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7 Attorneys for Plaintiff  
8 ESSOCIATE, INC.

BY: \_\_\_\_\_  
2009 MAY -5 PM 3:14  
CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
SANTA ANA

FILED

9  
10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 ESSOCIATE, INC., a Delaware  
13 corporation,

14 Plaintiff,

15 v.

16 CLICKXCHANGE CORPORATION, a  
California corporation; ROI  
17 ROCKET.COM, LLC, a Florida limited  
liability company; ROI ROCKET INC., a  
18 Florida corporation; CX DIGITAL  
MEDIA INC., an Ontario, Canada  
19 corporation; KBJ HOLDINGS, LLC, a  
Pennsylvania limited liability company  
20 d/b/a PEPPERJAM NETWORK; and  
CAPITALL MARKETING NETWORK  
21 LLC, a Delaware limited liability  
company;

22 Defendants.

Case No. SACV09 -536 JVS (MLGx)

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

23 ESSOCIATE, INC. ("Essociate" or "Plaintiff") hereby alleges for its  
24 complaint against CLICKXCHANGE CORPORATION, a California corporation;  
25 ROI ROCKET.COM, LLC, a Florida limited liability company; ROI ROCKET  
26 INC., a Florida corporation; CX DIGITAL MEDIA INC., an Ontario, Canada  
27 corporation; KBJ HOLDINGS, LLC, a Pennsylvania limited liability company  
28 d/b/a PEPPERJAM; and CAPITALL MARKETING NETWORK LLC, a

BY FAX

1 Delaware limited liability company (collectively, “Defendants”) upon personal  
2 information as to Plaintiff’s own activities, and upon information and belief as to  
3 the activities of others, as follows:

4 **I. NATURE OF THE CASE**

5 1. This is a claim for patent infringement arising under the patent laws of  
6 the United States, Title 35 of the United States Code.

7 **II. JURISDICTION AND VENUE**

8 2. This Court has exclusive subject matter jurisdiction over this action  
9 pursuant to 28 U.S.C. §§ 1331 and 1338(a).

10 3. Personal jurisdiction over Defendants is proper in this court. Venue is  
11 proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), (c) and/or 1400(b).

12 **III. PARTIES**

13 4. Plaintiff Essociate, Inc. is a Delaware corporation with its principal  
14 business address at 4630 Geary Boulevard, Suite 101-A, San Francisco, California  
15 94118.

16 5. Essociate is the owner of U.S. Patent No. 6,804,660 (the “ ‘660  
17 Patent”), entitled “System Method and Article of Manufacture for Internet Based  
18 Affiliate Pooling”, issued October 12, 2004 (copy attached as Exhibit A).

19 6. Essociate is the owner of the entire right, title, and interest in the ‘660  
20 Patent and has standing to sue for all past, present, and future infringement of the  
21 ‘660 Patent.

22 7. Upon information and belief, Defendant CLICKXCHANGE  
23 CORPORATION is a California corporation with its headquarters and principal  
24 business address at 3419 Via Lido, #461, Newport Beach, CA 92663. Upon  
25 information and belief, CLICKXCHANGE CORPORATION transacts business  
26 and has provided to customers in this judicial district and throughout the State of  
27 California products and/or services that infringe and/or induce infringement of,  
28 and/or contribute to infringement of, one or more claims of the ‘660 Patent.

1           8.     Upon information and belief, Defendant ROI ROCKET.COM, LLC is  
2 a Florida limited liability company with its headquarters and principal business  
3 address at 8505 Baycenter Road Ste. 225, Jacksonville, FL 32256. Upon  
4 information and belief, ROI ROCKET.COM, LLC transacts business and has  
5 provided to customers in this judicial district and throughout the State of California  
6 products and/or services that infringe and/or induce infringement of, and/or  
7 contribute to infringement of, one or more claims of the ‘660 Patent.

8           9.     Upon information and belief, Defendant ROI ROCKET INC. is a  
9 Florida corporation with its headquarters and principal business address at 7128  
10 NW 14<sup>th</sup> Ave., Gainesville, FL 32605. Upon information and belief, ROI  
11 ROCKET INC. transacts business and has provided to customers in this judicial  
12 district and throughout the State of California products and/or services that infringe  
13 and/or induce infringement of, and/or contribute to infringement of, one or more  
14 claims of the ‘660 Patent.

15          10.    Upon information and belief, Defendant CX DIGITAL MEDIA INC.  
16 is an Ontario, Canada corporation with its headquarters and principal business  
17 address at 5775 Yonge Street, Suite 600, Toronto, Ontario, M2M 4J1, Canada, and  
18 an office in San Diego, California. Upon information and belief, CX DIGITAL  
19 MEDIA INC. transacts business and has provided to customers in this judicial  
20 district and throughout the State of California products and/or services that infringe  
21 and/or induce infringement of, and/or contribute to infringement of, one or more  
22 claims of the ‘660 Patent.

23          11.    Upon information and belief, Defendant KBJ HOLDINGS, LLC is a  
24 Pennsylvania limited liability company doing business as “PEPPERJAM  
25 NETWORK” with its headquarters and principal business address at 7 South Main  
26 Street, Floor 3, Wilkes-Barre, PA 18701. Upon information and belief, KBJ  
27 HOLDINGS, LLC transacts business and has provided to customers in this judicial  
28 district and throughout the State of California products and/or services that infringe

1 and/or induce infringement of, and/or contribute to infringement of, one or more  
2 claims of the '660 Patent.

3 12. Upon information and belief, Defendant CAPITALL MARKETING  
4 NETWORK LLC is a Delaware limited liability company with its headquarters  
5 and principal business address in Wilmington, Delaware. Upon information and  
6 belief, CAPITALL MARKETING NETWORK LLC transacts business and has  
7 provided to customers in this judicial district and throughout the State of California  
8 products and/or services that infringe and/or induce infringement of, and/or  
9 contribute to infringement of, one or more claims of the '660 Patent.

10 13. Upon information and belief, Defendants, and each of them,  
11 manufacture, import into the United States, sell, offer for sale, and/or use software  
12 products that infringe one or more claims of the '660 Patent. Upon information  
13 and belief, such software products are offered for sale to customers in this judicial  
14 district and throughout the state of California.

15 **IV. DEFENDANTS' INFRINGEMENT OF THE '660 PATENT**

16 14. Upon information and belief, each Defendant has been and is directly  
17 infringing the '660 Patent under 35 U.S.C. § 271(a) by making, using, modifying,  
18 upgrading, performing quality control, and providing support for its affiliate  
19 software and/or other products and/or services provided by means of that software  
20 and/or other products.

21 15. Upon information and belief, each Defendant has also been and is  
22 directly infringing the '660 Patent under 35 U.S.C. § 271(a) by selling, offering for  
23 sale, and/or importing into the United States affiliate software and/or other  
24 products and/or services that infringe one or more claims of the '660 patent,  
25 including, by way of example and not limitation, Claim 1.

26 16. Upon information and belief, each Defendant's customers and other  
27 users of that Defendant's software and other products and the services provided by  
28 means of that software and other products, have been and are directly infringing

1 one or more claims of the '660 Patent under 35 U.S.C. § 271(a).

2 17. Upon information and belief, each Defendant has been and is actively  
3 inducing infringement of one or more claims of the '660 Patent under 35 U.S.C. §  
4 271(b) by providing to customers, including customers in this judicial district, its  
5 affiliate software and other products, as well as services provided by means of its  
6 affiliate software and other products, along with instructions and directions that  
7 result in the use of the methods, computer programs, and systems disclosed and  
8 claimed in the '660 Patent. On information and belief, each Defendant knew, or  
9 should have known, that its customers and other users of its services would use that  
10 Defendant's affiliate software and other products to infringe the '660 Patent and  
11 intended such infringement.

12 18. Upon information and belief, each Defendant has been and is  
13 contributorily infringing one or more claims of the '660 Patent under 35 U.S.C. §  
14 271(c) by making, selling, and/or offering for sale to customers, including  
15 customers in this judicial district, its affiliate software and other products, as well  
16 as services provided by means of its affiliate software and other products. Each  
17 Defendant's affiliate software and other products are each a material part of the  
18 invention claimed in the '660 patent, are not staple articles or commodities of  
19 commerce, and have no substantial non-infringing use. Upon information and  
20 belief, each Defendant knew, or should have known, that its affiliate software and  
21 other products were especially made or adapted for an infringing use.

22 19. Each Defendant's infringement, contributory infringement, and  
23 inducement to infringe the '660 Patent have been willful and have deliberately  
24 injured and will continue to injure Essociate unless and until the Court enters a  
25 preliminary or permanent injunction prohibiting further infringement and,  
26 specifically, enjoining further manufacture, use, importation, sale, and/or offer for  
27 sale of products that fall within the scope of the '660 Patent.

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**VI. RELIEF REQUESTED**

WHEREFORE, Essociate asks this Court to enter judgment against each Defendant and against each Defendant’s subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

- A. A judgment or order declaring that each Defendant has infringed, induced others to infringe, and/or contributorily infringed the ‘660 Patent;
- B. A judgment, order, or award of damages adequate to compensate Essociate for each Defendant’s infringement of the ‘660 Patent, based on lost sales, lost profits, price erosion, loss of market share, or any other applicable theory, together with prejudgment interest from the date infringement of the ‘660 Patent began;
- C. A permanent injunction prohibiting further infringement, inducement, and contributory infringement of the ‘660 Patent;
- D. A finding that this case is exceptional and an award to Essociate of its attorneys’ fees and costs as provided by 35 U.S.C. § 285;
- E. Increased damages as permitted by 35 U.S.C. § 284, together with prejudgment interest; and
- F. Such other and further relief as this Court or a jury may deem proper and just.

Dated this 4th day of May, 2009.

Respectfully Submitted,  
**NEWMAN & NEWMAN,  
ATTORNEYS AT LAW, LLP**

By:   
Derek A. Newman, State Bar No. 190467  
derek@newmanlaw.com

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John Du Wors, State Bar No. 233913  
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Derek Linke (*pro hac vice pending*)  
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Facsimile: (206) 274-2801

Attorneys for Plaintiff  
ESSOCIATE, INC.

**JURY DEMAND**

Pursuant to FED. R. CIV. P. 38(b), Plaintiff Essociate, Inc. demands a trial by jury of all issues presented in this complaint which are triable by jury.

Dated this 4th day of May, 2009.

Respectfully Submitted,

**NEWMAN & NEWMAN,  
ATTORNEYS AT LAW, LLP**

By:

  
Derek A. Newman, State Bar No. 190467  
derek@newmanlaw.com  
John Du Wors, State Bar No. 233913  
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Derek Linke (*pro hac vice pending*)  
linke@newmanlaw.com

Attorneys for Plaintiff  
ESSOCIATE, INC.

RETURN TO CLIENT

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself)
ESSOCIATE, INC., a Delaware corporation

DEFENDANTS
CLICKXCHANGE CORPORATION; ROI ROCKET.COM, LLC; ROI
ROCKET CX DIGITAL MEDIA KBJ HOLDINGS, LLC; CAPITALL
MARKETING NETWORK LLC

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)
Derek A. Newman, John Du Wors,
Newman & Newman, Attorneys at Law, 505 Fifth Ave S, Suite 610, Seattle, WA
98104, (206) 274-2800

Attorneys (If Known)

BY FAX

II. BASIS OF JURISDICTION (Place an X in one box only.)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
Incorporated or Principal Place of Business in this State
Incorporated and Principal Place of Business in Another State
Foreign Nation
PTF DEF
4 4
5 5
6 6

IV. ORIGIN (Place an X in one box only.)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify):
6 Multi-District Litigation
7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No

MONEY DEMANDED IN COMPLAINT: \$

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Title 35 U.S.C. - Patent Infringement

VII. NATURE OF SUIT (Place an X in one box only.)

Table with 6 columns: OTHER STATUTES, CONTRACT, REAL PROPERTY, TORTS (PERSONAL INJURY, BANKRUPTCY, CIVIL RIGHTS, IMMIGRATION), PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS. Includes various legal categories and checkboxes.

SACV09-536-JVS (MLGx)

FOR OFFICE USE ONLY: Case Number:

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.



**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply)  A. Arise from the same or closely related transactions, happenings, or events; or  
 B. Call for determination of the same or substantially related or similar questions of law and fact; or  
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.  
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	San Francisco

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.  
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
ClickXChange Corporation, Orange County	ROI ROCKET.COM, LLC, Florida; ROI ROCKET INC., Florida; CX DIGITAL MEDIA INC., Canada; KBJ HOLDINGS, LLC, Pennsylvania; CAPITALL MARKETING NETWORK LLC, Delaware

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties  
**Note: In land condemnation cases, use the location of the tract of land involved**

X. SIGNATURE OF ATTORNEY (OR PRO PER): \_\_\_\_\_

Date 5/4/09

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbrevlation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

Derek A. Newman, State Bar No. 190467  
John Du Wors, State Bar No. 233913  
Derek Linke (pro hac vice pending)  
Newman & Newman, Attorneys at Law, LLP  
505 Fifth Ave South, Suite 610  
Seattle, WA 98104 (206) 274-2800

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ASSOCIATE, INC., a Delaware corporation,  
  
Plaintiff,  
  
v.  
CLICKXCHANGE CORPORATION, a California corporation;  
ROI ROCKET.COM, LLC, a Florida limited liability company;  
ROI ROCKET INC., a Florida corporation; CX DIGITAL  
MEDIA INC., an Ontario, Canada corporation; KBJ  
HOLDINGS, LLC, a Pennsylvania limited liability company  
d/b/a PEPPERJAM NETWORK; and CAPITALL MARKETING  
NETWORK LLC, a Delaware limited liability company;  
  
Defendants.

CASE NUMBER  
  
SACV09 -536 JVS (MLGx)

SUMMONS

TO: DEFENDANT(S): \_\_\_\_\_

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached  complaint  \_\_\_\_\_ amended complaint  counterclaim  cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Derek A. Newman, whose address is 505 Fifth Avenue S., Suite 610, Seattle, WA 98104. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: MAY - 5 2009

By: DOORIE GARGANTOS  
Deputy Clerk  
*(Seal of the Court)*

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge James V. Selna and the assigned discovery Magistrate Judge is Marc Goldman.

The case number on all documents filed with the Court should read as follows:

**SACV09- 536 JVS (MLGx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====  
**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

**Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

**Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

**Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.