

JURISDICTION AND VENUE

5. The Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338.

6. The Court has personal jurisdiction over Donuts because it is incorporated in the State of Delaware and therefore is at home in this Judicial District.

7. The Court's venue is provided by 28 U.S.C. 1400(b). Donuts is incorporated in the State of Delaware and therefore reside in this Judicial District pursuant to 28 U.S.C. 1400(b).

8. Venue is proper pursuant to 28 U.S.C. § 1391(b) and (c) because Donuts resides in the District of Delaware because of its formation under the laws of Delaware, which subjects it to the personal jurisdiction of this Court.

9. The Court's personal jurisdiction over Name.com is provided because this action arises from Name.com's transacting of business in the State of Delaware, and related patent infringement. Name.com actively solicited business in this State. Name.com sold services to customers in Delaware through the commercial websites name.com, using their computer systems that infringed WhitServe's patents. Name.com used WhitServe's patents to generate and send important account information to customers in Delaware. At Name.com's invitation, customers in this State also accessed customer accounts on name.com, where they could buy and manage domain names and buy related services. That customer access involved additional patent infringement by Name.com.

10. The Court's venue is provided by 28 U.S.C. §§ 1391(c) and 1400(b). Name.com is subject to jurisdiction and has committed patent infringement in this District.

JOINDER OF DEFENDANTS

11. Name.com is a subsidiary of Donuts. Donuts manages Name.com and makes decisions on the common operation of the computer system that Name.com uses to infringe WhitServe patents, as further alleged below.

12. Joinder is proper because the infringement arises out of the same transaction, occurrence, or series of transactions or occurrences relating to the using in the United States of the same accused product or process, and questions of fact common to both defendants will arise in the action.

WHITSERVE'S PATENTS

13. WhitServe owns United States Patent Nos. 5,895,468 (“‘468 Patent”) and 6,182,078 (“‘078 Patent”), attached as Exhibits 1 and 2 (collectively “Patents”). The Patents were invented by WhitServe’s founder, Wesley W. Whitmyer, Jr. of Stamford. The ‘468 Patent issued on April 20, 1999. The ‘078 Patent is a continuation issued on January 30, 2001. The Patents share a common specification that was first filed on October 7, 1996.

14. WhitServe’s subsidiary, NetDocket LLC of Stamford, used the WhitServe Patents under license to operate a web-based, intellectual-property-management business, through the website netdocket.com.

15. Since 2006, WhitServe has granted licenses to the Patents to over twenty companies that have used the Patents in their businesses. The licensees are primarily in NetDocket’s field of intellectual-property management, and in Name.com’s field of domain-name registration.

16. The Patents also have been the subject of infringement cases against other infringers. Two of those cases resulted in several court decisions favorable to WhitServe.

17. From 2006 to 2014, WhitServe was in litigation against Computer Packages, Inc., in the case *WhitServe LLC v. Computer Packages, Inc.*, No. 3:06-cv-01935-AVC. The case included

a 2010 jury trial finding the Patents valid and willfully infringed, an appeal to the Federal Circuit affirming the defendant's liability but remanding for retrial of damages (694 F.3d 10 (Fed. Cir. 2012)), denial of a *writ of certiorari* on willful infringement, and finally a settlement at the 2014 retrial of damages.

18. From 2011 to 2015, WhitServe was in litigation against Name.com's competitor GoDaddy.com, in the case *WhitServe LLC v. GoDaddy.com, Inc.*, No. 3:11-cv-00948-JCH. The court orders favorable to WhitServe include: claim construction (April 2013); summary judgment on invalidity defenses under Sections 101, 102, 103, and 112, non-infringement defenses, and patent marking (May 2013); summary judgment on claim definiteness (65 F.Supp.3d 317 (D. Conn. 2014)); renewed motions on Section 101 and claim definiteness (Dec. 2014); and a trial on the defense of laches (2015 U.S. Dist. LEXIS 94341 (D. Conn. July 20, 2015)). The case settled in July 2015.

NAME.COM'S KNOWLEDGE OF THE WHITSERVE PATENTS

19. Name.com has been aware of the WhitServe Patents since at least 2012.

20. In 2012 and again in 2015, WhitServe gave notice of the claim of patent infringement to Name.com, but their infringement continued despite their knowledge of infringement of the WhitServe Patents.

NAME.COM'S INFRINGEMENT OF THE WHITSERVE PATENTS

21. Name.com has directly infringed the Patents in violation of 35 U.S.C. § 271(a). As described below, Name.com has used the patented inventions in their operation of the computer system that houses the website name.com.

22. Name.com has infringed at least claims 1 and 24 of the '468 Patent by making and using a computer system, and using an attendant process, to track and automatically remind

customers of the upcoming expiration dates of their domain name registrations, and to receive customer instructions for renewal of domains.

23. Name.com's computer system is a device that has all the elements of claim 1 of the '468 patent, as shown below. Their use of the system is the use of a method that has all of the elements of claim 24 of the '468 patent, as shown below.

24. Name.com's computer system includes "a computer", which means one or more computers. Name.com's networked computers include: database servers that store and maintain the patented data structures including "client reminders"; servers that execute searches of client reminders; web servers that receive instructions from clients' web browsers, and servers that assemble and transmit web pages to clients' browsers.

25. Name.com's computer system includes "a database containing a plurality of client reminders, each of the client reminders comprising a date field having a value attributed thereto." "A database" means one or more. A "client reminder" has been interpreted by a court to mean a record containing information mapping an upcoming service for a client. Name.com's system has databases that record each client's services and pertinent dates. For example, the database contains millions of records that map the clients' identification, the clients' domain name registrations and other services, and the expiration dates for those registrations. The expiration dates reflect the need for upcoming renewal services provided by Name.com. The expiration dates are stored in date fields in the database servers, using values that represent the dates, and those values can be searched using database query software.

26. Name.com's computer system includes "software executing on said computer for automatically querying said database by the values attributed to each client reminder date field to retrieve a client reminder." "Automatically" has been interpreted by a court to mean "a process

that, once initiated, functions without further human intervention to accomplish functions or steps designated.” Name.com’s computer system is programmed to run searches of the above databases (automatically querying) by expiration date (values attributed to each client reminder date field) in order to identify and retrieve the records of domain-name registrations and other services that will be expiring at a specific time in the future (client reminders). For example, a client’s web browser can request a search of that client’s domain-name registrations that expire in 30 days; the Name.com system automatically searches by expiration date and retrieves the registrations that are expiring. Name.com’s system also runs queries by expiration date on its own, in order to send reminder emails to clients.

27. Name.com’s computer system includes “software executing on said computer for automatically generating a client response form based on the retrieved client reminder.” For example, Name.com servers automatically generate client response forms as web pages that display the client’s expiring domain-name registrations.

28. Name.com’s computer system has “a communication link between said computer and the Internet.” The system communicates with clients’ devices using the Internet.

29. Name.com’s computer system includes “software executing on said computer for automatically transmitting the client response form to the client through said communication link.” Name.com’s system transmits the above client response forms to the clients’ devices over the Internet, without human intervention.

30. Name.com’s computer system includes “software executing on said computer for automatically receiving a reply to the response form from the client through said communication link.” From the web pages providing the client response forms, the client can send replies as

renewal instructions for the client's expiring domain names. When that occurs, the Name.com web servers automatically receive and process the renewal instructions, without human intervention.

31. Name.com has infringed at least claims 1, 3, 9, and 11 of the '078 Patent by making and using a computer system, and using an attendant process, to track and automatically remind customers of the upcoming expiration dates of their domain name registrations using webpages.

32. Name.com's computer system is a device that has all the elements of claims 1 and 3 of the '078 patent, as already shown above and repeated below. Their use of the system is the use of a method that has all of the elements of claims 9 and 11 of the '078 patent, as already shown above and repeated below.

33. Name.com's computer system includes "a computer", which means one or more computers. Name.com's networked computers include: database servers that store and maintain the patented data structures including "client reminders"; servers that execute searches of client reminders; web servers that receive instructions from clients' web browsers, and servers that assemble and transmit web pages to clients' browsers.

34. Name.com's computer system includes "a database containing a plurality of client reminders, each of the client reminders comprising a date field having a value attributed thereto." "A database" means one or more. A "client reminder" has been interpreted by a court to mean a record containing information mapping an upcoming service for a client. Name.com's system has databases that record each client's services and pertinent dates. For example, the database contains millions of records that map the clients' identification, the clients' domain name registrations and other services, and the expiration dates for those registrations. The expiration dates reflect the need for upcoming renewal services provided by Name.com. The expiration dates are stored in date

fields in the database servers, using values that represent the dates, and those values can be searched using database query software.

35. Name.com's computer system includes "software executing on said computer for automatically querying said database by the values attributed to each client reminder date field to retrieve a client reminder." "Automatically" has been interpreted by a court to mean "a process that, once initiated, functions without further human intervention to accomplish functions or steps designated." Name.com's computer system is programmed to run searches of the above databases (automatically querying) by expiration date (values attributed to each client reminder date field) in order to identify and retrieve the records of domain-name registrations and other services that will be expiring at a specific time in the future (client reminders). For example, a client's web browser can request a search of that client's domain-name registrations that expire in 30 days; the Name.com system automatically searches by expiration date and retrieves the registrations that are expiring. Name.com's system also runs queries by expiration date on its own, in order to send reminder emails to clients.

36. Name.com's computer system includes "software executing on said computer for automatically generating a form based on the retrieved client reminder." For example, Name.com servers automatically generate forms as web pages that display the client's expiring domain-name registrations.

37. Name.com's computer system has "a communication link between said computer and the Internet." The system communicates with clients' devices using the Internet.

38. Name.com's computer system includes "software executing on said computer for automatically transmitting the form through said communication link." Name.com's system transmits the above forms to the clients' devices over the Internet, without human intervention.

39. Name.com's system generates and transmits the above forms to the clients' devices as webpages.

40. Name.com's infringement has injured WhitServe, and WhitServe is entitled to recover damages adequate to compensate for the infringement, in no event less than a reasonable royalty for the use of the patented inventions.

PRAYER FOR RELIEF

WHEREFORE, WhitServe prays for judgment as follows:

- A. Judgment that Donuts and Name.com has infringed both WhitServe Patents;
- B. An award of damages adequate to compensate WhitServe for the infringement, together with prejudgment interest from the date infringement of the WhitServe Patents began, pursuant to 35 U.S.C. § 284;
- C. An award of enhanced damages, pursuant to 35 U.S.C. § 284;
- D. A finding that this is an exceptional case, and an award of reasonable attorney fees, pursuant to 35 U.S.C. § 285;
- E. Any other and further relief that this Court may deem just and proper or otherwise permitted by law.

JURY DEMAND

WhitServe demands a trial by jury on all claims and issues so triable.

Respectfully submitted,

WhitServe LLC

Date: February 1, 2018

By: /s/Stamatios Stamoulis

Stamatios Stamoulis

Stamoulis & Weinblatt LLC

Two Fox Point Centre

6 Denny Road, Suite 307

Wilmington, DE 19809

Tel: 302-999-1540

Email: stamoulis@swdelaw.com