

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Execware, LLC,

Plaintiff,

v.

Sears Brands, L.L.C.;
Sears, Roebuck and Co.;
Kmart.com LLC; and
Kmart Corporation

Defendants.

Civil Action No.

DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiff Execware, LLC (“Execware”) alleges as follows:

PARTIES

1. Execware is a limited liability company organized under the laws of the Commonwealth of Virginia, having its principal offices at 3440 S. Jefferson Street #1125, Falls Church, Virginia 22041.

2. Defendant Sears Brands, L.L.C. (“Sears Brands”) is an Illinois limited liability company with a principal place of business at 3333 Beverly Road, Hoffman Estates, Illinois 60179. Sears Brands has appointed C T Corporation System, 208 South LaSalle Street, Suite 814, Chicago, Illinois 60604 as its agent for service of process.

3. Defendant Sears, Roebuck and Co. (“Sears Roebuck”) is a New York corporation with a principal place of business at 3333 Beverly Road, Hoffman Estates, Illinois 60179. Sears Roebuck has appointed The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801 as its agent for service of process.

4. Defendant Kmart.com LLC (“Kmart.com”) is a Delaware limited liability company with a principal place of business at 3333 Beverly Road, Hoffman Estates, Illinois

60179. Kmart.com has appointed The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801 as its agent for service of process.

5. Defendant Kmart Corporation (“Kmart Corp.”) is a Michigan corporation with a principal place of business at 3333 Beverly Road, Hoffman Estates, Illinois 60179. Kmart Corp. has appointed The Corporation Company, 30600 Telegraph Road, Suite 2345, Bingham Farms, Michigan 48025 as its agent for service of process.

JURISDICTION AND VENUE

6. This is an action for patent infringement arising under the patent laws of the United States of America, 35 U.S.C. § 1, *et seq.*, including § 271. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

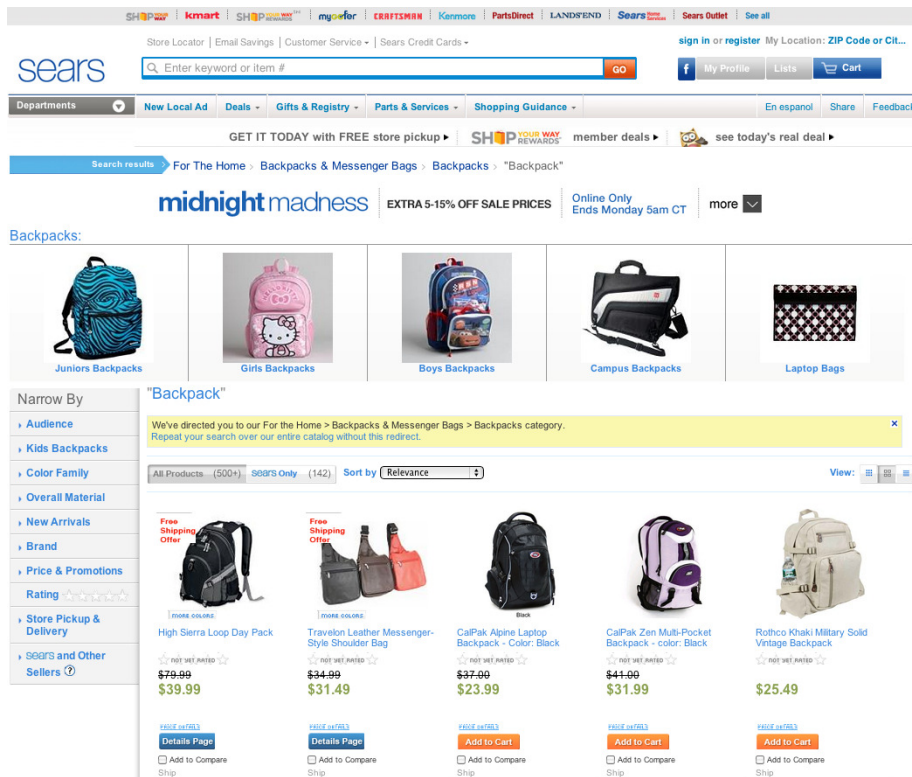
7. Venue is proper in this District under 28 U.S.C. §§ 1391 (b)-(d) and 1400(b) because Defendants Sears Brands and Sears Roebuck (collectively, “Sears”) and Defendants Sears Brands, Kmart.com and Kmart Corp. (collectively, “Kmart”) are subject to personal jurisdiction in this District, have committed acts of patent infringement in this District, or have a regular and established place of business in this District.

COUNT I (Infringement of U.S. Patent No. 6,216,139)

8. Execware is the owner by assignment of United States Patent No. 6,216,139 (“the ’139 patent”), entitled “Integrated Dialog Box for Rapidly Altering Presentation of Parametric Text Data Objects on a Computer Display.” The ’139 patent issued on April 10, 2001. A true and correct copy of the ’139 patent is attached hereto as Exhibit A.

9. On information and belief, Sears is directly infringing (literally and under the doctrine of equivalents) at least claim 1 of the ’139 patent in this District and throughout the United States by, among other things, making, using, selling, offering to sell, or importing a

computer system to rapidly format and reformat tabular displays of records or text data objects, such as Sears’ product listings at www.sears.com. For example, in returning the search results for “backpacks,” shown below, Sears’ software initially sorts the selected text data objects and allows further sorting of the large amount of data.



10. On information and belief, Kmart is directly infringing (literally and under the doctrine of equivalents) at least claim 1 of the '139 patent in this District and throughout the United States by, among other things, making, using, selling, offering to sell, or importing a computer system to rapidly format and reformat tabular displays of records or text data objects, such as Kmart’s product listings at www.kmart.com. For example, in returning the search results for “flashlight,” shown below, Kmart’s software initially sorts the selected text data objects and allows further sorting of the large amount of data.

The screenshot displays a search results page on Sears.com for the keyword "flashlight". The page header includes the Sears logo, navigation links for various departments (Sears, kmart, SHIP, mySears, CRAFTSMAN, Kenmore, PartsDirect, LANDFEND, Sears.com, Sears Outlet), and a search bar. Below the header, there are navigation tabs for Departments, New Local Ad, Deals, Gifts, Pay & Save, Destinations, Store Locator, Sears Credit Cards, Customer Service, and Feedback. The search results section shows "flashlight" found 319 products, sorted by Relevance, with 25 items per page. A "LOCAL AVAILABILITY" box is present in the top right corner, encouraging users to enter their city, state, or ZIP code for local pricing and delivery options. The product grid contains 12 items, each with an image, title, price, and an "ADD TO CART" button. Some items also feature "Free Shipping Offer" or "Store Pickup" options.

Product Name	Price	Shipping/Pickup
Super Bright™ 42 LED FLASH LIGHT - As Seen on TV	\$11.69	Free Shipping Offer
Craftsman 2 AA Flashlight	\$9.99	Free Shipping Offer
Coast LED Lenser Power Chip Tactical Light	\$39.09	Free Shipping Offer
3 Million Candlepower Halogen Spotlight	\$17.99	Free Shipping Offer
Dorcy Flashlight, LED, Aluminum, 1 flashlight	\$21.24	Free Shipping Offer
Craftsman Tool Light, LED, 1 tool light	\$14.99	Free Shipping Offer
Trademark Set Of 3 Emergency Lanterns	\$13.99	Free Shipping Offer
Thinktank Technology 6 Pack of Aluminum 9-LED Flashlights with Batteries	\$13.49	Free Shipping Offer
LED Dynamo Flashlight	\$9.99	Free Shipping Offer
3.5 watt Luxeon LED Aluminum Flashlight	\$33.99	Free Shipping Offer
Dorcy 1 Watt 2 AA Focusing LED Flashlight	\$18.69	Free Shipping Offer
Cal-Van Tools Powerlip Flashlight	\$14.24	Free Shipping Offer

11. As a result of each Defendant's infringement of the '139 patent, Execware has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless each Defendant's infringing activities are enjoined by this Court.

12. Unless a permanent injunction is issued enjoining each Defendant and its agents, servants, employees, attorneys, representatives, affiliates, and all others acting on its behalf from infringing the '139 patent, Execware will suffer irreparable harm.

PRAYER FOR RELIEF

Execware prays for the following relief:

1. A judgment that each Defendant has infringed (either literally or under the doctrine of equivalents), directly or indirectly, one or more claims of the '139 patent;
2. A permanent injunction enjoining each Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with them, from infringing the '139 patent;
3. An award of damages resulting from each Defendant's acts of infringement in accordance with 35 U.S.C. § 284;
4. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Execware its reasonable attorneys' fees against each Defendant;
5. A judgment and order requiring each Defendant to provide an accounting and to pay supplemental damages to Execware, including without limitation, pre-judgment and post-judgment interest; and
6. Any and all other relief to which Execware may show itself to be entitled.

DEMAND FOR JURY TRIAL

Execware demands a trial by jury on all issues so triable.

Dated: May 2, 2012

BAYARD, P.A.

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