

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MACROSOLVE, INC.

Plaintiff,

v.

HIPMUNK, INC.,

Defendant.

CIVIL ACTION NO. 6:11-CV-689

ORIGINAL COMPLAINT FOR
PATENT INFRINGEMENT

JURY TRIAL DEMANDED

Plaintiff MacroSolve, Inc. (“MacroSolve”) files this Original Complaint against the above-named defendant, alleging, based on its own knowledge with respect to itself and its own actions, and based on information and belief as to all other matters, as follows:

PARTIES

1. MacroSolve is a corporation formed under the laws of the State of Oklahoma, with a principal place of business in Tulsa, Oklahoma.
2. Defendant Hipmunk, Inc. (“Hipmunk”) is a corporation organized under the laws of the State of Delaware, with a principal place of business in San Francisco, California. Under the Texas Long Arm Statute, as well as the Texas Business Corporations Act, Hipmunk can be served by serving the Secretary of State because it is doing business in Texas but has not registered an agent for the service of process in Texas. The address of its home, home office, and principal office is 1550 Bryant St., Suite 500, San Francisco, CA 94103.

JURISDICTION AND VENUE

3. This is an action for infringement of a United States patent arising under 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. §1331 and §1338(a).

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, defendant has transacted business in this district, and has committed and/or induced acts of patent infringement in this district.

5. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to defendant's substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this district.

COUNT 1

INFRINGEMENT OF U.S. PATENT NO. 7,822,816

6. On October 26, 2010, United States Patent No. 7,822,816 ("the 816 patent") was duly and legally issued by the United States Patent and Trademark Office for an invention entitled "System and Method for Data Management". A true and correct copy of the 816 patent is attached hereto as Exhibit A.

7. MacroSolve is the owner of the 816 patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the 816 patent against infringers, and to collect damages for all relevant times.

8. Hipmunk directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least its products and systems referred to as its Hipmunk Flight Search app,) that infringed one or more claims of the 816 patent. In addition, Hipmunk induced infringement and/or contributed to the infringement of one or more of the claims of the 816 patent by its customers.

9. MacroSolve has been damaged as a result of the infringing conduct by defendant alleged above and, thus, such defendant is liable to MacroSolve in an amount that adequately compensates it for defendant's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JURY DEMAND

MacroSolve hereby requests a trial by jury on all issues so triable by right.

PRAYER FOR RELIEF

MacroSolve requests that the Court find in its favor and against defendant, and that the Court grant MacroSolve the following relief:

a. Judgment that one or more claims of the 816 patent have been infringed, either literally and/or under the doctrine of equivalents, by defendant and/or by others to whose infringement defendants have contributed and/or by others whose infringement has been induced by defendant;

b. A permanent injunction enjoining defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all

others acting in active concert therewith from infringement, inducing infringement of, or contributing to infringement of the 816 patent;

c. Judgment that defendant accounts for and pays to MacroSolve all damages to and costs incurred by MacroSolve because of defendant's infringing activities and other conduct complained of herein;

d. That MacroSolve be granted pre-judgment and post-judgment interest on the damages caused by defendant's infringing activities and other conduct complained of herein;

e. That this Court declare this an exceptional case and award MacroSolve its reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285; and

f. That MacroSolve be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: December 21, 2011

Respectfully submitted,

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