

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

**SFA SYSTEMS, LLC,**

**Plaintiff,**

**v.**

- 1. BARNES & NOBLE, INC.**
- 2. BARNESANDNOBLE.COM, LLC**
- 3. NEWEGG INC.**
- 4. NEWEGG.COM, INC.**

**Defendants.**

**Civil Action No. 6:11-cv-00399**

**JURY TRIAL DEMANDED**

**AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL**

For its Amended Complaint against Barnes & Noble, Inc., Barnesandnoble.com, LLC, Newegg Inc., and Newegg.com, Inc. (collectively the “Defendants”), Plaintiff SFA Systems, LLC (“SFA”) alleges as follows.

**PARTIES**

1. SFA is a Texas Limited Liability Company with its principal place of business at 207 C North Washington Avenue, Marshall, Texas 75670.

2. On information and belief, Defendant Barnes & Noble, Inc. (“BN”) is a Delaware corporation with its corporate headquarters and principal place of business at 122 Fifth Avenue, New York, NY 10011. BN has appointed Capitol Services, Inc., 615 South Dupont Highway, Dover, DE 19901 as its agent for service of process.

3. On information and belief, Defendant Barnesandnoble.com LLC (“BN.com”) is a Delaware limited liability company with its corporate headquarters and principal place of business at 122 Fifth Avenue, New York, NY 10011. BN.com has appointed Capitol Services, Inc., 615 South Dupont Highway, Dover, DE 19901 as its agent for service of process.

4. On information and belief, Defendant Newegg Inc. (“Newegg”) is a Delaware corporation with its corporate headquarters and principal place of business at 9997 E. Rose Hills

Rd., Whittier, CA 90601. Newegg has appointed Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808 as its agent for service of process.

5. On information and belief, Defendant Newegg.com Inc. (“Newegg.com”) is a Delaware corporation with its corporate headquarters and principal place of business at 9997 E. Rose Hills Rd., Whittier, CA 90601. Newegg.com has appointed Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808 as its agent for service of process.

#### **JURISDICTION AND VENUE**

6. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. On information and belief, Defendants are 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 their 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 judicial district.

8. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, each Defendant has a regular and established place of business in this district, has transacted business in this district and has committed and/or induced acts of patent infringement in this district.

#### **INFRINGEMENT OF U.S. PATENT NO. 7,941,341**

9. SFA is the owner by assignment of United States Patent No. 7,941,341 (“the ’341 patent”) entitled “Sales Force Automation System and Method,” a true copy of which is attached as Exhibit A. The ’341 patent was issued on May 10, 2011.

10. Defendant BN makes and uses sales force automation systems and methods that are practiced by its various websites (including, but not limited to, bn.com and barnesandnoble.com). These systems and methods include supply chain methods and systems,

sales methods and systems, marketing methods and systems, and inventory methods and systems that facilitate a sales process and intelligently integrate computerized automated sales support. By engaging in such activities, BN has been and now is directly infringing (either literally or under the doctrine of equivalents), and jointly and indirectly infringing (either by inducing or contributing to infringement by others) at least claim 1, and likely other claims, of the '341 patent in the State of Texas, in this judicial district, and elsewhere in the United States. BN is thus liable for infringement of the '341 Patent pursuant to 35 U.S.C. § 271. If BN is not deemed to directly infringe any of the above-referenced claims of the '341 patent, those who BN induces to infringe and/or whose infringement to which BN contributes are the end users of the above-referenced systems and methods practiced by, at least, bn.com and barnesandnoble.com. BN had knowledge of the '341 patent at least as early as the filing of the original complaint and is thus liable for infringement of one or more claims of the '341 patent by actively inducing infringement and/or is liable as a contributory infringer of one or more claims of the '341 patent under 35 U.S.C. § 271.

11. Defendant BN.com makes and uses sales force automation systems and methods that are practiced by its various websites (including, but not limited to, bn.com and barnesandnoble.com). These systems and methods include supply chain methods and systems, sales methods and systems, marketing methods and systems, and inventory methods and systems that facilitate a sales process and intelligently integrate computerized automated sales support. By engaging in such activities, BN.com has been and now is directly infringing (either literally or under the doctrine of equivalents), and jointly and indirectly infringing (either by inducing or contributing to infringement by others) at least claim 1, and likely other claims, of the '341 patent in the State of Texas, in this judicial district, and elsewhere in the United States. If BN.com is not deemed to directly infringe any of the above-referenced claims of the '341 patent, those who BN.com induces to infringe and/or whose infringement to which BN.com contributes are the end users of the above-referenced systems and methods practiced by, at least, bn.com and barnesandnoble.com. BN.com had knowledge of the '341 patent at least as early as the filing of

the original complaint and is thus liable for infringement of one or more claims of the '341 patent by actively inducing infringement and/or is liable as a contributory infringer of one or more claims of the '341 patent under 35 U.S.C. § 271.

12. Defendant Newegg makes and uses sales force automation systems and methods that are practiced by its various websites (including, but not limited to, newegg.com). These systems and methods include supply chain methods and systems, sales methods and systems, marketing methods and systems, and inventory methods and systems that facilitate a sales process and intelligently integrate computerized automated sales support. By engaging in such activities, Newegg has been and now is directly infringing (either literally or under the doctrine of equivalents), and jointly and indirectly infringing (either by inducing or contributing to infringement by others) at least claim 1, and likely other claims, of the '341 patent in the State of Texas, in this judicial district, and elsewhere in the United States. If Newegg is not deemed to directly infringe any of the above-referenced claims of the '341 patent, those who Newegg induces to infringe and/or whose infringement to which Newegg contributes are the end users of the above-referenced systems and methods practiced by, at least, newegg.com. Newegg had knowledge of the '341 patent at least as early as the filing of the original complaint and is thus liable for infringement of one or more claims of the '341 patent by actively inducing infringement and/or is liable as a contributory infringer of one or more claims of the '341 patent under 35 U.S.C. § 271.

13. Defendant Newegg.com makes and uses sales force automation systems and methods that are practiced by its various websites (including, but not limited to, newegg.com). These systems and methods include supply chain methods and systems, sales methods and systems, marketing methods and systems, and inventory methods and systems that facilitate a sales process and intelligently integrate computerized automated sales support. By engaging in such activities, Newegg.com has been and now is directly infringing (either literally or under the doctrine of equivalents), and jointly and indirectly infringing (either by inducing or contributing to infringement by others) at least claim 1, and likely other claims, of the '341 patent in the State

of Texas, in this judicial district, and elsewhere in the United States. If Newegg.com is not deemed to directly infringe any of the above-referenced claims of the '341 patent, those who Newegg.com induces to infringe and/or whose infringement to which Newegg.com contributes are the end users of the above-referenced systems and methods practiced by, at least, newegg.com. Newegg.com had knowledge of the '341 patent at least as early as the filing of the original complaint and is thus liable for infringement of one or more claims of the '341 patent by actively inducing infringement and/or is liable as a contributory infringer of one or more claims of the '341 patent under 35 U.S.C. § 271.

14. Defendants had actual or constructive notice of the existence of the '341 patent before the filing of this case. For instance, by at least July 27, 2011, SFA disclosed the existence of the '341 Patent to the Defendants in its discovery responses in the related case of *SFA Systems, LLC v. 1-800-Flowers.com, Inc., et al.*, Case No. 09-cv-340 (E.D. Tex.). Because the '341 patent relates to the patent-in-suit in that case, it is likely that Defendants had actual or constructive notice of the '341 patent even earlier. Indeed, the U.S. Patent and Trademark Office issued a notice of allowance for the '341 patent on February 14, 2011 and the patent issued on May 10, 2011, and this case was filed August 1, 2011. Also, by January 7, 2011, Defendants had actual or constructive notice of at least the application for the '341 patent through discovery produced in *1-800-Flowers*. Although Defendants had prior knowledge of the '341 Patent, they have continued their infringing activities under circumstances that present an objectively high likelihood of infringement, and either subjective knowledge of the risk of infringement or a risk of infringement that was so obvious that the Defendants should have known of the risk. Defendants' continued acts of infringement, therefore, have been, and will continue to be, wanton and willful.

15. As a result of the above Defendants' infringement of the '341 patent, SFA has suffered monetary damages that are compensable under 35 U.S.C. § 284 in an amount not yet determined, and will continue to suffer such monetary damages in the future unless Defendants' infringing activities are permanently enjoined by this Court.

16. Unless permanent injunctions are issued enjoining these Defendants and their agents, servants, employees, attorneys, representatives, affiliates, and all other acting on their behalf from infringing the '341 patent, SFA will be greatly and irreparably harmed.

17. This case presents exceptional circumstances within the meaning of 35 U.S.C. § 285 and SFA is thus entitled to an award of its reasonable attorneys' fees.

### **PRAYER FOR RELIEF**

WHEREFORE, SFA requests that this Court enter:

1. A judgment in favor of SFA that Defendants have infringed, directly (either literal or under the doctrine of equivalents) or indirectly (either induced or contributory) one or more claims of the '341 patent, and that Defendants' infringement has been willful;

2. A permanent injunction, enjoining Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches subsidiaries, parents, and all others acting in concert therewith from infringement, inducing the infringement of, or contributing to the infringement of the '341 patent;

3. A judgment and order requiring each Defendant to pay SFA its damages, costs, expenses and prejudgment and post-judgment interest for Defendants' respective infringement of the '341 patent as provided under 35 U.S.C. § 284;

4. A judgment and order that damages be trebled in view of the willful and deliberate nature of the infringement;

5. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to SFA its reasonable attorneys' fees;

6. A judgment and order requiring defendants to provide an accounting and to pay supplemental damages to SFA, including without limitation, pre-judgment and post-judgment interest; and

7. Any and all other relief for which the Court may deem SFA entitled.

### **DEMAND FOR JURY TRIAL**

Plaintiff SFA, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: October 11, 2011

Respectfully submitted,

By: /s/ Marc A. Fenster

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**Attorneys for Plaintiff**

**SFA SYSTEMS, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that the counsel of record who are deemed to have consented to electronic service are being served on October 11, 2011 with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

Dated: October 11, 2011

/s/ Marc A. Fenster  
Marc A. Fenster