

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN**

KELORA SYSTEMS, LLC,

Plaintiff,

v.

TARGET CORPORATION; OFFICEMAX  
INCORPORATED; SHOPKO STORES  
OPERATING CO., LLC; BRIGGS &  
STRATTON CORPORATION; CHELSEA &  
SCOTT, LTD., d/b/a ONE STEP AHEAD &  
LEAPS AND BOUNDS; NATIONAL  
BUSINESS FURNITURE, LLC;  
BUYONLINENOW, INC.; ROCKLER  
COMPANIES, INC.; IDW, LLC, d/b/a ID  
WHOLESALE; 1-800-FLOWERS.COM,  
INC.; PC CONNECTION, INC.; EASTBAY,  
INC.; MASON COMPANIES, INC., d/b/a  
MARYLAND SQUARE; AMAZON.COM,  
INC.; DELL, INC.; OFFICE DEPOT, INC.;  
NEWEGG INC.; COSTCO WHOLESALE  
CORPORATION; HEWLETT-PACKARD  
DEVELOPMENT COMPANY, L.P.; &  
CIRCUITCITY.COM INC.,

Defendants.

Case No. 10-CV-683

**FIRST AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 15(a)(1)(A), Plaintiff Kelora Systems, LLC (“Kelora”), for its First Amended Complaint against Defendants Target Corporation, OfficeMax Incorporated, ShopKo Stores Operating Co., LLC, Briggs & Stratton Corporation, Chelsea & Scott, Ltd., d/b/a One Step Ahead & Leaps And Bounds, National Business Furniture, LLC, BuyOnlineNow, Inc., Rockler Companies, Inc., IDW, LLC, d/b/a ID Wholesaler, 1-800-Flowers.com, Inc., PC Connection, Inc., Eastbay, Inc., Mason Companies, Inc., d/b/a Maryland Square, Amazon.com, Inc., Dell, Inc., Office Depot, Inc., Newegg Inc., Costco Wholesale

Corporation, Hewlett-Packard Development Company, L.P., and CircuitCity.com Inc.

(collectively, “Defendants”), alleges as follows:

### **PARTIES**

1. Plaintiff Kelora is a Delaware limited liability company with a place of business at 19925 Stevens Creek Boulevard, Suite 100, Cupertino, California 95014.

2. Defendant Target Corporation is a Minnesota corporation with a place of business at 1000 Nicollet Mall, Minneapolis, Minnesota 55403.

3. Defendant OfficeMax Incorporated is a Delaware corporation with a place of business at 263 Shuman Boulevard, Naperville, Illinois 60563.

4. Defendant ShopKo Stores Operating Co., LLC, is a Delaware limited liability company with a place of business at 700 Pilgrim Way, Green Bay, Wisconsin 54304.

5. Defendant Briggs & Stratton Corporation is a Wisconsin corporation with a place of business at 12301 W. Wirth Street, Wauwatosa, Wisconsin 53222.

6. Defendant Chelsea & Scott, Ltd., is an Illinois corporation registered to do business under the assumed names One Step Ahead and Leaps And Bounds, with a place of business at 75 Albrecht Drive, Lake Bluff, Illinois 60044.

7. Defendant National Business Furniture, LLC, is a Delaware limited liability company with a place of business at 735 N. Water Street, Suite 440, Milwaukee, Wisconsin 53202.

8. Defendant BuyOnlineNow, Inc., is a Minnesota corporation with a place of business at 4865 19th Street NW, Rochester, Minnesota 55901.

9. Defendant Rockler Companies, Inc., is a Minnesota corporation with a place of business at 4365 Willow Drive, Hamel, Minnesota 55340.

10. Defendant IDW, LLC, is a Florida limited liability company registered to do business under the assumed name ID Wholesaler, with a place of business at 18640 Lake Drive E., Chanhassen, Minnesota 55317.

11. Defendant 1-800-Flowers.com, Inc., is a Delaware corporation with a place of business at One Old Country Road, Suite 500, Carle Place, New York 11514.

12. Defendant PC Connection, Inc., is a Delaware corporation with a place of business at 730 Milford Road, Merrimack, New Hampshire 03054.

13. Defendant Eastbay, Inc., is a Wisconsin corporation with a place of business at 111 South First Avenue, Wausau, Wisconsin 54401.

14. Defendant Mason Companies, Inc., is a Wisconsin corporation doing business under the assumed name Maryland Square, among others, with a place of business at 1251 First Avenue, Chippewa Falls, Wisconsin 54774.

15. Defendant Amazon.com, Inc., is a Delaware corporation with a place of business at 410 Terry Avenue North, Seattle, Washington 98109.

16. Defendant Dell, Inc., is a Delaware corporation with a place of business at One Dell Way, Round Rock, Texas 78682.

17. Defendant Office Depot, Inc., is a Delaware corporation with a place of business at 6600 North Military Trail, Boca Raton, Florida 33496.

18. Defendant Newegg Inc. is a Delaware corporation with a place of business at 16839 East Gale Avenue, City of Industry, California 91745.

19. Defendant Costco Wholesale Corporation is a Washington corporation with a place of business at 999 Lake Drive, Issaquah, Washington 98027.

20. Defendant Hewlett-Packard Development Company, L.P., is a Texas limited partnership with a place of business at 11445 Compaq Center West Dr., Houston, Texas 77070.

21. Defendant CircuitCity.com Inc. is a Delaware corporation with a place of business at 7795 W. Flagler St., Miami, Florida 33144.

### **JURISDICTION**

22. This is an action for patent infringement, arising under the patent laws of the United States, Title 35 of the United States Code, Sections 271 and 281 through 285. This Court has jurisdiction over the subject matter of this action pursuant to Title 28 of the United States Code, Sections 1338(a) and 1331.

23. Defendants are subject to personal jurisdiction in this Court because they do business in Wisconsin, including but not limited to, by offering and providing goods and services in Wisconsin. In addition, Kelora's cause of action here arises from business done in Wisconsin by Defendants.

### **VENUE**

24. Venue is proper in this District under Title 28 of the United States Code, Sections 1391(b), (c) and (d), and 1400(b).

### **BACKGROUND**

25. Kelora is the owner by assignment of all right, title and interest in U.S. Patent No. 6,275,821 ("821 patent"), entitled, "Method and system for executing a guided parametric search," which was duly and properly issued by the U.S. Patent & Trademark Office on August 14, 2001. A true and correct copy of the '821 patent is attached as Exhibit A.

26. A reexamination certificate for the '821 patent was duly and properly issued by the U.S. Patent & Trademark Office on November 2, 2010. A true and correct copy of the reexamination certificate for the '821 patent is attached as Exhibit B.

**CLAIM FOR RELIEF  
INFRINGEMENT OF U.S. PATENT NO. 6,275,821**

27. Kelora incorporates the foregoing Paragraphs 1 through 26 as though fully set forth herein.

28. Defendants, and each of them, have infringed and continue to infringe the '821 patent by, inter alia, making and using parametric search systems, including web-based parametric search systems, and performing parametric searches that infringe the '821 patent.

29. By reason of the acts of Defendants alleged herein, Kelora has suffered damage in an amount to be proved at trial.

30. Defendants threaten to continue to engage in the acts complained of herein and, unless restrained and enjoined, will continue to do so, all to Kelora's irreparable injury. It would be difficult to ascertain the amount of compensation that would afford Kelora adequate relief for such future and continuing acts, and a multiplicity of judicial proceedings would be required. Kelora does not have an adequate remedy at law to compensate it for the injuries threatened.

**PRAYER FOR RELIEF**

WHEREFORE, Kelora demands judgment as follows:

A. That Defendants and their parents, affiliates, subsidiaries, officers, agents, servants, employees, attorneys, successors, and assigns, and all those persons in active concert or participation with them, or any of them, be preliminarily and permanently enjoined and restrained from making, importing, using, offering for sale, selling, or causing to be sold any product or service falling within, or designed to conduct a method falling within, the scope of

any claim of the '821 patent, or otherwise infringing or contributing to or inducing infringement of any claim of the '821 patent;

B. That Defendants and their parents, affiliates, subsidiaries, officers, agents, servants, employees, attorneys, successors, and assigns, and all those persons in active concert or participation with them, or any of them, be ordered to destroy or offer up to Kelora for destruction any and all products or services within the scope of any claim of the '821 patent that are within Defendants' possession, custody, or control;

C. That Kelora be awarded its actual damages, including lost profits and price erosion, but in no case less than a reasonable royalty, to be assessed by or under the Court's discretion, adequate to compensate Kelora for Defendants' infringement of the '821 patent;

D. That Kelora be awarded pre-judgment interest and post-judgment interest at the maximum rate allowed by law;

E. That the Court order an accounting for damages;

F. That the Court declare this to be an exceptional case pursuant to 35 U.S.C. Section 285 and award Kelora its attorneys' fees;

G. That the Court award enhanced damages pursuant to 35 U.S.C. Section 284 due to the willful and wanton nature of Defendants' infringement of the '821 patent;

H. That Kelora be awarded costs of court; and

I. That Kelora be awarded such other and further relief as the Court deems just and proper.

**DEMAND FOR A JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Kelora demands a trial by jury on all issues triable of right by a jury.

DATED: November 23, 2010

Respectfully submitted,

By: /s/ Ronald S. Katz  
Ronald S. Katz  
Robert D. Becker  
Shawn G. Hansen  
MANATT, PHELPS & PHILLIPS, LLP  
1001 Page Mill Road, Building 2  
Palo Alto, CA 94304  
Telephone: (650) 812-1300  
Email: rkatz@manatt.com  
Email: rbecker@manatt.com  
Email: shansen@manatt.com

Catherine Cetrangolo  
BOARDMAN LAW FIRM LLP  
One South Pinckney Street, 4th Floor  
P.O. Box 927  
Madison, WI 53701  
Telephone: 608-283-1703  
Email: ccetrangolo@boardmanlawfirm.com

*Attorneys for Plaintiff*  
KELORA SYSTEMS, LLC

300177516.1

PROOF OF SERVICE

I, Donna L. Wishon, declare as follows:

I am employed in Santa Clara County, Palo Alto, California. I am over the age of eighteen years and not a party to this action. My business address is MANATT, PHELPS & PHILLIPS, LLP, 1001 Page Mill Road, Building 2, Palo Alto, California 94304-1006. On November 23, 2010, I served the foregoing document on the parties in this action addressed as follows:

**Target Corporation**

Steinhafel, Gregg - CEO  
Ulrich, Robert J - CEO  
1000 Nicollet Mall  
Minneapolis, MN 55403-2542

**OfficeMax Incorporated**

c/o Corporation Service Company  
2711 Centerville Road, Suite 400  
Wilmington, DE 19808

**ShopKo Stores Operating Co., LLC**

c/o Registered Agent for Service CT Corporation System  
8040 Excelsior Drive, Suite 200  
Madison , WI 53717

**Briggs & Stratton Corporation**

c/o Registered Agent for Service Robert F Heath  
12301 W Wirth St  
Wauwatosa , WI 53222

**Jeffrey Simmons**

**Foley & Lardner LLP**

150 E. Gilman St  
Madison, WI 53703  
(Counsel for Briggs & Stratton, Chelsea & Scott, and 1-800-Flowers.com, Inc.)

**Chelsea & Scott, Ltd**

c/o MS Registered Agent Services  
191 N Wacker Dr, #1800  
Chicago, IL 60606

**National Business Furniture, LLC**

c/o Registered Agent Lawdock Inc  
411 E Wisconsin Ave Ste 2040  
Milwaukee , WI 53202-4497

**BuyOnlineNow, Inc.**

4865 19th St NW Ste 110  
Rochester, MN 55901-8397



**Dave Pederson**  
**Wendland Utz**  
21 First Street SW  
Rochester, MN 55902  
(Counsel for BuyOnlineNow, Inc.)

**Rockler Companies, Inc.**  
4365 Willow Dr  
Hamel, MN 55340-9701

**IDW, LLC, d/b/a ID Wholesaler**  
c/o Registered Agent  
Christopher Penn  
18640 Lake Dr E  
Chanhassen, Mn 55317-9383

**Ed Goldstein**  
**Goldstein, Faucett & Prebeg, L.L.P.**  
1177 West Loop South  
Suite 400  
Houston, TX 77027  
(Counsel for IDW, LLC)

**1-800-FLOWERS.COM, INC.**  
James McCann  
Christopher McCann  
1 Old County Road  
Suite 500  
Carle Place, New York, 11514

**PC Connection, Inc.**  
c/o Registered Agent CT Corporation System Inc  
9 Capitol Street  
Concord, NH 03301

**EASTBAY, INC.**  
c/o C T Corporation System  
8040 Excelsior Drive, Suite 200  
Madison , WI 53717

**Ben Hershkowitz**  
**Gibson Dunn & Crutcher, LLP**  
200 Park Ave # 47  
New York, NY 10166-0193  
(Counsel for Eastbay, Inc.)

**Mason Companies d/b/a Maryland Square, LLC**  
c/o Registered Agent Daniel J Hunt  
1251 First Ave  
Chippewa Falls , WI 54729

- ☐ (BY ELECTRONIC MAIL) By transmitting such document(s) electronically from my e-mail address, krichardson@manatt.com at Manatt, Phelps & Phillips, to the person(s) at the electronic mail addresses listed above. The transmission was reported as complete and without error.
- ☐ (BY OVERNIGHT MAIL) By placing such document(s) in a sealed envelope, for collection and overnight mailing at Manatt, Phelps & Phillips, LLP, Palo Alto, California following ordinary business practice. I am readily familiar with the practice at Manatt, Phelps & Phillips, LLP for collection and processing of overnight service mailing, said practice being that in the ordinary course of business, correspondence is deposited with the overnight messenger service, Federal Express, for delivery as addressed.
- ☒ (BY FIRST CLASS US MAIL) By placing such document(s) in a sealed envelope, for collection and US Postal Service First Class mailing at Manatt, Phelps & Phillips, LLP, Palo Alto, California following ordinary business practice. I am readily familiar with the practice at Manatt, Phelps & Phillips, LLP for collection and processing of US First Class mailing, said practice being that in the ordinary course of business, correspondence is deposited with the US Postal service for delivery as addressed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 23, 2010, at Palo Alto, California.

/s/ Donna L. Wishon  
Donna L. Wishon