

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

EARTHCOMBER, LLC,	)	
	)	
vs.	)	<b>Case No.: 1:10-cv-1592</b>
	)	
ZAGAT SURVEY, LLC	)	
	)	<b>DEMAND FOR JURY TRIAL</b>
Defendant.	)	

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiffs Earthcomber, LLC, by and through their undersigned attorneys, for their complaint against defendant Zagat Survey, LLC hereby alleges as follows:

**NATURE OF LAWSUIT**

1. This action involves claims for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C. § 1338(a).

**THE PARTIES**

2. Plaintiff Earthcomber, LLC (“Earthcomber”) is an Illinois limited liability company with its principal place of business at 7777 Lake Street, River Forest, IL 60305.

3. Earthcomber owns all right, title and interest in, and has standing to sue for infringement of United States Patent No. 7,589,628 (“the ‘628 patent”), entitled “System and method for providing location-based information to mobile customers” issued September 15, 2009. A copy of the ‘628 patent is annexed hereto as Exhibit A.

4. Defendant Zagat Survey, LLC (“Zagat”) is a Delaware Limited Liability Corporation with a place of business at 4 Columbus Circle, 3<sup>rd</sup> Floor, New York, New York

10019. Zagat transacts business and has, at a minimum, offered to provide and/or provided in this judicial district and throughout the State of Illinois services that infringe claims of the '628 patent.

5. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b).

**DEFENDANT ZAGAT'S ACTS OF PATENT INFRINGEMENT**

6. Defendant Zagat has infringed claims of the '628 patent through, among other activities, the use of Zagat's ZAGAT TO GO '09 mobile application. Zagat has also infringed the '628 patent by knowingly and actively inducing others to infringe and by contributing to the infringement by others of, such patent.

7. Zagat's ZAGAT TO GO '09 mobile application determines the locations of users based on signals from global positioning satellites.

8. Zagat's ZAGAT TO GO mobile application is configured to determine the locations of users via cell tower triangulation.

9. Zagat's location-based ZAGAT TO GO '09 mobile application system notifies users of restaurants.

10. Zagat's mobile application notifies users of the locations of restaurants.

11. Zagat's ZAGAT TO GO system notifies users of restaurants that match users' expressed interests.

12. Zagat's ZAGAT TO GO '09 system is configured to allow users to express their interest in specific cuisine styles.

13. Zagat's ZAGAT TO GO '09 mobile application allows users to express their interest in Cuban, Irish, and Hawaiian styles of cuisine.

14. Zagat's ZAGAT TO GO application allows users to express their interest in restaurants offering outdoor seating and valet parking.

15. Zagat's ZAGAT TO GO system is configured to allow users to specify a distance from their location.

16. Zagat's ZAGAT TO GO mobile application permits users to define a distance between half a mile and fifty miles.

17. Zagat's ZAGAT TO GO '09 mobile application provides users with information about restaurants that match users' interests.

18. Zagat's ZAGAT TO GO '09 system provides information to mobile devices about restaurants that are within user-defined distances from the mobile devices.

19. Zagat's systems provide location information to mobile devices about restaurants that are within user-defined distances from the mobile devices.

20. Zagat's ZAGAT TO GO '09 mobile application provides users with restaurant rating information.

21. Zagat's ZAGAT TO GO '09 mobile application provides users with information relating to a restaurant's food, décor, service, and cost.

22. Zagat's ZAGAT TO GO system provides electronic mobile devices with restaurant information from Zagat's printed guidebooks.

23. Zagat's ZAGAT TO GO system provides mobile telephones with restaurant information from Zagat's Zagat Chicago Restaurants 2008/09 paperback guidebook.

24. Zagat's ZAGAT TO GO '09 mobile application includes location information for restaurants.

25. Zagat's ZAGAT TO GO '09 mobile application is configured to be accessed by mobile devices.

26. Zagat's ZAGAT TO GO '09 mobile application is configured to display restaurant information on users' mobile devices.

27. Zagat's ZAGAT TO GO '09 mobile application is configured to be accessed by mobile cellular phones.

28. Defendant Zagat's infringement, contributory infringement and inducement to infringe has injured and will continue to injure Earthcomber unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of the '628 patent.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs ask this Court to enter judgment against the Defendant, and against their subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

A. An award of damages adequate to compensate Earthcomber for the infringement that has occurred, together with prejudgment interest from the date that Defendant's infringement of the Earthcomber patent began;

B. Increased damages as permitted under 35 U.S.C. § 284;

C. A finding that this case is exceptional and an award to Earthcomber of its attorneys' fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction prohibiting further infringement, inducement and contributory infringement of the Earthcomber patent; and

E. Such other and further relief as this Court or a jury may deem proper and just.

**JURY DEMAND**

Earthcomber demands a trial by jury on all issues presented in this Complaint.

Dated: March 10, 2010

Respectfully submitted,

/s/ Anthony E. Dowell

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