

1 Plaintiff Express Mobile, Inc. (“Express Mobile” or “Plaintiff”), for its Complaint against
2 Defendant The Stephenz Group Inc., (“Stephenz Group” 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, Stephenz Group is a corporation organized and existing
10 under the laws of California, with a place of business at 75 E. Santa Clara Street, 9th Floor, San Jose,
11 CA 95113 and can be served through its registered agent, Stephen Pahl, 75 E. Santa Clara Street, 9th
12 Floor, San Jose, CA 95113.

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

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

1 from each of Defendant’s business contacts and other activities in the State of California and this
2 District. Further, this Court has personal jurisdiction over Defendant because it is incorporated in
3 California and has purposely availed itself of the privileges and benefits of the laws of the State of
4 California.

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

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

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

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

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

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

1 14. The technology claimed in the '397 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 15. Accordingly, each claim of the '397 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 16. In C.A. 2:17-00128, a case filed in the Eastern District of Texas, the defendant in that
8 action, KTree Computer Solutions brought a Motion for Judgment on the Pleadings asserting that the
9 '397 patent, along with U.S. Patent No. 7,594,168 (asserted in Count II below) were invalid as
10 claiming abstract subject matter under 35 U.S.C. § 101. (C.A. 2:17-00128 Dkt. 9.) Subsequent
11 briefing included Plaintiff's Response and related Declarations and Exhibits (C.A. 2:17-00128 Dkt.
12 17, 22-24), KTree's Reply (C.A. 2:17-00128 Dkt. 25), and Plaintiff's Sur-Reply and related
13 Declarations and Exhibits (C.A. 2:17-00128 Dkt. 26-27). Each of those filings is incorporated by
14 reference into this Complaint.

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

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

26 19. Upon information and belief, Defendant has and continues to directly infringe at least
27 claims 1-4, 8-11, and 37 of the '397 patent by using a browser-based website and/or web page
28 authoring tool in which the user-selected settings representing website elements are stored in a

1 database, and in which said stored information is retrieved to generate said website (the “Accused
2 Instrumentalities”). The Accused Instrumentalities include but are not limited to the website
3 building tools used and/or provided by Defendant, such as, for example Wordpress. *See, e.g.*,
4 <http://www.stephenz.com/work/enlighted/>; <https://www.enlightedinc.com/>;
5 <https://whatcms.org/?s=https%3A%2F%2Fwww.enlightedinc.com%2F>.

6 20. On information and belief, Defendant is a for-profit organization with revenues of
7 approximately \$25 million U.S.D. per year. Moreover, Defendant, its employees and/or agents
8 utilize the Accused Instrumentalities in the building and/or hosting of websites for Defendant’s
9 customers, leading to direct or indirect revenues and profit. As one example of indirect profit,
10 entities such as Defendant will frequently offer website building and/or hosting services at reduced
11 pricing as an inducement to attract customers, who then purchase additional products or services.
12 On information and belief, without the availability of infringing tools such as the Accused
13 Instrumentalities, Defendant would be at a disadvantage in the marketplace and would generate less
14 revenue overall.

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

23 22. The Accused Instrumentalities infringe claim 1 of the ’397 patent through a
24 combination of features which collectively practice each limitation of claim 1. By way of example,
25 modern internet browsers such as Microsoft Internet Explorer, Mozilla’s Firefox, Apple Safari,
26 Google Chrome, and Opera include virtual machines within the meaning of the ’397 patent. (*See,*
27 *e.g.*, <http://developer.telerik.com/featured/a-guide-to-javascript-engines-for-idiots/>;
28 <http://dictionary.reference.com/browse/virtual+machine?s=t>). The Accused Instrumentalities

1 support the use of the latest versions of Internet Explorer 11 or later, Microsoft Edge, latest-1,
2 Firefox latest, latest-1, Chrome latest, latest-1, Safari latest, latest-1 (Mac OS), Safari Mobile for
3 iPad 2, iPad Mini, iPad with Retina Display (iOS 7 or later), for desktop site, Safari Mobile for
4 iPhone 4 or later; iOS 7 or later, for mobile site, Chrome for mobile latest-1 (Android 4 or later) for
5 mobile site, where *latest-1* means one major version earlier than the latest released version. (*See*,
6 *e.g.*, <http://theforest.net/category/wordpress>.) All of these browsers rely on browser engines
7 comprising virtual machines to interpret and execute JavaScript and HTML to render web pages on a
8 computer.

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

23 24. Data is stored in a database, including information corresponding to user selected
24 settings such as, for example, the selections of text color. Other user selections are also stored
25 including, for example, the layout, image filenames, thumbnails, and paragraph margin settings for
26 defining the alignment of an image location. The Accused Instrumentalities build one or more web
27 pages to generate a website from at least a portion of a database and at least one run time file, where
28

1 at least one run time file utilizes information stored in said database to generate virtual machine
2 commands for the display of at least a portion of said one or more web pages.

3 25. At run time, at least some of these files use information stored in the database to
4 generate the HTML for the final rendered HTML page. This HTML represents virtual machine
5 commands for display of the page because it is read and used by the applicable browser's engine,
6 including a virtual machine, in order to render the page. On information and belief, the Accused
7 Instrumentalities further rely on the browser engine's component JavaScript engine to either display
8 a portion of the page directly, or generate HTML to be executed for display by the main layout
9 engine.

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

16 27. The presence of the above referenced elements are demonstrated, by way of example,
17 by reference to publicly available information. Regarding Wordpress, *see, e.g.,*
18 <http://themeforest.net/category/wordpress>; <http://codex.wordpress.org/Templates>;
19 http://codex.wordpress.org/Template_Hierarchy;
20 http://codex.wordpress.org/Function_Reference/the_title;
21 http://codex.wordpress.org/Function_Reference/the_content;
22 http://codex.wordpress.org/Template_Tags/get_the_title; and
23 http://codex.wordpress.org/Query_Overview.

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

1 settings; and a build tool having run time file(s) for generating web page(s) and using stored
2 information to generate commands to the virtual machine for generating at least a portion of web
3 page(s).

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

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

1 editor, the display immediately updates to reflect the selected option. Furthermore, when images are
2 uploaded by a user, those images are displayed in approximately 0-2 seconds depending on file size
3 and bandwidth.

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

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

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

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

25 35. The presence of the above referenced elements are demonstrated, by way of example,
26 by reference to publicly available information. Regarding Wordpress, *see, e.g.*,
27 <http://theforest.net/category/wordpress>; <http://codex.wordpress.org/Templates>;
28 http://codex.wordpress.org/Template_Hierarchy;

1 http://codex.wordpress.org/Function_Reference/the_title;
2 http://codex.wordpress.org/Function_Reference/the_content;
3 http://codex.wordpress.org/Template_Tags/get_the_title; and
4 http://codex.wordpress.org/Query_Overview.

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

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

10 38. By way of example, the JSON strings that are used to generate, in part, field
11 capabilities originate from the database and therefore reflect the database structure and contents
12 showing, on information and belief, the implementation of a multidimensional array structured
13 database. By way of further evidence, the JSON strings show that there are dimensions for various
14 parameters. *See, e.g.*, <https://code.tutsplus.com/>;
15 [https://wordpress.stackexchange.com/questions/43302/wordpress-settings-api-and-option-array-](https://wordpress.stackexchange.com/questions/43302/wordpress-settings-api-and-option-array-structure)
16 [structure](https://wordpress.stackexchange.com/questions/43302/wordpress-settings-api-and-option-array-structure).

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

20 40. The Accused Instrumentalities infringe claim 4 of the '397 patent through a
21 combination of features that practice the limitations of Claim 4. *See, e.g.*,
22 [https://wordpress.stackexchange.com/questions/43302/wordpress-settings-api-and-option-array-](https://wordpress.stackexchange.com/questions/43302/wordpress-settings-api-and-option-array-structure)
23 [structure](https://wordpress.stackexchange.com/questions/43302/wordpress-settings-api-and-option-array-structure).

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

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1 42. The Accused Instrumentalities infringe claim 8 of the '397 patent through a
2 combination of features which collectively practice each limitation of claim 8. *See, e.g.*,
3 <https://wordpress.org/plugins/animate-everything/>.

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

7 44. The Accused Instrumentalities infringe claim 9 of the '397 patent through a
8 combination of features which collectively practice each limitation of claim 9. *See, e.g.*,
9 <https://www.wpbeginner.com/wp-tutorials/how-to-add-custom-styles-to-wordpress-visual-editor/>.

10 45. Claim 10 recites the apparatus of claim 9, wherein said elements are described by
11 multiple object states.

12 46. The Accused Instrumentalities infringe claim 10 of the '397 patent through a
13 combination of features which collectively practice each limitation of claim 10. For example,
14 buttons can have multiple objects. *See, e.g.*, <https://wordpress.org/plugins/animate-everything/>.

15 47. Claim 11 recites the apparatus of claim 9, wherein said elements are described by a
16 transformation or a timelines of said selected styles.

17 48. The Accused Instrumentalities infringe claim 11 of the '397 patent through a
18 combination of features which collectively practice each limitation of claim 11. By way of example,
19 the Accused Instrumentalities support CSS architecture. *See, e.g.*,
20 <https://wordpress.org/plugins/animate-everything/>; *see also, e.g.*,
21 <http://demos.dojotoolkit.org/demos/css3/demo.html>.

22 49. Claim 37 of the '397 patent generally recites [a]n apparatus for producing websites
23 with web page(s) on and for a computer with a browser and a virtual machine, the apparatus
24 comprising: an interface for building a website through control of website elements, being operable
25 through the browser on to: present a selectable settings menu, accept settings, and generate the
26 display in accordance with an assembly of settings contemporaneously with the acceptance thereof,
27 at least one setting being operable to generate said display through commands to said virtual
28 machine; an internal database associated with the interface for storing information representative of

1 one or more of assembly of settings for controlling elements of the website; and a build tool to
2 construct web page(s) of the website having: an external database containing data corresponding to
3 the information stored in the internal database, and one or more run time files, where said run time
4 files use information stored in the external database to generate virtual machine commands for the
5 display of at least a portion of one or more web pages.

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

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

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

14 52. Furthermore, the Accused Instrumentalities enable data from the client-side form
15 referenced to be stored in a server-side database.

16 53. The presence of the above referenced elements are demonstrated, by way of example,
17 by reference to publicly available information. *See, e.g.*, <https://www.drupal.org/home>;
18 <https://www.drupal.org/docs/8/system-requirements/browser-requirements>;
19 <https://www.drupal.org/project/ckeditor>;
20 <https://www.drupal.org/docs/8/core/modules/ckeditor/overview>;
21 [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)
22 [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);
23 https://www.drupal.org/project/save_draft; [https://www.drupal.org/docs/7/understanding-](https://www.drupal.org/docs/7/understanding-drupal/technology-stack)
24 [drupal/technology-stack](https://www.drupal.org/docs/7/understanding-drupal/technology-stack); <https://www.drupal.org/docs/8/system-requirements/web-server>;
25 <https://www.drupal.org/docs/8/core/modules/rest/overview>;
26 <https://www.drupal.org/docs/8/core/modules/serialization/overview>;
27 <https://www.drupal.org/docs/8/understanding-drupal-8/overview>;
28 <https://www.drupal.org/docs/develop/standards/css/css-architecture-for-drupal-8>. Regarding

1 Wordpress, *see, e.g.*, <http://themeforest.net/category/wordpress>;
2 <http://codex.wordpress.org/Templates>; http://codex.wordpress.org/Template_Hierarchy;
3 http://codex.wordpress.org/Function_Reference/the_title;
4 http://codex.wordpress.org/Function_Reference/the_content;
5 http://codex.wordpress.org/Template_Tags/get_the_title; and
6 http://codex.wordpress.org/Query_Overview.

7 54. Defendant was made aware of the '397 patent and its infringement thereof at least as
8 early as the filing of this Complaint.

9 55. Since the date of the filing of this Complaint, Defendant's infringement of the '397
10 patent has been willful.

11 56. Plaintiff has been harmed by Defendant's infringing activities.

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

13 57. The allegations set forth in the foregoing paragraphs 1 through 56 are incorporated into
14 this Second Claim for Relief.

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

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

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

27 61. The claims of the '168 patent recite an invention that is not merely the routine or
28 conventional use of website creation systems and methods. Instead, the invention describes a

1 browser-based website creation system including a server comprising a build engine configured to
2 create and apply styles to, for example, a website with web pages comprised of objects.

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

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

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

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

15 66. Upon information and belief, Defendant has and continues to directly infringe at least
16 claim 1 of the '168 patent by using a browser-based website and/or web page authoring tool in
17 which the user-selected settings representing website elements are stored in a database, and retrieval
18 of said information to generate said website (the "Accused Instrumentalities"). The Accused
19 Instrumentalities include but are not limited website building tools used and/or provided by
20 Defendant, such as, for example Wordpress. *See, e.g.*, <http://www.stephenz.com/work/enlighted/>;
21 <https://www.enlightedinc.com/>;
22 <https://whatcms.org/?s=https%3A%2F%2Fwww.enlightedinc.com%2F>.

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

1 website including data defining the object style, number, and an indication of the web page that each
2 object is part of, and provide the database to a server accessible to web browser; wherein the
3 database is produced such that a web browser with access to a runtime engine is configured to
4 generate the website from the objects and style data extracted from the provided database.

5 68. The Accused Instrumentalities infringe claim 1 of the '168 patent through a
6 combination of features which collectively practice each limitation of claim 1.

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

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

19 71. By way of example, for the completed web site, the Accused Instrumentalities include
20 runtime files, such as, for example HTML CSS files. Regarding Wordpress, *see, e.g.*,
21 <https://en.wikipedia.org/wiki/WordPress>; [https://www.wpbeginner.com/glossary/content-](https://www.wpbeginner.com/glossary/content-management-system-cms/)
22 [management-system-cms/](https://wordpress.org/about/requirements/); <https://wordpress.org/about/requirements/>;
23 <https://www.wpbeginner.com/glossary/apache/>; <https://codex.wordpress.org/Pages>;
24 <https://www.downloads.eleopard.in/animate-it-documentation-wordpress/>;
25 <https://www.downloads.eleopard.in/class-generator.html>;
26 <https://developer.wordpress.org/themes/customize-api/customizer-objects/>;
27 https://codex.wordpress.org/Class_Reference/WP_Customize_Manager/add_control;

28

1 <https://www.wpbeginner.com/glossary/database/>; *See also*

2 <http://demos.dojotoolkit.org/demos/css3/demo.html>.

3 72. Defendant was made aware of the '168 patent and its infringement thereof at least as
4 early as the filing of this Complaint.

5 73. Since the date of the filing of this Complaint, Defendant's infringement of the '168
6 patent has been willful.

7 74. Plaintiff has been harmed by Defendant's infringing activities.

8 **JURY DEMAND**

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

11 **PRAYER FOR RELIEF**

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

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

14 B. An award of damages to be paid by Defendant adequate to compensate Plaintiff for
15 Defendant's past infringement of the '397 and '168 patents, and any continuing or future
16 infringement through the date such judgment is entered, including interest, costs, expenses and an
17 accounting of all infringing acts including, but not limited to, those acts not presented at trial;

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

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

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Dated: August 17, 2018

LOCAL COUNSEL

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