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

AERITAS, LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 6:18-cv-00327-RWS-JDL
	§	
BEST BUY CO., INC.	§	Jury Trial Demanded
	§	
Defendant.	§	

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Aeritas, LLC ("Aeritas" or "Plaintiff") files this First Amended Complaint for patent infringement against Defendant Best Buy Co., Inc. ("Best Buy" or "Defendant") pursuant to Fed. R. Civ. P. 15(a)(2), with Best Buy's written consent, and alleges as follows:

NATURE OF THE ACTION

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

PARTIES

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

3.   On information and belief, Best Buy is a corporation organized and existing under the laws of the State of Minnesota. Best Buy may be served via its registered agent for service of process: CT Corp System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

JURISDICTION AND VENUE

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

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

6.   Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400 because Best Buy has committed acts of infringement and has regular and established places of business in this District.

ASSERTED PATENTS

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

8.   On July 12, 2016, United States Patent No. 9,390,435 (the "'435 patent") was duly and legally issued for a "Mixed-Mode Interaction." A true and correct copy of the '435 patent is attached hereto as Exhibit B. Aeritas is the owner of all right, title and interest in and to the '435 patent.

9.   On February 6, 2018, United States Patent No. 9,888,107 (the "'107 patent") was duly and legally issued for a "Mixed-Mode Interaction." A true and correct copy of the '107 patent is attached hereto as Exhibit C. Aeritas is the owner of all right, title and interest in and to the '107 patent.

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

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

12.   The '285, '435, '107, '819 and '364 patents ("Asserted Patents") were invented by Malik Mamdani, Patrick Johnson, Kevin Bomar, Curtis Grant, and/or Tim Whatley. Mr. Mamdani lives in Dallas, Texas. On information and belief, Mr. Johnson lives in Trophy Club, Texas. On information and belief, Mr. Bomar lives in Weatherford, Texas. On information and belief, Mr. Grant lives in Flower Mound, Texas. On information and belief, Mr. Whatley lives in Athens, Texas. The Asserted Patents were prosecuted by David Judson, with an office in Dallas, Texas.

BACKGROUND

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

14.   Best Buy provides mobile device applications for both iOS and Android devices (https://www.bestbuy.com/site/misc/mobile-app/pcmcat208500050016.c?id=pcmcat208500050016) (collectively,   the   "Accused Instrumentality") which, on information and belief, operate substantially the same with respect to the Asserted Patents.

FIRST CLAIM FOR RELIEF
(Infringement of the '285 Patent)

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

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

17.   More particularly, Best Buy infringes at least claim 1 of the '285 patent. Best Buy receives and stores an input in a user profile in a database, the input comprising consumer interest data (e.g., items in "Saved Items & Lists"). At a second time, data identifying a current location of the mobile communications device on which the Accused Instrumentality is installed is obtained (e.g., upon application launch or return to Saved Items & Lists). Based on the input and location, Best Buy performs a search to locate pertinent information (e.g., selection of "Check nearby stores" from the product page of a saved product results in a search for nearby stores currently stocking the product) and receives the results of such search. Best Buy then provides the information to the mobile communications device.

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

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SECOND CLAIM FOR RELIEF
(Infringement of the '435 Patent)

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

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

21.   More particularly, Best Buy infringes at least claim 1 of the '435 patent. On information and belief, Best Buy employs a processor and computer memory holding computer program instructions to perform the functions described herein. Best Buy receives data indicating permission to provide a notification to a mobile device user in accordance with notification criteria

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(e.g., according to App notification settings). At a given time, Best Buy determines the location of the mobile device (e.g., as evidenced by permissions required to access the device's location and subsequent provision of location-based information). Based on the location and notification criteria, provides at least a visual alert notification (e.g., a push notification to the mobile device when a user arrives at a Best Buy location). Best Buy receives second data as a result of an input being received at the mobile device (e.g., interaction with the notification), retrieves information associated with the input and location (e.g., information about the specific Best Buy store), and provides responsive information to the mobile device (e.g., store information).

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

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THIRD CLAIM FOR RELIEF
(Infringement of the '107 Patent)

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

24.   Best Buy has been and is now infringing one or more claims of the '107 patent under 35 U.S.C. § 271 by making and/or using the Accused Instrumentality.

25.   More particularly, Best Buy infringes at least claim 5 of the '107 patent. On information and belief, Best Buy employs a processor and computer memory holding computer program instructions to perform the functions described herein. Best Buy receives data indicating permission to provide a notification to a mobile device user in accordance with notification criteria (e.g., according to App notification settings). At a given time, Best Buy determines the location of the mobile device (e.g., as evidenced by permissions required to access the device's location and subsequent provision of location-based information). Based on the location and notification criteria, Best Buy provides at least a visual alert notification (e.g., a push notification to the mobile

device when a user arrives at a Best Buy location). Best Buy receives second data as a result of an input being received at the mobile device (e.g., interaction with the notification), retrieves information associated with the input and location (e.g., information about the specific Best Buy store), and provides responsive information to the mobile device (e.g., store information). On information and belief, the program instructions include first and second components of a rules engine to evaluate notification criteria and execute notification rules (e.g., as evidenced by the provision of a notification based on conditions).

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

FOURTH CLAIM FOR RELIEF
(Infringement of the '819 Patent)

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

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

29.   More particularly, Best Buy infringes at least claim 1 of the '819 patent. Best Buy receives spoken input from a wireless communication device (e.g., when a user searches for an item using voice input). Best Buy obtains data identifying the current location of the mobile device (e.g., as evidenced by permissions required to access the device's location and subsequent provision of location-based information). Based on the location and the spoken input, Best Buy retrieves information (e.g., the nearby availability of a product subject to the voice search). Best Buy delivers to the wireless device by a notification server, a non-verbal response to the spoken input, the non-verbal response based on the retrieved information and including a drill-down menu by which additional information related to the retrieved information can be obtained (e.g., the

nearby availability of a product subject to the voice search, which includes a selectable link). Best Buy provides additional information related to the retrieved information in response to receipt of at least one additional input provided via the drill-down menu (e.g., distance and other information about nearby stores in response to selection of the "check nearby stores" link).

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

FIFTH CLAIM FOR RELIEF
(Infringement of the '364 Patent)

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

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

33.   More particularly, Best Buy infringes at least claim 1 of the '364 patent. On information and belief, Best Buy employs a computer memory holding computer program instructions to execute a rules engine. On information and belief, the rules engine correlates data identifying a location of the mobile communications device on which the Best Buy app is installed, consumer interest data (e.g., an item added to the shopping cart), data associated with one or more inventory attributes (e.g., in-store product availability), and notification criteria that defines when a notification is to be delivered (e.g., when during the course of a product purchase a message is provided) and a type of notification (e.g., a message delivered in-app). Best Buy generates a message for delivery to the mobile communication device when the rules engine and the notification criteria so indicate, the message identifying one or more suppliers in the location with inventory (e.g., when an item in the Shopping Bag is not immediately available at the selected store but is available at another nearby store). Best Buy then delivers the message to the mobile

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communications device according to the notification criteria (e.g., when desired product is not immediately available at desired store).

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

DEMAND FOR JURY TRIAL

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

PRAYER FOR RELIEF

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

A.   Permanently enjoining Defendant, its agents, servants, and employees, and all those in privity with it or in active concert and participation with it, from engaging in acts of infringement of the Asserted Patents;

B.   Awarding Aeritas past and future damages together with prejudgment interest and post-judgment interest to compensate for the infringement of the patents-in-suit in accordance with 35 U.S.C. § 284;

C.   Declaring this case exceptional, pursuant to 35 U.S.C. § 285;

D.   Awarding Aeritas its costs (including expert fees), disbursements, and attorneys' fees; and

E.   Granting such further relief as this Court deems to be just and proper.

Dated: August 29, 2018   Respectfully submitted,

                                           DELGIORNO IP LAW, PLLC

                                           By:

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                                           **ATTORNEY FOR PLAINTIFF
                                           AERITAS, LLC**