

does business itself, directly and/or through its subsidiaries, affiliates, franchisees, and agents, in the Eastern District of Texas. On information and belief, Defendant may be served via its registered agent, Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.

JURISDICTION

4. The claims in this action arise under the Patent Laws of the United States, Title 35 of the United States Code. Accordingly, this Court has subject matter jurisdiction over the patent infringement claims in this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Defendant is subject to this Court’s specific and general personal jurisdiction pursuant to the Texas Long Arm Statute, due at least to its substantial business conducted in this forum, directly and/or through one or more of its subsidiaries, affiliates, franchisees, and/or agents, including (i) having solicited business in the State of Texas, transacted business within the State of Texas, and/or attempted to derive financial benefit from residents of the State of Texas, including benefits directly related to the instant patent infringement causes of action set forth herein; (ii) having placed products and services into the stream of commerce throughout the United States and having been actively engaged in transacting business in Texas and in this District; and (iii) either alone or in conjunction with others, having committed acts of infringement within this District and/or induced others to commit acts of infringement within this District. Defendant has, directly and/or through a network of subsidiaries, affiliates, franchisees, and/or agents, purposefully and voluntarily placed infringing products and services in the stream of commerce knowing and expecting them to be purchased and used by consumers in Texas and in this District.

6. On information and belief, Defendant, directly and/or through one or more subsidiaries, affiliates, franchisees, and/or agents, has advertised and continues to advertise

(including through websites), used, offered to sell, sold, distributed, and/or induced the sale and/or use of infringing products and services in the United States and in this District. Defendant has, directly and/or through a distribution network, purposefully and voluntarily placed such products and services in the stream of commerce via established channels knowing and expecting them to be purchased and used by consumers in the United States and this District. Defendant has committed acts of direct infringement in Texas and/or committed indirect infringement based on acts of direct infringement by others in Texas and in this District, including Defendant's subsidiaries, affiliates, franchisees, and/or agents and Defendant's customer-users.

10. Defendant, directly or through its subsidiaries, affiliates, franchisees, and/or agents, owns property in Texas and in this District, including multiple locations of Starbucks coffee shops.

11. On information and belief, Defendant, alone and through the activities of at least its subsidiaries, affiliates, franchisees, and/or agents, conducts business in the United States, including advertising, using, offering to sell, distributing, and selling infringing products and services in this District. Defendant, alone and through at least its subsidiaries, affiliates, franchisees, and agents, place such infringing products and services into the stream of commerce via established channels knowing or understanding that such services would be offered for sale, sold, and/or used in the United States, including in the State of Texas. The exercise of jurisdiction over Defendant would therefore not offend the traditional notions of fair play and substantial justice.

VENUE

12. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c)(2) and 1400(b) because Defendant has a regular and established place of business in this District, including multiple locations of Starbucks coffee shops, and has committed acts of infringement in this District.

THE PATENT-IN-SUIT

13. On August 5, 2015, United States Letters Patent No. 8,799,083 (“the ’083 patent”), entitled “SYSTEM AND METHOD FOR MANAGING RESTAURANT CUSTOMER DATA ELEMENTS,” was duly and legally issued by the United States Patent & Trademark Office. A copy of the ’083 patent is attached hereto as Exhibit A.

14. The ’083 Patent issued from U.S. Patent Application No. 13/534,195, which was filed on June 27, 2012. The inventor of the ’083 patent has assigned all of his rights, title, and interest in and to the ’083 patent to AT.

Overview of the Technology

18. The Patents-in-Suit relate to customer service management systems and methods, particularly systems and methods for customers to order and pay for food items and/or beverages remotely using their mobile phone.

19. As described in the specifications of the Patents-in-Suit, at the time of the invention, the restaurant and hospitality industry was rapidly changing as a result of the change in demographics of the customer base and the introduction of technology. At that time, the traditional experience in which a customer partook when dining out was still the same model that had been employed for hundreds of years.

20. The newer generation of customers (and operators) at that time, however, were from Generation X—these customers were generally educated, highly competent with technology, considered time as a valuable commodity, often impatient, and enjoyed continuous and interactive entertainment. In order to serve those customers and operators, new methodologies for managing the customer experience were required to meet the changing needs. The specification of the

Patents-in-Suit describe these new concepts, capabilities and methodologies for a customer-managed dining experience.

21. At that time, the food and beverage industry was using a suite of disparate technologies to solve a variety of operator related issues. The concept and methodology described in the specification of the Patents-in-Suit integrated many of these various technologies into a single comprehensive solution combined with additional capabilities aimed at improving the customer experience, while putting a portion of the technology solution into the customer's hands.

The Patented Invention

22. As described in the specification of the Patents-in-Suit, the systems and methods of the present invention enable a customer-user to use their mobile phone to interact with the food and beverage business without the involvement of the business's staff.

23. According to certain embodiments, when a customer-user accesses a business's system with their mobile phone, for example through an app or website, a current and up-to-date menu of food items and/or beverages based on the current time of day (*e.g.*, breakfast menu, lunch menu, dinner menu, late night menu, etc.) is uploaded to the customer-user's mobile phone.

24. If logged in and identified to the food and beverage business's system, the it can draw upon past experience of the customer-user, or other information collected from the login process such as demographics, credit limits, etc., to intelligently present the menu and provide or highlight food and/or beverage selections that would be appealing to that particular customer-user. The system could potentially place the intelligent selections at the front of the menu, followed by the regular menu.

25. Once in the menu selection process, customer-users can put together an order on their own. The process for identifying and selecting individual food items and/or beverages can be similar to an internet shopping cart. The menu can include nested hyperlinks or other methods for drilling down for additional details to learn more about one or more particular food item(s), beverage(s), or combination(s) thereof. For example, a main menu might contain a section on hamburgers with a list of potential variations offered, each identified with by an individualized name and/or picture and price. By selecting the name or picture, the device, the restaurant system would provide additional information on that item including, for example, a larger image with details on the ingredients.

26. A customer-user can then choose to add the food item and/or beverage to their order or, alternatively, to return to the previous menu to continue searching for other food items and/or beverages. Additional options for customizing an order could also be provided to a customer-user, such as pull-down menus for having specific ingredients on the side rather than on the main item, substituting certain ingredients for others from a list of choices, and/or requesting additional amounts of one or more ingredients.

27. If a customer-user chooses to order a food item and/or beverage, they can then be returned to the main menu to continue the process of selecting items, to add for example additional beverages or other food items. At any point during the ordering process, a customer-user can review their order, including the current sum of food item and/or beverage prices.

28. Once a customer-user has completed the ordering process, they can confirm their order. Confirming an order causes the restaurant's system to upload a bill to the customer-user's mobile phone. The customer-user then performs a "Self-Checkout" process, in which they review their bill and submit pay therefor bill electronically, for example by entering a credit card number

and certain authentication information into their mobile phone. The restaurant's staff is not involved in this process.

29. Confirming an order also causes the restaurant's system to initiate the process of preparing the specific food items and/or beverages that have been ordered. In the case of a restaurant with multiple locations, the restaurant's system may send the order to a specific location which has been selected by the customer-user.

The Claims are Directed to Patentable Subject Matter

30. The claims are direct to patentable subject matter. For example, the inventions claimed in the '083 patent include a method involving "receiving at least one request of at least one service related to a restaurant menu from a mobile phone; uploading, by a system of a restaurant, a bill for the at least one service to the mobile phone; and performing a self-checkout by a at least one customer whereby payment for the at least one service is submitted by the at least one customer via the mobile phone to the system, wherein the payment is submitted without interaction with staff associated with the restaurant."

The claims are directed to a solving an existing problem with food and beverage ordering systems

31. The inventions claimed in the Patents-in-Suit are directed to a specific way of processing an order for food items and/or beverages without the involvement of the staff of the restaurant. This is a substantial improvement over prior restaurant ordering systems.

32. More specifically, as described in the specification of the Patents-in-Suit, the claimed invention eliminates the need for restaurant staff to be involved in payment processing and/or collection, thereby reducing costs and increasing efficiency. That is, as described in the specification of the Patents-in-Suit, the claimed invention enables a customer to purchase food items and/or beverages from a restaurant completely autonomously. This is a substantial

improvement over prior restaurant ordering systems which required the involvement of one or more members of the restaurant's staff and therefore represents a significant potential cost-savings to the restaurant owner as well as reducing the possibility of errors in a customer's order and/or in payment processing.

The claims are not directed to an abstract idea or law of nature

33. The claims of the 'Patents-in-Suit are not directed to an abstract idea or law of nature.

34. For example, Claim 1 of the '083 patent is directed to method of processing an order for food items and/or beverages without the involvement of the staff of the restaurant. Processing an order food items and/or beverages is not a law of nature and the specific way in which the claimed method enables such processing, *i.e.*, by the customer submitting the payment for their order through their mobile phone, and thereby paying for their order without the involvement of any restaurant staff, is not abstract.

The claims do not preempt their field

35. The claims of the Patents-in-Suit do not merely recite a generic way of processing an order for food items and/or beverages. Rather, the claimed inventions are directed to a specific way of ordering and paying for food items via a customer's mobile phone, thereby eliminating the need for restaurant staff to be involved in the processing of or collection of payment for an order for food items or beverages.

36. Alternative ways exist and are known for processing an order for food items and/or beverages. Prior to the inventions claimed in the Patents-in-Suit, for example, restaurant staff members were responsible for processing and collecting payment for orders for food items and/or beverages. Even with respect to the more specific concept of remote payments for orders of food

items and/or beverages, a POSITA knows and understands other ways in which this can be accomplished other than through the customer's mobile phone, for example, via a remote terminal.

The claimed method could not be performed mentally or by hand

37. The very essence of the claimed method is that it does not require any involvement of the staff of the restaurant, *i.e.*, the customer can pay for their food items and/or beverages completely autonomously. A POSITA would know and understand that the claimed method could not possibly be performed mentally or by hand.

DEFENDANT'S SYSTEM AND SERVICES

38. On information and belief, Defendant owns the world's most prominent and iconic coffee shops — Starbucks. This includes Starbucks Reserve, as defined at https://www.starbucksreserve.com/menus?gad_source=1&gbraid=0AAAAADoJV5tn_NRoZceH10baXrZokAGRn&gclid=CjwKCAjwmaO4BhAhEiwA5p4YL0_hlkWPxq08qKG7hX88TKE-SpdTNZKHuuYm_6uXxgkVqgaPTYdrRoCdI4QAvD_BwE.

39. On information and belief, Defendant offers a mobile app and supporting systems (“Accused Instrumentalities”) through which customers can use their mobile phones to place and pay for orders for food items and/or beverages.

40. On information and belief, the Accused Instrumentalities offered by Defendant provides a menu (or menus) from which a customer can select one of more food items and/or beverages and then uploads a bill for those selected food items and/or beverages to the customer's mobile phone, which the customer pays via his/her mobile phone.

41. Despite not having a license to the Patents-in-Suit, Defendant offers Accused Instrumentalities that incorporate the technology covered by the claims of the Patents-in-Suit.

FIRST CAUSE OF ACTION
(Infringement of the '083 Patent)

42. AT hereby repeats and re-alleges the allegations contained in paragraphs 1 to 41 as if fully set forth herein.

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

44. The '083 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

45. Upon information and belief, Starbucks has infringed and continues to infringe one or more claims, including at least Claim 1, of the '083 Patent by manufacturing, using, importing, selling, offering for sale, and/or providing (as identified in the Claim Chart attached hereto as Exhibit C) the Accused Instrumentalities.

46. Specifically, and as an example, Starbucks's mobile app infringes at least method claim 1 of the '083 Patent, as shown in **Exhibit B**. For example, the step of "receiving at least one request of at least one service related to a restaurant menu from a mobile phone" in Claim 1 ("Element 1.P") is performed by Starbucks' mobile app that allows users to order a meal ("service") from the restaurant menu displayed within the application ("receiving at least one request of at least one service related to a restaurant menu"). *See Exhibit B, pp. 2-5.*

47. The step of "uploading, by a system of a restaurant, a bill for the at least one service to the mobile phone" in Claim 1 ("Element 1.1") is performed by a system of Starbucks. For example, after selection of the meal options, the user receives the bill for the ordered meal ("bill for the at least one service") through the Starbucks application ("a system of a restaurant") installed on the user's smartphone. *See Exhibit B, pp. 5-6.*

48. The step of "performing a self-checkout by a at least one customer whereby payment for the at least one service is submitted by the at least one customer via the mobile phone

to the system, wherein the payment is submitted without interaction with staff associated with the restaurant” in Claim 1 (“Element 1.2”) is performed by Starbucks’ mobile app. For example, once the user receives the bill, Starbucks’ mobile app allows the user to pay the bill through a checkout option (“self-checkout by at least one customer”) where the user pays the bill (“payment”) through multiple payment methods such as a credit card, debit card or a PayPal account (“payment is submitted without interaction with the staff associated with the restaurant”). See **Exhibit B**, pp. 7-9.

49. To the extent that it is determined that the steps in Element 1.2 is not performed by Starbucks (which AT asserts they are) but are rather performed by customer, AT asserts that Starbucks still directly infringes at least Claim 1 of the ’083 Patent. The Federal Circuit has held that there are circumstances in which others’ acts may be attributed to an accused infringer to support direct infringement liability for divided infringement. See *Travel Sentry, Inc. v. Tropp*, 877 F.3d 1370, 1381 (Fed. Cir. 2017).

50. Specifically, the Federal Circuit held that if a third party, hoping to obtain access to certain benefits, can only do so if it performs certain steps identified by the accused infringer, and does so under the terms prescribed by the accused infringer, then this can result in direct infringer liability for divide infringement. *Id.* at 1380. Starbucks distributes product literature and website materials instructing customers and others as to how to use its products in the customary and intended manner that satisfies Element 1.2. See **Exhibit B** (extensively referencing these materials to demonstrate how they direct customers to use its products in an infringing manner). Customers must perform these steps in order to obtain the benefits of contactless payment.

51. Starbucks also has and continues to directly infringe, literally or under the doctrine of equivalents, one or more claims, including at least Claim 1, of the '083 Patent, by having its employees internally test and use the Accused Instrumentalities.

52. Defendant's direct infringement of the '083 patent has injured AT and AT is entitled to recover damages adequate to compensate for that infringement in an amount to be proven at trial, but not less than a reasonable royalty.

PRAYER FOR RELIEF

Wherefore, AT respectfully prays this Court enter judgment in its favor on each and every Claim for Relief and award to AT relief, including, but not limited to, the following:

- A. Enter judgment for Plaintiff on this Complaint on all cases of action asserted herein;
- B. Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receives notice of the order from further infringement of the Patent-in-Suit;
- C. Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284; and
- D. Entry of judgment in favor of AT, and against Defendant, awarding AT such other relief the Court deems just, equitable, and proper.

DEMAND FOR A JURY TRIAL

AT requests a trial by jury, under Rule 38 of the Federal Rules of Civil Procedure, for all issues so triable.

Dated: October 11, 2024

Respectfully Submitted,

/s/ Randall Garteiser

Randall Garteiser

Texas Bar No. 24038912

rgarteiser@ghiplaw.com

M. Scott Fuller

Texas Bar No. 24036607

sfuller@ghiplaw.com

GARTEISER HONEA, PLLC

119 W. Ferguson Street

Tyler, Texas 75702

Telephone: (903) 705-7420

Facsimile: (903) 405-3999

COUNSEL FOR PLAINTIFF