

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

AERITAS, LLC,

Plaintiff,

v.

GROUPON, INC.

Defendant.

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Civil Action No. 6:16-cv-01385

Jury Trial Demanded

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Aeritas, LLC (“Aeritas” or “Plaintiff”) files this Complaint for patent infringement against Defendant Groupon, Inc. (“Groupon” or “Defendant”), and alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under 35 U.S.C. § 1 *et seq.*

PARTIES

2. Aeritas is a limited liability company organized and existing under the laws of the State of Texas, with its principal place of business in Dallas, Texas and its registered agent at 15950 Dallas Parkway, Suite 225, Dallas, TX 75248.

3. On information and belief, Groupon is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 600 W. Chicago Ave, Chicago, IL 60654. Groupon may be served via its registered agent for service of process: CT Corporation System, 208 S. LaSalle Street, Suite 814, Chicago, IL 60604.

JURISDICTION AND VENUE

4. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Upon information and belief, Groupon is subject to personal jurisdiction of this Court based upon it having regularly conducted business, including the acts complained of herein, within the State of Texas and this judicial district (“District”) and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

6. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400. Upon information and belief, Groupon has purposely and repeatedly availed itself of the privilege of doing business within the District, and a substantial part of the events giving rise to the claims herein occurred in this District.

ASSERTED PATENTS

7. On April 27, 2010, United States Patent No. 7,706,819 (the “’819 patent”) was duly and legally issued for a “Mixed-Mode Interaction.” A true and correct copy of the ‘819 patent is attached hereto as Exhibit A. Aeritas is the owner of all right, title and interest in and to the ‘819 patent.

8. On November 8, 2011, United States Patent No. 8,055,285 (the “’285 patent”) was duly and legally issued for a “Mixed-Mode Interaction.” A true and correct copy of the ‘285 is attached hereto as Exhibit B. Aeritas is the owner of all right, title and interest in and to the ‘285 patent.

9. On December 31, 2013, United States Patent No. 8,620,364 (the “’364 patent”) was duly and legally issued for a “Mixed-Mode Interaction.” A true and correct copy of the ‘364 patent is attached hereto as Exhibit C. Aeritas is the owner of all right, title and interest in and to the ‘364 patent.

10. On July 12, 2016, United States Patent No. 9,390,435 (the “’435 patent”) was duly and legally issued for a “Mixed-Mode Interaction.” A true and correct copy of the ‘435

patent is attached hereto as Exhibit D. Aeritas is the owner of all right, title and interest in and to the '435 patent.

11. The '819, '285, '364, and '435 patents ("Asserted Patents") were invented by Malik Mamdani, Patrick Johnson, Kevin Bomar, Curtis Grant, and Tim Whatley. Mr. Mamdani lives in Dallas, Texas. Mr. Johnson lives in Trophy Club, Texas. Mr. Bomar lives in Weatherford, Texas. Mr. Grant lives in Flower Mound, Texas. Mr. Whatley lives in Athens, Texas. The Asserted Patents were prosecuted by David Judson, with an office in Dallas, Texas.

BACKGROUND

12. Aeritas developed its mobile device location-based information service based on research and development activities that began in early 2000. In recognition of its pioneering efforts in this field, the United States Patent & Trademark Office issued the inventors several U.S. patents directed to the Aeritas's innovative technology platform, service and notification method. These include the Asserted Patents.

13. Groupon offers a mobile and online marketplace enabling real-time commerce across local businesses, travel destinations, consumer products, and live events.

<https://www.groupon.com/press/about-groupon>

14. Groupon provides mobile device applications that offer various functionality including receiving notifications about deals available from nearby providers (<https://www.groupon.com/mobile>). Groupon offers applications for both iOS and Android devices ("Accused Instrumentality") which, on information and belief, operate substantially the same with respect to the Asserted Patents.

**FIRST CLAIM FOR RELIEF
(Infringement of the '819 Patent)**

15. Aeritas incorporates paragraphs 1 through 14 as though fully set forth herein.

16. Groupon has been and is now infringing one or more claims of the '819 patent under 35 U.S.C. § 271 by making and/or using the Accused Instrumentality.

17. More particularly, Groupon infringes at least claim 17 of the '819 patent. Groupon receives a non-verbal input (e.g., activating the Accused Instrumentality) from a mobile communications device on which the Accused Instrumentality is installed. Data identifying a current location of the mobile communications device is received, information (e.g., availability of a deal near the mobile device) that is a function of the input and the location is retrieved, and a non-verbal response (e.g., information about the nearby deals) is delivered to the mobile communications device by a notification server. The non-verbal response includes a drill-down menu by which additional information can be obtained (e.g., a user can select a nearby deal to display additional information about that deal) and such additional information is provided to the mobile communications device.

18. Aeritas has been damaged by Groupon's infringing activities and will be irreparably harmed unless those infringing activities are preliminarily and permanently enjoined by this Court.

**SECOND CLAIM FOR RELIEF
(Infringement of the '285 Patent)**

19. Aeritas incorporates paragraphs 1 through 14 as though fully set forth herein.

20. Groupon has been and is now infringing one or more claims of the '285 patent under 35 U.S.C. § 271 by making and/or using the Accused Instrumentality.

21. More particularly, Groupon infringes at least claim 1 of the '285 patent. Groupon receives and stores an input in a user profile in a database, the input comprising consumer interest data (e.g., records of previously viewed items and/or "deal preferences"). At a second time, data

identifying a current location of the mobile communications device on which the Accused Instrumentality is installed is obtained. Based on the input and location, Groupon performs a search to locate pertinent information (e.g., a search for nearby deals) and receives the results of such search. Groupon then provides the information to the mobile communications device.

22. Aeritas has been damaged by Groupon's infringing activities and will be irreparably harmed unless those infringing activities are preliminarily and permanently enjoined by this Court.

**THIRD CLAIM FOR RELIEF
(Infringement of the '364 Patent)**

23. Aeritas incorporates paragraphs 1 through 14 as though fully set forth herein.

24. Groupon has been and is now infringing one or more claims of the '364 patent under 35 U.S.C. § 271 by making and/or using the Accused Instrumentality.

25. More particularly, Groupon infringes at least claim 1 of the '364 patent. On information and belief, Groupon employs a computer memory holding computer program instructions to execute a rules engine. On information and belief, the rules engine correlates data identifying a location of the mobile communications device on which the Accused Instrumentality is installed, consumer interest data (e.g., records of previously viewed items and/or "deal preferences"), data associated with one or more inventory attributes (e.g., available deals), and notification criteria that defines when a notification is to be delivered (e.g., deal notifications) and a type of notification (e.g., a mobile device alert). Groupon then generates a message for delivery to the mobile communication device when the rules engine and the notification criteria so indicate, the message identifying one or more suppliers in the location with inventory (e.g., a nearby deal). Groupon then delivers the message to the mobile communications device.

26. Aeritas has been damaged by Groupon's infringing activities and will be irreparably harmed unless those infringing activities are preliminarily and permanently enjoined by this Court.

**FOURTH CLAIM FOR RELIEF
(Infringement of the '435 Patent)**

27. Aeritas incorporates paragraphs 1 through 14 as though fully set forth herein.

28. Groupon has been and is now infringing one or more claims of the '435 patent under 35 U.S.C. § 271 by making and/or using the Accused Instrumentality.

29. More particularly, Groupon infringes at least claim 1 of the '435 patent. On information and belief, Groupon employs a processor and computer memory holding computer program instructions to perform the functions described herein. Groupon receives data indicating permission to provide a notification to a mobile device user in accordance with notification criteria (e.g., under "Settings," "Deal Notifications"). Groupon determines a location of the mobile device and, based on the location and notification criteria, provides at least a visual alert notification (e.g., a mobile device alert). Groupon receives second data as a result of an input being received at the mobile device (e.g., interaction with the notification), retrieves information associated with the input (e.g., nearby deals), and provides responsive information to the mobile device (e.g., information about the specific deals).

30. Aeritas has been damaged by Groupon's infringing activities and will be irreparably harmed unless those infringing activities are preliminarily and permanently enjoined by this Court.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Aeritas hereby demands a trial by jury of all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Aeritas requests that the Court enter a judgment in its favor and against Defendant as follows:

- A. Permanently enjoining Defendant, its agents, servants, and employees, and all those in privity with it or in active concert and participation with it, from engaging in acts of infringement of the Asserted Patents;
- B. Awarding Aeritas past and future damages together with prejudgment interest and post-judgment interest to compensate for the infringement of the patents-in-suit in accordance with 35 U.S.C. § 384;
- C. Declaring this case exceptional, pursuant to 35 U.S.C. § 285;
- D. Awarding Aeritas its costs (including expert fees), disbursements, and attorneys' fees; and
- E. Granting such further relief as this Court deems to be just and proper.

Dated: December 21, 2016

Respectfully submitted,

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**ATTORNEY FOR PLAINTIFF
AERITAS, LLC**