# IN THE UNITED STATES DISTRICT COURT
## FOR THE NORTHERN DISTRICT OF ILLINOIS
### EASTERN DIVISION

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| **Sapphire Crossing LLC**, | Case No. _____ |
| Plaintiff, | Patent Case |
| v. | Jury Trial Demanded |
| **Concur Technologies, Inc.**, | |
| Defendant. | |

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Sapphire Crossing LLC ("Sapphire Crossing"), through its attorney, Isaac Rabicoff, complains against Concur Technologies, Inc. ("Concur") and alleges the following:

**PARTIES**

1.      Plaintiff Sapphire Crossing LLC is a corporation organized and existing under the laws of Texas and maintains its principal place of business at 5570 FM 423 Suite 250, #2008, Frisco, TX 75034.

2.      Defendant Concur Technologies, Inc. is a corporation organized and existing under the laws of Delaware and maintains its principal place of business at 601 108th Ave NE, Suite 1000, Bellevue, Washington 98004.

**JURISDICTION**

3.      This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

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

5.      This Court has personal jurisdiction over Concur because it has engaged in systematic and continuous business activities in the Northern District of Illinois. Specifically, Concur has an office in this District at 1301 West 22nd Street, Suite 307, Oak Brook, IL 60523 and provides its full range of services to residents in this District. As described below, Concur has committed acts of patent infringement giving rise to this action within this District.

## VENUE

6.      Venue is proper in this District under 28 U.S.C. § 1400(b) because Concur has committed acts of patent infringement in this District and resides in this District. Specifically, Concur has an office in this District at 1301 West 22nd Street, Suite 307, Oak Brook, IL 60523 and provides its full range of services to residents in this District. In addition, Sapphire Crossing has suffered harm in this District.

## PATENT-IN-SUIT

7.      On May 10, 2005, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 6,891,633 ("the '633 Patent") to Xerox Corporation ("Xerox"), naming Ken Hayward, Marc J. Krolczyk, Dawn M. Marchionda, Thomas L. Wolf and James S. Laird as the inventors. The '633 Patent is titled "Image Transfer System". A copy of the '633 Patent is attached to this Complaint as Exhibit A.

8.      Claims 19–20 of the '633 Patent are valid and enforceable. The Patent Trial and Appeal Board denied institution of claims 19-20 and further denied Petitioner's request for a rehearing.

9.      On November 25, 2015, Xerox assigned all right, title, and interest in and to the '633 Patent to Ruby Sands LLC, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of

the '633 Patent.

10.　　On March 26, 2018, Ruby Sands LLC assigned all right, title, and interest in and to the '633 Patent to Sapphire Crossing LLC, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '633 Patent. Accordingly, Sapphire Crossing possesses the exclusive right and standing to prosecute the present action for infringement of the '633 Patent by Concur.

11.　　The '633 Patent is directed to a novel image transfer system comprising a transfer device which can be operably connected to a computer. The system includes a reader for reading an image on a first medium, and a display for displaying an image transfer menu for effecting transfer of the image to perform a selected function. For example, the reader can be a mobile electronic device used to take a photograph of a first medium (for example, a receipt), and then offer on the display of the mobile electronic device a menu of different actions that can be selected to accomplish a particular task: for example, uploading scanned receipts to create an expense report. A downloadable app can transform the mobile device into the claimed image transfer device. Without the app, the mobile device cannot display the first type of menu, read the receipt, establish a connection with a computer, transfer the image to the computer, or display the second type of menu.

12.　　Claim 19 of the '633 patent is directed to a method for transferring information from a first medium wherein the method provides an image transfer device having a scanner for reading an image on the first medium (for example a smartphone); the image transfer device reads the image on the first medium with the scanner (for example taking a picture with the smartphone); the image transfer device then uploads

the electronic data including at least a portion of an image transfer menu to be displayed by the image transfer device to the transfer device from a computer connected to the transfer device; and a processor of the image transfer device automatically merges the electronic data with the image read by the scanner and transfers the merged image by the transfer device to a second medium (for example servers).

### CONCUR'S INFRINGING SYSTEM AND METHOD

13.     Sapphire Crossing incorporates the above paragraphs herein by reference.

14.     Concur performs the steps of the method found in the preamble of claim 19: "transferring information from a first medium." For example, Concur's SAP Concur mobile app ("Accused Instrumentality") uses a reader for reading an image on a first medium, and a display for displaying an image transfer menu to perform a selected function. *See* https://play.google.com/store/apps/details?id=com.concur.breeze, Figure 1.
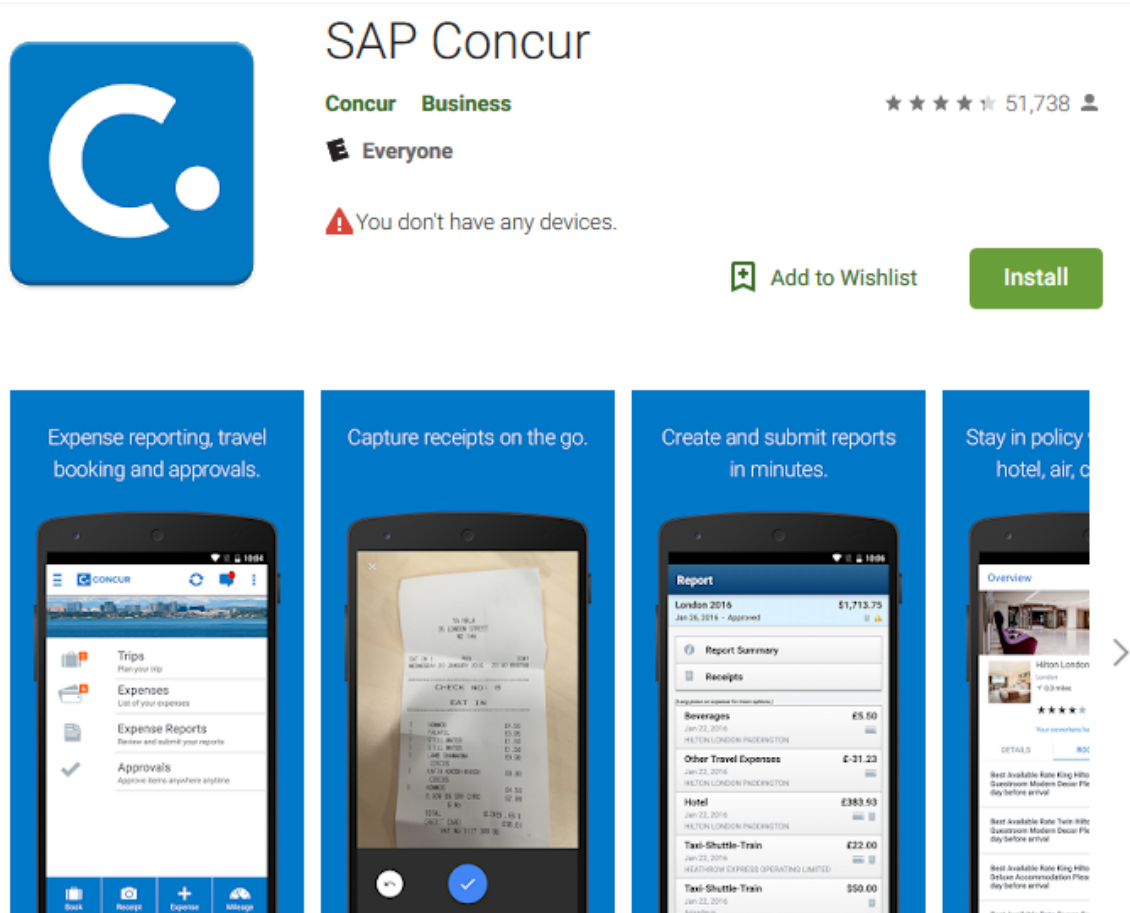
*Figure 1. Concur provides a downloadable app for use on mobile devices that transforms such devices into the Accused Instrumentality.*

*See also* https://www.concur.com/en-us/mobile, Figure 2.

## Concur Expense: Tell expense pain to hit the road

SAP Concur for Mobile complements our web based solution, allowing you to manage anything expense and or travel related, wherever you are. From booking and managing itineraries to capturing receipts and submitting expense reports, you can now do it all in one app with SAP Concur:

- Capture receipts with your smartphone, then ditch the paper
- Upload IRS compliant images directly to expense reports
- Immediately approve or reject expense reports via manager access
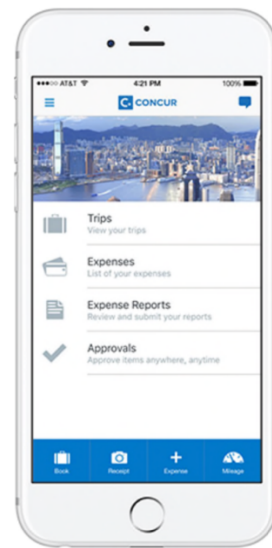- Add car mileage to an expense report

*Figure 2. Concur's Accused Instrumentality uses the camera on the user's smartphone to capture receipts for management on the smartphone.*

15.     Concur's Accused Instrumentality performs the steps found in claim 19(a): "providing an image transfer device having a scanner for reading an image on the first medium." For example, Concur's Accused Instrumentality scans an image on a first medium, such as the barcode on a paper receipt through a camera. *See* Fig. 2; *see also* https://www.concur.com/en-us/expense-mobile, Figure 3.



# Create and submit accurate expense reports instantly from a smartphone

No more taping paper receipts. The SAP Concur mobile app lets employees use a smartphone camera to capture and attach a receipt to their expense report. The ExpenseIt feature from SAP Concur makes it even easier by automatically creating, itemizing and categorizing an expense entry, with the receipt image attached.
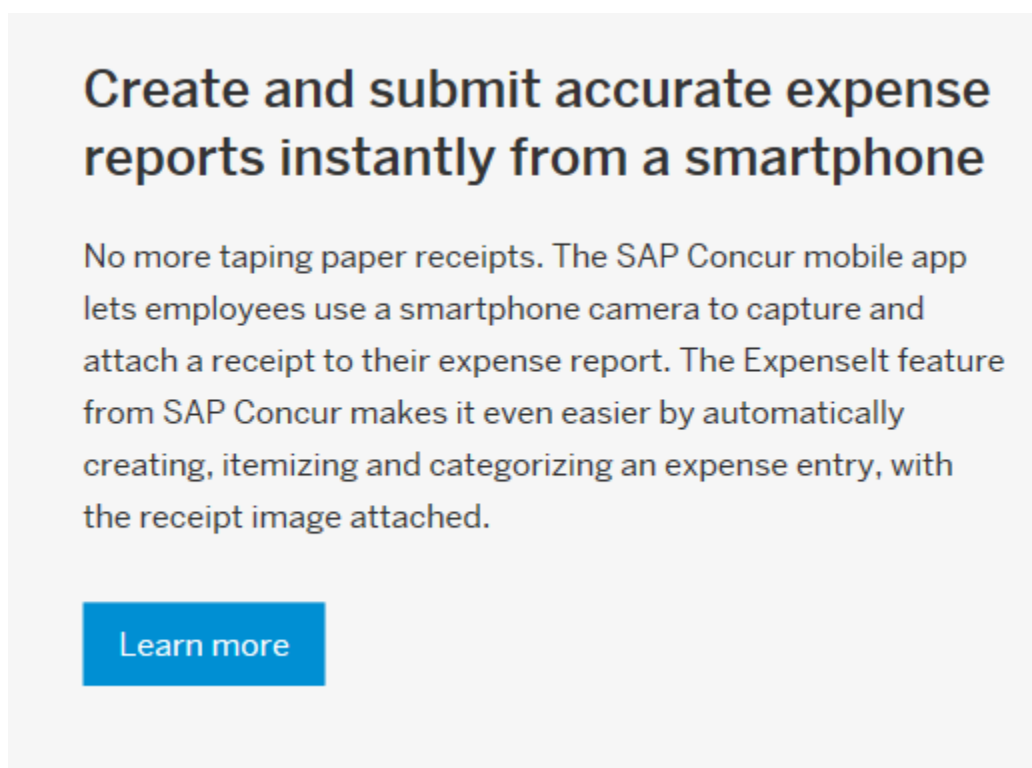
Learn more

*Figure 3. Concur's Accused Instrumentality uses the camera on the user's smartphone to scan an image on a first medium.*

16.     Concur's Accused Instrumentality performs the steps found in claim 19(b): "reading the image on the first medium with the scanner." For example, Concur's Accused Instrumentality uses the camera on the user's smartphone to read an image of a receipt. *See* Figs. 2-3; *see also* https://www.concur.com/en-us/mobile, Figure 4.
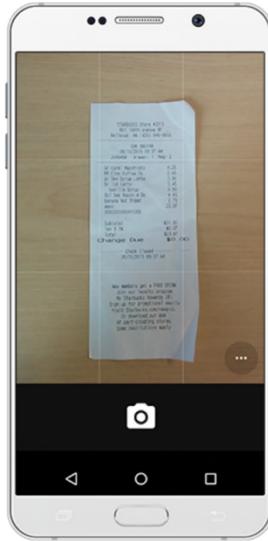
**ExpenseIt Pro: Turn receipts into reports – in a snap**

ExpenseIt Pro makes expense reporting even easier and provides companies a real-time picture of their T&E spend – which means out-of-policy spend shows up sooner, helping control cost and compliance issues while speeding up the approval process. Plus, minimal manual entry means no worries about errors or lost receipts. It's exactly what you need in an expense report app and business travel expense tracker

**Just snap, export, and you're done.**

Simply take a picture of each receipt, hit "export," and ExpenseIt Pro automatically creates, itemizes and categorizes the expense entries. The report is well on its way to being complete, the data is photo-accurate, and paper receipts become a thing of the past. It's everything you could want from an expense report app.

*Figure 4. Concur's Accused Instrumentality, including the ExpenseIT Pro, uses the camera on the user's smartphone to read an image on a first medium.*

17.     Concur's Accused Instrumentality performs the steps of claim 19(c): "automatically uploading electronic data including at least a portion of an image transfer menu to be displayed by the image transfer device to the transfer device from a computer connected to the transfer device." For example, Concur's Accused Instrumentality uploads and displays an image transfer validation menu from the communication channels found in Concur's computers and gives users the option to deposit the receipt. *See* Figs. 3-4.

18.     Concur's Accused Instrumentality performs the steps of claim 19(d): "with a processor of the image transfer device, automatically merging the electronic data with the image read by the scanner." For example, Concur's Accused Instrumentality merges the data found in the electronic image of the scanned receipt that can be stored on Concur's servers. *See* Figs. 3-4; *see also* https://www.concur.com/en-us/expense-mobile, Figure 5.
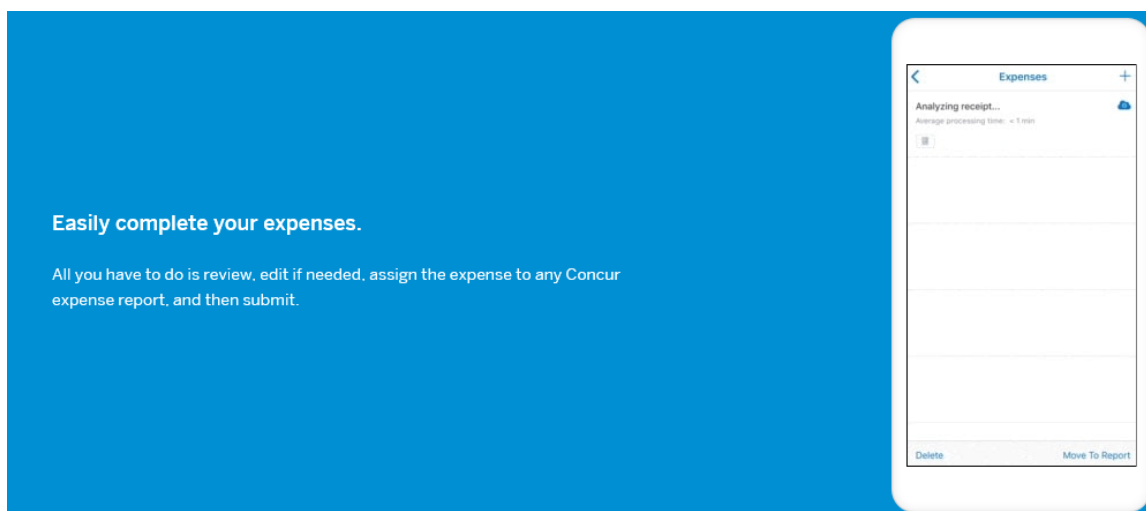
*Figure 5. Concur's Accused Instrumentality transmits the merged information from the mobile device to a second medium.*

19.    Concur's Accused Instrumentality performs the steps of claim 19(e): "transferring the merged image by the transfer device to a second medium." For example, Concur's Accused Instrumentality transfers the merged image to its server(s). *See* Figs. 2-5.

20.    On its website, Concur specifically instructs its customers to use the Accused Instrumentality in a way that infringes at least Claim 19 of the '633 Patent. *See* https://www.concur.com/en-us/expense-mobile.

<div align="center">COUNT I: DIRECT INFRINGEMENT</div>

21.    Sapphire Crossing incorporates the above paragraphs herein by reference.

22.    As a result of making, using (including having its employees internally test and use the Accused Instrumentality as alleged below), marketing, and providing the Accused Instrumentality, Concur has and continues to directly infringe at least Claim 19 of the '633 Patent literally or under the doctrine of equivalents.

23.    As set forth above, the Accused Instrumentality is specifically designed to perform every step of at least Claim 19 of the '633 Patent, and each use of the Accused

Instrumentality will result in infringement of at least that claim.

24.     Upon information and belief, Concur has and continues to directly infringe at least Claim 19 of the '633 Patent when it internally tested and used the Accused Instrumentality.

25.     Upon information and belief, Concur's employees or individuals under Concur's control use the Accused Instrumentality to test the operation of the Accused Instrumentality and its various functions, in the infringing manner described here, and thereby infringes at least Claim 19 of the '633 Patent. Sapphire Crossing therefore alleges that Concur has and continues to directly infringe the '633 Patent by using the Accused Instrumentality to perform at least the method of Claim 19.

26.     Upon information and belief, Concur also has and continues to directly infringe at least Claim 19 of the '633 Patent when its employees use the Accused Instrumentality. Upon information and belief, Concur's employees or individuals under Concur's control use the Accused Instrumentality in an infringing manner and described in detail in the above section (INFRINGING SYSTEM AND METHOD). Sapphire Crossing therefore alleges that Concur directly infringes the '633 Patent by using the Accused Instrumentality to perform the method of at least Claim 19.

27.     Since at least the date that this Complaint was filed, Concur has willfully infringed at least Claim 19 of the '633 Patent by directly infringing the patent with knowledge of the patent and despite an objectively high likelihood that its actions constituted infringement of the '633 Patent.

28.     Sapphire Crossing has suffered damages as a result of Concur's direct infringement of the '633 Patent.

29.     Sapphire Crossing is entitled to recover damages adequate to compensate

it for such infringement in an amount no less than a reasonable royalty under 35 U.S.C. §
284.

30.     Sapphire Crossing will continue to be injured, and thereby caused
irreparable harm, unless and until this Court enters an injunction prohibiting further
infringement.

## COUNT II: INDIRECT INFRINGEMENT

31.     Sapphire Crossing incorporates the above paragraphs herein by reference.

32.     **Contributory Infringement.** Concur has also contributed to the
infringement of at least Claim 19 of the '633 Patent by providing the Accused
Instrumentality to, among others, its customers, and by advertising, promoting,
encouraging, instructing and aiding others to use the Accused Instrumentality in an
infringing manner.

33.     Concur has engaged in these activities knowing that the Accused
Instrumentality is especially made and adapted for use, and is in fact used, in a manner
that constitutes infringement of at least Claim 19 of the '633 Patent. The Accused
Instrumentality is not a staple article or commodity of commerce that is suitable for
substantial non-infringing uses.

34.     Since at least the filing date of this Complaint, Concur has known that the
use of the Accused Instrumentality infringes the '633 Patent, and that such combination
of components has no substantial non-infringing use.

35.     Sapphire Crossing has suffered damages as a result of Concur's indirect
infringement of the '633 Patent.

36.     Sapphire Crossing is entitled to recover damages adequate to compensate
it for such infringement in an amount no less than a reasonable royalty under 35 U.S.C. §

284.

37.    Sapphire Crossing will continue to be injured, and thereby caused irreparable harm, unless and until this Court enters an injunction prohibiting further infringement.

### PRAYER FOR RELIEF

WHEREFORE, Plaintiff Sapphire Crossing prays for judgment against Concur on all the counts and for the following relief:

A.    A declaration that Sapphire Crossing is the owner of the right to sue and to recover for infringement of the '633 Patent being asserted in this action;

B.    A declaration that Concur has directly infringed, actively induced the infringement of, or contributorily infringed the '633 Patent;

C.    A declaration that Concur and its customers are jointly or severally responsible for the damages from infringement of the '633 Patent through the use of the SAP Concur mobile app;

D.    A declaration that Concur is responsible jointly or severally with its customers for the damages caused by the infringement of the '633 Patent through the use of the SAP Concur mobile app by Concur's customers;

E.    An accounting for damages under 35 U.S.C. § 284 for infringement of the '633 Patent by Concur, and the award of damages so ascertained to Sapphire Crossing together with interest as provided by law;

F.    An accounting of all damages not presented at trial;

G.    An award of Sapphire Crossing's costs and expenses;

H.    A declaration that Concur's actions constitute as exceptional conduct in bad faith, and an award of Sapphire Crossing's attorney fees; and

I.        Such other and further relief as this Court may deem proper, just and

equitable.


Dated: February 28, 2019           Respectfully submitted,

_/s/ Isaac Rabicoff_

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