of example, Webs includes two customized runtime files, an HTML file and a second unique CSS file.

52. Claim 25 recites the apparatus of claim 24, wherein said run time files include a dynamic web page scaling mechanism, whereby each of said one or more generated web pages is scaled for viewing on said display.

53. The Accused Instrumentalities infringe claim 25 of the '397 patent through a combination of features which collectively practice each limitation of claim 25.

54. By way of example, Webs enables rescaling of a web page to the size of the particular screen that is being used through use of the "Mobile Website" setting, which will scale the web page to mobile device screen sizes.

55. Claim 37 of the '397 patent generally recites [a]n apparatus for producing websites with web page(s) on and for a computer with a browser and a virtual machine, the

apparatus comprising: an interface for building a website through control of website elements, being operable through the browser on to: present a selectable settings menu, accept settings, and generate the display in accordance with an assembly of settings contemporaneously with the acceptance thereof, at least one setting being operable to generate said display through commands to said virtual machine; an internal database associated with the interface for storing information representative of one or more of assembly of settings for controlling elements of the website; and a build tool to construct web page(s) of the website having: an external database containing data corresponding to the information stored in the internal database, and one or more run time files, where said run time files use information stored in the external database to generate virtual machine commands for the display of at least a portion of one or more web pages.

56. The Accused Instrumentalities infringe claim 37 of the '397 patent through a combination of features which collectively practice each limitation of claim 37.

57. By way of example, the Accused Instrumentalities are used to produce Internet websites having one or more web pages on and for a computer having a browser and a virtual machine capable of generating displays. Because the Webs-compatible browsers all rely on browser engines (which are process virtual machines) to generate and display the user-authored web pages on a particular computer, the settings that a user-author selects through the Webs visual editor necessarily correspond to virtual machine commands. For example, JavaScript and HTML code are used to by the browser's engine to generate and display a Webs product web page for a user viewing the product web page on a computer, the author's selections being reflected in the displayed page. The Accused Instrumentalities enable users to add products to a website through a browser on the user's computer interacting with an Internet server hosted by

Webs.com. The Website starts with a home page with a unique and stable URL as well as a set of one or more related web pages in the form of pages for products, catalogs, blogs, etc. The user is free to add product pages and on these pages, add products. More specifically, the Webs interface (the visual editor) is accessed through a browser. The user is presented with a user selectable panel of settings including those for Dashboard, Orders, Products, Customers, Content, Marketing, Analytics and Apps. For example, when the user clicks on the “Add” tab from the Products menu item, then the “Add a Product” the “Add a Product” Menu appears and the user can then type in the Product Name, such as Unit Check, price, category and SKU. The user can then start to add and edit product content to the Unit Check product page using the “Description” section of the “Add a Product” Menu. The Accused Instrumentalities generate a display in accordance with said assembly of settings contemporaneously with the acceptance thereof. This is performed, for example, using the Webs visual editing tool through the browser. To insert an image into the Self-Storage Page the User touches the “Insert/Edit Image” Icon. An image is selected from the file system and appears in the preview in less than 1 second. When the user touches the “Insert” button, the setting is accepted and the Unit Check page immediately appears with the image inserted. When adding text below the images, the text appears immediately. When selecting specific words and selecting the “Bold” icon, those selected words immediately appears in bold type. Additionally, selecting specific words and then selecting the “List Bullet” icon immediately results in a bulleted list. These various options are used to form an assembly of settings from the user selectable panel of settings. Finally, a display is generated in accordance with the assembly of settings contemporaneously with their acceptance by the visual editing tool. The internal database is maintained in an HTML form object. Webs also publishes an API for its server-side database that stores page data used for

displaying the page. Clicking the “Save” button on a form page initiates a “post” command through an HTML form to store the data on a Webs server. The Accused Instrumentalities include a build tool to construct one or more web pages of a website which utilizes an external database which contains data corresponding to information stored in said internal database. Furthermore, one or more runtime files are used, where said run time files utilize information stored in said external database to generate virtual machine commands for the display of at least a portion of said one or more web pages of the website constructed by the build tool.

58. Upon information and belief, these Accused Instrumentalities are used marketed, provided to, and/or used by or for Defendant’s partners, clients, customers and end users across the country and in this District.

59. Defendant was made aware of the ’397 patent and its infringement thereof at least as early as its receipt of correspondence from Plaintiff providing notice of the ’397 patent and Defendant’s infringement thereof on May 20, 2016. Correspondence was sent by Federal Express with notification of delivery. Plaintiff has since received confirmation that the correspondence was received by Defendant.

60. Upon information and belief, since at least the time Defendant received notice, Defendant has induced and continues to induce others to infringe at least one claim of the ’397 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to Defendant’s partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the ’397 patent.

61. In particular, Defendant’s actions that aid and abet others such as its partners, customers, clients, and end users to infringe include advertising and distributing the Accused

Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities. On information and belief, Defendant has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Defendant has had actual knowledge of the '397 patent and knowledge that its acts were inducing infringement of the '397 patent since at least the date Defendant received notice that such activities infringed the '397 patent.

62. Upon information and belief, Defendant is liable as a contributory infringer of the '397 patent under 35 U.S.C. § 271(c) by offering to sell, selling and/or importing into the United States website development platforms to be especially made or adapted for use in an infringement of the '397 patent. The Accused Instrumentalities are a material component for use in practicing the '397 patent and are specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

63. Since the date of its receipt of correspondence from Plaintiff, Defendant's infringement of the '397 patent has been willful.

64. Plaintiff has been harmed by Defendant's infringing activities.

**COUNT II – INFRINGEMENT OF U.S. PATENT NO. 7,594,168**

65. The allegations set forth in the foregoing paragraphs 1 through 64 are incorporated into this Second Claim for Relief.

66. On September 22, 2009, U.S. Patent No. 7,594,168 entitled *Browser Based Web Site Generation Tool and Run Time Engine* was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '168 patent is attached as Exhibit B.

67. The inventions of the '168 patent resolve technical problems related to website creation and generation. For example, the inventions enable the creation of websites through

browser-based build tools and a user interface, which features are exclusively implemented utilizing computer technology.

68. The claims of the '168 patent do not merely recite the performance of some business practice known from the pre-Internet world along with the requirement to perform it on the Internet. Instead, the claims of the '168 patent recite one or more inventive concepts that are rooted in computerized website creation technology, and overcome problems specifically arising in the realm of computerized website creation technologies.

69. The claims of the '168 patent recite an invention that is not merely the routine or conventional use of website creation systems and methods. Instead, the invention describes a browser-based website creation system including a server comprising a build engine configured to create and apply styles to, for example, a website with web pages comprised of objects.

70. The technology claimed in the '168 patent does not preempt all ways of using website or web page authoring tools nor preempt the use of all website or web page authoring tools, nor preempt any other well-known or prior art technology.

71. Accordingly, each claim of the '168 patent recites a combination of elements sufficient to ensure that the claim in practice amounts to significantly more than a patent on an ineligible concept.

72. Plaintiff is the assignee and owner of the right, title and interest in and to the '168 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

73. Upon information and belief, Defendant has and continues to directly infringe at least claims 1 and 6 of the '168 patent by making, using, selling, importing and/or providing and causing to be used a browser-based website and/or web page authoring tool in which the user-



selected settings representing website elements are stored in a database, and retrieval of said information to generate said website (the “Accused Instrumentalities”). The Accused Instrumentalities include but are not limited to Defendant’s website building tools.

74. In particular, claim 1 of the ’168 patent generally recites a system for assembling a website comprising a server with a build engine, the website comprising web pages with objects (one button or one image object), the server accepting user input to associate a style with objects, wherein a button or image object is associated with a style that includes values defining transformations and time lines; wherein each web page is defined entirely by the objects and the style associated with the object, produce a database with a multidimensional array comprising the objects that comprise the website including data defining the object style, number, and an indication of the web page that each object is part of, and provide the database to a server accessible to web browser; wherein the database is produced such that a web browser with access to a runtime engine is configured to generate the website from the objects and style data extracted from the provided database.

75. The Accused Instrumentalities infringe claim 1 of the ’168 patent through a combination of features which collectively practice each limitation of claim 1. (*See, e.g.*, <http://www.webs.com/how-it-works>, <http://www.webs.com/features>, [https://developer.mozilla.org/en-US/docs/Web/API/Document\\_Object\\_Model](https://developer.mozilla.org/en-US/docs/Web/API/Document_Object_Model), [http://www.w3schools.com/js/js\\_htmldom.asp](http://www.w3schools.com/js/js_htmldom.asp).)

76. Further, by way of example, the JSON strings that are used by Webs to generate, in part, home page id’s originate from the actual Webs’ database and therefore reflect the database structure and contents showing, on information and belief, the implementation of a multidimensional array structured database comprising the objects that comprise the web site.

By way of further evidence, the JSON strings show that there are dimensions for the pages, for arrays of columns, for arrays of sections, and for arrays of modules generated using Webs.

77. Further, the Accused Instrumentalities enable the storing in the database of data defining each object such as object styles, an object number, and an indication of the which page each object is a part of. For example, a user can select a theme style for a body title on a specific page (for example, at a specific pixel level). The css database file is thereafter saved to the Webs server, reflecting the selected font, size, and the object and page to which it applies.

78. By way of example, for the completed web site, Webs includes two customized runtime files, an HTML file and a second unique CSS file.

79. Claim 6 of the '168 patent generally recites the system of claim 1, where said data is stored as one or more of a Boolean an integer, a string, a floating point variables, or a URL.

80. The Accused Instrumentalities infringe claim 6 of the '168 patent through a combination of features which collectively practice each limitation of claim 6. A review of the html code behind websites created using the Accused Instrumentalities reveals data that is stored as one or more of a Boolean an integer, a string, a floating point variables, or a URL. (*See, e.g.*, <http://www.behavior-works.com/>.)

81. On information and belief, these Accused Instrumentalities are used marketed, provided to, and/or used by or for Defendant's partners, clients, customers and end users across the country and in this District.

82. Defendant was made aware of the '168 patent and its infringement thereof at least as early as its receipt of correspondence from Plaintiff providing notice of the '168 patent and Defendant's infringement thereof on May 20, 2016. Correspondence was sent by Federal

Express with notification of delivery. Plaintiff has since received confirmation that the correspondence was received by Defendant.

83. Upon information and belief, since at least the time Defendant received notice, Defendant has induced and continues to induce others to infringe at least one claim of the '168 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to Defendant's partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '168 patent.

84. In particular, Defendant's actions that aid and abet others such as its partners, customers, clients, and end users to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities. On information and belief, Defendant has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because each Defendant has had actual knowledge of the '168 patent and knowledge that its acts were inducing infringement of the '168 patent since at least the date Defendant received notice that such activities infringed the '168 patent.

85. Upon information and belief, Defendant is liable as a contributory infringer of the '168 patent under 35 U.S.C. § 271(c) by offering to sell, selling and/or importing into the United States computerized trading platforms to be especially made or adapted for use in an infringement of the '168 patent. The Accused Instrumentalities are a material component for use in practicing the '168 patent and are specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

86. Since the date of its receipt of correspondence from Plaintiff, Defendant's infringement of the '168 patent has been willful.

87. Plaintiff has been harmed by Defendant's infringing activities.

**JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable as such.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff demands judgment for itself and against Defendants as follows:

- A. An adjudication that Defendant has infringed the '397 and '168 patents;
- B. An award of damages to be paid by Defendant adequate to compensate Plaintiff for Defendant's past infringement of the '397 and '168 patents, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and
- D. An award to Plaintiff of such further relief at law or in equity as the Court deems just and proper.

Dated: May 25, 2016

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