

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

PINPOINT INCORPORATED,

Plaintiff,

v.

STAPLES, INC.

Defendant.

Case No.

**JURY TRIAL DEMANDED**

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**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Pinpoint Incorporated complains of Defendant Staples, Inc. (“Defendant”) as follows:

**NATURE OF CASE**

1. This is a claim for patent infringement that arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original jurisdiction over the subject matter of this claim under 28 U.S.C. §§ 1331 and 1338(a).

**PARTIES**

2. Pinpoint Incorporated (“Pinpoint”) is a Texas corporation with headquarters at 203 North Wabash Avenue, Suite 1610, Chicago, Illinois, 60601.

3. Pinpoint owns and has standing to sue for infringement of United States Patent No. 5,754,938 (“the ‘938 patent”), entitled “Pseudonymous Server for System for Customized Electronic Identification of Desirable Objects,” which issued on May 19, 1998.

4. Pinpoint owns and has standing to sue for infringement of United States Patent No. 7,853,600 B2 (“the ‘600 patent”), entitled “System and Method for Providing Access to Video Programs and Other Data Using Customer Profiles,” which issued on December 14, 2010.

5. Pinpoint owns and has standing to sue for infringement of United States Patent No. 8,056,100 (“the ‘100 patent”), entitled “System and Method for Providing Access to Data Using Customer Profiles,” which issued on November 8, 2011.

6. Pinpoint, originally known as Herz Technologies, is the owner of all right, title and interest in the patent portfolio of the inventor Frederick Herz and his company iReactor. Fred Herz is a named inventor on nearly fifty U.S. and foreign patents and patent applications, including the ‘938, ‘600 and ‘100 patents. Mr. Herz is a pioneer in the field of content personalization and assembled a team of world-renowned computer scientists from the University of Pennsylvania to develop prototype software for his company iReactor. The technology covered by Mr. Herz’ inventions anticipated personalization via the Internet, mobile content delivery, electronic billboards and retail kiosks.

7. Staples, Inc. (“Staples”) is a Delaware corporation with headquarters at 500 Staples Dr., Framingham, Massachusetts, 01702.

### **JURISDICTION AND VENUE**

8. Staples owns, operates and/or and conducts business through the website [www.staples.com](http://www.staples.com). Staples is doing business in this judicial district, has purposefully availed itself of the privilege of conducting business with residents of this judicial district, has established sufficient minimum contacts with the State of Illinois such that it should reasonably and fairly anticipate being haled into court in Illinois, and has purposefully reached out to residents of Illinois.

9. Venue is proper in this district under 28 U.S.C. §§ 1391(b)-(d) and 1400(b).

### **CLAIMS FOR PATENT INFRINGEMENT**

#### **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 5,754,938**

10. Staples owns and operates the website [www.staples.com](http://www.staples.com) and related URLs.

11. Staples uses at least one proxy server in connection with its [www.staples.com](http://www.staples.com) website.

12. Staples provides accounts for its customers using a username and password.

13. Staples creates profiles for its customers including, among other things, what Staples calls a “Favorites List.”

14. Staples uses information it collects on individual customers to provide deals that suit those individual customers.

15. Staples sends emails to its customers including deals Staples selects for those specific customers.

16. Staples has infringed and continues to infringe at least claim 1 of the ‘938 patent within the meaning of 35 U.S.C. § 271(a) through the foregoing activities including, without limitation, by operating the website [www.staples.com](http://www.staples.com) which includes features for creating customer profiles and emailing Staples-selected deals to specific customers.

17. To the extent required by law, Pinpoint has complied with the provisions of 35 U.S.C. § 287 with respect to the ‘938 patent.

18. The acts of direct infringement of the ‘938 patent by Staples by manufacturing, using, operating and/or conducting business through its website has injured Pinpoint, and Pinpoint is entitled to recover damages adequate to compensate it for such infringement from Staples, but in no event less than a reasonable royalty.

**COUNT II – INFRINGEMENT OF U.S. PATENT NO. 7,853,600 B2**

19. Staples has infringed and continues to infringe at least claim 29 of the ‘600 patent within the meaning of 35 U.S.C. § 271(a) through the foregoing activities including, without limitation, by operating the website [www.staples.com](http://www.staples.com) and related URLs which includes features for creating customer profiles and emailing Staples-selected deals to specific customers.

20. To the extent required by law, Staples has complied with the provisions of 35 U.S.C. § 287 with respect to the ‘600 patent.

21. The acts of direct infringement of the ‘600 patent by Staples by manufacturing, using, operating and/or conducting business through their respective websites has injured Pinpoint, and Pinpoint is entitled to recover damages adequate to compensate it for such infringement from Staples, but in no event less than a reasonable royalty.

**COUNT III – INFRINGEMENT OF U.S. PATENT NO. 8,056,100**

22. Staples has infringed and continues to infringe at least claim 36 of the ‘100 patent within the meaning of 35 U.S.C. § 271(a) through the foregoing activities including, without limitation, by operating the website [www.staples.com](http://www.staples.com) and related URLs which includes features for creating customer profiles and emailing Staples-selected deals to specific customers.

23. To the extent required by law, Pinpoint has complied with the provisions of 35 U.S.C. § 287 with respect to the ‘100 patent.

24. The acts of direct infringement of the ‘100 patent by all Staples by manufacturing, using, operating and/or conducting business through their respective websites has injured Pinpoint, and Pinpoint is entitled to recover damages adequate to compensate it for such infringement from Staples, but in no event less than a reasonable royalty.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Pinpoint respectfully asks this Court to enter judgment against Defendant Staples, Inc. and against each of its respective subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with them, granting the following relief:

- a. The entry of judgment in favor of Pinpoint and against Staples;
- b. An award of damages as to Staples adequate to compensate Pinpoint for the infringement that has occurred, but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284, together with prejudgment interest from the date the infringement began;
- c. A finding that this case is exceptional and an award to Pinpoint of its reasonable attorneys' fees and costs as provided by 35 U.S.C. § 285; and
- d. Such other relief that Pinpoint is entitled to under law, and any other and further relief that this Court or a jury may deem just and proper.

**JURY DEMAND**

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

Date: February 20, 2012

Respectfully submitted,

/s/ Paul K. Vickrey

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