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Attorneys for Express Mobile, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EXPRESS MOBILE, INC.,

Plaintiff,

vs.

GADDIS PARTNERS, LTD. d/b/a T3,

Defendant.

) Case No.: 3:18-cv-5058

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**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff Express Mobile, Inc. (“Express Mobile” or “Plaintiff”), for its Complaint against
2 Defendant Gaddis Partners, Ltd. d/b/a T3 (“T3” or “Defendant”) alleges the following:

3 **NATURE OF THE ACTION**

4 1. This is an action for patent infringement arising under the Patent Laws of the United
5 States, 35 U.S.C. § 1 *et seq.*

6 **THE PARTIES**

7 2. Plaintiff is a corporation organized under the laws of the State of Delaware with a place
8 of business at 3415 Custer Rd. Suite 104, Plano, TX 75023.

9 3. Upon information and belief, T3 is a general partnership organized and existing under the
10 laws of Texas, with a place of business at 600 California Street, San Francisco, CA 94109 and can
11 be served through its registered agent, Gay Gaddis, 1801 North Lamar Blvd., Suite B100, Austin,
12 TX 78701.

13 4. Upon information and belief, T3 sells and offers to sell products and services throughout
14 the United States, including in this judicial district, and introduces products and services that into the
15 stream of commerce and that incorporate infringing technology knowing that they would be sold in
16 this judicial district and elsewhere in the United States.

17 **JURISDICTION AND VENUE**

18 5. This is an action for patent infringement arising under the Patent Laws of the United
19 States, Title 35 of the United States Code.

20 6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

21 7. Venue is proper in this judicial district under 28 U.S.C. §1400(b). On information
22 and belief, Defendant has committed acts of infringement in this District and has a regular and
23 established place of business within this District.

24 8. On information and belief, Defendant is subject to this Court’s general and specific
25 personal jurisdiction because Defendant has sufficient minimum contacts within the State of
26 California and this District, pursuant to due process and/or the California Long Arm Statute because
27 Defendant purposefully availed itself of the privileges of conducting business in the State of
28 California and in this District, because Defendant regularly conducts and solicits business within the

1 State of California and within this District, and because Plaintiff's causes of action arise directly
2 from each of Defendant's business contacts and other activities in the State of California and this
3 District.

4 **COUNT I – INFRINGEMENT OF U.S. Patent No. 6,546,397**

5 9. The allegations set forth in the foregoing paragraphs 1 through 8 are incorporated into
6 this First Claim for Relief.

7 10. On April 8, 2003, U.S. Patent No. 6,546,397 ("the '397 patent"), entitled "*Browser*
8 *Based Web Site Generation Tool and Run Time Engine*," was duly and legally issued by the United
9 States Patent and Trademark Office. A true and correct copy of the '397 patent is attached as
10 Exhibit A.

11 11. The inventions of the '397 patent resolve technical problems related to website
12 creation and generation. For example, the inventions enable the creation of websites through
13 browser-based visual editing tools such as selectable settings panels which describe website
14 elements, with one or more settings corresponding to commands, which features are exclusively
15 implemented utilizing computer technology including a virtual machine.

16 12. The claims of the '397 patent do not merely recite the performance of some business
17 practice known from the pre-Internet world along with the requirement to perform it on the Internet.
18 Instead, the claims of the '397 patent recite one or more inventive concepts that are rooted in
19 computerized website creation technology, and overcome problems specifically arising in the realm
20 of computerized website creation technologies.

21 13. The claims of the '397 patent recite an invention that is not merely the routine or
22 conventional use of website creation systems and methods. Instead, the invention describes a
23 browser-based website creation system and method in which the user-selected settings representing
24 website elements are stored in a database, and in which said stored information is retrieved to
25 generate said website.

26 14. The technology claimed in the '397 patent does not preempt all ways of using website
27 or web page authoring tools nor preempt the use of all website or web page authoring tools, nor
28 preempt any other well-known or prior art technology.

1 15. Accordingly, each claim of the '397 patent recites a combination of elements
2 sufficient to ensure that the claim in practice amounts to significantly more than a patent on an
3 ineligible concept.

4 16. In C.A. 2:17-00128, a case filed in the Eastern District of Texas, the defendant in that
5 action, KTree Computer Solutions brought a Motion for Judgment on the Pleadings asserting that the
6 '397 patent, along with U.S. Patent No. 7,594,168 (asserted in Count II below) were invalid as
7 claiming abstract subject matter under 35 U.S.C. § 101. (C.A. 2:17-00128 Dkt. 9.) Subsequent
8 briefing included Plaintiff's Response and related Declarations and Exhibits (C.A. 2:17-00128 Dkt.
9 17, 22-24), KTree's Reply (C.A. 2:17-00128 Dkt. 25), and Plaintiff's Sur-Reply and related
10 Declarations and Exhibits (C.A. 2:17-00128 Dkt. 26-27). Each of those filings is incorporated by
11 reference into this Complaint.

12 17. After a consideration of the respective pleadings, Magistrate Judge Payne
13 recommended denial of KTree's motion, without prejudice, holding that "the claims appear to
14 address a problem particular to the internet: dynamically generating websites and displaying web
15 pages based on stored user-selected settings" and further stating "the asserted claims do not bear all
16 of the hallmarks of claims that have been invalidated on the pleadings by other courts in the past.
17 For example, the claims are not merely do-it-on-a-computer claims." (Dkt. 29, attached hereto as
18 Exhibit C.) No objection was filed to the Magistrate Judge's report and recommendation and the
19 decision therefore became final.

20 18. Plaintiff is the assignee and owner of the right, title and interest in and to the '397
21 patent, including the right to assert all causes of action arising under said patents and the right to any
22 remedies for infringement of them.

23 19. Upon information and belief, Defendant has and continues to directly infringe at least
24 claims 1-6, 9-11, 14-15, 24-25, 35, and 37 of the '397 patent by using a browser-based website
25 and/or web page authoring tool in which the user-selected settings representing website elements are
26 stored in a database, and in which said stored information is retrieved to generate said website (the
27 "Accused Instrumentalities"). The Accused Instrumentalities include but are not limited to the
28

1 website building tools used and/or provided by Defendant, such as, for example Drupal. *See, e.g.*,
2 <https://www.t-3.com/work/7-eleven-improving-7-elevens-snackend-err-backend>.

3 20. On information and belief, Defendant is a for-profit organization with revenues of
4 approximately \$75 million U.S.D. per year. Moreover, Defendant, its employees and/or agents
5 utilize the Accused Instrumentalities in the building and/or hosting of websites for Defendant's
6 customers, leading to direct or indirect revenues and profit. As one example of indirect profit,
7 entities such as Defendant will frequently offer website building and/or hosting services at reduced
8 pricing as an inducement to attract customers, who then purchase additional products or services.
9 On information and belief, without the availability of infringing tools such as the Accused
10 Instrumentalities, Defendant would be at a disadvantage in the marketplace and would generate less
11 revenue overall.

12 21. In particular, claim 1 of the '397 patent generally recites a method enabling
13 production of websites on and for computers with browsers and virtual machines, by presenting,
14 through a browser, a selectable settings menu describing elements, such setting(s) corresponding to
15 commands to the virtual machine; generating a display in accordance with selected settings; storing
16 information regarding selected settings in a database; generating a website at least in part by
17 retrieving said information; and building web page(s) to generate said website and a run time file,
18 where the run time file uses the stored information to generate virtual machine commands for the
19 display of at least a portion of web page(s).

20 22. The Accused Instrumentalities infringe claim 1 of the '397 patent through a
21 combination of features which collectively practice each limitation of claim 1. By way of example,
22 modern internet browsers such as Microsoft Internet Explorer, Mozilla's Firefox, Apple Safari,
23 Google Chrome, and Opera include virtual machines within the meaning of the '397 patent. (*See*,
24 *e.g.*, <http://developer.telerik.com/featured/a-guide-to-javascript-engines-for-idiots/>;
25 <http://dictionary.reference.com/browse/virtual+machine?s=t>). The Accused Instrumentalities
26 support the use of the latest versions of Internet Explorer 11 or later, Microsoft Edge, latest-1,
27 Firefox latest, latest-1, Chrome latest, latest-1, Safari latest, latest-1 (Mac OS), Safari Mobile for
28 iPad 2, iPad Mini, iPad with Retina Display (iOS 7 or later), for desktop site, Safari Mobile for

1 iPhone 4 or later; iOS 7 or later, for mobile site, Chrome for mobile latest-1 (Android 4 or later) for
2 mobile site, where *latest-1* means one major version earlier than the latest released version. (*See*,
3 *e.g.*, <https://www.drupal.org/docs/8/system-requirements/browser-requirements>.) All of these
4 browsers rely on browser engines comprising virtual machines to interpret and execute JavaScript
5 and HTML to render web pages on a computer.

6 23. By way of further example, the Accused Instrumentalities enable users to produce
7 websites through browsers on users' computers via interaction with an Internet server. For example,
8 in order to add a new page to a user's website, the user logs in and then a server of the Accused
9 Instrumentalities initiates presentation to the user through a browser of a website-builder tool. From
10 the interface—sometimes referred to as a dashboard—of the Accused Instrumentalities, the user can
11 navigate and add elements and element properties commensurate with a new page. A display is
12 generated in accordance with one or more user selected settings substantially contemporaneously
13 with the selection thereof. This is performed, for example, using a visual editing tool through a
14 browser. The WYSIWYG interface for selecting center alignment of an image can also be accessed,
15 and then the user can select various options such as a font and paragraph styles. After the user
16 selects options such as image/text alignment or font and paragraph styles through the WYSIWYG
17 editor, the display immediately updates to reflect the selected option. Furthermore, when images are
18 uploaded by a user, those images are displayed in approximately 0-2 seconds depending on file size
19 and bandwidth.

20 24. Data is stored in a database, including information corresponding to user selected
21 settings such as, for example, the selections of text color. Other user selections are also stored
22 including, for example, the layout, image filenames, thumbnails, and paragraph margin settings for
23 defining the alignment of an image location. The Accused Instrumentalities build one or more web
24 pages to generate a website from at least a portion of a database and at least one run time file, where
25 at least one run time file utilizes information stored in said database to generate virtual machine
26 commands for the display of at least a portion of said one or more web pages.

27 25. At run time, at least some of these files use information stored in the database to
28 generate the HTML for the final rendered HTML page. This HTML represents virtual machine

1 commands for display of the page because it is read and used by the applicable browser's engine,
2 including a virtual machine, in order to render the page. On information and belief, the Accused
3 Instrumentalities further rely on the browser engine's component JavaScript engine to either display
4 a portion of the page directly, or generate HTML to be executed for display by the main layout
5 engine.

6 26. Additionally, the "PHP code," including the PHP template files, can be viewed in the
7 file directory for the Accused Instrumentalities, and this directory includes various other runtime
8 files (including other PHP files, JavaScript files, PHTML, and/or XML). It follows that a user will
9 view the finalized website developed with said tools in a browser outside of the website authoring
10 environment to verify the website conforms to the intended design. *See, e.g.*,
11 <https://techterms.com/definition/runtime>.

12 27. The presence of the above referenced elements are demonstrated, by way of example,
13 by reference to publicly available information. Regarding Drupal, *see, e.g.*,
14 <https://www.drupal.org/home>; [https://www.drupal.org/docs/8/system-requirements/browser-](https://www.drupal.org/docs/8/system-requirements/browser-requirements)
15 [requirements; https://www.drupal.org/project/ckeditor](https://www.drupal.org/project/ckeditor);
16 <https://www.drupal.org/docs/8/core/modules/ckeditor/overview>;
17 [https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-](https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-images/10/03/2016/9821)
18 [images/10/03/2016/9821](https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-images/10/03/2016/9821); Angela Byron, *Ultimate Guide to Drupal 8* at 4 (2016);
19 <https://www.drupal.org/docs/7/understanding-drupal/technology-stack>;
20 <https://www.drupal.org/docs/8/system-requirements/web-server>;
21 <https://www.drupal.org/docs/8/core/modules/rest/overview>;
22 <https://www.drupal.org/docs/8/core/modules/serialization/overview>;
23 <https://www.drupal.org/docs/8/understanding-drupal-8/overview>;
24 <https://www.drupal.org/docs/develop/standards/css/css-architecture-for-drupal-8>.

25 28. Claim 2 of the '397 patent generally recites an apparatus for producing websites on
26 and for computers having a browser and a virtual machine, said apparatus comprising an interface to
27 present a settings menu which describes elements, said panel presented through a browser, where the
28 selectable setting(s) corresponds to commands to the virtual machine; a browser to generate a

1 display in accordance with selected setting(s); a database for storing information regarding selected
2 settings; and a build tool having run time file(s) for generating web page(s) and using stored
3 information to generate commands to the virtual machine for generating at least a portion of web
4 page(s).

5 29. The Accused Instrumentalities infringe claim 2 of the '397 patent through a
6 combination of features which collectively practice each limitation of claim 2. By way of example,
7 modern internet browsers such as Microsoft Internet Explorer, Mozilla's Firefox, Apple Safari,
8 Google Chrome, and Opera include virtual machines within the meaning of the '397 patent. (*See*,
9 *e.g.*, <http://developer.telerik.com/featured/a-guide-to-javascript-engines-for-idiots/>;
10 <http://dictionary.reference.com/browse/virtual+machine?s=t>). The Accused Instrumentalities
11 support the use of the latest versions of Internet Explorer 11 or later, Microsoft Edge, latest-1,
12 Firefox latest, latest-1, Chrome latest, latest-1, Safari latest, latest-1 (Mac OS), Safari Mobile for
13 iPad 2, iPad Mini, iPad with Retina Display (iOS 7 or later), for desktop site, Safari Mobile for
14 iPhone 4 or later; iOS 7 or later, for mobile site, Chrome for mobile latest-1 (Android 4 or later) for
15 mobile site, where *latest-1* means one major version earlier than the latest released version. (*See*,
16 *e.g.*, <https://www.drupal.org/docs/8/system-requirements/browser-requirements>.) All of these
17 browsers rely on browser engines comprising virtual machines to interpret and execute JavaScript
18 and HTML to render web pages on a computer.

19 30. By way of further example, the Accused Instrumentalities enable users to produce
20 websites through browsers on users' computers via interaction with an Internet server. For example,
21 in order to add a new page to a user's website, the user logs in and then a server of the Accused
22 Instrumentalities initiates presentation to the user through a browser of a website-builder tool. From
23 the interface—sometimes referred to as a dashboard—of the Accused Instrumentalities, the user can
24 navigate and add elements and element properties commensurate with a new page. A display is
25 generated in accordance with one or more user selected settings substantially contemporaneously
26 with the selection thereof. This is performed, for example, using a visual editing tool through a
27 browser. The WYSIWYG interface for selecting center alignment of an image can also be accessed,
28 and then the user can select various options such as a font and paragraph styles. After the user

1 selects options such as image/text alignment or font and paragraph styles through the WYSIWYG
2 editor, the display immediately updates to reflect the selected option. Furthermore, when images are
3 uploaded by a user, those images are displayed in approximately 0-2 seconds depending on file size
4 and bandwidth.

5 31. Data is stored in a database, including information corresponding to user selected
6 settings such as, for example, the selections of text color. Other user selections are also stored
7 including, for example, the layout, image filenames, thumbnails, and paragraph margin settings for
8 defining the alignment of an image location. The Accused Instrumentalities build one or more web
9 pages to generate a website from at least a portion of a database and at least one run time file, where
10 at least one run time file utilizes information stored in said database to generate virtual machine
11 commands for the display of at least a portion of said one or more web pages.

12 32. At run time, at least some of these files use information stored in the database to
13 generate the HTML for the final rendered HTML page. This HTML represents virtual machine
14 commands for display of the page because it is read and used by the applicable browser's engine,
15 including a virtual machine, in order to render the page. On information and belief, the Accused
16 Instrumentalities further rely on the browser engine's component JavaScript engine to either display
17 a portion of the page directly, or generate HTML to be executed for display by the main layout
18 engine.

19 33. Additionally, the "PHP code," including the PHP template files, can be viewed in the
20 file directory for the Accused Instrumentalities, and this directory includes various other runtime
21 files (including other PHP files, JavaScript files, PHTML, and XML). *See, e.g.,*
22 <https://techterms.com/definition/runtime>.

23 34. It follows that a user will view the finalized website developed with said tools in a
24 browser outside of the website authoring environment to verify the website conforms to the intended
25 design.

26 35. The presence of the above referenced elements are demonstrated, by way of example,
27 by reference to publicly available information. Regarding Drupal, *see, e.g.,*
28 <https://www.drupal.org/home>; <https://www.drupal.org/docs/8/system-requirements/browser->

1 requirements; <https://www.drupal.org/project/ckeditor>;
2 <https://www.drupal.org/docs/8/core/modules/ckeditor/overview>;
3 [https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-](https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-images/10/03/2016/9821)
4 [images/10/03/2016/9821](https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-images/10/03/2016/9821); Angela Byron, *Ultimate Guide to Drupal 8* at 4 (2016);
5 <https://www.drupal.org/docs/7/understanding-drupal/technology-stack>;
6 <https://www.drupal.org/docs/8/system-requirements/web-server>;
7 <https://www.drupal.org/docs/8/core/modules/rest/overview>;
8 <https://www.drupal.org/docs/8/core/modules/serialization/overview>;
9 <https://www.drupal.org/docs/8/understanding-drupal-8/overview>;
10 <https://www.drupal.org/docs/develop/standards/css/css-architecture-for-drupal-8>.

11 36. Claim 3 of the '397 patent recites the apparatus of claim 2, wherein the database is a
12 multi-dimensional array structured database.

13 37. The Accused Instrumentalities infringe claim 3 of the '397 patent through, by way of
14 example, patent through a combination of features which collectively practice each limitation of
15 claim 3.

16 38. By way of example, the JSON strings that are used to generate, in part, field
17 capabilities originate from the database and therefore reflect the database structure and contents
18 showing, on information and belief, the implementation of a multidimensional array structured
19 database. By way of further evidence, the JSON strings show that there are dimensions for various
20 parameters. Regarding Drupal, *see, e.g.*, <https://www.drupal.org/files/issues/Field.png>;
21 <https://api.drupal.org/api/drupal/core%21modules%21field%21field.module/group/field/8.3.x>.

22 39. Claim 4 of the '397 patent recites the apparatus of claim 3, wherein the representative
23 information is Boolean data, numeric data, string data or multi-dimensional arrays of various
24 multimedia objects.

25 40. The Accused Instrumentalities infringe claim 4 of the '397 patent through a
26 combination of features that practice the limitations of Claim 4. Regarding Drupal, *see, e.g.*,
27 <https://www.drupal.org/docs/8/api/entity-api/defining-and-using-content-entity-field-definitions>.
28

1 41. Claim 5 of the '397 patent recites the apparatus of claim 4, wherein said elements
2 include multimedia objects selected from the group consisting of a color, a font, an image, an audio
3 clip, a video clip, a text area and a URL.

4 42. The Accused Instrumentalities infringe claim 5 of the '397 patent through a
5 combination of features that practice the limitations of Claim 5.

6 43. By way of example, the Accused Instrumentalities include various multimedia objects
7 selected from a group contained within a WYSIWYG Editor. Examples include color, font, an
8 image, a video, a text area and a URL as they appear in the WYSIWYG Editor. The multimedia
9 objects created in the WYSIWYG editor are stored in the database and appear as HTML scripted
10 text in the database. Text and vector objects can be selected and colored by selecting them or “click
11 and dragging” over them in the WYSIWYG editor. A color may also be selected from the color
12 dropdowns on the control bar of the Editor. This color is saved to the database; as part of the HTML
13 of the description record. Moreover, text objects may be assigned a font by making such a selection
14 or “click and dragging” over them in the WYSIWYG editor. A font can then be selected from the
15 font dropdown on the control bar of the Editor. This font selection is thereafter saved to the database
16 as part of the HTML of the description record. Selecting the Image button in the WYSIWYG editor
17 opens a tabbed panel where the user designates source, title, format, size, etc. The image file is
18 uploaded to the server and the file’s location and style are saved and posted to the database as part of
19 the HTML of the description record. Furthermore, videos are created by clicking on the Media
20 module, which opens a tabbed panel where the user designates URL, format, size, etc. The video’s
21 URL and style elements are saved to the database as part of the HTML of the description record. A
22 text area may also be selected for creation by clicking in the frame of the WYSIWYG Editor and
23 typing. The text and its style are saved to the database as part of the HTML of the description
24 record. After entering text into the WYSIWYG editor’s text area, a URL assigned by clicking and
25 dragging over the text object you wish to link, and then selecting the “chain” link button from the
26 control bar; which opens a tabbed panel where the user can designate the URL, target, etc. The text
27 and its style are saved to the database as part of the HTML of the description record.
28

1 44. The presence of the above referenced elements are demonstrated, by way of example,
2 by reference to publicly available information. *See, e.g.*, <https://www.drupal.org/project/ckeditor>;
3 <https://www.drupal.org/docs/8/core/modules/ckeditor/overview>;
4 [https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-](https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-images/10/03/2016/9821)
5 [images/10/03/2016/9821](https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-images/10/03/2016/9821); Angela Byron, *Ultimate Guide to Drupal 8* at 4 (2016);
6 [https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-](https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-images/10/03/2016/9821)
7 [images/10/03/2016/9821](https://www.drupal.org/docs/8/core/modules/media/overview); <https://www.drupal.org/docs/8/core/modules/media/overview>;
8 https://www.drupal.org/project/media_entity.

9 45. Claim 6 of the '397 patent recites the apparatus of claim 2, wherein said elements are
10 selected from the group consisting of a button, an image, a paragraph, a frame, a table, a form and a
11 vector object.

12 46. The Accused Instrumentalities infringe claim 6 of the '397 patent through a
13 combination of features that practice the limitations of Claim 6.

14 47. By way of example, the Accused Instrumentalities include various user selectable
15 menus where various elements can be placed on a web page. Those various user selectable menus
16 are used to place elements selected from the group consisting of a button, an image, a paragraph, a
17 frame, a table, a form and a vector object. The cells of a table and maps would reside in a frame, and
18 that, dividers, maps and the lines in tables would be, at least in part, vector objects.

19 48. The presence of the above referenced elements are demonstrated, by way of example,
20 by reference to publicly available information. *See, e.g.*, <https://www.drupal.org/project/ckeditor>;
21 <https://www.drupal.org/docs/8/core/modules/ckeditor/overview>;
22 [https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-](https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-images/10/03/2016/9821)
23 [images/10/03/2016/9821](https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-images/10/03/2016/9821); Angela Byron, *Ultimate Guide to Drupal 8* at 4 (2016);
24 https://www.drupal.org/docs/8/core/modules/custom_block/overview;
25 <https://www.drupal.org/docs/8/core/modules/contact/overview>.

26 49. Claim 8 recites the apparatus of claim 2, wherein said elements include one or more
27 objects on a web page, and wherein said description of elements are a transition or an animation of at
28 least one of said elements on a web page.

1 50. Claim 9 recites the apparatus of claim 2, wherein said elements include a button or an
2 images, wherein said selectable settings include the selection of an element style, and wherein said
3 build tool includes means for storing information representative of selected style in a database.

4 51. The Accused Instrumentalities infringe claim 9 of the '397 patent through a
5 combination of features which collectively practice each limitation of claim 9. Regarding Drupal
6 *see, e.g.*, <https://www.drupal.org/project/ckeditor>;
7 <https://www.drupal.org/docs/8/core/modules/ckeditor/overview>;
8 [https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-](https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-images/10/03/2016/9821)
9 [images/10/03/2016/9821](https://www.drupal.org/docs/8/core/modules/image/working-with-images); <https://www.drupal.org/docs/8/core/modules/image/working-with-images>;
10 <https://www.drupal.org/docs/7/understanding-drupal/technology-stack>;
11 <https://www.drupal.org/docs/8/system-requirements/web-server>;
12 <https://www.drupal.org/docs/8/core/modules/rest/overview>;
13 <https://www.drupal.org/docs/8/core/modules/serialization/overview>;
14 <https://www.drupal.org/docs/8/understanding-drupal-8/overview>;
15 <https://www.drupal.org/docs/develop/standards/css/css-architecture-for-drupal-8>.

16 52. Claim 10 recites the apparatus of claim 9, wherein said elements are described by
17 multiple object states.

18 53. The Accused Instrumentalities infringe claim 10 of the '397 patent through a
19 combination of features which collectively practice each limitation of claim 10. For example,
20 buttons can have multiple object states. Regarding Drupal *see, e.g.*,
21 <https://www.drupal.org/docs/8/core/themes/seven-theme>.

22 54. Claim 11 recites the apparatus of claim 9, wherein said elements are described by a
23 transformation or a timelines of said selected styles.

24 55. The Accused Instrumentalities infringe claim 11 of the '397 patent through a
25 combination of features which collectively practice each limitation of claim 11. By way of example,
26 the Accused Instrumentalities support CSS architecture. Regarding Drupal, *see, e.g.*,
27 <https://www.drupal.org/docs/develop/standards/css/css-architecture-for-drupal-8>; *see also, e.g.*,
28 <http://demos.dojotoolkit.org/demos/css3/demo.html>.

1 56. Claim 14 recites the apparatus of claim 2, wherein said elements include buttons or
2 images, wherein said description of elements is a transition or a timeline which is selected according
3 to input from a mouse, and wherein said build tool includes means for storing information
4 representative of said selected description of elements in said database.

5 57. The Accused Instrumentalities infringe claim 14 of the '397 patent through a
6 combination of features which collectively practice each limitation of claim 14.

7 58. By way of example, the Accused Instrumentalities include various CSS libraries that
8 are used extensively for adding transformations and timelines to selected elements. *See, e.g.*,
9 <https://www.drupal.org/docs/develop/standards/css/css-architecture-for-drupal-8>;
10 <http://demos.dojotoolkit.org/demos/css3/demo.html>.

11 59. Claim 15 recites the apparatus of claim 14, wherein at least one of said description of
12 elements is a timeline or an animation.

13 60. The Accused Instrumentalities infringe claim 15 of the '397 patent through a
14 combination of features which collectively practice each limitation of claim 15.

15 61. By way of example, the Accused Instrumentalities enable descriptions of elements
16 describing CSS animations. *See, e.g.*, [https://www.drupal.org/docs/develop/standards/css/css-](https://www.drupal.org/docs/develop/standards/css/css-architecture-for-drupal-8)
17 [architecture-for-drupal-8](https://www.drupal.org/docs/develop/standards/css/css-architecture-for-drupal-8); <http://demos.dojotoolkit.org/demos/css3/demo.html>.

18 62. Claim 24 recites the apparatus of claim 2, wherein said run time files include one
19 compressed website specific, customized run time engine program file and one compressed website
20 specific, customized run time engine library file.

21 63. The Accused Instrumentalities infringe claim 24 of the '397 patent through a
22 combination of features which collectively practice each limitation of claim 24.

23 64. By way of example, the Accused Instrumentalities include two customized runtime
24 files, an HTML file and a second unique CSS file. *See, e.g.*,
25 <https://www.drupal.org/docs/7/understanding-drupal/technology-stack>;
26 <https://www.drupal.org/docs/8/system-requirements/web-server>;
27 <https://www.drupal.org/docs/8/core/modules/rest/overview>;
28 <https://www.drupal.org/docs/8/core/modules/serialization/overview>;

1 <https://www.drupal.org/docs/8/understanding-drupal-8/overview>;

2 <https://www.drupal.org/docs/develop/standards/css/css-architecture-for-drupal-8>.

3 65. Claim 25 recites the apparatus of claim 24, wherein said run time files include a
4 dynamic web page scaling mechanism, whereby each of said one or more generated web pages is
5 scaled for viewing on said display.

6 66. The Accused Instrumentalities infringe claim 25 of the '397 patent through a
7 combination of features which collectively practice each limitation of claim 25.

8 67. By way of example, the Accused Instrumentalities enable rescaling of a web page to
9 the size of the particular screen that is being used. *See, e.g.,*

10 <https://www.drupal.org/docs/8/mobile/responsive-web-design>;

11 <https://www.drupal.org/docs/8/mobile/web-based-mobile-apps>.

12 68. Claim 35 of the '397 patent generally recites the apparatus of claim 2, wherein the
13 build tool includes dynamic resizing means operable to redefine a size of a web page upon being
14 display.

15 69. The Accused Instrumentalities infringe claim 35 of the '397 patent through a
16 combination of features which collectively practice each limitation of claim 35.

17 70. By way of example, the Accused Instrumentalities enable dynamic resizing upon
18 display to a different device and screen. For example, the Accused Instrumentalities include
19 "Responsive Web Design." Responsive Web Design refers to web design that changes formatting
20 and lay-out to respond to different devices, screen sizes and browser capabilities. The Accused
21 Instrumentalities therefore enable the creation of web pages that may be viewed with resizing means
22 operable to redefine a size of a web page upon being displayed. *See, e.g.,*

23 http://www.w3schools.com/html/html_responsive.asp;

24 <https://www.drupal.org/docs/8/mobile/responsive-web-design>;

25 <https://www.drupal.org/docs/8/mobile/web-based-mobile-apps>.

26 71. Claim 37 of the '397 patent generally recites [a]n apparatus for producing websites
27 with web page(s) on and for a computer with a browser and a virtual machine, the apparatus
28 comprising: an interface for building a website through control of website elements, being operable

1 through the browser on to: present a selectable settings menu, accept settings, and generate the
2 display in accordance with an assembly of settings contemporaneously with the acceptance thereof,
3 at least one setting being operable to generate said display through commands to said virtual
4 machine; an internal database associated with the interface for storing information representative of
5 one or more of assembly of settings for controlling elements of the website; and a build tool to
6 construct web page(s) of the website having: an external database containing data corresponding to
7 the information stored in the internal database, and one or more run time files, where said run time
8 files use information stored in the external database to generate virtual machine commands for the
9 display of at least a portion of one or more web pages.

10 72. The Accused Instrumentalities infringe claim 37 of the '397 patent through a
11 combination of features which collectively practice each limitation of claim 37. By way of example,
12 modern internet browsers such as Microsoft Internet Explorer, Mozilla's Firefox, Apple Safari,
13 Google Chrome, and Opera include virtual machines within the meaning of the '397 patent. (*See*,
14 *e.g.*, <http://developer.telerik.com/featured/a-guide-to-javascript-engines-for-idiots/>;
15 <http://dictionary.reference.com/browse/virtual+machine?s=t>). The Accused Instrumentalities
16 support the use of the latest versions of Internet Explorer 11 or later, Microsoft Edge, latest-1,
17 Firefox latest, latest-1, Chrome latest, latest-1, Safari latest, latest-1 (Mac OS), Safari Mobile for
18 iPad 2, iPad Mini, iPad with Retina Display (iOS 7 or later), for desktop site, Safari Mobile for
19 iPhone 4 or later; iOS 7 or later, for mobile site, Chrome for mobile latest-1 (Android 4 or later) for
20 mobile site, where *latest-1* means one major version earlier than the latest released version. (*See*
21 <https://www.drupal.org/docs/8/system-requirements/browser-requirements>.)

22 73. By way of example, the Accused Instrumentalities include various multimedia objects
23 selected from a group contained within a WYSIWYG Editor. Examples include color, font, an
24 image, a video, a text area and a URL as they appear in the WYSIWYG Editor. The multimedia
25 objects created in the WYSIWYG editor are stored in the database and appear as HTML scripted
26 text in the database. Text and vector objects can be selected and colored by selecting them or
27 "clicking and dragging" over them in the WYSIWYG editor. A color may also be selected from the
28 color dropdowns on the control bar of the Editor. This color is saved to the database; as part of the

1 HTML of the description record. Moreover, text objects may be assigned a font by making such a
2 selection or “click and dragging” over them in the WYSIWYG editor. A font can then be selected
3 from the font dropdown on the control bar of the Editor. This font selection is thereafter saved to the
4 database as part of the HTML of the description record. Selecting the Image button in the
5 WYSIWYG editor opens a tabbed panel where the user designates source, title, format, size, etc.
6 The image file is uploaded to the server and the file’s location and style are saved and posted to the
7 database as part of the HTML of the description record. Furthermore, videos are created by clicking
8 on the Media module, which opens a tabbed panel where the user designates URL, format, size, etc.
9 The video’s URL and style elements are saved to the database as part of the HTML of the
10 description record. A text area may also be selected for creation by clicking in the frame of the
11 WYSIWYG Editor and typing. The text and its style are saved to the database as part of the HTML
12 of the description record. After entering text into the WYSIWYG editor’s text area, a URL assigned
13 by clicking and dragging over the text object you wish to link, and then selecting the “chain” link
14 button from the control bar; which opens a tabbed panel where the user can designate the URL,
15 target, etc. The text and its style are saved to the database as part of the HTML of the description
16 record.

17 74. Furthermore, the Accused Instrumentalities enable data from the client-side form
18 referenced to be stored in a server-side database.

19 75. The presence of the above referenced elements are demonstrated, by way of example,
20 by reference to publicly available information. Regarding Drupal, *see, e.g.*,
21 <https://www.drupal.org/home>; [https://www.drupal.org/docs/8/system-requirements/browser-](https://www.drupal.org/docs/8/system-requirements/browser-requirements)
22 [requirements; https://www.drupal.org/project/ckeditor](https://www.drupal.org/project/ckeditor);
23 <https://www.drupal.org/docs/8/core/modules/ckeditor/overview>;
24 [https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-](https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-images/10/03/2016/9821)
25 [images/10/03/2016/9821](https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-images/10/03/2016/9821); Angela Byron, *Ultimate Guide to Drupal 8* at 4 (2016);
26 https://www.drupal.org/project/save_draft; [https://www.drupal.org/docs/7/understanding-](https://www.drupal.org/docs/7/understanding-drupal/technology-stack)
27 [drupal/technology-stack](https://www.drupal.org/docs/7/understanding-drupal/technology-stack); <https://www.drupal.org/docs/8/system-requirements/web-server>;
28 <https://www.drupal.org/docs/8/core/modules/rest/overview>;

1 <https://www.drupal.org/docs/8/core/modules/serialization/overview>;

2 <https://www.drupal.org/docs/8/understanding-drupal-8/overview>;

3 <https://www.drupal.org/docs/develop/standards/css/css-architecture-for-drupal-8>.

4 76. Defendant was made aware of the '397 patent and its infringement thereof at least as
5 early as the filing of this Complaint.

6 77. Since the date of the filing of this Complaint, Defendant's infringement of the '397
7 patent has been willful.

8 78. Plaintiff has been harmed by Defendant's infringing activities.

9 **COUNT II – INFRINGEMENT OF U.S. PATENT NO. 7,594,168**

10 79. The allegations set forth in the foregoing paragraphs 1 through 78 are incorporated
11 into this Second Claim for Relief.

12 80. On September 22, 2009, U.S. Patent No. 7,594,168 entitled *Browser Based Web Site*
13 *Generation Tool and Run Time Engine* was duly and legally issued by the United States Patent and
14 Trademark Office. A true and correct copy of the '168 patent is attached as Exhibit B.

15 81. The inventions of the '168 patent resolve technical problems related to website
16 creation and generation. For example, the inventions enable the creation of websites through
17 browser-based build tools and a user interface, which features are exclusively implemented utilizing
18 computer technology.

19 82. The claims of the '168 patent do not merely recite the performance of some business
20 practice known from the pre-Internet world along with the requirement to perform it on the Internet.
21 Instead, the claims of the '168 patent recite one or more inventive concepts that are rooted in
22 computerized website creation technology, and overcome problems specifically arising in the realm
23 of computerized website creation technologies.

24 83. The claims of the '168 patent recite an invention that is not merely the routine or
25 conventional use of website creation systems and methods. Instead, the invention describes a
26 browser-based website creation system including a server comprising a build engine configured to
27 create and apply styles to, for example, a website with web pages comprised of objects.
28

1 84. The technology claimed in the '168 patent does not preempt all ways of using website
2 or web page authoring tools nor preempt the use of all website or web page authoring tools, nor
3 preempt any other well-known or prior art technology.

4 85. Accordingly, each claim of the '168 patent recites a combination of elements
5 sufficient to ensure that the claim in practice amounts to significantly more than a patent on an
6 ineligible concept.

7 86. As noted above and incorporated into this Second Claim for Relief, a defendant in
8 another case in which the '397 and '168 patents were asserted, asserted that the '397 and '168
9 patents were invalid under 35 U.S.C. § 101. That motion and related Order are discussed above.

10 87. Plaintiff is the assignee and owner of the right, title and interest in and to the '168
11 patent, including the right to assert all causes of action arising under said patents and the right to any
12 remedies for infringement of them.

13 88. Upon information and belief, Defendant has and continues to directly infringe at least
14 claims 1, 4, and 6 of the '168 patent by using a browser-based website and/or web page authoring
15 tool in which the user-selected settings representing website elements are stored in a database, and
16 retrieval of said information to generate said website (the "Accused Instrumentalities"). The
17 Accused Instrumentalities include but are not limited website building tools used and/or provided by
18 Defendant, such as, for example Drupal. *See, e.g.*, [https://www.t-3.com/work/7-eleven-improving-7-](https://www.t-3.com/work/7-eleven-improving-7-elevens-snackend-err-backend)
19 [elevens-snackend-err-backend](https://www.t-3.com/work/7-eleven-improving-7-elevens-snackend-err-backend).

20 89. In particular, claim 1 of the '168 patent generally recites a system for assembling a
21 website comprising a server with a build engine, the website comprising web pages with objects (one
22 button or one image object), the server accepting user input to associate a style with objects, wherein
23 a button or image object is associated with a style that includes values defining transformations and
24 time lines; wherein each web page is defined entirely by the objects and the style associated with the
25 object, produce a database with a multidimensional array comprising the objects that comprise the
26 website including data defining the object style, number, and an indication of the web page that each
27 object is part of, and provide the database to a server accessible to web browser; wherein the
28

1 database is produced such that a web browser with access to a runtime engine is configured to
2 generate the website from the objects and style data extracted from the provided database.

3 90. The Accused Instrumentalities infringe claim 1 of the '168 patent through a
4 combination of features which collectively practice each limitation of claim 1.

5 91. Further, by way of example, the JSON strings that are used by the Accused
6 Instrumentalities to generate, in part, element formatting originate from the database and therefore
7 reflect the database structure and contents showing, on information and belief, the implementation of
8 a multidimensional array structured database comprising the objects that comprise the web site. By
9 way of further evidence, the JSON strings show that there are dimensions for the pages, for arrays of
10 columns, for arrays of sections, and for arrays of modules generated using the Accused
11 Instrumentalities. *See, e.g.,*

12 <https://api.drupal.org/api/drupal/core%21modules%21field%21field.module/group/field/8.3.x>

13 92. Further, the Accused Instrumentalities enable the storing in the database of data
14 defining each object such as object styles, an object number, and an indication of the which page
15 each object is a part of. For example, a user can select a theme style for a body title on a specific
16 page. The CSS database file is thereafter saved to the server, reflecting the selected font, size, and
17 the object and page to which it applies.

18 93. By way of example, for the completed web site, the Accused Instrumentalities include
19 runtime files, such as, for example HTML CSS files. *See, e.g.,* <https://www.drupal.org/home>;

20 <https://www.drupal.org/docs/8/system-requirements/browser-requirements>;

21 <https://www.drupal.org/project/ckeditor>;

22 <https://www.drupal.org/docs/8/core/modules/ckeditor/overview>;

23 <https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive->

24 [images/10/03/2016/9821](https://dev.acquia.com/blog/tutorial-drupal-8-wysiwyg-inline-and-responsive-images/10/03/2016/9821); Angela Byron, *Ultimate Guide to Drupal 8* at 4 (2016);

25 <https://www.drupal.org/docs/7/understanding-drupal/technology-stack>;

26 <https://www.drupal.org/docs/8/system-requirements/web-server>;

27 <https://www.drupal.org/docs/8/core/modules/rest/overview>;

28 <https://www.drupal.org/docs/8/core/modules/serialization/overview>;

1 <https://www.drupal.org/docs/8/understanding-drupal-8/overview>;
2 <https://www.drupal.org/docs/develop/standards/css/css-architecture-for-drupal-8>;
3 <https://www.drupal.org/docs/8/core/modules/media/overview>;
4 https://www.drupal.org/project/media_entity;
5 <https://www.drupal.org/docs/8/core/modules/image/working-with-images>;
6 <http://demos.dojotoolkit.org/demos/css3/demo.html>; <https://www.drupal.org/files/issues/Field.png>;
7 <https://api.drupal.org/api/drupal/core%21modules%21field%21field.module/group/field/8.3.x>.;
8 https://www.drupal.org/project/save_draft.

9 94. Claim 4 of the '168 patent generally recites the system of claim 1, wherein at least
10 one of said styles includes settings for multiple object states.

11 95. The Accused Instrumentalities infringe claim 4 of the '168 patent through a
12 combination of features which collectively practice each limitation of claim 4.

13 96. By way of example, the Accused Instrumentalities enable the ability to define a hover
14 state, so that an element, including a button, has defined styles. *See, e.g.*,
15 <https://www.drupal.org/docs/8/core/themes/seven-theme>.

16 97. Claim 6 of the '168 patent generally recites the system of claim 1, where said data is
17 stored as one or more of a Boolean an integer, a string, a floating point variables, or a URL.

18 98. The Accused Instrumentalities infringe claim 6 of the '168 patent through a
19 combination of features which collectively practice each limitation of claim 6. A review of the API
20 documentation behind websites created using the Accused Instrumentalities reveals data that is
21 stored as one or more of a Boolean, an integer, or a string. *See, e.g.*,
22 <https://www.drupal.org/docs/8/api/entity-api/defining-and-using-content-entity-field-definitions>.

23 99. Defendant was made aware of the '168 patent and its infringement thereof at least as
24 early as the filing of this Complaint.

25 100. Since the date of the filing of this Complaint, Defendant's infringement of the '168
26 patent has been willful.

27 101. Plaintiff has been harmed by Defendant's infringing activities.
28

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment for itself and against Defendant as follows:

A. An adjudication that Defendant has infringed the '397 and '168 patents;

B. An award of damages to be paid by Defendant adequate to compensate Plaintiff for Defendant's past infringement of the '397 and '168 patents, 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;

C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and

D. An award to Plaintiff of such further relief at law or in equity as the Court deems just and proper.

Dated: August 17, 2018

LOCAL COUNSEL

By: /s/_____

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