

5. This Court has personal jurisdiction over Defendant. Defendant has committed, and continues to commit, acts of infringement in and directed toward the State of Texas, including, at least, through Defendant's offer to sell its Agility Harmony email platform, and/or has engaged in continuous and systematic activities in the State of Texas.

6. Venue properly lies in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b).

PATENTS-IN-SUIT

7. Umbanet is the owner by valid assignment of U.S. Patent No. 7,076,730 ("the '730 Patent"), entitled "Electronic Mail Software with Modular Integrated Authoring/Reading Software Components," duly and legally issued by the U.S. Patent and Trademark Office on July 11, 2006, such that it may enforce the '730 Patent. A true and correct copy of the '730 Patent is attached hereto as Exhibit A.

8. Umbanet is the owner by valid assignment of U.S. Patent No. 7,444,374 ("the '374 Patent"), entitled "Electronic Mail Software with Modular Integrated Authoring/Reading Software Components Including Methods and Apparatus for Controlling the Interactivity Between Mail Authors and Recipients," duly and legally issued by the U.S. Patent and Trademark Office on October 28, 2008, such that it may enforce the '374 Patent. A true and correct copy of the '374 Patent is attached hereto as Exhibit B. The '374 Patent is a continuation-in-part of the patent application (Application No. 09/209,162) that matured into the '730 Patent.

9. The inventions disclosed in the '730 Patent relate "to an electronic mail program having modular integral authoring/reading applications whereby documents created with the modular integral authoring/reading applications are seamlessly sent and received by the mail program." (Ex. A, the '730 Pat., Col. 1, lns. 15-19.)

10. Similarly, the inventions disclosed in the '374 Patent relate “to an electronic mail program having modular integral authoring/reading applications whereby documents created with the modular integral authoring/reading applications are seamlessly sent and received by the mail program and which provides different kinds of interactivity with and different kinds of access to electronic mail messages depending on user types or roles.” (Ex. B, the '374 Pat., Col. 1, lns. 22-28.)

BACKGROUND ON PRIOR ART AND PATENTS

11. Michelle Baker, the named inventor of the '730 Patent and '374 Patent, is the founder, owner, and president of Plaintiff Umbanet, Inc. (Ex. C, Baker Decl. at ¶ 3.) Prior to conceiving the inventions disclosed in the '730 Patent and '374 Patent, Ms. Baker received a Masters degree in Economics and Computers Science from Columbia University, *id.* at ¶ 4, and worked on improving an array of computer and Internet technologies, *see, e.g., id.* at ¶¶ 5-8. For instance, Ms. Baker, an innovator in the field of Computer Science, “was involved in the early development of the Internet and designed a series of software technologies that are integral to the way people use the Internet today.” (*Id.* at ¶ 5.)

12. In June of 1992, the MIME (Multipurpose Internet Mail Extensions) standard for Internet messages was first approved, and this MIME standard enabled “[t]he ability to send large quantities of binary data through the Internet electronic mail system.” (Ex. A, the '730 Pat., Col. 1, lns. 45-48.)

13. By around 1998, the year the '730 Patent was filed, email and the MIME standard had become more popular, but had limitations. Although the MIME standard provided the capability to send large quantities of data in an email message, traditional email programs required senders to attach binary files to an email, often causing a recipient of the message compatibility and viewing problems. Likewise, traditional email programs required “launching

one application to create a document, saving the document, launching a separate email application to create an email message, and then locating the saved document for attachment to an email message.” (Ex. A, the ‘730 Pat. Col. 2, lns. 40-48.)

14. Ms. Baker “became increasingly aware of the limitations in the capabilities of email which, at first, could only be used to send text messages and file attachments.” (Ex. C, Baker Decl. at ¶ 7.)

15. Ms. Baker aimed to develop a program that allowed children to create and send a document as an email message containing non-text portions without the use of file attachments. *Id.* at 8. She received grants from the National Science Foundation and “designed and built the KidCode software that is referenced in the ‘730 Patent and the ‘374 Patent.” *Id.* Her success in building the KidCode software program, an email system, “made it possible for young children to manipulate pictures and graphics with easy drag-and-drop and create sticky canvases so that the images could hide text.” *Id.*

16. When designing the KidCode software, Ms. Baker conceived the inventions encompassed by the claims of the ‘730 Patent and the ‘374 Patent, and overcame problems necessarily rooted in email and computer technology. *Id.* at ¶ 10. Prior to Ms. Baker’s conception of the email system, there was no definitive way for “creating a document with non-text portions and sending the document as an Internet-compatible email message.” *Id.* at ¶ 8. “Email messages were limited to text, fixed graphics, file attachments, and, perhaps, a link to a web site.” *Id.* at ¶ 10. Ms. Baker overcame these problems and first provided a solution to these limitations of email technology when she “conceived the inventions encompassed by the claims of the ‘730 Patent and ‘374 Patent.” *Id.* at ¶ 10; *see, id.* at ¶ 11 (providing a specific example of how Ms. Baker’s inventions improved email technology for a bank).

17. Regarding the '374 Patent in particular, prior to Ms. Baker's conception of the inventions, "there was absolutely no way for a sender of a message to control and select the amount of the message that is read by a recipient or displayed over the course of a sequence of communications." *Id.* at ¶ 12. Ms. Baker overcame this problem engrained in email technology by inventing and disclosing an email program in the '374 Patent that "provides different kinds of interactivity with and different kinds of access to electronic mail messages depending on user types or roles." (Ex. B, the '374 Pat., Col. 1, lns. 26-28.)

18. Additionally, Ms. Baker's inventions disclosed in the '730 Patent and '374 Patent do not rely on pre-known practices or apply pre-known practices to email technology, because the inventions overcame problems specific to email technology. (Baker Decl. at ¶ 13.) They also do not pre-empt all future inventions in the field of email technology, because other ways for creating and sending other-than text portions in an email message exist. *Id.* at ¶ 14.

BACKGROUND ON EPSILON'S AGILITY HARMONY

19. Epsilon's Agility Harmony is an email-marketing platform that allows users to send bulk email message campaigns to recipients.

20. Agility Harmony includes authoring components for creating documents and email messages without the use of file attachments.

21. Agility Harmony "offers a user-friendly feature set designed to create industrial-strength email" that allows personalized "dynamic content."
<http://www.agilityharmony.com/targeted-campaigns>.

22. Agility Harmony includes "Composer," which allows the creation of "complex, multi-faceted campaigns with drag-and-drop simplicity" and the creation of "campaigns according to subscriber activities, events, and real-time behavior data." *Id.*

23. Agility Harmony is capable of encoding and decoding the documents and messages into an Internet-compatible email message.

24. Agility Harmony's Inbox Preview feature allows the review of documents and email messages sent using Agility Harmony. Likewise, Agility Harmony's Campaign Creation allows a user to build, test and monitor email campaigns.

25. Agility Harmony enables users to seamlessly send and create bulk email message campaigns and documents that includes other than text portions without using file attachments.

26. In addition, Agility Harmony includes customizable role-based permissions for a variety of users.

27. Agility Harmony's Live feature allows encoded and decoded email messages to include time-of-open content updates based on real-time information, prior behavior, and trending topics.

28. On information and belief, the features above, as well as others, that are selectable in Agility Harmony allow Agility Harmony to control the amount of information that will be displayed in the email message.

COUNT I – INFRINGEMENT OF THE '730 PATENT

29. Umbanet realleges paragraphs 1 through 28 as though fully set forth herein.

30. The '730 Patent is valid and enforceable.

31. Claim 1 of the '730 Patent recites as follows:

An electronic mail client embodied in an executable computer-readable medium, comprising:

a) a plurality of authoring and reading components, a first of said plurality of authoring components for creating a representation of a document including an other than text portion and for creating the other than text portion of the document;

b) encoding means for automatically encoding said representation created with said authoring components into an Internet-compatible email message; and

c) decoding means for automatically decoding said representation encoded by said encoding means, wherein said encoding means and said decoding means communicate bidirectionally with said authoring components.

(Ex. A, the '730 Patent, Col. 259, lns. 2-17).

32. Claim 19 of the '730 Patent recites as follows:

A method of authoring a document and sending it by electronic mail, said method comprising:

a) providing a document-authoring component which authors a portion of a document which is other than a plain-text;

b) providing a document-encoding component which encodes the document as Internet-compatible email;

c) linking the document-authoring component with the document encoding component such that documents generated under said document-authoring component are automatically encoded as Internet-compatible email.

(Ex. A, the '730 Patent, Col. 260-61, lns. 59-3.)

33. On information and belief, Defendant has directly infringed, and continues to directly infringe, at least Claims 1 and 19 of the '730 Patent in violation of 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, offering to sell, or selling Agility Harmony, an electronic mail system that reads on at least two claims of the '730 Patent, including, at least, the system taught by independent Claim 1 and the method taught by independent Claim 19 of the '730 Patent.

34. Umbanet has given Defendant notice of its infringement by virtue of service or acknowledged delivery of this complaint.

35. Umbanet has been and continues to be damaged by Defendant's infringement of the '730 Patent.

COUNT II – INFRINGEMENT OF THE '374 PATENT

36. Umbanet realleges paragraphs 1 through 36 as though fully set forth herein.

37. The '374 Patent is valid and enforceable.

38. Claim 11 of the '374 Patent reads as follows:

An electronic mail client system, comprising:

a) a plurality of authoring/reading components for creating and viewing representations of information;

b) encoding means for automatically encoding representations created with said authoring/reading components into an Internet compatible email message; and

c) decoding means for automatically decoding said representations encoded by said encoding means, wherein at least one of said authoring/reading components is responsive to a role mode encoded in an email message whereby said role mode determines how much information in said email message will be displayed.

(Ex. B, the '374 Patent, Col. 19-20, Ins. 55-2).

39. Claim 16 of the '374 Patent reads as follows:

A method of corresponding by electronic mail, comprising:

a) creating a representation of information;

b) encoding the representation into an Internet-compatible email message;

c) sending the email message to an email client; and

d) decoding the email message at the email client, wherein the email client is responsive to a role mode encoded in the email message whereby the role mode determines how much information in said email message will be displayed by the email client, and the sender of the message controls the role mode.

(Ex. B, the '374 Patent, Col. 20, Ins. 37-48).

40. On information and belief, Defendant has directly infringed, and continues to directly infringe, at least Claims 11 and 16 of the '374 Patent in violation of 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, offering to sell, or selling Agility Harmony, an electronic mail system that reads on at least two claims of the '374

Patent, including, at least, the system taught by independent Claim 11, and the method taught by independent Claim 16 of the '374 Patent.

41. Umbanet has given Defendant notice of its infringement by virtue of service or acknowledged delivery of this complaint.

42. Umbanet has been and continues to be damaged by Defendant's infringement of the '374 Patent.

JURY DEMAND

43. Umbanet demands a trial by jury of any and all issues triable of right before a jury, pursuant to Rule 38 of the Federal rules of Civil Procedure and Eastern District of Texas Local Rule 38.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Umbanet respectfully requests that Judgment be entered in favor of Umbanet and against Defendant, and that Umbanet be granted the following relief:

- (i) A declaration that Defendant has directly infringed one or more claims of the '730 Patent, either literally and/or under the doctrine of equivalents;
- (ii) A declaration that Defendant has directly infringed one or more claims of the '374 Patent, either literally and/or under the doctrine of equivalents;
- (iii) An award of damages sufficient to compensate Umbanet for Defendant's infringement of the '730 Patent and the '374 Patent, pursuant to 35 U.S.C. § 284;
- (iv) An award of prejudgment and post judgment interest, pursuant to 35 U.S.C. § 284;
- (v) Such other and further relief as this Court shall deem appropriate.

Dated: June 23, 2016

Respectfully Submitted,

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**ATTORNEYS FOR PLAINTIFF
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