

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

ALMONDNET, INC. and DATONICS LLC,

Plaintiffs,

v.

AMAZON.COM, INC., AMAZON.COM
SERVICES LLC, and AMAZON WEB
SERVICES, INC.,

Defendants.

Case No. 6:24-cv-00234

JURY TRIAL DEMANDED

**COMPLAINT FOR PATENT INFRINGEMENT AGAINST AMAZON.COM, INC.,
AMAZON.COM SERVICES LLC, AND AMAZON WEB SERVICES, INC.**

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.*, in which Plaintiffs AlmondNet, Inc. (“AlmondNet”) and Datonics LLC (“Datonics”) (collectively, “Plaintiffs”) make the following allegations against Defendants Amazon.com, Inc. Amazon.com Services LLC, and Amazon Web Services, Inc. (collectively, “Amazon” or “Defendants”):

INTRODUCTION AND PARTIES

1. This complaint arises from Defendants’ unlawful infringement of the following United States patents owned by Plaintiffs, each of which generally relate to novel internet / network based advertising systems and methods: United States Patent Nos. 10,984,445 and 8,494,904 (collectively, the “Asserted Patents”). Plaintiffs owns all right, title, and interest in each of the Asserted Patents to file this case.

2. AlmondNet, Inc. is a corporation organized and existing under the laws of the state

of Delaware, having its place of business at 37-18 Northern Blvd. Suite 404, Long Island City, NY, 11101. Datonics is a limited liability company organized and existing under the laws of the state of Delaware, having its principal place of business at 37-18 Northern Boulevard, Suite 404, Long Island City, New York 11101. AlmondNet, Inc. and Datonics LLC are collectively referred herein as “Plaintiffs.”

3. Founded in 1998, AlmondNet has developed an extensive suite of industry-leading targeted advertising solutions and products, is focused on R&D and the licensing of its extensive portfolio of enabling technology and intellectual property covering numerous areas of the targeting landscape and ecosystem, including profile based bidding, behavioral targeting, online and offline data monetization, addressable advertising, and multi-platform advertising.

4. Datonics is a leading aggregator and distributor of highly granular search, purchase intent, and life-stage data. Datonics offers data users (including ad networks, ad exchanges, demand side platforms, and publishers) pre-packaged or customized keyword-based “data segments” that can facilitate the delivery of advertisements to consumers wherever they go online, with the ads being focused on subjects relevant to the individual consumer yet delivered in a privacy-sensitive way.

5. On information and belief, Defendant Amazon.com, Inc. is a Delaware corporation with a listed registered agent of Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808. Amazon.com Inc. has a principal place of business at 410 Terry Ave. North, Seattle, Washington 98109-5210. Amazon.com Inc. may also be served with process via its registered agent Corporation Service Company 300 Deschutes Way SW Ste 208 MC-CSC1, Tumwater, WA, 98501.

6. On information and belief, Defendant Amazon.com Services LLC (formerly

“Amazon.com Services Inc.” and referred to herein as “Amazon Services”) is a limited liability company organized under the laws of the state of Delaware, with its principal place of business at 410 Terry Avenue North, Seattle, Washington 98109. Amazon Services is a wholly owned subsidiary of Amazon. Amazon Services is registered to do business in the State of Texas and may be served with process via its registered agent in Texas, Corporation Service Company dba CSC-Lawyers Incorporating Service Company at 211 7th Street, Suite 620, Austin, TX 78701-3218. Amazon Services may also be served via its Delaware registered agent Corporation Service Company, 251 Little Falls Dr., Wilmington, Delaware 19808.

7. On information and belief, Amazon Web Services, Inc. is a Delaware corporation with its principal place of business at 410 Terry Ave. North, Seattle, Washington 98109. Amazon Web Services, Inc. may be served through its registered agent Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701. On information and belief, Amazon Web Services, Inc. is registered to do business in the State of Texas and has been since at least May 3, 2006. On information and belief, Amazon Web Services, Inc. is a wholly-owned subsidiary of Amazon.com, Inc.

JURISDICTION AND VENUE

8. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Defendants in this action because Defendants have committed acts within this District giving rise to this action, and have established minimum contacts with this forum such that the exercise of jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice. Defendants, directly and through

subsidiaries or intermediaries, have committed and continue to commit acts of infringement in this District by, among other things, importing, offering to sell, and selling products and services that infringe the Asserted Patents.

10. Venue is proper in this District. For example, Amazon has a regular and established place of business, including, e.g., at Amazon Tech Hub located at 11501 Alterra Parkway, Austin, TX.

FACTUAL ALLEGATIONS

11. AlmondNet attempted to engage Amazon in negotiations, putting Amazon on notice of the '904 patent.

12. On July 24, 2019, AlmondNet sent a communication to Amazon identifying how Amazon infringes numerous patents in AlmondNet's portfolio, including the '904 patent. In this communication, AlmondNet also explained how Amazon could contact AlmondNet to discuss licensing AlmondNet's patent portfolio. No resolution was reached.

13. On October 25, 2019, AlmondNet sent another communication to Amazon again indicating that Amazon infringes numerous patents in AlmondNet's portfolio, including the '904 patent, and again explaining how Amazon could contact AlmondNet to discuss licensing that portfolio. No resolution was reached.

14. Despite AlmondNet's efforts, the parties were unable to resolve the issues raised in these letters and to come to an agreement on appropriate terms for a license to AlmondNet's patents. Thus, AlmondNet was left with no recourse but to file this lawsuit to protect its intellectual property.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 10,984,445

15. AlmondNet realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

16. AlmondNet owns all rights, title, and interest in U.S. Patent No. 10,984,445, titled “providing collected profiles to media properties having specified interests,” issued on April 20, 2021 (“the ’445 patent”). A true and correct copy of the ’445 patent is attached as Exhibit 1.

17. On information and belief, Amazon makes, uses, offers for sale, sells, and/or imports certain products (“Accused Instrumentalities”), such as, e.g., Amazon’s advertising platform and Amazon DSP, that directly infringe, literally and/or under the doctrine of equivalents, claims of the ’445 patent.

18. The infringement of the ’445 patent is also attributable to Amazon. Amazon and/or users of the Accused Instrumentalities direct and control use of the Accused Instrumentalities to perform acts that result in infringement of the ’445 patent, conditioning benefits on participation in the infringement and establishing the timing and manner of the infringement.

19. Amazon also knowingly and intentionally induces infringement of claims of the ’445 patent in violation of 35 U.S.C. § 271(b). Through at least the filing and service of this Complaint, Amazon has had knowledge of the ’445 patent and the infringing nature of the Accused Instrumentalities. Despite this knowledge of the ’445 patent, Amazon continues to make, use, offer for sale, sell, and/or import the Accused Instrumentalities, and to actively encourages and instructs customers and other companies to make, use, offer for sale, sell, and/or import the Accused Instrumentalities in ways that directly infringe the ’445 patent. Amazon does so intending that its customers and end users will commit these infringing acts.

20. Amazon has also infringed, and continues to infringe, claims of the ’445 patent by offering to commercially distribute, commercially distributing, making, and/or importing the

Accused Instrumentalities, which are used in practicing the process, or using the systems, of the patent, and constitute a material part of the invention. Amazon has knowledge of or is willfully blind to the components in the Accused Instrumentalities being especially made or especially adapted for use in infringement of the patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. Accordingly, Amazon is contributorily infringing the '445 patent in violation of 35 U.S.C. § 271(c).

21. The Accused Instrumentalities satisfy all claim limitations of claims of the '445 patent. A claim chart comparing independent claims of the '445 patent to representative Accused Instrumentalities is attached as Exhibit 2, which is incorporated by reference in its entirety.

22. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, Amazon has injured AlmondNet and is liable for infringement of the '445 patent pursuant to 35 U.S.C. § 271.

23. As a result of Amazon's infringement of the '445 patent, AlmondNet is entitled to monetary damages in an amount adequate to compensate for Amazon's infringement, but in no event less than a reasonable royalty for the use made of the invention by Amazon, together with interest and costs as fixed by the Court.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 8,494,904

24. AlmondNet realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

25. AlmondNet owns all rights, title, and interest in U.S. Patent No. 8,494,904, titled "method and stored program for accumulating descriptive profile data along with source information for use in targeting third-party advertisements," issued on July 13, 2013 ("the '904

patent”). A true and correct copy of the ’904 patent is attached as Exhibit 3.

26. On information and belief, Amazon makes, uses, offers for sale, sells, and/or imports certain products (“Accused Instrumentalities”), such as, e.g., Amazon’s advertising platform and Amazon DSP, that directly infringe, literally and/or under the doctrine of equivalents, claims of the ’904 patent.

27. The infringement of the ’904 patent is also attributable to Amazon. Amazon and/or users of the Accused Instrumentalities direct and control use of the Accused Instrumentalities to perform acts that result in infringement of the ’904 patent, conditioning benefits on participation in the infringement and establishing the timing and manner of the infringement.

28. Amazon’s infringement has been and is willful. Amazon knew of, or was willfully blind to, the ’904 patent and the infringing nature of the Accused Instrumentalities before this suit was filed. For example, AlmondNet notified Amazon of the ’904 patent and Amazon’s infringement of the ’904 patent at least as early as July 24, 2019. Despite Amazon’s knowledge of or willful blindness to the ’904 patent and AlmondNet’s allegations of infringement as a result of the 2019 communications as well as the filing of this complaint, Amazon continued to infringe the ’904 patent. In doing so, Amazon knew, or should have known, that its conduct amounted to infringement of the ’904 patent. Accordingly, Amazon is liable for willful infringement.

29. Amazon also knowingly and intentionally induces infringement of claims of the ’904 patent in violation of 35 U.S.C. § 271(b). Amazon had knowledge of, or was willfully blind to, the ’904 patent and the infringing nature of the Accused Instrumentalities at least as early as July 24, 2019, when Amazon received AlmondNet’s communication identifying the ’904 patent and explaining that Amazon infringed numerous patents in AlmondNet’s portfolio, as set forth above. Despite this knowledge of or willful blindness to the ’904 patent and AlmondNet’s

infringement allegations as a result of the 2019 communications as well as the filing of this complaint, Amazon continued to actively encourage and instruct its customers and end users (for example, through user manuals and online instruction materials on its website) to use the Accused Instrumentalities in ways that directly infringe the '904 patent. Amazon did and does so intending that its customers and end users will commit these infringing acts. Amazon also continued to make, use, offer for sale, sell, and/or import the Accused Instrumentalities, despite its knowledge of the '904 patent, thereby specifically intending for and inducing its customers to infringe the '904 patent through the customers' normal and customary use of the Accused Instrumentalities.

30. Amazon has also infringed claims of the '904 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Instrumentalities, which are used in practicing the process, or using the systems, of the patent, and constitute a material part of the invention. Amazon has knowledge of or is willfully blind to the components in the Accused Instrumentalities being especially made or especially adapted for use in infringement of the patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. Accordingly, Amazon has contributorily infringed the '904 patent in violation of 35 U.S.C. § 271(c).

31. The Accused Instrumentalities satisfy all claim limitations of claims of the '904 patent. A claim chart comparing independent claims of the '904 patent to representative Accused Instrumentalities is attached as Exhibit 4, which is incorporated by reference in its entirety.

32. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, Amazon has injured AlmondNet and are liable for infringement of the '904 patent pursuant to 35 U.S.C. § 271.

33. As a result of Amazon's infringement of the '904 patent, AlmondNet is entitled to

monetary damages in an amount adequate to compensate for Amazon's infringement, but in no event less than a reasonable royalty for the use made of the invention by Amazon, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests that this Court enter:

- a. A judgment in favor of Plaintiffs that Amazon has infringed, either literally and/or under the doctrine of equivalents, each of the Asserted Patents;
- b. A judgment in favor of Plaintiffs that Amazon has willfully infringed the '904 patent;
- c. A judgment and order requiring Amazon to pay Plaintiffs their damages, costs, expenses, and pre-judgment and post-judgment interest for Amazon's infringement of each of the Asserted Patents;
- d. A judgment and order requiring Amazon to provide an accounting and to pay supplemental damages to Plaintiffs, including without limitation, pre-judgment and post-judgment interest;
- e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiffs its reasonable attorneys' fees against Amazon; and
- f. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiffs, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: May 3, 2024

Respectfully submitted,

/s/ Reza Mirzaie

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