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8 Attorneys for Plaintiff
9 Mobile Commerce Framework, Inc.

10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 MOBILE COMMERCE FRAMEWORK,
13 INC.,

14 Plaintiff,

15 v.

16 FOURSQUARE LABS, INC.,

17 Defendant.

Case No. '11CV0481 BEN BLM

COMPLAINT

JURY TRIAL DEMANDED

18 Plaintiff Mobile Commerce Framework, Inc. ("MCF") for its Complaint against
19 Defendant Foursquare Labs, Inc. ("Foursquare") avers as follows:

20 **PARTIES**

21 1. Plaintiff MCF is a California corporation with its principal place of business at
22 24196 Alicia Parkway, Suite L, Mission Viejo, California 92691.

23 2. Defendant Foursquare is a company with its principal place of business at 36
24 Cooper Square, 6th Floor, New York, NY 10003.

25 **JURISDICTION**

26 3. This is a civil action for patent infringement arising under the patent laws of the
27 United States of America, 35 U.S.C. § 1, et seq.

1 4. This Court has jurisdiction over the subject matter of the Complaint pursuant to
2 28 U.S.C. §§1331 & 1338.

3 5. This Court has personal jurisdiction over Foursquare because Foursquare
4 purposefully offers and provides the infringing products through established distribution
5 channels into the State of California and the Southern District of California.

6 6. Venue is proper under 28 U.S.C. §§1391(b) and (c) and 1400(b) because
7 Foursquare offers the infringing products to customers in the Southern District of
8 California and because Foursquare is subject to personal jurisdiction in the Southern
9 District of California.

10
11 **BACKGROUND**

12 7. On April 6, 2010, United States Patent No. 7,693,752 (the ‘752 patent), on
13 an invention entitled “MOBILE COMMERCE FRAMEWORK,” was duly and legally
14 issued by the United States Patent and Trademark Office. Attached as Exhibit A is a copy
15 of the ‘752 Patent.

16 8. The ‘752 patent has been in force and effect since its issuance. MCF is the
17 owner of the entire right, title and interest in and to the ‘752 patent.

18 9. Foursquare has made and distributes to customers throughout the United
19 States various software applications for mobile devices that can be used to subscribe to the
20 Foursquare platform to obtain information and offers from merchants by searching based
21 on their physical location and merchant type.

22
23 **COUNT I**

24 **(INFRINGEMENT OF THE ‘752 PATENT)**

25 10. MCF realleges and incorporates the previous paragraphs of this Complaint as
26 though set forth in full herein.

1 11. Foursquare has used, offered for sale, sold, and/or imported into the United
2 States products, including at least various Foursquare mobile applications, which literally
3 and under the doctrine of equivalents infringe one or more claims of the '752 patent in
4 violation of 35 U.S.C. §271.

5 12. MCF has been damaged and has suffered irreparable injury due to acts of
6 infringement by Foursquare and will continue to suffer irreparable injury unless
7 Foursquare's activities are enjoined.

8 13. MCF has suffered and will continue to suffer substantial damages by reason
9 of Foursquare's acts of patent infringement alleged above, and MCF is entitled to recover
10 from Foursquare for the damages sustained as a result of Foursquare's acts.

11 14. Foursquare has willfully and deliberately infringed the '752 patent in
12 disregard of MCF's rights.

13
14 **PRAYER FOR RELIEF**

15 WHEREFORE, MCF prays that judgment be entered by this Court in its favor and
16 against Foursquare as follows:

17 A. That Foursquare has infringed the '752 patent;

18 B. Permanently enjoining and restraining Foursquare, its agents, affiliates,
19 subsidiaries, servants, employees, officers, directors, attorneys and those persons in active
20 concert with or controlled by Foursquare from further infringing the '752 patent;

21 C. That Foursquare's infringement of the '752 patent was willful;

22 D. For an award of damages adequate to compensate MCF for the damages it
23 has suffered as a result of Foursquare's conduct, including pre-judgment interest and a
24 trebling of such damages due to Foursquare's willful infringement;

25 E. That Foursquare be directed to withdraw from distribution all infringing
26 products, whether in the possession of Foursquare or its distributors or retailers, and that
27 all infringing products or materials be impounded or destroyed;

28

- 1 F. For monetary damages in an amount according to proof;
- 2 G. For interest on said damages at the legal rate from and after the date such
- 3 damages were incurred;
- 4 H. That this is an exceptional case and for an award of MCF's attorney fees and
- 5 costs;
- 6 I. For such other relief as the Court may deem just and proper.

7
8 **DEMAND FOR JURY TRIAL**

9 Plaintiff MCF hereby demands a jury trial as to all issues that are so triable.

10
11 Dated: March 10, 2011 X-PATENTS, APC

12
13 By: s/ Jonathan Hangartner

14 _____
15 JONATHAN HANGARTNER

16 Attorneys for Plaintiff Mobile Commerce
17 Framework, Inc.

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The 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, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

MOBILE COMMERCE FRAMEWORK, INC.

(b) County of Residence of First Listed Plaintiff Orange
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Jonathan Hangartner, Esq., X-Patents, APC, 5670 La Jolla Blvd.,
La Jolla, CA 92037, Tel: 858-454-4313

DEFENDANTS

FOURSQUARE LABS, INC.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known) **'11CV0481 BEN BLM**

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

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

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agricul ure <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fec Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. 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 Multidistrict Litigation
 - 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 35 U.S.C., section 1, et seq. **35:0271 (YEB)**

Brief description of cause: Patent Infringement

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 03/10/2011 SIGNATURE OF ATTORNEY OF RECORD

s/ Jonathan Hangartner

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____