

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM, INC. and A9.COM, INC.,

Plaintiffs,

v.

CENDANT CORPORATION;
TRILEGIANT CORPORATION; ORBITZ,
LLC; ORBITZ, INC.; BUDGET RENT A
CAR SYSTEM, INC.; and AVIS RENT A
CAR SYSTEM, INC.,

Defendants.

No.

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

Plaintiffs Amazon.com, Inc. ("Amazon.com") and A9.com, Inc. ("A9.com") for their Complaint against Cendant Corporation ("Cendant"), Trilegiant Corporation ("Trilegiant"), Orbitz, LLC and Orbitz, Inc. ("Orbitz"), Budget Rent A Car System, Inc. ("Budget"), and Avis Rent a Car System, Inc. ("Avis"), allege the following:

NATURE OF THE ACTION

1. This is a civil action for the infringement of United States Patents Nos. 5,715,399 ("the '399 Patent"), 6,029,141 ("the '141 Patent"), 6,629,079 ("the '079 Patent"), and 6,625,609 ("the '609 Patent") (collectively, the "Patents-in-Suit"), brought pursuant to the patent laws of the United States, Title 35 of the United States Code.

PARTIES

2. Plaintiff Amazon.com is a corporation duly organized and existing under the laws of Delaware, and has its principal place of business at 1200 Twelfth Avenue South, Seattle, Washington. Amazon.com is a leading online retailer providing consumers with the largest selection of products available for online purchase through the Internet. Since its launch in 1995, Amazon.com has been a pioneer in the field of electronic commerce (“e-commerce”). Industry observers have lauded Amazon.com’s creative and innovative technological solutions in the field and the United States Patent and Trademark Office has issued to Amazon.com patents for its technical innovations. Amazon.com owns, by valid assignment, all rights, title and interest in the ‘399 Patent, the ‘141 Patent, and the ‘079 Patent.

3. Plaintiff A9.com is a corporation duly organized and existing under the laws of Delaware, and has its principal place of business at 130 Lytton Avenue, Suite 300, Palo Alto, California 94301. A9.com is a wholly owned subsidiary of Amazon.com established to research and build innovative search technologies. A9.com owns, by valid assignment, all rights, title, and interest in the ‘609 Patent.

4. On information and belief, defendant Cendant is a Delaware corporation with its principal place of business at Nine West Fifty-Seventh Street, New York, New York. On information and belief, defendant Cendant is a world-wide provider of real estate, travel, and marketing services. On information and belief, Cendant is the parent corporation owner in whole or in part of defendants Trilegiant, Orbitz, Budget, and Avis. Cendant has entered the e-commerce space with some of its businesses, which operate websites such as, for example www.orbitz.com and www.cheaptickets.com for travel services, www.avis.com and www.budget.com for car rentals, and www.netmarket.com and www.avgautostore.com for consumer goods among many others. Cendant, through its various real estate, travel, and

1 marketing businesses, conducts business throughout the United States, including in this
2 district.

3 5. On information and belief, defendant Trilegiant Corporation is a Delaware
4 corporation with its principal place of business at One Campus Drive, Parsippany, New
5 Jersey. On information and belief, Trilegiant is the successor to Cendant Membership
6 Services, Inc. and Cendant Incentives and is a wholly owned subsidiary of Cendant.
7 Trilegiant describes itself as a membership-based provider of travel, shopping, health, dental,
8 entertainment, and consumer protection services. Trilegiant provides products and services
9 through its membership club and loyalty product businesses and programs. On information
10 and belief, Trilegiant operates websites for its e-commerce businesses and programs,
11 including but not limited to, www.trilegiantaffiliates.com, www.netmarket.com,
12 www.completehome.com, and www.avgautostore.com, among others. On information and
13 belief, Trilegiant transacts business, including operating its websites, selling discounted
14 consumer goods, providing marketing services for other businesses, providing credit card and
15 purchase protection services among other things, throughout the United States, including
16 within the boundaries of this district.

17 6. On information and belief, defendants Orbitz, LLC and Orbitz, Inc. (“Orbitz”)
18 are Delaware limited liability company and corporation with principal place of business at
19 200 South Wacker Drive, Chicago, Illinois. On information and belief, Orbitz is a wholly
20 owned subsidiary of Cendant. Orbitz describes itself as an online travel company that
21 provides customers with e-commerce tools for the selection and purchase of airline tickets,
22 lodging, car rentals, cruises, vacation packages, and other travel services. On information and
23 belief, Orbitz operates the www.orbitz.com website as part of its online travel business.
24 Orbitz transacts business, including selling airline tickets, providing rental car and hotel
25 reservations, and operating its website among other things, throughout the United States,
26 including within the boundaries of this district.

1 7. On information and belief, defendant Budget Rent A Car System, Inc., is a
2 Delaware corporation with its principal place of business at Six Sylvan Way, Parsippany,
3 New Jersey. On information and belief, Budget is a wholly owned subsidiary of Cendant.
4 Budget describes itself as the owner and franchiser of one of the world's best-known car
5 rental brands with nearly 2,000 car rental locations in the United States and other countries.
6 On information and belief, Budget operates the www.budget.com website as part of its car
7 rental business. Budget transacts business, including operating its website, renting cars and
8 franchising its brand throughout the United States, including within the boundaries of this
9 district.

10 8. On information and belief, defendant Avis Rent A Car System, Inc., is a
11 Delaware corporation with its principal place of business at Six Sylvan Way, Parsippany,
12 New Jersey. On information and belief, Avis is a wholly owned subsidiary of Cendant. Avis
13 describes itself as a general-use car rental business, providing customers with a wide range of
14 car rental services. On information and belief, Avis operates the www.avis.com website as
15 part of its car rental business. Avis transacts business, including operating its website, renting
16 cars and operating car rental facilities at airports and other sites throughout the United States,
17 including within the boundaries of this district.

18 **JURISDICTION**

19 9. This is an action for patent infringement arising under the Patent Laws of the
20 United States, Title 35 of the United States Code. Therefore, this court has subject matter
21 jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

22 **VENUE**

23 10. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c) and
24 1400(b).

CLAIMS FOR RELIEF

First Claim for Relief for Infringement of the '399 Patent

11. Plaintiffs incorporate by reference Paragraphs 1 through 10 above as if fully set forth herein.

12. On February 3, 1998, United States Patent No. 5,715,399, titled "Secure Method and System for Communicating a List of Credit Cards Numbers Over a Non-Secure Network" was duly and legally issued to plaintiff Amazon.com. A copy of the '399 Patent is attached to this Complaint as Exhibit 1. Amazon.com has been and still is the owner of the '399 Patent, which is still in full force and effect.

13. Plaintiffs have provided statutory notice of the '399 Patent via a listing of the patent number on one or more of their websites.

14. Upon information and belief, defendants Cendant, Trilegiant, Orbitz, and Avis have been, currently are, and will continue to directly and/or indirectly infringe, solely or jointly with others, or induce others to infringe one or more claims of the '399 Patent by directly or indirectly, individually or jointly, using or causing to be used plaintiffs' patented credit card number transmission methods and systems in the operation of their businesses, including but not limited to the operation of the www.orbitz.com, www.avis.com, and www.avgautostore.com websites.

15. Defendants' acts of infringement are willful as defendants know or should have known of the '399 Patent and that the operation of their businesses infringe the '399 Patent.

16. As a direct and proximate consequence of defendants' infringement and willful infringement of the '399 Patent, plaintiffs have suffered and will continue to suffer irreparable injury and damages, in an amount not yet determined, for which plaintiffs are entitled to relief. Accordingly, pursuant to 35 U.S.C. § 284, plaintiffs are entitled to damages and treble

1 damages. Plaintiffs are also entitled to preliminary and final injunctive relief against further
2 infringement.

3 **Second Claim for Relief for Infringement of the '141 Patent**

4 17. Plaintiffs incorporate by reference Paragraphs 1 through 16 above as if fully
5 set forth herein.

6 18. On February 22, 2000, United States Patent No. 6,029,141, titled "Internet-
7 based Customer Referral System" was duly and legally issued to plaintiff Amazon.com. A
8 copy of the '141 Patent is attached to this Complaint as Exhibit 2. Amazon.com has been and
9 still is the owner of the '141 Patent, which is still in full force and effect.

10 19. Plaintiffs have provided statutory notice of the '141 Patent via a listing of the
11 patent number on one or more of their websites.

12 20. Upon information and belief, defendants Cendant, Trilegiant, Orbitz, and
13 Budget have been, currently are, and will continue to directly and/or indirectly infringe,
14 individually or jointly with others, or induce others to infringe one or more claims of the
15 '141 Patent by directly or indirectly, individually or jointly, using or causing to be used
16 plaintiff's patented Internet-based customer referral methods and systems in the operation
17 their online e-commerce businesses, including but not limited to the operation of the
18 www.trilegiantaffiliates.com, www.orbitz.com, and www.budget.com websites.

19 21. Defendants' acts of infringement are willful as Cendant, Trilegiant, Orbitz,
20 and/or Budget know or should have known of the '141 Patent and that its online e-commerce
21 businesses infringe the '141 Patent.

22 22. As a direct and proximate consequence of defendants' infringement and willful
23 infringement of the '141 Patent, plaintiffs have suffered and will continue to suffer irreparable
24 injury and damages, in an amount not yet determined, for which plaintiffs are entitled to
25 relief. Accordingly, pursuant to 35 U.S.C. § 284, plaintiffs are entitled to damages and treble
26

1 damages. Plaintiffs are also entitled to preliminary and final injunctive relief against further
2 infringement.

3 **Third Claim for Relief for Infringement of the '079 Patent**

4 23. Plaintiffs incorporate by reference Paragraphs 1 through 22 above as if fully
5 set forth herein.

6 24. On September 30, 2003, United States Patent No. 6,629,079, titled "Method
7 and System for Electronic Commerce Using Multiple Roles" was duly and legally issued to
8 plaintiff Amazon.com. A copy of the '079 Patent is attached to this Complaint as Exhibit 3.
9 Amazon.com has been and still is the owner of the '079 Patent, which is still in full force and
10 effect.

11 25. Upon information and belief, defendants Cendant and Orbitz have been,
12 currently are, and will continue to directly and indirectly infringe, individually or jointly with
13 others, or induce others to infringe one or more claims of the '079 Patent by directly or
14 indirectly, individually or jointly, using or causing to be used plaintiffs' patented multiple
15 roles e-commerce methods and systems in the operation of their online e-commerce
16 businesses, including but not limited to the operation of the www.orbitz.com website.

17 26. Defendants' acts of infringement are willful as Cendant and/or Orbitz know or
18 should have known of the '079 Patent and that their online businesses infringe the
19 '079 Patent.

20 27. As a direct and proximate consequence of defendants' infringement and willful
21 infringement of the '079 Patent, plaintiffs have suffered and will continue to suffer irreparable
22 injury and damages, in an amount not yet determined, for which plaintiffs are entitled to
23 relief. Accordingly, pursuant to 35 U.S.C. § 284, plaintiffs are entitled to damages and treble
24 damages. Plaintiffs are also entitled to preliminary and final injunctive relief against further
25 infringement.

Fourth Claim for Relief for Infringement of the '609 Patent

28. Plaintiffs incorporate by reference Paragraphs 1 through 27 above as if fully set forth herein.

29. On September 23, 2003, United States Patent No. 6,625,609, titled "Method and System for Navigating Within a Body of Data Using One of a Number of Alternative Browse Graphs" was duly and legally issued to plaintiff Amazon.com. A copy of the '609 Patent is attached to this Complaint as Exhibit 4. Amazon.com has been the owner of the '609 Patent and duly transferred its ownership to plaintiff A9.com, who still retains full ownership of the '609 Patent. The '609 Patent is still in full force and effect.

30. Upon information and belief, defendants Cendant and Orbitz have been, currently are, and will continue to directly and indirectly infringe, individually or jointly with others, or induce others to infringe one or more claims of the '609 Patent by directly or indirectly, individually or jointly, using or causing to be used plaintiff's patented browse-graph-based navigation methods and systems in the operation of their online e-commerce businesses, including but not limited to the operation of the www.orbitz.com website.

31. Defendants' acts of infringement are willful as Cendant and/or Orbitz know or should have known of the '609 Patent and that their online businesses infringe the '609 Patent.

32. As a direct and proximate consequence of defendants' infringement and willful infringement of the '609 Patent, plaintiffs have suffered and will continue to suffer irreparable injury and damages, in an amount not yet determined, for which plaintiffs are entitled to relief. Accordingly, pursuant to 35 U.S.C. § 284, plaintiffs are entitled to damages and treble damages. Plaintiffs are also entitled to preliminary and final injunctive relief against further infringement.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs Amazon.com and A9.com pray for the following relief against defendants:

A. For entry of a judgment declaring that Cendant and Orbitz have infringed one or more claims of the '399 Patent, the '141 Patent, the '079 Patent, and the '609 Patent, that defendant Trilegiant has infringed one or more claims of the '399 Patent and the '141 Patent, that defendant Avis has infringed one or more claims of the '399 Patent, and that defendant Budget has infringed one or more claims of the '141 Patent;

B. For preliminary and permanent injunctive relief restraining and enjoining defendants and their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from any further infringement of the '399 Patent, the '141 Patent, the '079 Patent, and the '609 Patent;

C. For damages to compensate plaintiffs for defendants' infringement, pursuant to 35 U.S.C. § 284, said damages to be trebled because of defendants' willful infringement;

D. For an award of pre-judgment and post-judgment interest and costs to plaintiffs in accordance with 35 U.S.C. § 284;

E. For an award of plaintiffs' reasonable attorneys' fees pursuant to 35 U.S.C. § 285;

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1 F. For such other and further relief as the Court may deem just and fair.

2 Dated: June 22, 2005.

3 PRESTON GATES & ELLIS, LLP

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5 By: _____
6 David T. McDonald, WSBA # 5260

7 Lynn H. Pasahow (pending *pro hac vice*)
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DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38, plaintiff Amazon.com, Inc. demands a jury trial as to all matters triable of right by a jury.

Dated: June 22, 2005.

PRESTON GATES & ELLIS, LLP

By: _____
David T. McDonald, WSBA # 5260

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