

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

TMI SOLUTIONS LLC,

Plaintiff,

v.

ETSY, INC.,

Defendant.

Civil Action No.

PATENT CASE

JURY TRIAL DEMANDED

---

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff TMI Solutions LLC (“Plaintiff”) filed this Complaint against Etsy, Inc. (“Defendant”) for infringement of U.S. Patent No. 9,484,077 (“the ’077 patent”) and U.S. Patent No. 9,484,078 (“the ’078 patent”) (collectively “the patents-in-suit” or “asserted patents”).

**THE PARTIES**

1. Plaintiff is a Michigan limited liability company with its principal place of business located at 836 Diamond Street, Laguna Beach, California 92651.

2. Defendant is a Delaware corporation with its principal place of business located at 117 Adams Street, Brooklyn, New York 11201. Defendant does business in the State of Delaware and in this judicial district. Defendant can be served with process through its registered agent at The Corporation Trust Company, Corporation Trust Center, 1209 Orange St., Wilmington, DE 19801.

**JURISDICTION AND VENUE**

3. Plaintiff brings this action for patent infringement under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others.

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1400(b). Defendant is a Delaware Corporation.

6. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Delaware Long Arm Statute, due at least to its substantial business in this State and judicial district, including: (a) regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods sold, and services provided, to Delaware residents; and (b) Defendant is a Delaware Corporation.

**THE PATENTS-IN-SUIT**

7. The '077 patent lawfully issued on November 1, 2016, and stems from Application No. 12/893,112, filed on September 29, 2010. The '077 patent is entitled "Providing Services from a Remote Computer System to a User Station Over a Communications Network." A copy of the '077 patent is attached hereto as Exhibit 1.

8. The '078 patent lawfully issued on November 1, 2016, and stems from Application No. 12/893,259, filed on September 29, 2010. The '078 patent is entitled "Providing Services from a Remote Computer System to a User Station Over a Communications Network." A copy of the '078 patent is attached hereto as Exhibit 2.

9. The named inventor on the patents-in-suit Richard R. Reisman.

10. The patents-in-suit all claim priority to Application No. 08/251,724, filed on May 31, 1994, not U.S. Patent No. 5,694,546.

11. The technologies claimed by the patents-in-suit consist of ordered combinations of features and functions that were not, alone or in combination, considered well-understood by, and routine, generic, and conventional to, skilled artisans in the industry at the time of invention.

12. Each asserted claim in the patents-in-suit is presumed valid.

13. Each asserted claim in the patents-in-suit is directed to patent eligible subject matter under 35 U.S.C. § 101.

14. The patent specifications of the patents-in-suit disclose shortcomings in the prior art and then explain, in detail, the technical ways that the patents resolve or overcome those shortcomings. *See, e.g.*, Exhibit 1, '077 patent, 1:17-5:34; Exhibit 2, '078 patent, 1:20-5:42.

15. The patents-in-suit each have over 1,800 forward citations, which is indicative of the value and importance of the inventions claimed in the patents-in-suit.

16. The patents-in-suit are, at least in part, directed to the unique problem of how to automatically identify users, and user stations, in the context of computer networks. *See e.g.*, '077 patent, 5:19-22, 1:30-33, 7:50-57.

17. At the time of the invention of claim 6 of the '077 patent and claims 1 and 2 of the '078 patent this was a well-recognized problem to which there was no solution. *See e.g.*, Exhibit 3, <http://www.nytimes.com/2001/09/04/business/giving-web-a-memory-cost-its-users-privacy.html> (noting that in May 1994 “every visit to a site was like the first, with no automatic way to record that a visitor had dropped by before” and “any commercial transaction would have to be handled from start to finish in one visit, and visitors would have to work their way through the same clicks again and again; it was like visiting a store where the shopkeeper had amnesia”).

18. On September 28, 2018, the United States District Court for the District of Delaware issued a Memorandum Opinion and Order in Case Nos. 17-965 (ECF 29); 17-966

(ECF 33); 17-697 (ECF 34); 17-968 (ECF 30); 17-969 (ECF 33), denying defendants' motions to dismiss pursuant to 35 U.S.C. § 101 and finding that, among other things, "Defendants have not sufficiently persuaded the Court that the claim limitations were well-understood, routine, and conventional computer technology at the time of the invention." *See* Case Nos. 17-965 (ECF 29); 17-966 (ECF 33); 17-697 (ECF 34); 17-968 (ECF 30); 17-969 (ECF 33).

19. Further, in its Memorandum Opinion and Order the Court held that "The complaint adequately and plausibly alleges that the claims capture a non-routine, unconventional, and not well-understood activity, and may improve the functioning of computers." *Id.*

**COUNT I**  
**(INFRINGEMENT OF U.S. PATENT NO. 9,484,077)**

20. Plaintiff incorporates paragraphs 1 through 19 herein by reference.

21. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

22. Plaintiff is the owner of the '077 patent with all substantial rights to the '077 patent including the right to enforce, sue, and recover damages for past infringement.

23. The '077 patent is valid, enforceable and was duly issued in fully compliance with Title 35 of the United States Code.

24. Defendant has infringed one or more claims of the '077 patent in this judicial district and elsewhere in Delaware and the United States.

25. In particular, Defendant has infringed at least claim 6 of the '077 patent by, among other things, practicing and/or using hardware that practices the computer implemented method as set forth in claim 6 via Defendant's use of cookies in conjunction with its website ("the Accused Practices").

26. Attached hereto as Exhibit 4, and incorporated herein by reference, is a claim chart detailing how the Accused Practices infringe the '077 patent.

27. Defendant is liable for these infringements of the '077 patent pursuant to 35 U.S.C. § 271.

28. Plaintiff has been damaged as a result of Defendant's infringing conduct described in this Count. Defendant is, thus, liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

**COUNT II**  
**(INFRINGEMENT OF U.S. PATENT NO. 9,484,078)**

29. Plaintiff incorporates paragraphs 1 through 28 herein by reference.

30. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

31. Plaintiff is the owner of the '078 patent with all substantial rights to the '078 patent including the right to enforce, sue, and recover damages for past infringement.

32. The '078 patent is valid, enforceable and was duly issued in fully compliance with Title 35 of the United States Code.

33. Defendant has infringed one or more claims of the '078 patent in this judicial district and elsewhere in Delaware and the United States.

34. In particular, Defendant has infringed at least claims 1 and 2 of the '078 patent by, among other things, practicing and/or using hardware that practices the computer implemented method as set forth in claims 1 and 2 via Defendant's use of cookies in conjunction with its website ("the Accused Practices").

35. Attached hereto as Exhibit 5, and incorporated herein by reference, is a claim chart detailing how the Accused Practices infringe the '078 patent.

36. Defendant is liable for these infringements of the '078 patent pursuant to 35 U.S.C. § 271.

37. Plaintiff has been damaged as a result of Defendant's infringing conduct described in this Count. Defendant is, thus, liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

### **JURY DEMAND**

Plaintiff requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

### **PRAYER FOR RELIEF**

Plaintiff asks that the Court find in its favor and against Defendant and that the Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of the '077 patent and/or the '078 patent have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;
- b. Judgment that Defendant account for and pay to Plaintiff all damages to, and costs incurred by, Plaintiff because of Defendant's infringing activities and other conduct complained of herein, including an accounting for any sales or damages not presented at trial;
- c. That Plaintiff be granted pre-judgment and post judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein; and
- d. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

DATED: June 28, 2019

DEVLIN LAW FIRM LLC

/s/ Timothy Devlin  
Timothy Devlin (No. 4241)  
1526 Gilpin Avenue  
Wilmington, DE 19806  
P. 302-449-9010  
tdevlin@devlinlawfirm.com

***COUNSEL FOR PLAINTIFF  
TMI SOLUTIONS LLC***

OF COUNSEL:

Timothy E. Grochocinski  
Illinois Bar No. 6295055  
tim@nbafirm.com  
Joseph P. Oldaker  
Illinois Bar No. 6295319  
joseph@nbafirm.com  
NELSON BUMGARDNER ALBRITTON PC  
15020 S. Ravinia Ave., Suite 29  
Orland Park, Illinois 60462  
P. 708-675-1975