

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

CASCADES BRANDING INNOVATION LLC,
Plaintiff,

vs.

TRUE VALUE COMPANY,
Defendant.

Case No. 1:19-cv-02594

Hon. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Cascades Branding Innovation LLC (“Cascades”) complains against True Value Company (“True Value”) as follows:

THE PARTIES

1. Plaintiff Cascades is an Illinois limited liability company having a principal place of business in Chicago, Illinois. Cascades is the exclusive licensee and holder of all substantial rights to U.S. Patent Nos. 7,768,395, 8,106,766, and 8,405,504, referred to below as the “Cascades Patents.” Cascades has standing to sue for infringement of the Cascades Patents. The Cascades Patents are entitled “BRAND MAPPING,” and relate to improvements in mobile devices to allow them to locate branded products and services in their vicinity.

2. Defendant True Value is an Illinois corporation having a principal place of business at 8600 W. Bryn Mawr Avenue, Chicago, IL 60631. True Value provides its customers the True Value application for use on iPhones and other Apple devices (the “True Value Application” or the “iOS app”), aspects of which Cascades contends infringe the Cascades Patents as alleged below. The True Value Application operates on consumers’ Apple smart phones and like devices, allowing such phones and devices to enable users to select a True Value-branded icon to locate True Value-

branded store locations in their vicinity on a map, without the users having to manually enter a device location.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, *e.g.*, 35 U.S.C. §§ 271, 281, 283-285. Subject matter jurisdiction exists under 28 U.S.C. §§ 1331 and 1338(a).

4. Defendant True Value conducts significant business in the State of Illinois, and in this judicial district, and its principal place of business is in this district and State. Accordingly, this Court has personal jurisdiction over True Value, and venue is proper in this Court under 28 U.S.C. § 1391 and/or 1400.

FACTUAL BACKGROUND

5. Inventor Steven K. Gold is a medical doctor by degree who attended medical school to pursue his dream of inventing medical device technologies, as shown by his first two issued patents. Dr. Gold benefits financially from Cascades' licensing successes. Following medical school, Dr. Gold became a successful entrepreneur and started companies in the life sciences and other fields. Dr. Gold has taught entrepreneurship at the college level. Dr. Gold invented and filed for the Cascades Patents before the first sale in 2007 of the Apple iPhone. The '395 Patent issued on August 3, 2010, the '766 Patent issued on January 31, 2012, and the '504 Patent issued on March 26, 2013.

6. True Value has been aware of the Cascades Patents since at least approximately June 27, 2018, the date of a Notice of Infringement sent to True Value on behalf of Cascades. The Notice of Infringement included infringement claim charts for the '395, '766, and '504 Patents, as well as a firm license offer to abate True Value's infringement.

7. True Value first responded to Cascades' notice through its app developer, Comarch. Counsel for Comarch, True Value, and Cascades communicated through letters, on

the telephone, and through e-mail from July 2018 through January 2019 regarding Cascades' Notice of Infringement and offer of a license. True Value did not accept the license offer. True Value's continued infringement has therefore been reckless, without objective legal basis, and willful.

PATENT INFRINGEMENT

8. True Value infringed and continues to infringe at least claims 1, 3, 4, 7, 10, 17, 18, 23, 24, 25, 27, and 35 of the '395 Patent, claims 1, 2, 3, 4, 8, 13, 14, 15, 16, and 22 of the '766 Patent, and claims 1, 15, 17, 18, 22, 24, 26, 28, 42, 44, 45, 49, 51, and 53 of the '504 Patent. True Value infringes by, among other activities, making, using (for example by testing), offering to sell, and/or selling its True Value Application for use on mobile devices using Apple's iOS operating system ("iOS").

9. True Value's customers (and True Value, through product testing, among other things) directly infringed the Cascades Patents when using the True Value Application on devices using iOS.

DIRECT PATENT INFRINGEMENT

10. True Value made, used, sold, and offered for sale a mobile-device application for use on devices using iOS, which includes functionality permitting a user to locate True Value stores in relation to the user's device without requiring the user to know where the user or the device is located.

11. A more detailed, claim-element-by-claim-element explanation of True Value's infringement of the Cascades Patents is also included in the claim charts that Cascades sent to True Value, which charts are attached hereto as Exhibit A. A detailed, element-by-element explanation of exemplary claims of each infringed patent below.

COUNT I - INFRINGEMENT OF THE '395 PATENT

12. True Value has infringed at least claims 1, 3, 4, 7, 10, 17, 18, 23, 24, 25, 27, and 35 of the '395 Patent through, among other activities, making, using (for example by testing), offering to sell, and/or selling the True Value Application.

13. Claim 1 is an exemplary infringed claim of the '395 Patent, which covers a method, which can be carried out through, among other things, the use of the True Value Application loaded onto an iOS device. Claim 1 covers a method the first element of which provides "A method comprising: (A) displaying, using a device, a first image associated with a first brand."

14. The True Value Application downloads to an iPhone, which is a device. It causes display of a True Value logo (the "first image") on the home touchscreen.

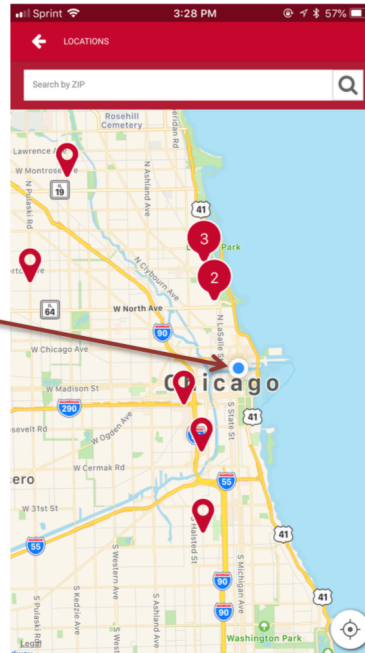
15. The next step of Claim 1 requires "(B) receiving, from a user of the device, an indication of a selection by the user of the first image."

16. The user of the True Value Application touches the logo, thereby allowing the iPhone loaded with the app to receive from the user an indication of a selection of the first image.

17. The next step of Claim 1 requires "(C) identifying a first location of the device independently of any location-specifying input provided by the user to the device."

18. The iPhone loaded with the app identifies where the iPhone is located without the user providing location- specifying information.

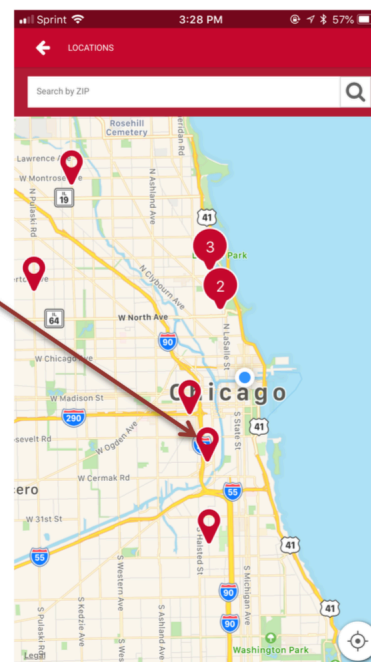
Identifying
location of device
(Chicago)



19. The next step of Claim 1 requires “(D) identifying a first brand access site at which a first branded entity having the first brand is accessible.”

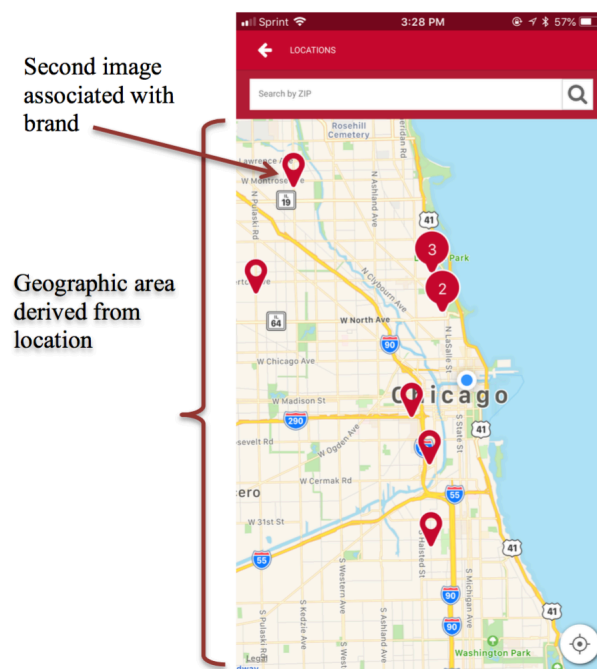
20. The iPhone loaded with the app identifies where a “branded entity” (*e.g.*, a store location) under the True Value brand may be accessed.

Identifying
brand access
site



21. The final step of Claim 1 requires “(E) providing to the user, using the device, a first map image which describes a first geographic area derived from the first location of the device and which includes a first indication of the first brand access site, wherein the first indication of the first brand access site comprises a second image associated with the first brand, located at a position in the first map image corresponding to the first brand access site.”

22. The iPhone loaded with the app creates a map image as indicated below and provides it to the user; *i.e.*, a “first geographic area” is one surrounding where the device is located, and at least one (*i.e.*, a “first”) True Value location is shown in relative proximity on the map. The location of the True Value store is indicated with a pin image, *i.e.*, a “second image” associated with the True Value brand, and located on the map to correspond with the site’s physical location.



23. As a direct and proximate consequence of the infringement, Cascades has been, is being, and will continue to be injured in its business and property rights unless such acts and practices are enjoined by the Court, and has suffered, is suffering, and will continue to suffer injury

and damages for which it is entitled to relief under 35 U.S.C. § 284 adequate to compensate for such infringement, but in no event less than a reasonable royalty.

COUNT II - INFRINGEMENT OF THE '766 PATENT

24. True Value has infringed at least claims 1, 2, 3, 4, 8, 13, 14, 15, 16, and 22 of the '766 Patent through, among other activities, making, using (for example by testing), offering to sell, and/or selling the True Value Application on devices using iOS.

25. Claim 1 is an exemplary infringed claim of the '766 Patent, which covers a method, which can be carried out through, among other things, the use of the True Value app loaded onto an iOS device. Claim 1 covers a method the first element of which provides “displaying, using a device, a first image associated with a first brand.”

26. This element is present as described in ¶ 14 above.

27. The next step of Claim 1 requires “receiving, from a user of the device, an indication of a selection by the user of the first image.”

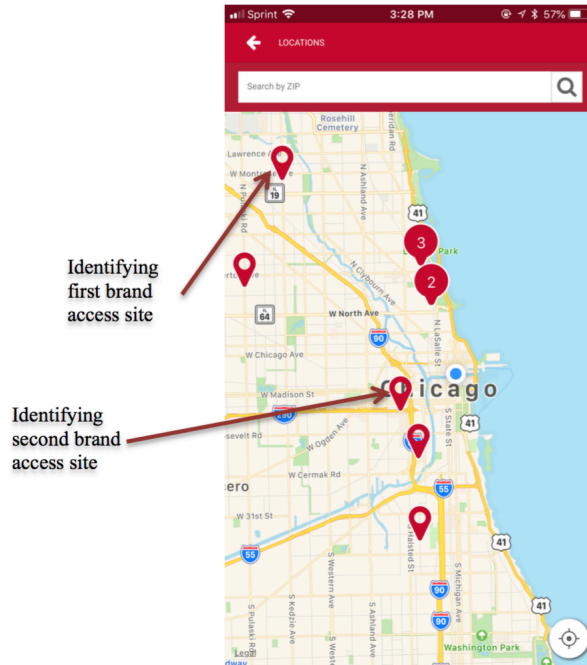
28. This element is present as described in ¶ 16 above.

29. The next step of Claim 1 requires “identifying a first location of the device independently of any location-specifying input provided by the user to the device.”

30. This element is present as described in ¶ 18 above.

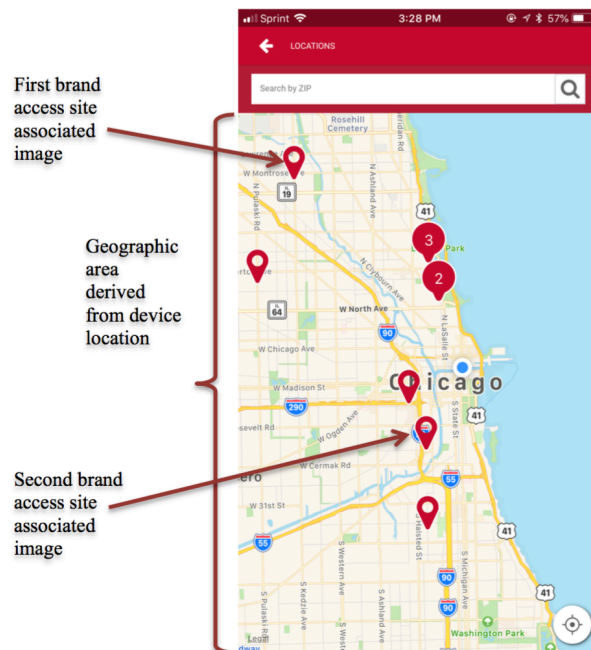
31. The next step of Claim 1 requires “identifying a first brand access site at which a first branded entity having the first brand is accessible and a second brand access site at which a second branded entity having the first brand is accessible.”

32. The iPhone loaded with the application identifies first and second brand access sites, where first and second “branded entities” under the True Value brand may be accessed:



33. The final step of Claim 1 requires “providing to the user, using the device, a first map image which describes a first geographic area derived from the first location of the device and which includes: a first indication of the first brand access site, wherein the first indication of the first brand access site comprises a first brand access site associated image, located at a position in the first map image corresponding to the first brand access site; and a second indication of the second brand access site, wherein the second indication of the second brand access site comprises a second brand access site associated image, located at a position in the first map image corresponding to the second brand access site.”

34. The iPhone loaded with the Application creates a map image as indicated below and provides it to the user. The “first geographic area” provided is one derived from the device’s location. The Application also provides to the user first and second True Value brand access sites, which are shown in relative proximity on the map. The first and second locations of the True Value stores are indicated with pin images, i.e., the first brand access site associated image, and the second brand access site associated image.



35. True Value has knowingly and intentionally actively aided, abetted and induced others to infringe (such as its customers, users, application downloaders and/or business partners in this judicial district and throughout the United States). True Value has also knowingly contributed to customer infringement, within the meaning of 35 U.S.C. § 271(c), by among other things providing the True Value Application, which is not a staple article of commerce capable of substantial non-infringing use.

36. As a direct and proximate consequence of the infringement, Cascades has been, is being, and will continue to be injured in its business and property rights unless such acts and practices are enjoined by the Court, and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284 adequate to compensate for such infringement, but in no event less than a reasonable royalty.

COUNT III – INFRINGEMENT OF THE '504 PATENT

37. True Value has infringed at least claims 1, 15, 17, 18, 22, 24, 26, 28, 42, 44, 45, 49, 51, and 53 of the '504 Patent through, among other activities, making, using (for example by testing), offering to sell, and/or selling the True Value Application.

38. Claim 1 is an exemplary infringed claim of the '504 Patent, which covers a method, which can be carried out through, among other things, the use of the True Value Application loaded onto an iOS device. Claim 1 covers a method the first element of which provides “A method comprising: (a) displaying, using a wireless communication device, a first image associated with a first brand.”

39. This element is present as described in ¶ 14 above.

40. The next step of Claim 1 requires “(b) receiving, from a user of the device, an indication of a selection of the first image.”

41. This element is present as described in ¶ 16 above.

42. The next step of Claim 1 requires “(c) identifying a first location of the device independently of any location-specifying input provided by the user to the device.”

43. This element is present as described in ¶ 18 above.

44. The next step of Claim 1 requires “wirelessly transmitting, using the device, first data, the first data comprising information relating to the first location of the device.”

45. Data pertaining to the iPhone’s location is wirelessly transmitted to a system that processes data relating to the location of the device, which is used to provide a map image containing the iPhone’s location.

46. The next step of Claim 1 requires “(e) wirelessly receiving, using the device, second data.”

47. The iPhone also receives data related to the locations of various True Value locations, as well as other map data related to the iPhone's location, which is "second data."

48. The last step of Claim 1, which contains several portions, requires "(f) displaying, using the device, a first map image that is based at least in part on the second data."

49. A map is displayed that is partially based on the second data. That is, a map shows where multiple True Value access sites are located based on the device's location.

50. The next portion of this element provides "wherein the first map image describes a first area overlapping with a location in proximity to the first location of the device."

51. The first map image shown describes a first area overlapping with a location in proximity to the first location of the device. Here, the first map image describes the city of Chicago and surrounding suburbs, which overlaps with a location in proximity to the location of the iPhone.

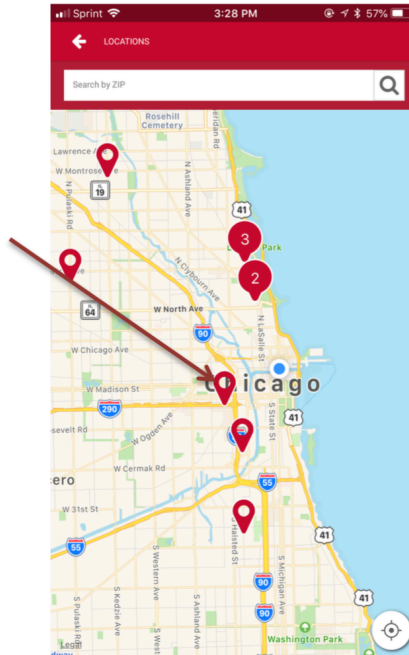
52. The next portion of this element provides "wherein the first map image comprises an indication of a location of a first brand access site at which a first branded entity having the first brand is accessible."

53. The first map image comprises an indication, a pin image, of a location where True Value-branded products and services are accessible.

54. The last portion of this element provides "wherein the indication is located at a position in the first map image corresponding to the location of the first brand access site."

55. The pin image is indicated at a position on the map to correspond with the access site's physical location:

Indication of
True Value
access site.



56. As a direct and proximate consequence of the infringement, Cascades has been, is being, and will continue to be injured in its business and property rights unless such acts and practices are enjoined by the Court, and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284 adequate to compensate for such infringement, but in no event less than a reasonable royalty.

INDUCEMENT OF DIRECT PATENT INFRINGEMENT

57. True Value has infringed the Cascades Patents indirectly through acts of inducement.

58. In addition to True Value's direct infringement, True Value's customers, who used its iOS app, also directly infringed the Cascades Patents. True Value knew of the Cascades Patents at least as early as June 27, 2018, the date the notice of infringement was sent to True Value. True Value continued to instruct and encourage its customers how to use the iOS app in an infringing manner after being advised of the Cascades Patents, being provided detailed claim charts, and being aware of the infringement of the Cascades Patents.

59. True Value knowingly and intentionally actively aided, abetted, and induced others to infringe (such as their customers, users, and/or business partners in this judicial district and throughout the United States). True Value induced infringement by supplying the iOS app, knowing that these customer acts constituted infringement, and induced that infringement by instructing and encouraging its use in the manner described above.

60. True Value has provided the iOS app, knowing of the Cascades Patents and with the specific intent that their customers infringe the Cascades Patents.

61. True Value's indirect infringement by inducement has injured Cascades. Cascades, therefore, is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

62. Cascades indirect infringement by inducement has been willful because Defendants have known of the Cascades Patents and have nonetheless injured Cascades.

63. As a direct and proximate consequence of the infringement, Cascades has been, is being, and will continue to be injured in its business and property rights unless such acts and practices are enjoined by the Court, and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284 adequate to compensate for such infringement, but in no event less than a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Cascades asks this Court to enter judgment against True Value and against its respective subsidiaries, affiliates, agents, servants, employees, and all persons in active concert or participation with them, granting the following relief:

- A. An award of damages adequate to compensate Cascades for the infringement that has occurred, together with prejudgment interest from the date infringement of the respective Cascades Patents began, and statutory costs;

- B. An award to Cascades of all remedies available under 35 U.S.C. § 284;
- C. An award to Cascades of all remedies available under 35 U.S.C. § 285;
- D. A permanent injunction prohibiting further infringement, inducement and contributory infringement of the Cascades Patents on iOS devices; and,
- E. Such other and further relief as this Court or a jury may deem proper and just.

JURY DEMAND

Cascades demands a trial by jury on all issues so triable.

Dated: April 17, 2019

Respectfully submitted,

/s/ William W. Flachsbart

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