

FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

2012 JUL 20 P 4:19

CLERK, U.S. DISTRICT COURT
ALEXANDRIA, VIRGINIA

-----X
COMSCORE, INC.

Plaintiff,

Case No. 3:12cv530-HEH

v.

MOAT INC.

JURY TRIAL DEMANDED

Defendants.
-----X

COMPLAINT FOR PATENT INFRINGEMENT

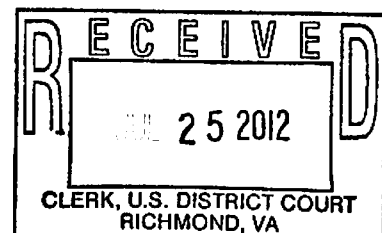
Plaintiff comScore, Inc. ("comScore") brings this action against defendant Moat Inc., formerly known as SAGG, LLC ("Moat"), and hereby alleges as follows:

THE PARTIES

1. comScore is a corporation organized and existing under the laws of Delaware having a principal place of business at 11950 Democracy Drive, Suite 600, Reston, VA 20190.
2. Moat is a corporation organized and existing under the laws of Delaware having a principal place of business at 228 Park Avenue South, Suite 17953, New York, NY 10003.

JURISDICTION AND VENUE

3. This action arises under the Patent Laws of the United States, 35 U.S.C. §1, et seq. This Court accordingly has jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a).
4. This Court has personal jurisdiction over Moat. Upon information and belief, Moat does business in the Commonwealth of Virginia and this District, contracts to supply goods or services within the Commonwealth of Virginia and this District, has continuous and systematic



business contacts within the Commonwealth of Virginia and this District, derives substantial revenue from interstate commerce from goods used or services rendered in the Commonwealth of Virginia and this District and commits and has committed acts of patent infringement either within the Commonwealth of Virginia and this District, or outside the Commonwealth of Virginia and this District with a reasonable expectation that such acts would have consequences within the Commonwealth of Virginia and this District.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. §§ 1400(b).

FACTS COMMON TO ALL COUNTS

6. On August 22, 2000, U.S. Patent No. 6,108,637 (the “‘637 patent”), entitled “Content display monitor,” a copy of which is attached hereto as Exhibit A, was duly and legally issued to Trevor Blumenau. comScore is the owner by assignment of the ‘637 patent.

7. On September 5, 2000, U.S. Patent No. 6,115,680 (the “‘680 patent”), entitled “Computer use meter and analyzer,” a copy of which is attached hereto as Exhibit B, was duly and legally issued to Steven R. Coffey, et al. comScore is the owner by assignment of the ‘680 patent.

8. On December 4, 2001, U.S. Patent No. 6,327,619 (the “‘619 patent”), entitled “Metering of internet content using a control,” a copy of which is attached hereto as Exhibit C, was duly and legally issued to Trevor Blumenau. comScore is the owner by assignment of the ‘619 patent.

9. On July 9, 2002, U.S. Patent No. 6,418,470 (the “‘470 patent”), entitled “Metering of internet content using a control,” a copy of which is attached hereto as Exhibit D, was duly and legally issued to Trevor Blumenau. comScore is the owner by assignment of the ‘470 patent.

10. On June 10, 2008, U.S. Patent No. 7,386,473 (the “‘473 patent”), entitled “Content display monitoring by a processing system,” a copy of which is attached hereto as Exhibit E, was duly and legally issued to Trevor Blumenau. comScore is the owner by assignment of the ‘473 patent.

11. On November 3, 2009, U.S. Patent No. 7,613,635 (the “‘635 patent”), entitled “Content display monitor,” a copy of which is attached hereto as Exhibit F, was duly and legally issued to Trevor Blumenau. comScore is the owner by assignment of the ‘635 patent.

12. On May 11, 2010, U.S. Patent No. 7,716,326 (the “‘326 patent”), entitled “Content display monitor,” a copy of which is attached hereto as Exhibit G, was duly and legally issued to Trevor Blumenau. comScore is the owner by assignment of the ‘326 patent.

13. On July 13, 2010, U.S. Patent No. 7,756,974 (the “‘974 patent”), entitled “Content display monitor,” a copy of which is attached hereto as Exhibit H, was duly and legally issued to Trevor Blumenau. comScore is the owner by assignment of the ‘974 patent.

14. Moat provides products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information regarding the manner in which content transferred over the Internet such as webpages and advertisements are displayed, as well as how end users view and interact with such content.

15. Upon information and belief, Moat contracts and/or partners with web site operators and publishers, advertisers, and/or advertisement distributors (“Content Providers”) to distribute executable code to monitor, measure and collect data related to content displayed on end user devices and end user interaction with such content, to generate metrics from such collected data, and to generate reports from such metrics.

COUNT I

Infringement of United States Patent No. 6,108,637

16. comScore repeats the allegations contained in paragraphs 1 – 15 as though fully set forth herein.

17. Moat has in the past infringed and continues to infringe the '637 patent, directly and/or by contributory infringement and/or by inducement of infringement, by making, using, selling and/or offering to sell, in this judicial district and elsewhere in the United States, products and services, which embody the patented invention of the '637 patent.

18. Moat's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information on how users view and interact with content transferred over the Internet, which embody the patented invention of the '637 patent.

19. Pursuant to 35 U.S.C. § 271, Moat is liable for (i) direct infringement of the '637 patent by having made, used, sold or offered to sell and continuing to make, use, sell and/or offer to sell the software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information regarding the display of content such as webpages and advertisements transferred over the Internet and end-user interaction with such content; (ii) contributory infringement of the '637 patent by having sold or offered to sell and continuing to sell or offer to sell a material component of the invention embodied in the '637 patent, which is especially made or adapted for use in infringing the '637 patent and which is not suitable for any substantial non-infringing use, in order to provide software products and services to Content Providers for gathering information regarding the display of content transferred over

the Internet and end user interaction with such content, and having knowledge that the '637 patent was/is being directly infringed by Content Providers and end users; and (iii) inducement of infringement by having knowingly caused or intended to cause and continuing to knowingly cause or intend to cause the direct infringement of the '637 patent by Content Providers or end users for gathering information regarding the display of content transferred over the Internet and end user interaction with such content.

20. As a result of Moat's acts of infringement of the '637 patent, comScore has suffered injury to its business and property in an amount to be determined as damages, and will continue to suffer damages in the future.

21. Unless an injunction is issued enjoining Moat and their officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them from infringing the '637 patent, comScore will be irreparably harmed.

COUNT II

Infringement of United States Patent No. 6,115,680

22. comScore repeats the allegations contained in paragraphs 1 – 21 as though fully set forth herein.

23. Moat has in the past infringed and continues to infringe the '680 patent, directly and/or by contributory infringement and/or by inducement of infringement, by making, using, selling and/or offering to sell, in this judicial district and elsewhere in the United States, products and services, which embody the patented invention of the '680 patent.

24. Moat's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information on how

users view and interact with content transferred over the Internet, which embody the patented invention of the '680 patent.

25. Pursuant to 35 U.S.C. § 271, Moat is liable for (i) direct infringement of the '680 patent by having made, used, sold or offered to sell and continuing to make, use, sell and/or offer to sell the software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information regarding the display of content such as webpages and advertisements transferred over the Internet and end-user interaction with such content; (ii) contributory infringement of the '680 patent by having sold or offered to sell and continuing to sell or offer to sell a material component of the invention embodied in the '680 patent, which is especially made or adapted for use in infringing the '680 patent and which is not suitable for any substantial non-infringing use, in order to provide software products and services to Content Providers for gathering information regarding the display of content transferred over the Internet and end user interaction with such content, and having knowledge that the '680 patent was/is being directly infringed by Content Providers and end users; and (iii) inducement of infringement by having knowingly caused or intended to cause and continuing to knowingly cause or intend to cause the direct infringement of the '680 patent by Content Providers or end users for gathering information regarding the display of content transferred over the Internet and end user interaction with such content.

26. As a result of Moat's acts of infringement of the '680 patent, comScore has suffered injury to its business and property in an amount to be determined as damages, and will continue to suffer damages in the future.

27. Unless an injunction is issued enjoining Moat and their officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them from

infringing the '680 patent, comScore will be irreparably harmed.

COUNT III

Infringement of United States Patent No. 6,327,619

28. comScore repeats the allegations contained in paragraphs 1 – 27 as though fully set forth herein.

29. Moat has in the past infringed and continues to infringe the '619 patent, directly and/or by contributory infringement and/or by inducement of infringement, by making, using, selling and/or offering to sell, in this judicial district and elsewhere in the United States, products and services, which embody the patented invention of the '619 patent.

30. Moat's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information on how users view and interact with content transferred over the Internet, which embody the patented invention of the '619 patent.

31. Pursuant to 35 U.S.C. § 271, Moat is liable for (i) direct infringement of the '619 patent by having made, used, sold or offered to sell and continuing to make, use, sell and/or offer to sell the software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information regarding the display of content such as webpages and advertisements transferred over the Internet and end-user interaction with such content; (ii) contributory infringement of the '619 patent by having sold or offered to sell and continuing to sell or offer to sell a material component of the invention embodied in the '619 patent, which is especially made or adapted for use in infringing the '619 patent and which is not suitable for any substantial non-infringing use, in order to provide software products and services

to Content Providers for gathering information regarding the display of content transferred over the Internet and end-user interaction with such content, and having knowledge that the '619 patent was/is being directly infringed by Content Providers and end users; and (iii) inducement of infringement by having knowingly caused or intended to cause and continuing to knowingly cause or intend to cause the direct infringement of the '619 patent by Content Providers or end users for gathering information regarding the display of content transferred over the Internet and end-user interaction with such content.

32. As a result of Moat's acts of infringement of the '619 patent, comScore has suffered injury to its business and property in an amount to be determined as damages, and will continue to suffer damages in the future.

33. Unless an injunction is issued enjoining Moat and their officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them from infringing the '619 patent, comScore will be irreparably harmed.

COUNT IV

Infringement of United States Patent No. 6,418,470

34. comScore repeats the allegations contained in paragraphs 1 – 33 as though fully set forth herein.

35. Moat has in the past infringed and continues to infringe the '470 patent, directly and/or by contributory infringement and/or by inducement of infringement, by making, using, selling and/or offering to sell, in this judicial district and elsewhere in the United States, products and services, which embody the patented invention of the '470 patent.

36. Moat's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of software products and services, including but not limited to

the Brand Analytics and Ad Search products and services, for gathering information on how users view and interact with content transferred over the Internet, which embody the patented invention of the '470 patent.

37. Pursuant to 35 U.S.C. § 271, Moat is liable for (i) direct infringement of the '470 patent by having made, used, sold or offered to sell and continuing to make, use, sell and/or offer to sell the software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information regarding the display of content such as webpages and advertisements transferred over the Internet and end-user interaction with such content; (ii) contributory infringement of the '470 patent by having sold or offered to sell and continuing to sell or offer to sell a material component of the invention embodied in the '470 patent, which is especially made or adapted for use in infringing the '619 patent and which is not suitable for any substantial non-infringing use, in order to provide software products and services to Content Providers for gathering information regarding the display of content transferred over the Internet and end-user interaction with such content, and having knowledge that the '470 patent was/is being directly infringed by Content Providers and end users; and (iii) inducement of infringement by having knowingly caused or intended to cause and continuing to knowingly cause or intend to cause the direct infringement of the '470 patent by Content Providers or end users for gathering information regarding the display of content transferred over the Internet and end-user interaction with such content.

38. As a result of Moat's acts of infringement of the '470 patent, comScore has suffered injury to its business and property in an amount to be determined as damages, and will continue to suffer damages in the future.

39. Unless an injunction is issued enjoining Moat and their officers, agents, servants,

employees and attorneys, and all those persons in active concert or participation with them from infringing the '470 patent, comScore will be irreparably harmed.

COUNT V

Infringement of United States Patent No. 7,386,473

40. comScore repeats the allegations contained in paragraphs 1 – 39 as though fully set forth herein.

41. Moat has in the past infringed and continues to infringe the '473 patent, directly and/or by contributory infringement and/or by inducement of infringement, by making, using, selling and/or offering to sell, in this judicial district and elsewhere in the United States, products and services, which embody the patented invention of the '473 patent.

42. Moat's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information on how users view and interact with content transferred over the Internet, which embody the patented invention of the '473 patent.

43. Pursuant to 35 U.S.C. § 271, Moat is liable for (i) direct infringement of the '473 patent by having made, used, sold or offered to sell and continuing to make, use, sell and/or offer to sell the software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information regarding the display of content such as webpages and advertisements transferred over the Internet and end-user interaction with such content; (ii) contributory infringement of the '473 patent by having sold or offered to sell and continuing to sell or offer to sell a material component of the invention embodied in the '473 patent, which is especially made or adapted for use in infringing the '473 patent and which is not

suitable for any substantial non-infringing use, in order to provide software products and services to Content Providers for gathering information regarding the display of content transferred over the Internet and end-user interaction with such content, and having knowledge that the '473 patent was/is being directly infringed by Content Providers and end users; and (iii) inducement of infringement by having knowingly caused or intended to cause and continuing to knowingly cause or intend to cause the direct infringement of the '473 patent by Content Providers or end users for gathering information regarding the display of content transferred over the Internet and end-user interaction with such content.

44. As a result of Moat's acts of infringement of the '473 patent, comScore has suffered injury to its business and property in an amount to be determined as damages, and will continue to suffer damages in the future.

45. Unless an injunction is issued enjoining Moat and their officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them from infringing the '473 patent, comScore will be irreparably harmed.

COUNT VI

Infringement of United States Patent No 7,613,635

46. comScore repeats the allegations contained in paragraphs 1 – 45 as though fully set forth herein.

47. Moat has in the past infringed and continues to infringe the '635 patent, directly and/or by contributory infringement and/or by inducement of infringement, by making, using, selling and/or offering to sell, in this judicial district and elsewhere in the United States, products and services, which embody the patented invention of the '635 patent.

48. Moat's infringement includes, but is not limited to, the manufacture, use, sale,

importation and/or offer for sale of software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information on how users view and interact with content transferred over the Internet, which embody the patented invention of the '635 patent.

49. Pursuant to 35 U.S.C. § 271, Moat is liable for (i) direct infringement of the '635 patent by having made, used, sold or offered to sell and continuing to make, use, sell and/or offer to sell the software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information regarding the display of content such as webpages and advertisements transferred over the Internet and end-user interaction with such content; (ii) contributory infringement of the '635 patent by having sold or offered to sell and continuing to sell or offer to sell a material component of the invention embodied in the '635 patent, which is especially made or adapted for use in infringing the '635 patent and which is not suitable for any substantial non-infringing use, in order to provide software products and services to Content Providers for gathering information regarding the display of content transferred over the Internet and end-user interaction with such content, and having knowledge that the '635 patent was/is being directly infringed by Content Providers and end users; and (iii) inducement of infringement by having knowingly caused or intended to cause and continuing to knowingly cause or intend to cause the direct infringement of the '635 patent by Content Providers or end users for gathering information regarding the display of content transferred over the Internet and end-user interaction with such content.

50. As a result of Moat's acts of infringement of the '635 patent, comScore has suffered injury to its business and property in an amount to be determined as damages, and will continue to suffer damages in the future.

51. Unless an injunction is issued enjoining Moat and their officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them from infringing the '635 patent, comScore will be irreparably harmed.

COUNT VII

Infringement of United States Patent No. 7,716,326

52. comScore repeats the allegations contained in paragraphs 1 – 51 as though fully set forth herein.

53. Moat has in the past infringed and continues to infringe the '326 patent, directly and/or by contributory infringement and/or by inducement of infringement, by making, using, selling and/or offering to sell, in this judicial district and elsewhere in the United States, products and services, which embody the patented invention of the '326 patent.

54. Moat's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information on how users view and interact with content transferred over the Internet, which embody the patented invention of the '326 patent.

55. Pursuant to 35 U.S.C. § 271, Moat is liable for (i) direct infringement of the '326 patent by having made, used, sold or offered to sell and continuing to make, use, sell and/or offer to sell the software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information regarding the display of content such as webpages and advertisements transferred over the Internet and end-user interaction with such content; (ii) contributory infringement of the '326 patent by having sold or offered to sell and continuing to sell or offer to sell a material component of the invention embodied in the '326

patent, which is especially made or adapted for use in infringing the '326 patent and which is not suitable for any substantial non-infringing use, in order to provide software products and services to Content Providers for gathering information regarding the display of content transferred over the Internet and end-user interaction with such content, and having knowledge that the '326 patent was/is being directly infringed by Content Providers and end users; and (iii) inducement of infringement by having knowingly caused or intended to cause and continuing to knowingly cause or intend to cause the direct infringement of the '326 patent by Content Providers or end users for gathering information regarding the display of content transferred over the Internet and end-user interaction with such content.

56. As a result of Moat's acts of infringement of the '326 patent, comScore has suffered injury to its business and property in an amount to be determined as damages, and will continue to suffer damages in the future.

57. Unless an injunction is issued enjoining Moat and their officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them from infringing the '326 patent, comScore will be irreparably harmed.

COUNT VIII

Infringement of United States Patent No. 7,756,974

58. comScore repeats the allegations contained in paragraphs 1 – 57 as though fully set forth herein.

59. Moat has in the past infringed and continues to infringe the '974 patent, directly and/or by contributory infringement and/or by inducement of infringement, by making, using, selling and/or offering to sell, in this judicial district and elsewhere in the United States, products and services, which embody the patented invention of the '974 patent.

60. Moat's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information on how users view and interact with content transferred over the Internet, which embody the patented invention of the '974 patent.

61. Pursuant to 35 U.S.C. § 271, Moat is liable for (i) direct infringement of the '974 patent by having made, used, sold or offered to sell and continuing to make, use, sell and/or offer to sell the software products and services, including but not limited to the Brand Analytics and Ad Search products and services, for gathering information regarding the display of content such as webpages and advertisements transferred over the Internet and end-user interaction with such content; (ii) contributory infringement of the '974 patent by having sold or offered to sell and continuing to sell or offer to sell a material component of the invention embodied in the '974 patent, which is especially made or adapted for use in infringing the '974 patent and which is not suitable for any substantial non-infringing use, in order to provide software products and services to Content Providers for gathering information regarding the display of content transferred over the Internet and end-user interaction with such content, and having knowledge that the '974 patent was/is being directly infringed by Content Providers and end users; and (iii) inducement of infringement by having knowingly caused or intended to cause and continuing to knowingly cause or intend to cause the direct infringement of the '974 patent by Content Providers or end users for gathering information regarding the display of content transferred over the Internet and end-user interaction with such content.

62. As a result of Moat's acts of infringement of the '974 patent, comScore has suffered injury to its business and property in an amount to be determined as damages, and will

continue to suffer damages in the future.

63. Unless an injunction is issued enjoining Moat and their officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them from infringing the '974 patent, comScore will be irreparably harmed.

DEMAND FOR JURY TRIAL

64. comScore demands trial by jury on all claims and issues so triable.

PRAYER FOR RELIEF

WHEREFORE, comScore, Inc. prays for judgment and relief as follows:

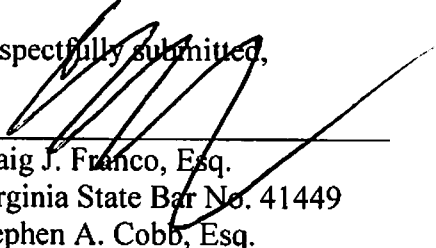
- A. A declaration that defendant Moat has infringed, is infringing, have induced and is inducing, and has contributed and is contributing to the infringement of the '637, '680, '619, '470, '473, '635, '326 and '974 patents;
- B. A preliminary and permanent injunction enjoining Defendant, its officers, agents, servants, employees, affiliates and attorneys, and all those in active concert or participation with them, from further infringing, inducing infringement, and contributing to the infringement of the '637, '680, '619, '470, '473, '635, '326 and '974 patents;
- C. An award of damages adequate to compensate comScore for the infringement of the '637, '680, '619, '470, '473, '635, '326 and '974 patents by the defendant Moat;
- D. comScore be granted pre-judgment and post-judgment interest on the damages caused by reason of Moat's infringement of the '637, '680, '619, '470, '473, '635, '326 and '974 patents;
- E. The Court declare this an exceptional case and that comScore be granted

its reasonable attorneys' fees in accordance with 35 U.S.C. § 285;

F. Costs be awarded to comScore; and

G. comScore be granted such other and further relief as the Court may deem just and proper.

Respectfully submitted,



Craig J. Franco, Esq.
Virginia State Bar No. 41449
Stephen A. Cobb, Esq.
Virginia State Bar No. 75876
ODIN, FELDMAN & PITTLEMAN, P.C.
9302 Lee Highway, Suite 1100
Fairfax, Virginia 22031
Telephone: (703) 218-2302
Facsimile: (703) 218-2160
craig.franco@ofplaw.com
stephen.cobb@ofplaw.com

Seth H. Ostrow (to be admitted *pro hac vice*)
sostrow@ostrowkaufman.com
Matthew L. Kaufman (to be admitted *pro hac vice*)
mkaufman@ostrowkaufman.com
Dev Batta
dbatta@ostrowkaufman.com
Virginia State Bar No. 74662
OSTROW KAUFMAN LLP
555 Fifth Avenue, 19th Floor
New York, NY 10017
Telephone: (212) 682-9200
Facsimile: (212) 682-9222
Attorneys for Plaintiff comScore, Inc.