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6 Attorneys for Plaintiff
BRUCE CLAY, Inc.

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10

11 BRUCE CLAY, INC.,

12 Plaintiff,

13 v.

14 SURFER SPÓŁKA Z
15 OGRANICZONĄ
ODPOWIEDZIALNOŚCIĄ,

16 Defendant.

Case No. 2:23-cv-6591

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

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19 Plaintiff Bruce Clay, Inc. (“Bruce Clay” or “Plaintiff”), through its
20 undersigned counsel, hereby files this Complaint against Defendant Surfer spółka z
21 ograniczoną odpowiedzialnością (“Surfer” or “Defendant”) requesting damages and
22 injunctive relief and alleges as follows:

23 **NATURE OF ACTION**

24 1. This is an action for patent infringement arising under the Patent Act
25 (35 U.S.C. § 101 et seq.) for infringement of United States Patent No. 10,698,961
26 (the “’961 Patent” or “Patent-in-Suit”) and to recover damages, attorney’s fees, and
27 costs.
28

1 **PARTIES**

2 2. Plaintiff Bruce Clay, Inc. is a corporation organized and existing under
3 the laws of the State of California, having its principal place of business at 2245
4 First St., Suite 101, Simi Valley, CA 93065.

5 3. Plaintiff provides services, training, and tools relating to search engine
6 optimization (“SEO”) to support organizations in optimizing their websites and
7 digital presence through improved content and the application of SEO methods.
8 Plaintiff’s founder Bruce Clay, who is the named inventor of the ‘961 Patent, was an
9 early pioneer in SEO and has written extensively and taught numerous courses
10 relating to SEO principles and services.

11 4. Plaintiff has developed and offers SEO tools including its
12 SEOToolSet® and individual tools that provide features that include page analysis,
13 site checking, keyword targeting and suggestion, meta details reporting and crawl
14 error reporting. See Bruce Clay, SEO, Tools, <https://www.bruceclay.com/seo/tools/>.

15 5. On information and belief, Defendant is organized and exists under the
16 laws of Poland and has its principal place of business at Plac Solny 14/3 50-062
17 Wrocław. On information and belief, Defendant develops and makes SEO-related
18 products and owns and operates the website www.surferseo.com through which it
19 sells, offers for sale in, and/or imports SEO tools into the United States, specifically
20 including in and to this judicial district, in violation of 35 U.S.C. §271.

21 **JURISDICTION AND VENUE**

22 6. This Court has subject matter jurisdiction over this action under 28
23 U.S.C. §§ 1331 (federal question) and 1338(a) (actions arising under the Patent Act).

24 7. This court has personal jurisdiction over Surfer because, *inter alia*,
25 Surfer has committed acts of infringement within this judicial district by, for
26 example, continuously and consistently offering to sell its infringing product(s)
27 throughout the United States and within this judicial district through its website,
28 <https://surferseo.com>, and by selling its infringing product(s), including those having

1 the Content Editor feature, to resident(s) of California who reside within this judicial
2 district; Surfer conducts business in this judicial district and has purposefully
3 availed itself of the privilege of conducting business in this judicial district, thereby
4 invoking its benefits and protections; Surfer has established sufficient minimum
5 contacts with the State of California such that it should reasonably and fairly
6 anticipate being brought into court in California; and Surfer has purposefully
7 reached out to and directed its activities at residents of California and of this judicial
8 district. The patent infringement claims alleged herein arise out of or result from the
9 foregoing activities.

10 8. Surfer is a foreign corporation that has transacted business and has
11 committed or induced acts of patent infringement in this judicial district. Venue is
12 therefore proper in this district under, at a minimum, 28 U.S.C. §§ 1391(b), (c) and
13 (d).

14 **The Patent-in-Suit**

15 9. United States Patent No. 10,698,961 is titled “Search Engine Parameter
16 Optimization” and was duly and legally issued by the United States Patent and
17 Trademark Office on June 30, 2020. A true and correct copy of the ’961 Patent is
18 attached as **Exhibit A**.

19 10. Plaintiff is the owner by assignment of all right, title and interest in the
20 ’961 Patent, including the right to sue for and recover all past, present and future
21 damages for infringement of said patent.

22 11. The ’961 Patent teaches “systems and methods for optimizing digital
23 content for improved search engine results” (Col. 1:8-9) that, for example, “can
24 augment [a] new document [] to yield a high-ranking and increased-relevance web
25 document” for a particular web search query (Col. 3:53-56).

26 12. The ’961 Patent further teaches the computation of a “web search
27 parameter metric” or “search parameter metric” that is based on analysis of top
28 ranked documents returned for a web search query. (Cols. 7:25-33; 8:42-48). The

1 search parameter metric determines what is rewarded by the search engine
 2 (Abstract) such that the metric can be used to “adapt and optimize a new document
 3 for a web search query” (Col. 8:43-45).

4 13. Figs. 4 and 5 of the ‘961 Patent illustrate a user interface display
 5 showing the search parameter metrics according to an exemplary embodiment, with
 6 Fig. 4 showing on-page recommendations and Fig. 5 showing keyword

FIG. 4

400

On-Page Recommendations	402	428	404	428	406	408	430	410	412	414	416
Keyword	Title (8)	Description (9)	Keywords (10)	Headings (38)	ALT (23)	First Words (200)	Body (474)	All Words (561)			
Phrase 418	12.5% (1)	11.1% (1)	20.0% (2)	2.6% (2)	4.3% (1)	2.5% (5)	1.5% (7)	1.8% (10)			
Keyword 420	12.5% (1)	11.1% (1)	30.0% (3)	7.9% (3)	4.3% (1)	5.0% (10)	3.4% (16)	4.5% (25)			
Keyword Phase 422	25.0% (1)	22.2% (1)	40.0% (2)	5.3% (1)	8.7% (1)	4.0% (4)	2.1% (5)	2.9% (8)			

431 430 426

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500

Keywords 508

Separate Keyword Phrases with commas 504 Add OR Add Keyword Group 504

Keyword 504 Title 504 Meta Description 504 Content 504 Highlight Color 504

Swimming 0 1-3 0 2-4 1 3-9

Olympic 0 1-3 1 2-4 3 3-9

Michael Phelps 1 1-3 1 2-4 1 3-9

Phelps 1 1-3 1 2-4 4 3-9

Save as Keyword Group 506A 506B 506

Legend: Count Goal Goal Met 510

recommendations:

1 14. As the '961 Patent explains, this manner of document optimization “not
2 only facilitates planning for content creation, it improves memory function because
3 irrelevant search optimization content is excluded at content creation; document
4 optimization also significantly improves traffic for any website (for example) with
5 optimized new documents.” (Col. 4:39-44).

6 15. Claim 1, which reflects one embodiment of the '961 Patent, states as
7 follows:

8 A system comprising:

9 a search parameter usage unit that determines, by using one or more
10 processors associated with one or more computing devices, to compute at
11 least one web search parameter metric, the web search parameter metric
12 adapting a new web document and optimizing said new web document for a
13 web search query having a search parameter, the web search parameter metric
14 being computed based on top-ranked web pages returned by the search
15 parameter, and wherein said one web search parameter metric is computed by:
16 a search parameter acquisition unit that identifies and fetches the search
17 parameter from a user input device;
18 a compiling unit that compiles, without user interference, multiple
19 Uniform Resource Locators (URLs) that are returned upon submission of the
20 web search query and search parameter to a selected search engine with each
21 returned URL being associated with highly-ranked web content;
22 a parser unit that upon fetching the highly-ranked web content
23 associated with each returned URL parses each one of said highly-ranked web
24 content as a plurality of tag structures with information associated therewith;
25 a user interface displaying a display menu having at least one display
26 area displaying the at least one web search parameter metric;
27 wherein said search parameter usage unit utilizes the search parameter
28 to perform a statistical analysis of information in each of the tag structures to
determine the at least one web search parameter metric.

24 GENERAL ALLEGATIONS

25 Defendant's Infringing Product

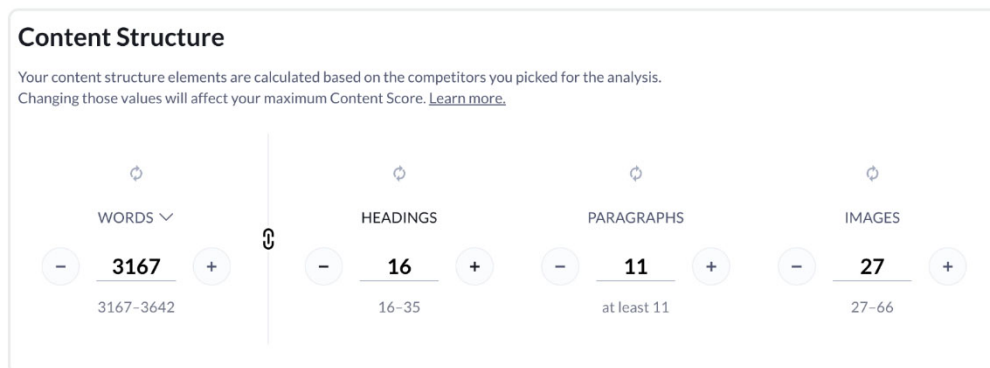
26 16. On information and belief, Surfer is a software company founded in or
27 about 2017. Surfer provides an SEO solution that includes tools that it describes as
28 delivering “a SEO workflow to boost your organic traffic, increase your visibility,

1 and improve your rank.” See Surfer, Homepage, <https://surferseo.com/>. Surfer
 2 states that its product, referred to herein as the Surfer SEO Product, allows users “to
 3 write articles that read well and rank high.” Surfer, Product, Content Editor:
 4 <https://surferseo.com/content-editor/>.

5 17. On information and belief, Surfer began offering a “Content Editor”
 6 feature in its product in or around June 2019. Surfer states the Content Editor
 7 feature allows a user to, *inter alia*, “[g]enerate a list of relevant keywords, create an
 8 outline and write amazingly optimized content while getting real-time feedback
 9 from our Content Editor.” *Id.*

10 18. Surfer states, “Based on top ranking pages, and Surfer's original
 11 algorithms, it generates a list of words and phrases you to include to rank well.”
 12 Surfer, Blog, How To Use Content Editor: [https://surferseo.com/blog/how-to-use-](https://surferseo.com/blog/how-to-use-content-editor/)
 13 [content-editor/](https://surferseo.com/blog/how-to-use-content-editor/).

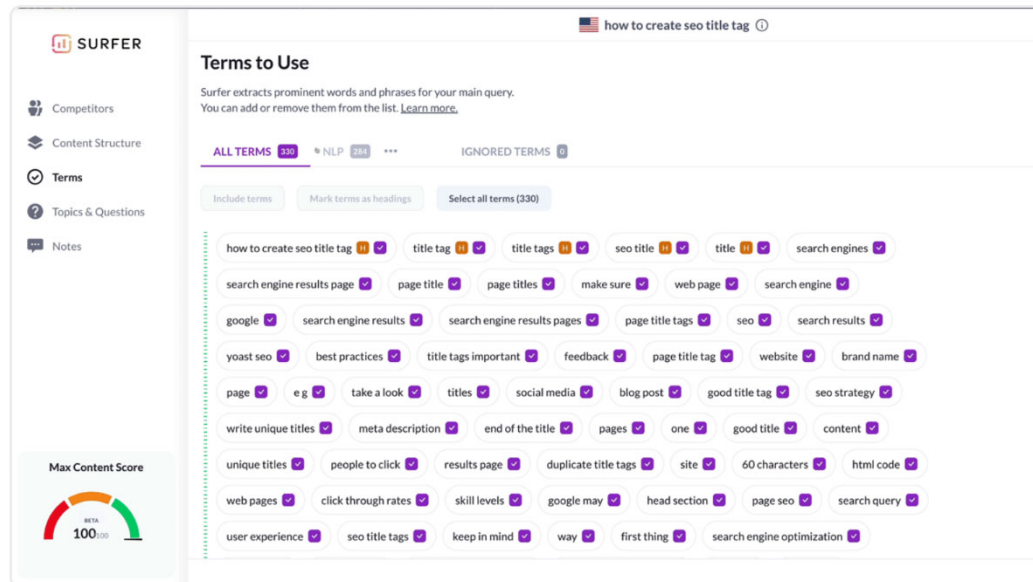
14 19. The Content Editor provides a user display that provides metrics based
 15 on the content structure (*i.e.* the page) as well as terms (*i.e.* keywords), among
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 23 others: Surfer, Blog, How To Use Content Editor: [https://surferseo.com/blog/how-to-](https://surferseo.com/blog/how-to-use-content-editor/)
 24 [use-content-editor/](https://surferseo.com/blog/how-to-use-content-editor/).

25 20. A claim chart showing direct infringement of Claim 1 of the '961
 26 Patent by the Surfer SEO Product, including the Content Editor feature, is attached
 27 as **Exhibit B**.

21. Surfer's website and other marketing materials further provide links and directions to customers to use the Content Editor feature in a manner that



infringes at least one claim of the '961 Patent.

Defendant Received Notice of the '961 Patent and of Its Infringement Thereof

22. Defendant has known of the '961 Patent and of its infringement thereof since at least on or about September 1, 2020, when Bruce Clay's Polish counsel sent a letter to Defendant notifying Defendant of the '961 Patent, informing Defendant that solutions offered through <https://surferseo.com/> were covered by the '961 Patent, and demanding that Defendant cease offering products and services within the United States that are covered by the '961 Patent.

23. Following further communications between attorneys for the parties, counsel for Plaintiff sent a letter to counsel for Defendant on or about October 10, 2022, that, among other things, further detailed Defendant's infringement of the '961 Patent through a claim chart substantially similar to the claim chart attached hereto as Exhibit B.

COUNT I

Infringement of the '961 Patent

24. Plaintiff incorporates and restates the foregoing paragraphs as though fully set forth herein.

25. Defendant has directly infringed at least one claim of the '961 Patent in violation of 35 U.S.C. § 271(a) by, among other things, making, using, selling, offering for sale, and/or importing into the United States at least the Surfer SEO produce which, as detailed in the claim chart attached to this Complaint as Exhibit B meets all limitations of at least claim 1 of the '961 Patent.

26. In addition, and/or in the alternative, Defendant has indirectly infringed at least one claim of the '961 Patent and is continuing to engage in such indirect infringement in violation of 35 U.S.C. § 271(b) by actively and knowingly inducing its customers to directly infringe the '961 Patent through their use of the Surfer SEO product. Defendant induces and continues to induce such infringement by, for example, making its Surfer SEO product available to customers and providing links and directions to use the Content Editor feature in an infringing manner after receiving notice of the '961 Patent and of Surfer's infringement thereof, with knowledge, of its infringement of the '961 Patent and with the intent that said infringement be committed by the users of said product.

27. In addition and/or in the alternative, Defendant has indirectly infringed at least one claim of the '961 Patent and is continuing to engage in such indirect infringement in violation of 35 U.S.C. § 271(c) by, even after receiving notice of the '961 Patent and its infringement thereof, and with knowledge of its infringement of said patent, selling and/or offering to sell the accused products knowing them to be especially made or especially adapted for practicing the invention claimed in the '961 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

1 5. An assessment of pre-judgment and post-judgment interest and costs
2 against Defendant, together with an award of such interest and costs, in accordance
3 with 35 U.S.C. § 284;

4 6. That Defendant be directed to pay enhanced damages, including
5 Plaintiff's attorneys' fees incurred in connection with this lawsuit pursuant to 35
6 U.S.C. § 285;

7 7. And for such other and further relief as the Court may deem just and
8 proper.

9
10 DATED: August 11, 2023

HANSON BRIDGETT LLP

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12
13 By: /s/ Robert A. McFarlane

14 ROBERT A. McFARLANE
15 ROSANNA W. GAN
16 Attorneys for Plaintiff
17 BRUCE CLAY, INC.
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1 **DEMAND FOR JURY TRIAL**

2 Plaintiff Bruce Clay, Inc. hereby demands a trial by jury in this action as to all
3 issues and claims for relief so triable.

4
5 DATED: August 11, 2023

HANSON BRIDGETT LLP

6
7
8 By: /s/ Robert A. McFarlane

9 ROBERT A. McFARLANE

10 ROSANNA W. GAN

11 Attorneys for Plaintiff

12 BRUCE CLAY, INC.
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