

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

<p>RETROSPECTION MARKETING LLC, a Texas limited-liability company,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>LOWE’S COMPANIES, INC., a Delaware corporation,</p> <p style="text-align: center;">Defendant.</p>	<p>Civil Case No. _____</p> <p style="text-align: center;">JURY TRIAL DEMANDED</p>
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COMPLAINT FOR PATENT INFRINGEMENT

For its Complaint against Defendant Lowe’s Companies, Inc. (“Lowe’s”), Plaintiff Retrospection Marketing LLC (“Plaintiff”) hereby alleges as follows.

JURISDICTION AND VENUE

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

2. This Court has personal jurisdiction over Lowe’s because it regularly conducts business in Texas and in this District, where it has committed the infringing acts alleged herein.

3. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b)-(c) and 1400.

PARTIES

4. Plaintiff is a Texas limited-liability company having a principal place of business at 5068 West Plano Parkway, Suite 300, Plano, Texas 75093.

5. On information and belief, Defendant Lowe's is a North Carolina corporation having a principal place of business at 1000 Lowe's Boulevard, Mooresville, North Carolina 28117, and an Internet web site at <lowes.com>. Defendant is registered to do business in Texas and may be served via its registered agent, Corporation Service Company d/b/a CSC—Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.

COUNT I—INFRINGEMENT OF U.S. PATENT NO. 7,296,062

6. Plaintiff re-alleges and incorporates by reference paragraphs 1-5 above, as if fully set forth herein.

7. Plaintiff is the owner by assignment of U.S. Patent No. 7,296,062 (“the ‘062 patent”), which is entitled “Method for Generating a Presentation for Re-Locating an Information Page That Has Already Been Called,” and which duly and lawfully issued on November 13, 2007. A true and correct copy of the ‘062 patent is attached hereto as Exhibit A. The co-inventors on the ‘062 patent, Mr. Bengi and Mr. Kuth, are members

and owners of Plaintiff, and Plaintiff is in the business of utilizing and commercializing the inventive methods covered by the '062 patent.

8. The claims of the '062 patent are directed to, for example, a “method for generating a presentation for re-locating an information page that has been called, via a network selected from the group consisting of the Internet, an intranet, and an extranet, from a home page of an information vendor having a vendor server and which has subsequently been exited,” and Claim 1, for example, recites elements including, *inter alia*, (a) “when a user, via a user computer in communication with said vendor server, calls a home page, comprising home page contents, of an information vendor, registering said user at said vendor server,” (b) “at said vendor server registering information pages of said information vendor called by said user directly and indirectly proceeding from said home page,” (c) “at said vendor server only temporarily generating a displayable presentation, for display at said user computer which visually identifies a sequence of said information pages of said information vendor called by said user,” and (d) “deleting said presentation from said vendor server, with no storage of said presentation or said information pages at said vendor server, when said user exits an information session with said information vendor.”

9. On information and belief, Lowe's has made, used, offered for sale, sold and/or imported into the United States systems and/or methods covered by the claims of

the '062 patent, and continues to do so; for example, the functionality provided at <lowes.com> employs the method covered by Claim 1 of the '062 patent.

10. First, the Lowe's functionality includes a "method for generating a presentation for re-locating an information page that has been called, via a network selected from the group consisting of the Internet, an intranet, and an extranet, from a home page of an information vendor having a vendor server and which has subsequently been exited." The "presentation" includes the dialog box/section "Recently Viewed" that is placed on Lowe's home/product websites/pages showing the recently viewed items, as shown below. The first time Lowe's websites are entered and a product information website is opened, there is no dialog box/section at all. Instead, there is only an empty placeholder in the upper right corner of the product page above the grey menu bar containing links to different product information, *e.g.*, "Images", "Description", etc.

Previously Viewed



Sunforce 41-in x 16.25-in x 13.25-in 60-Watt Portable Solar Panel

★★★★☆ 2 Reviews

11. If a second product information website is opened, then the dialog box/section is shown containing the so far visited product pages of Lowe's, as shown below.

Recommended For You

			
Aqua EZ Floating Pool Thermometer ★★★★★ 2 Reviews	AcuRite Indoor/Outdoor White Thermometer ★★★★☆ 4 Reviews	Savior 5k Solar .05 Pool Pump	Kwikset Signature Pembroke Venetian Bronze-Handed Passage

Top Sellers in Your Area

			
Frigidaire 18-cu ft Top-Freezer Refrigerator (White) ★★★★★ 1627 Reviews	KOHLER Highline Classic White 1.28-GPF (4.85-LPF) 12-in Rough ★★★★★ 497 Reviews	Maytag Centennial 7-cu ft Electric Dryer (White) ★★★★★ 2097 Reviews	Utilitech 2-Pack 65-Watt Equivalent White LED Recessed

Affiliated Websites Accessible Home ATG Stores Efficient Home Innovative Products Iris Smart Home	Company Info About Lowe's Careers CA Transparency Act Ethics & Compliance Investor Relations	Customer Care Contact Us How's Our Site? Rebate Center Recalls & Product Safety Returns / Exchanges	Services Credit Card Services Gift Cards In-Store Services Installation Services International Customers	 Need Help? Customer Care: 1-800-445-6937 Products & Sales: 1-877-465-6937
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Recommended For You

			
Grape Solar 10-Kilowatt Grid-Tie Solar Electric Power Kit	GOAL ZERO Yeti 1250-Watt Hour Portable Solar Generator Kit ★★★★★ 4 Reviews	GOAL ZERO Yeti 1250-Watt Hour Portable Solar Generator	Sunforce 260-Watt Solar Kit ★★★★☆ 3 Reviews

More Items to Consider


Grape Solar 10-Kilowatt Grid-Tie Solar Electric Power Kit

Previously Viewed


Sunforce 41-in x 16.25-in x 13.25-in 60-Watt Portable Solar Panel
★★★★☆ 2 Reviews

12. The element of “relocating an information page” includes the links in the “Recently Viewed” dialog box/section, that can take a user to a previously-visited product page on the Lowe’s websites. The element of “called, via a network, selected from the group consisting of the Internet . . . from a home page of an information vendor” includes the user connecting to the Lowe’s websites, home pages and product pages, using the Internet and its computer browser. The element of a “vendor server” includes computer server(s) that operate the Lowe’s websites. The element of “exited” includes the user leaving a product information page or a home page.

13. Claim 1, element (a) recited above requires “when a user, via a user computer in communication with said vendor server, calls a home page, comprising home page contents, of an information vendor, registering said user at said vendor server.” The element of a “user” includes a person who visits Lowe’s websites. A “user computer” (UC) includes the person’s computer. A “home page” includes the page that opens when a user has entered, or uses a search engine to reach the following URL: “http://www.lowes.com.” “Home page contents” include products shown on the home page and from which further product pages on Lowe’s websites can be called. An “information vendor” includes Lowe’s. “Registering said user at said vendor server” includes as described for registration on vendor servers (VS) via cookies at column 4, lines 32-39 of the ‘062 patent.

14. Claim 1, element (b) recited above requires “at said vendor server registering information pages of said information vendor called by said user directly and indirectly proceeding from said home page.” In the Lowe’s functionality, the visited information product pages are at least temporarily stored (*i.e.*, “registered”) on the server(s) operating the Lowe’s websites, during the time, the vendor server analyzes the RVC (“Recently Viewed Cookie”) sent by UC and builds up the presentation of the new product page including integration of the RV (“Recently Viewed”) section according to the current contents of the received RVC until the VS sends the new information product page and the updated RVC to the UC. Further, “directly and indirectly” includes from the home page (directly) or from another product information page (indirectly).

15. Claim 1, element (c) recited above requires “at said vendor server only temporarily generating a displayable presentation, for display at said user computer which visually identifies a sequence of said information pages of said information vendor called by said user.” In the Lowe’s functionality, the product pages shown in the “Recently Viewed” dialog box/section “visually identifies a sequence” of pages. Moreover, the identification is only temporary, because, if a user closes its browser, or shuts down and restarts its computer, and returns to the Lowe’s websites, the product pages from a previous session are no longer shown in the “Recently Viewed” dialog box/section. Even the “Recently Viewed” dialog box/section is not shown until a second

product website is visited (again). A “sequence of said information pages” includes links shown in the “Recently Viewed” dialog box/section.

16. Claim 1, element (d) recited above requires “deleting said presentation from said vendor server, with no storage of said presentation or said information pages at said vendor server, when said user exits an information session with said information vendor.” In the Lowe’s functionality, at least when the internet session (browser) is closed, the presentation has to be deleted (with no storage). It is common knowledge that the HTTP protocol used for the internet connection is stateless, which means the browser cannot send a message when the user leaves the pages of the information vendor. Therefore, in view of commonly-known and used internet techniques, this claim cannot be read in a way that deleting the presentation on the vendor server and terminating the session (or leaving the Lowe’s web pages) has to occur at the same time.

17. On information and belief, Lowe’s has caused, encouraged and aided others, including customers, to directly infringe the ‘062 patent having full knowledge of the ‘062 patent and the specific intent that its acts and the acts of its customers and/or others to directly and/or indirectly infringe the ‘062 patent.

18. By the acts of making, using, offering to sell, selling and/or importing the accused infringing systems and/or methods, Lowe’s has directly infringed the ‘062 patent under 35 U.S.C. § 271(a).

19. By the acts of actively inducing others to infringe the '062 patent, Lowe's has infringed the '062 patent under 35 U.S.C. § 271(b). On information and belief, having knowledge of the '062 patent, Lowe's specifically intended for its customers to infringe the '062 patent by using the accused infringing systems and/or methods.

20. The acts of infringement asserted herein have been and continue to be deliberate and willful, at least since Lowe's first learned about the '062 patent.

21. Lowe's has derived and received gains, profits and advantages from the aforesaid acts of infringement, and Plaintiff has lost profits and has otherwise been damaged and is entitled to monetary relief in an amount to be determined at trial.

22. The infringement of the '062 patent has caused and continues to cause irreparable harm to Plaintiff, for which there is no adequate remedy at law, and the infringement will continue unless and until it is enjoined by this Court.

PRAYER FOR RELIEF

Therefore, Plaintiff prays for the following relief:

- A. A determination that Defendant has infringed the '062 patent under 35 U.S.C. § 271, literally and/or under the doctrine of equivalents;
- B. A preliminary and permanent injunction against continuing infringement;
- C. An accounting for damages adequate to compensate for the patent infringement under 35 U.S.C. § 284, including Plaintiff's actual damages including lost profits, treble damages, pre-judgment and post-judgment interest, and costs;

D. A determination of willful patent infringement, and that this is an exceptional case, and an award of reasonable attorney fees and expenses to Plaintiff under 35 U.S.C. § 285; and

E. Such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands hereby a jury trial on any issues triable of right by a jury.

Dated: September 19, 2016

Respectfully submitted,

/s/ Stephen M. Lobbin

Stephen M. Lobbin (admitted in E.D. Tex.)

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