

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

TANGELO IP, LLC)	
)	
Plaintiff,)	
)	Civil Action No. 2:17-cv-143
v.)	
)	JURY TRIAL DEMANDED
SCHOOL SPECIALTY, INC.)	
)	
Defendant.)	
_____)	

COMPLAINT

For its Complaint, Plaintiff Tangelo IP, LLC ("Tangelo"), by and through the undersigned counsel, alleges as follows:

THE PARTIES

1. Tangelo is a Texas limited liability company with a place of business located at 555 Republic Drive, 2nd Floor #42, Plano, Texas 75074.
2. Defendant School Specialty, Inc. is a Delaware company with, upon information and belief, a place of business located at W6316 Design Drive, Greenville, Wisconsin 54942.
3. Upon information and belief, Defendant registered with the Texas Secretary of State to conduct business in Texas.

JURISDICTION AND VENUE

4. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*
5. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.
6. Upon information and belief, Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements

alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in this district.

7. Venue is proper in this district pursuant to §§ 1391(b), (c) and 1400(b).

BACKGROUND

8. Tangelo'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 already is 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.

9. 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.

10. 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.

THE PATENT-IN-SUIT

11. On April 23, 2013, U.S. Patent No. 8,429,005 (the "'005 patent"), entitled "Method for Determining Effectiveness of Display of Objects in Advertising Images," was duly and lawfully issued by the U.S. Patent and Trademark Office. A true and correct copy of the '090 patent is attached hereto as Exhibit A.

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 Defendant, 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 assignee and owner of the right, title and interest in and to the '005 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

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

18. Tangelo repeats and realleges the allegations of paragraphs 1 through 17 as if fully set forth herein.

19. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendant is liable for infringement of the '005 patent by practicing, making, using, importing, offering for sale, selling and/or hosting 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.

20. More specifically and upon information and belief, Defendant's online catalog system for providing interactive replications of product images appears in a corresponding physical publication page.

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- 2 If you know where the item is located in the book, you can jump directly to the desired page by **entering the number** in the navigation bar above and clicking **GO**.
- 3 Not sure where to start? Enter the product name, short description or item number in the **search box** in the navigation bar above and click **GO**. *Example: microscope*
- 4 Use the **Index** to locate the item. Then click on the page number and jump directly to that page. (Note: Index not available in all catalogs)

Resize the page for easy viewing:

- Click directly on any page to **Zoom In** and begin shopping. Click the **Zoom In** again for an even closer view.
- Click **Zoom Out** to restore the page view to the original size.

Add items to your cart:

- 1 Click directly on any page to **Zoom In**. Item links are not active at the fully zoomed out view.
- 2 Click on an **item number** to add it to your cart.

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http://catalogs.schoolspecialty.com/4595_ssi_fs17/t1.asp (last accessed Feb. 21, 2017).

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Crazy Traits



Concepts Covered

- Adaptation
- Biodiversity
- Dominant Traits
- Environmental Influence
- Genetic Disorders
- Genetic Engineering
- Hardy-Weinberg Principle
- Inheritance

NGSS Connections

Crazy Traits addresses the following performance expectations:

MS-LS3-2, MS-LS4-4, MS-LS4-5, HS-ETS1-2, HS-LS2-7, HS-LS3-1, HS-LS3-3, HS-LS4-2, HS-LS4-4, HS-LS4-5

Investigations

8—Level A
7—Level B
2—Level C

Lifetime Access to Curiosity Place and Explores
Crazy Traits Equipment Unit

Crazy Traits is a fun and innovative tool for helping students learn about genetics and evolution. Through a series of games and activities, students learn that the traits people and animals inherit from their parents are based on chance. Alleles, genotypes, and phenotypes are also explored. Students flip special coins that represent each parent, record their outcomes, and build a "Crazy Creature" based on the results. Special Environment Cards add to the excitement, allowing students to explore how environment influences the traits in a population.

CRAZY TRAITS		
PART NO.	DESCRIPTION	PRICE
9N-292-3069-640	Crazy Traits Full Module (1 Teacher's Guide, Curiosity Place Access, Explores Access, 1 Equipment Unit)	\$369.97 SAVE 30%! \$274.95
9N-292-4019-640	Crazy Traits Full Classroom Package (1 Teacher's Guide, Curiosity Place Access, Explores Access, 8 Equipment Units)	\$1,089.97 SAVE 20%! \$860.95
9N-492-1090-640	Crazy Traits Teacher's Guide with Digital Access	\$249.95
9N-792-1470-640	Crazy Traits Equipment Only	\$139.95

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Items shipping with Ship Freight Ship Parcel

http://catalogs.schoolspecialty.com/4595_ssi_fs17/full.asp?page=27 ("Online Ad") (last accessed Feb. 21, 2017). Defendant uses a computer system 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, and the electronic catalog comprises exact duplications of the at least two different products from the physical publication.

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Crazy Traits






Lifetime Access to Curiosity Place and Explora

Crazy Traits Equipment Unit

Crazy Traits is a fun and innovative tool for helping students learn about genetics and evolution. Through a series of games and activities, students learn that the traits people and animals inherit from their parents are based on chance. Alleles, genotypes, and phenotypes are also explored. Students flip special coins that represent each parent, record their outcomes, and build a "Crazy Creature" based on the results. Special Environment Cards add to the excitement, allowing students to explore how environment influences the traits in a population.

PART NO.	DESCRIPTION	PRICE
9N-292-3069-640	Crazy Traits Full Module (1 Teacher's Guide, Curiosity Place Access, Explora Access, 1 Equipment Unit)	\$269.97 \$274.95 SAVE 30%!
9N-292-4019-640	Crazy Traits Full Classroom Package (1 Teacher's Guide, Curiosity Place Access, Explora Access, 8 Equipment Units)	\$1,089.07 \$1,860.95 SAVE 30%!
9N-492-1090-640	Crazy Traits Teacher's Guide with Digital Access	\$249.95
9N-792-1470-640	Crazy Traits Equipment Only	\$139.95

Concepts Covered

- Adaptation
- Biodiversity
- Dominant Traits
- Environmental Influence
- Genetic Disorders
- Genetic Engineering
- Hardy-Weinberg Principle
- Inheritance

NGSS Connections

Crazy Traits addresses the following performance expectations:

MS-LS3-2, MS-LS4-4,
MS-LS4-5, HS-ETS1-2,
HS-LS2-7, HS-LS3-1,
HS-LS3-3, HS-LS4-2,
HS-LS4-4, HS-LS4-5

Investigations

8—Level A
7—Level B
2—Level C

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Items shipping with  Ship Freight  Ship Parcel

Online Ad. The electronic catalog includes a first selectable portion corresponding with duplication of the appearance of a first product of the at least two different products and selection of the first selectable portion provides additional information about the first product and enables a user to initiate an online purchase of the first product



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Crazy Traits



Teacher's Guide

Life Size Access to Curiosity Place and Explorers

Crazy Traits Equipment Only

Concepts Covered

- Adaptation
- Biodiversity
- Dominant Traits
- Environmental Influence
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Investigations

8—Level A
7—Level B
2—Level C

CRAZY TRAITS

PART NO.	DESCRIPTION	PRICE
9N-292-1059-640	Crazy Traits Full Module (1 Teacher's Guide, Curiosity Place Access, Explorers Access, 8 Equipment Only)	\$889.97 \$274.95 SAVE 20%
9N-292-4019-640	Crazy Traits Full Classroom Package (1 Teacher's Guide, Curiosity Place Access, Explorers Access, 8 Equipment Only)	\$1,089.07 \$869.95 SAVE 20%
9N-492-1090-640	Crazy Traits Teacher's Guide with Digital Access	\$249.95
9N-792-1470-640	Crazy Traits Equipment Only	\$139.95

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Items beginning with  Ship Freight  Ship Parcel

Online Ad.

The screenshot displays the 'Your Shopping Cart' page for Frey Scientific CPO Science. At the top, there is a navigation bar with the company logo, a search bar, and a shopping cart icon showing 1 item. Below this is a menu with options like 'Shop Our Products', 'Digital Catalogs', 'Order by Number', 'Frey Scientific', and 'CPO Science'. The main heading is 'Your Shopping Cart' with a 'Print' link. A progress bar shows 'Shopping Cart', 'Review', and 'Confirmation' steps. The cart number is 7783031564. A 'Continue Online Shopping Catalog' button is visible. The main content area has tabs for 'Shopping Cart' and 'Promotion Codes'. Below the tabs is a table with one item and a subtotal of \$274.95. Navigation links at the bottom include 'Return to Previous Page', 'My Shopping Lists', 'Order By Item Number', and 'Proceed to Checkout'.

Line	Remove	Ordered Item	Item Number	Description	Qty	UOM	Unit Price	Total Price
1	<input type="checkbox"/>	9N-292-3069-640	292-3069	TO+EQ CPO LINK CRAZY TRAITS SINGLE	1	EA	Net \$274.95	Net \$274.95

https://store.schoolspecialty.com/OA_HTML/xxssi_ibeShoppingCart.jsp?a=b (last accessed Feb. 21, 2017). The electronic catalog includes a second selectable portion corresponding with duplication of the appearance of a second product of the at least two different products and selection of the second selectable portion provides additional information about the second product and enables a user to initiate an online purchase of the second product.





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Crazy Traits





Teacher's Guide



Crazy Traits Equipment Unit

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Crazy Traits is a fun and innovative tool for helping students learn about genetics and evolution. Through a series of games and activities, students learn that the traits people and animals inherit from their parents are based on chance. Alleles, genotypes, and phenotypes are also explored. Students flip special coins that represent each parent, record their outcomes, and build a "Crazy Creature" based on the results. Special Environment Cards add to the excitement, allowing students to explore how environment influences the traits in a population.

CRAZY TRAITS		
PART NO.	DESCRIPTION	PRICE
9N-392-3069-640	Crazy Traits Full Module <small>(7 Teacher's Guide, Curiosity Place Access, Explore Access, 7 Equipment Unit)</small>	\$399.97 \$274.95 SAVE 30%
9N-292-4015-640	Crazy Traits Full Classroom Package <small>(7 Teacher's Guide, Curiosity Place Access, Explore Access, 6 Equipment Units)</small>	\$1,049.09 \$809.95 SAVE 20%
9N-402-1090-640	Crazy Traits Teacher's Guide with Digital Access	\$249.95
9N-792-1470-640	Crazy Traits Equipment Only	\$139.95

Concepts Covered

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Crazy Traits addresses the following performance expectations:

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Investigations

8—Level A
7—Level B
2—Level C

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Shopping Cart Review Confirmation

Cart Number: 7783031554

Continue Shopping Our Online Shopping Catalog

Return to Previous Page | My Shopping Lists | Order By Item Number **Proceed to Checkout**

Shopping Cart Promotion Codes

Delete Cart | Save Cart | Save to Shopping List

Line	Remove	Ordered Item	Item Number	Description	Qty	UOM	Unit Price	Total Price
1	<input type="checkbox"/>	9N-292-4019-640	292-4019	CLASS PACK CPO LINK CRAZY TRAITS	1	EA	Net:\$869.95	Net:\$869.95

Update Order Total | Subtotal: \$869.95
Delete Cart | Save Cart | Save to Shopping List

Return to Previous Page | My Shopping Lists | Order By Item Number **Proceed to Checkout**

https://store.schoolspecialty.com/OA_HTML/xxssi_ibeShoppingCart.jsp?a=b (last accessed Feb. 21, 2017). A web server application is executed by the host computer and it provides the electronic and interactive representation to a computing device of a user in response to receiving input representing the page number.

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- 3 Not sure where to start? Enter the product name, short description or item number in the **search box** in the navigation bar above and click **GO**. Example: microscope
- 4 Use the **Index** to locate the item. Then click on the page number and jump directly to that page. (Note: Index not available in all catalogs)

Resize the page for easy viewing:

- Click directly on any page to **Zoom In** and begin shopping. Click the **Zoom In** again for an even closer view.
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http://catalogs.schoolspecialty.com/4595_ssi_fs17/t1.asp (last accessed Feb. 21, 2017).

21. Tangelo is entitled to recover from Defendant the damages sustained by Tangelo as a result of Defendant's infringement of the '495 patent 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.

22. Defendant's use of Tangelo's patented technology has caused, is causing and will continue to cause Tangelo irreparable harm unless enjoined by this Court.

JURY DEMAND

Tangelo hereby demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Tangelo requests that this Court enter judgment against Defendant as follows:

- A. An adjudication that Defendant has infringed the '005 patent;
- B. A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with it, from making, using, offering to sell, or selling in the United States or importing into the United States any devices, methods or systems that infringe any claim of the '005 patent, or contributing to or inducing the same by others;
- C. An award of damages to be paid by Defendant adequate to compensate Tangelo for Defendant's past infringement of the '005 patent 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;
- D. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Tangelo's reasonable attorneys' fees; and
- E. An award to Tangelo of such further relief at law or in equity as the Court deems just and proper.

Dated: February 21, 2017

/s/ Richard C. Weinblatt

Stamatios Stamoulis DE SB #4606

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