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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
Portland Division

SELECT RETRIEVAL, LLC,
Plaintiff,

v.

**ALTREC, INC.; ADIDAS AMERICA, INC.;
ADIDAS AG; AMAZON.COM, INC.; BAG
BORROW OR STEAL, INC.; COSTCO
WHOLESALE CORPORATION; EVOLUCION
INNOVATIONS, INC.; ISTORES, INC.;
MOTORCYCLE SUPERSTORE, INC.;
MUSICIAN'S FRIEND, INC.; GUITAR**

Civil Action No. 3:11-cv-01104-AA

FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT

DEMAND FOR JURY TRIAL

**CENTER, INC.; MUSIC123, INC.;
NORDSTROM, INC.; OAKLEY, INC.; SIERRA
TRADING POST, INC.; SUR LA TABLE, INC.;
GERLER AND SON, INC.; and HUPPIN’S HI-FI
PHOTO & VIDEO, INC.,**

Defendants.

Plaintiff, Select Retrieval, LLC (“Select Retrieval” or “Plaintiff”), files this First Amended Complaint against Defendants Altrec, Inc.; Adidas America, Inc.; Adidas AG; Amazon.com, Inc.; Bag Borrow or Steal, Inc.; Costco Wholesale Corporation; Evolucion Innovations, Inc.; iStores, Inc.; Motorcycle Superstore, Inc.; Musician’s Friend, Inc.; Guitar Center, Inc.; Music123, Inc.; Nordstrom, Inc.; Oakley, Inc.; Sierra Trading Post, Inc.; Sur La Table, Inc.; Gerler and Son, Inc.; and Huppin’s Hi-Fi Photo & Video, Inc. (collectively “Defendants”), and hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, *et seq.*

THE PARTIES

2. Plaintiff Select Retrieval is a limited liability company organized under the laws of Texas with its principal place of business at 777 Enterprise Drive, Hewitt, Texas 76643.

3. Defendant Altrec, Inc. is a corporation organized under the laws of Delaware with its principal place of business at 725 S.W. Umatilla Avenue, Redmond, Oregon 97756-7117 and a registered agent for service of process at Michael Morford, 725 S.W. Umatilla Avenue, Redmond, Oregon 97756-7117.

4. Defendant Adidas America, Inc. is a corporation organized under the laws of Oregon with its principal place of business at 5055 N. Greeley Avenue, Portland, Oregon 97217, and a registered agent for service of process at DWT Oregon Corporation, 1300 SW 5th Avenue, Suite 2300, Portland, Oregon 97201-5630.

5. Defendant Adidas AG is a joint stock company organized under the laws of the Federal Republic of Germany with a principal place of business at Adi-Dassler-Strasse 1, D-91074, Herzogenaurach, Germany.

6. Defendant Amazon.com, Inc. is a corporation organized under the laws of Delaware with its principal place of business at 1200 12th Avenue South, Suite 200, Seattle, Washington 98144, and a registered agent for service of process at Corporation Service Company, 300 Deschutes Way SW, Suite 304, Tumwater, Washington 98501-7719.

7. Defendant Bag Borrow or Steal, Inc. is a corporation organized under the laws of Delaware with its principal place of business at 1118 Post Avenue, Seattle, Washington 98101, and a registered agent for service of process at National Registered Agents, Inc., 1780 Barnes Boulevard SW, Building G, Tumwater, Washington 98512-0410.

8. Defendant Costco Wholesale Corporation is a corporation organized under the laws of Washington with its principal place of business at 999 Lake Drive, Issaquah, Washington 98027, and a registered agent for service of process at CT Corporation System, 388 State Street, Suite 420, Salem, Oregon 97301-3581.

9. Defendant Evolucion Innovations, Inc. is a corporation organized under the laws of Washington with its principal place of business at 122 NW 36th Street, Seattle, Washington 98107, and a registered agent for service of process at CT Corporation System, 1801 Werst Bay Drive NW, Suite 206, Olympia, Washington 98502.

10. Defendant iStores, Inc. is a corporation organized under the laws of Washington with its principal place of business at 1212 West 4th Plain Blvd., Vancouver, Washington 98660-2023, and a registered agent for service of process at Adam H. Stites, 1212 West 4th Plain Blvd., Vancouver, Washington 98660-2023.

11. Defendant Motorcycle Superstore, Inc. is a corporation organized under the laws of Oregon with its principal place of business at 1555 E. McAndrews Road, Suite 200, Medford, Oregon 97504-5568, and a registered agent for service of process at TT Administrative Services, LLC, 888 SW 5th Avenue, Suite 1600, Portland, Oregon 97204-2012.

12. Defendant Musician's Friend, Inc. is a corporation organized under the laws of Delaware with its principal place of business at 5795 Lindero Canyon Road, Westlake Village, California 91362, and a registered agent for service of process at CT Corporation System, 388 State Street, Suite 420, Salem, Oregon 97301-3581.

13. Defendant Guitar Center, Inc. is a corporation organized under the laws of Delaware with its principal place of business at 5795 Lindero Canyon Road, Westlake Village, California 91362, and a registered agent for service of process at CT Corporation System, 388 State Street, Suite 420, Salem, Oregon 97301-3581.

14. Defendant Music123, Inc. is a corporation organized under the laws of Delaware with its principal place of business at 5795 Lindero Canyon Road, Westlake Village, California 91362, and a registered agent for service of process at CT Corporation System, 388 State Street, Suite 420, Salem, Oregon 97301-3581.

15. Defendant Nordstrom, Inc. is a corporation organized under the laws of Washington with its principal place of business at 1617 6th Avenue, Seattle, Washington 98101,

and a registered agent for service of process at CT Corporation System, 388 State Street, Suite 420, Salem, Oregon 97301-3581.

16. Defendant Oakley, Inc. is a corporation organized under the laws of Washington with its principal place of business at 1 Icon, Foothill Ranch, California 92610, and a registered agent for service of process at National Registered Agents, Inc., 1780 Barnes Boulevard SW, Building G, Tumwater, Washington 98512-0410.

17. Defendant Sierra Trading Post, Inc. is a corporation organized under the laws of Wyoming with its principal place of business at 5025 Campstool Road, Cheyenne, Wyoming, 82007-1816, and a registered agent for service of process at Gary Imig, 5025 Campstool Road, Cheyenne, Wyoming, 82007-1816.

18. Defendant Sur La Table, Inc. is a corporation organized under the laws of Washington with its principal place of business at 5701 6th Avenue South, Suite 486, Seattle, Washington 98108, and a registered agent for service of process at Business Filings Incorporated, 388 State Street, Suite 420, Salem, Oregon 97301-3581.

19. Defendant Gerler and Son, Inc. is a corporation organized under the laws of Washington with its principal place of business at 1730 Minor Avenue, Suite 700, Seattle, Washington 98101-1481, and a registered agent for service of process at Daniel Gerler, 1730 Minor Avenue, Suite 700, Seattle, Washington 98101-1481.

20. Defendant Huppin's Hi-Fi Photo & Video, Inc. is a corporation organized under the laws of Washington with its principal place of business at 229 N. Ella Road, Spokane, Washington 99212, and a registered agent for service of process at Joel D. Huppin, 421 W. Main Avenue, Spokane, Washington 99201-0213.

JURISDICTION AND VENUE

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

21. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a). Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and 1400(b).

22. This Court has personal jurisdiction over Defendants at least because they conduct business in this Judicial District and have committed acts of direct patent infringement under 35 U.S.C. §271(a) in this Judicial District including, *inter alia*, importing, making, using, offering for sale and/or selling infringing products and/or selling products using an infringing method, system, medium or instrumentality in this Judicial District.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,128,617

23. Select Retrieval repeats and re-alleges the allegations of paragraphs 1 through 22 as if fully set forth herein.

24. On October 3, 2000, United States Patent No. 6,128,617 (hereinafter referred to as the “‘617 Patent”), entitled DATA DISPLAY SOFTWARE WITH ACTIONS AND LINKS INTEGRATED WITH INFORMATION, was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ‘617 Patent is attached as Exhibit A to this Complaint.

25. Select Retrieval is the assignee and owner of the right, title, and interest in and to the ‘617 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

26. Without license or authorization, Defendant Altrec, Inc. is and has been directly infringing the ‘617 Patent in the United States at least by making, using, owning, operating and/or maintaining one or more websites, including but not limited to, www.altrec.com, that

embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

27. Without license or authorization, Defendants Adidas America, Inc. and Adidas AG are and have been directly infringing the '617 Patent in the United States at least by making, using, owning, operating and/or maintaining one or more websites, including but not limited to, www.shopadidas.com, that embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

28. Without license or authorization, Defendant Amazon.com, Inc. is and has been directly infringing the '617 Patent in the United States at least by making, using, owning, operating and/or maintaining one or more websites, including but not limited to, www.amazon.com, that embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

29. Without license or authorization, Defendant Bag Borrow or Steal, Inc. is and has been directly infringing the '617 Patent in the United States at least by making, using, owning, operating and/or maintaining one or more websites, including but not limited to, www.bagborroworsteal.com, that embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

30. Without license or authorization, Defendant Costco Wholesale Corporation is and has been directly infringing the '617 Patent in the United States at least by making, using, owning, operating and/or maintaining one or more websites, including but not limited to, www.costco.com, that embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

31. Without license or authorization, Defendant Evolucion Innovations, Inc. is and has been directly infringing the '617 Patent in the United States at least by making, using, owning, operating and/or maintaining one or more websites, including but not limited to, www.evo.com, that embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

32. Without license or authorization, Defendant iStores, Inc. is and has been directly infringing the '617 Patent in the United States at least by making, using, owning, operating and/or maintaining one or more websites, including but not limited to, www.paintball-online.com, that embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

33. Without license or authorization, Defendant Motorcycle Superstore, Inc. is and has been directly infringing the '617 Patent in the United States at least by making, using, owning, operating and/or maintaining one or more websites, including but not limited to, www.motorcycle-superstore.com, that embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

34. Without license or authorization, Defendants Musician's Friend, Inc.; Guitar Center, Inc.; and Music123, Inc. are and have been directly infringing the '617 Patent in the United States at least by making, using, owning, operating and/or maintaining one or more websites, including but not limited to, www.musiciansfriend.com, www.guitarcenter.com, www.music123.com, and www.wbw.com, that embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

35. Without license or authorization, Defendant Nordstrom, Inc. is and has been directly infringing the '617 Patent in the United States at least by making, using, owning,

operating and/or maintaining one or more websites, including but not limited to, www.nordstrom.com, that embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

36. Without license or authorization, Defendant Oakley, Inc. is and has been directly infringing the '617 Patent in the United States at least by making, using, owning, operating and/or maintaining one or more websites, including but not limited to, www.oakley.com, that embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

37. Without license or authorization, Defendant Sierra Trading Post, Inc. is and has been directly infringing the '617 Patent in the United States at least by making, using, owning, operating and/or maintaining one or more websites, including but not limited to, www.sierratradingpost.com, that embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

38. Without license or authorization, Defendant Sur La Table, Inc. is and has been directly infringing the '617 Patent in the United States at least by making, using, owning, operating and/or maintaining one or more websites, including but not limited to, www.surlatable.com, that embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

39. Without license or authorization, Defendant Gerler and Son, Inc. is and has been directly infringing the '617 Patent in the United States at least by making, using, owning, operating and/or maintaining one or more websites, including but not limited to, www.onlineshoes.com, that embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

40. Without license or authorization, Defendant Huppín's Hi-Fi Photo & Video, Inc. is and has been directly infringing the '617 Patent in the United States at least by making, using, owning, operating and/or maintaining one or more websites, including but not limited to, www.onecall.com, that embody the inventions claimed in the '617 Patent. Such acts constitute infringement under at least 35 U.S.C. § 271(a).

41. Defendants Adidas America, Inc.; Motorcycle Superstore, Inc.; Oakley, Inc.; Gerler and Son, Inc.; and Huppín's Hi-Fi Photo & Video, Inc. have had knowledge of and/or been aware of the '617 Patent since at least August 29, 2011, when, in a letter sent via first class mail, Select Retrieval informed those defendants of their infringement of the '617 Patent and requested that they license the '617 Patent to mitigate their continued infringement. Defendants Altrec, Inc.; Bag Borrow or Steal, Inc.; Evolucion Innovations, Inc.; iStores, Inc.; and Sur La Table, Inc. have had knowledge of and/or been aware of the '617 Patent since at least August 19, 2011, when, in a letter sent via first class mail, Select Retrieval informed those defendants of their infringement of the '617 Patent and requested that they license the '617 Patent in order to mitigate their continued infringement.

42. On information and belief, infringement of the '617 Patent by Adidas America, Inc.; Motorcycle Superstore, Inc.; Oakley, Inc.; Gerler and Son, Inc.; Huppín's Hi-Fi Photo & Video, Inc.; Altrec, Inc.; Bag Borrow or Steal, Inc.; Evolucion Innovations, Inc.; iStores, Inc.; and Sur La Table, Inc. has been and continues to be willful and deliberate.

43. Select Retrieval has been damaged by Defendants' infringing activities.

JURY DEMAND

44. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Select Retrieval demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Select Retrieval respectfully demands judgment for itself and against Defendants as follows:

- A. An adjudication that Defendants have infringed the '617 Patent;
- B. An award of damages to be paid by Defendants adequate to compensate Select Retrieval for their past infringement of the '617 Patent and any continuing or future infringement through the date such judgment is entered, including interest, costs, and expenses, and for those Defendants listed in paragraph 43, *supra*, enhanced damages for any willful infringement as justified under 35 U.S.C. § 284;
- C. An accounting of all infringing acts including, but not limited to, those acts not presented at trial; and
- D. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and
- E. An award to Select Retrieval of such further relief at law or in equity as the Court deems just and proper.

Respectfully submitted,

Dated: November 18, 2011

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