

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**AERITAS, LLC,**

Plaintiff

v.

**THE HOME DEPOT, INC.**

Defendant

**Case No. 6:19-cv-00412**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Aeritas, LLC (“Aeritas” or “Plaintiff”) files this Complaint for patent infringement against The Home Depot, Inc. (“Home Depot” or “Defendant”), 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.

3. Upon information and belief, Home Depot, is a corporation organized and existing under the laws of the State of Delaware with a principal place of business at 2455 Paces Ferry Road, Atlanta, GA 30339. Defendant operates businesses in multiple locations in this jurisdiction including, but not limited to at in this judicial district at 5605 W Waco Dr, Waco, TX 76710.

## **JURISDICTION AND VENUE**

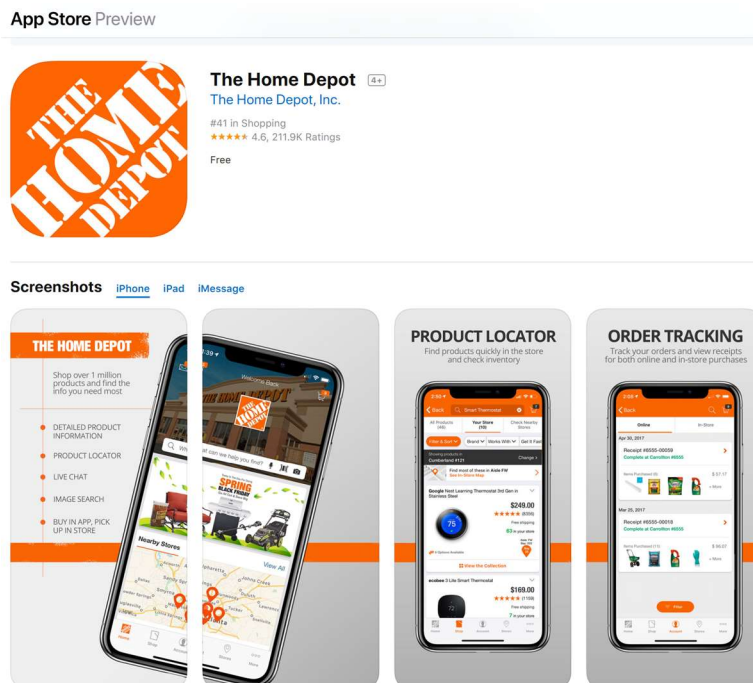
4. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Upon information and belief, Defendant 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 and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

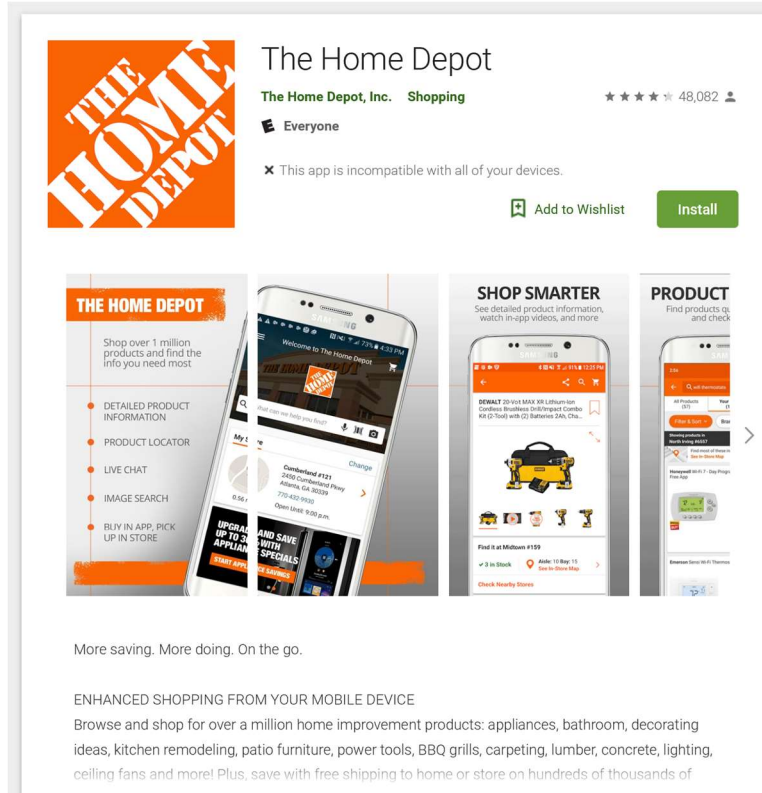
6. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400 because Defendant has committed acts of infringement and has regular and established places of business in this judicial district.

## **OVERVIEW OF THE HOME DEPOT APP**

7. Defendant provides for its customers use the Home Depot App, which is available for use with iOS and Android devices:

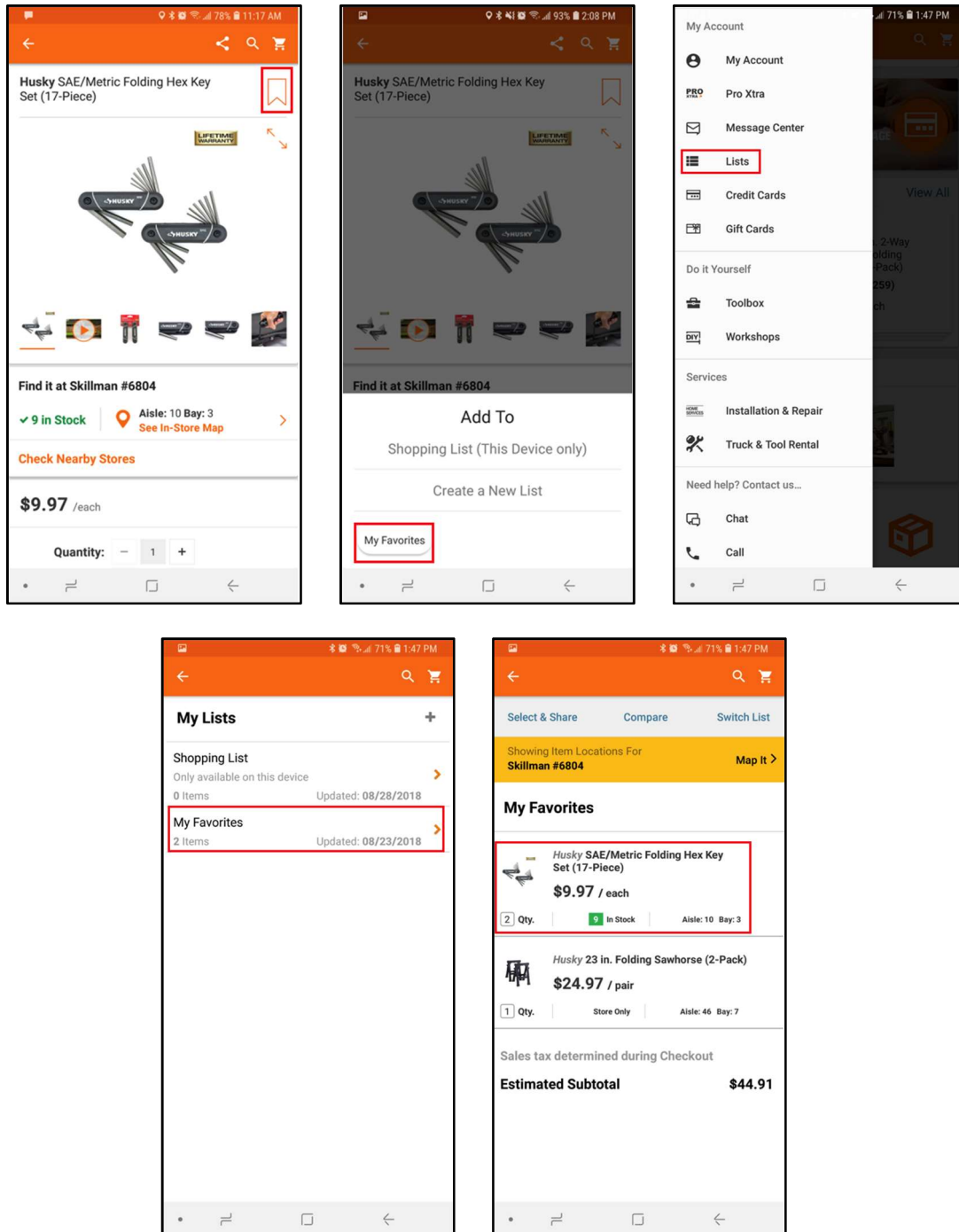


<https://apps.apple.com/us/app/the-home-depot/id342527639>



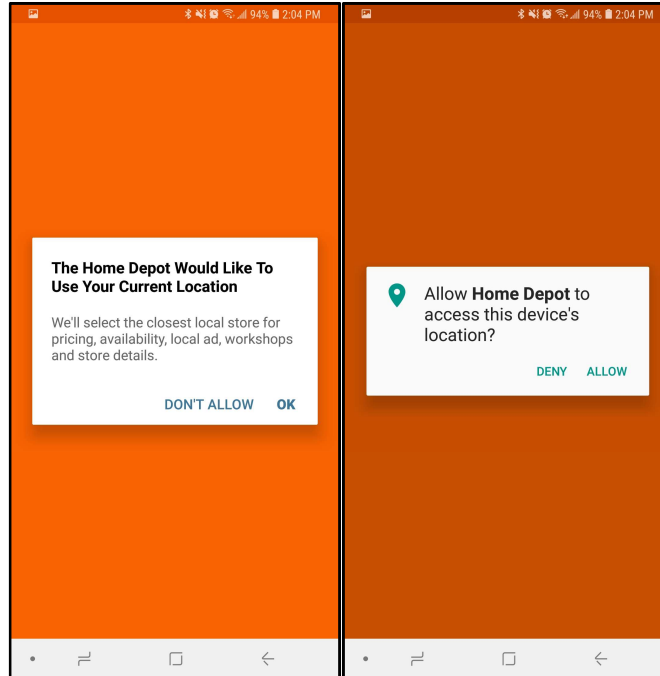
[https://play.google.com/store/apps/details?id=com.thehomedepot&hl=en\\_US](https://play.google.com/store/apps/details?id=com.thehomedepot&hl=en_US)

8. In use of the Home Depot App, Home Depot receives and stores consumer interest data (e.g., items can be added to a favorites list).



(Screen shots of Home Depot App)

9. A Home Depot server asks for permission to access the mobile device's location to determine the location of the mobile device (e.g., upon receiving GPS coordinates from the mobile device).



(Screen shots of Home Depot App)

#### STORE LOCATOR

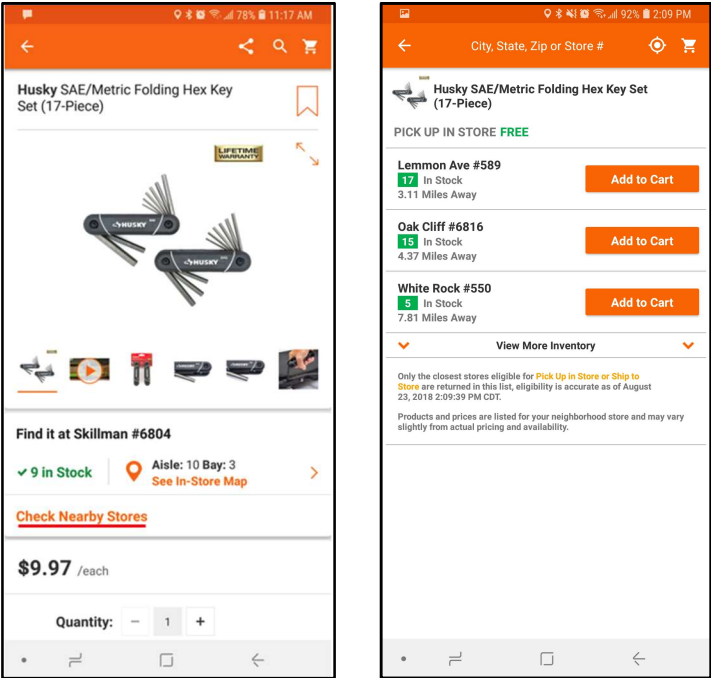
Find the closest Home Depot location by using our Store Finder. It directions, store phone number, hours of operation, and services offered (truck rental, key making, tool rental, etc..).

#### IN STORE EXPERIENCE

If your GPS and location services are turned on, the Home Depot app will detect when you are in the store and provide a special store specific menu that helps you find items in the store, see local ad, and see what workshops are scheduled for that store.

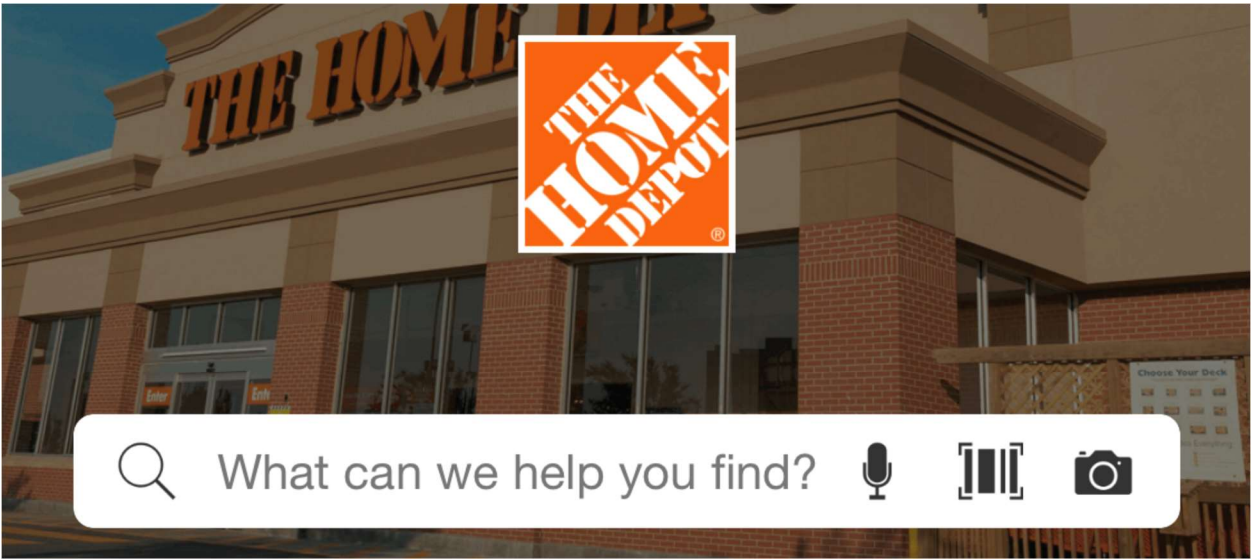
[https://play.google.com/store/apps/details?id=com.thehomedepot&hl=en\\_US](https://play.google.com/store/apps/details?id=com.thehomedepot&hl=en_US)

10. When a user taps the “Check Nearby Stores” link from the product page of a favorited item, Home Depot initiates a search for nearby stores currently stocking the product. The server receives results from the database search and delivers a list of stores with stock of the product.



(Screen shots of Home Depot App)

11. The Home Depot App allows users to search using voice input.



(Screen shots of Home Depot App)

**COUNT I**  
**(Infringement of U.S. Patent No. 7,706,819)**

12. Aeritas incorporates paragraphs 1 through 10 as though fully set forth herein.

13. Plaintiff is the owner, by assignment, of U.S. Patent No. 7,706,819 (the “819 Patent”), entitled MIXED-MODE INTERACTION, which issued on April 27, 2010. A copy of the ’819 Patent is attached as Exhibit A.

14. The ’819 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

15. Defendant has been and is now infringing one or more claims of the ’819 Patent under 35 U.S.C. § 271 by making and using the Home Depot App with users’ iOS and Android devices and the Home Depot servers in the United States without authority.

16. Defendant has also infringed the ’819 Patent by encouraging users of the Home Depot App to use the user’s iOS or Android devices with the Home Depot App to practice the claims of the ’819 Patent.

17. Claim 1 recites:

1. A method comprising:

receiving spoken input from a wireless communication device;

obtaining data identifying a current location of the wireless  
communication device;

based on the current location of the wireless communication device  
and the spoken input, retrieving information;

delivering, to the wireless communication 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; and providing additional information related to the retrieved information in response to receipt of at least one additional input provided via the drill-down menu.

18. More particularly, Defendant infringes at least claim 1 of the '819 Patent. Defendant receives spoken input from a wireless communication device (e.g., when a user searches for a location or specific store using voice input). Defendant 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 and the location of the device on a search result map). Based on the location and the spoken input, Defendant retrieves information (e.g., the nearby availability of stores subject to the voice search). Defendant 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 scroll-down menu by which additional information related to the retrieved information can be obtained (e.g., the nearby stores subject to the voice search, distance to mobile device). Defendant provides additional information related to the retrieved information in response to receipt of at least one additional input provided via the scroll-down menu (e.g., distance and other information about nearby stores in response to selection of the "nearest" link).

19. Aeritas has been damaged by Defendant's infringing activities.



**COUNT II**  
**(Infringement of U.S. Patent No. 8,055,285)**

20. Aeritas incorporates paragraphs 1 through 10 as though fully set forth herein.

21. Plaintiff is the owner, by assignment, of U.S. Patent No. 8,055,285 (the “’285 Patent”), entitled MIXED-MODE INTERACTION, which issued on November 8, 2011. A copy of the ’285 Patent is attached as Exhibit B.

22. The ’285 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

23. Defendant has been and is now infringing one or more claims of the ’285 Patent under 35 U.S.C. § 271 by making and using the Home Depot App with users’ iOS and Android devices and the Home Depot server in the United States without authority.

24. Defendant has also infringed the ’285 Patent by encouraging users of the Home Depot App to use the user’s iOS or Android devices with the Home Depot App to practice the claims of the ’285 Patent.

25. Claim 14 recites:

14. A method, comprising:

at a first time, receiving and storing an input in a user profile in a

database, the input comprising consumer interest data;

at a second time distinct from the first time, obtaining data

identifying a current location of the mobile communication device;

based on the input stored in the user profile and the current location

of the mobile communication device, initiating a search to

locate information pertinent to the input;  
receiving results derived from the search; and  
in response to the input and the search, delivering, by a notification  
server, information to the mobile communications device.

26. More particularly, Defendant infringes at least claim 1 of the '285 Patent. Defendant receives and stores an input in a user profile in a database, the input comprising consumer interest data (e.g., items in "Favorites"). 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 Favorites). Based on the input and location, Defendant performs a search to locate pertinent information (e.g., selection of "Favorites" from the results in a search for nearby stores) and receive the results of such search, distance from mobile device. Defendant then provides the information to the mobile communications device.

27. Aeritas has been damaged by Defendant's infringing activities.

**COUNT III**  
**(Infringement of U.S. Patent No. 9,888,107)**

28. Aeritas incorporates paragraphs 1 through 10 as though fully set forth herein.

29. Plaintiff is the owner, by assignment, of U.S. Patent No. 9,888,107 (the "107 Patent"), entitled MIXED-MODE INTERACTION, which issued on February 6, 2018. A copy of the '107 Patent is attached as Exhibit C.

30. The '107 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

31. Defendant has been and is now infringing one or more claims of the '107 Patent under 35 U.S.C. § 271 by making and using the Home Depot App with users' iOS and Android devices and the Home Depot servers in the United States without authority.

32. Defendant has also infringed the '107 Patent by encouraging users of the Home Depot App to use the user's iOS or Android devices with the Home Depot App to practice the claims of the '107 Patent.

33. Claim 5 recites:

5. Apparatus, comprising:

a processor;

computer memory holding computer program instructions to:

receive first data indicating a permission to provide a mobile device

user a notification, the notification having an associated notification criteria;

at a given time, determine a location of a mobile device;

based at least in part on a determined location of the mobile device

and the notification criteria, to provide to the mobile device

the notification, the notification being associated at the

mobile device with one of: an audible, visual and tactile alert;

receive second data as a result of an input being received at the

mobile device following the notification;

retrieve information associated with the input and the determined

location of the mobile device; and

provide to the mobile device a response to the input, the response

based on the retrieved information;

wherein the computer program instructions comprise a rules engine that comprises first and second components, a first component that evaluates the notification criteria, and a second component that executes notification rules.

34. More particularly, Defendant infringes at least claim 5 of the '107 Patent. On information and belief, Defendant employs a processor and computer memory holding computer program instructions to perform the functions described herein. Defendant 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, Defendant 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, Defendant provides at least a visual alert notification (e.g., a push notification to the mobile device when a user arrives at a Home Depot store). Defendant 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 Home Depot 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).

35. Aeritas has been damaged by Defendant's infringing activities.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against Defendant:

1. declaring that the Defendant has infringed the '819, the '285, and the '107 Patents;
2. awarding Plaintiff its damages suffered as a result of Defendant's infringement of the '819, the '285, and the '107 Patents;
3. awarding Plaintiff its costs, attorneys' fees, expenses, and interest; and
4. granting Plaintiff such further relief as the Court finds appropriate.

**JURY DEMAND**

Plaintiff demands trial by jury, Under Fed. R. Civ. P. 38.

Dated: July 9, 2019

Respectfully submitted,

/s/ Raymond W. Mort, III

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**ATTORNEYS FOR PLAINTIFF  
AERITAS, LLC**