

6. Defendant Network Solutions, LLC (“Network Solutions”) is a Delaware limited liability company with its principal place of business in Herndon, Virginia.

7. Defendant Overstock.com, Inc. (“Overstock”) is a Delaware corporation with its principal place of business in Salt Lake City, Utah.

8. Defendant Sleepy’s, LLC (“Sleepy’s”) is a Delaware limited liability company with its principal place of business in Hicksville, New York.

9. Defendant The Estee Lauder Companies, Inc. (“Estee Lauder”) is a Delaware limited liability company with its principal place of business in New York, New York.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* Venue is proper in this federal district pursuant to 28 U.S.C. §§1391(b)-(c) and 1400(b) in that defendants reside in this district, a substantial part of the events giving rise to the claims occurred in this district, and/or the defendants have a regular and established practice of business in this district and have committed acts of infringement in this district.

11. This Court has general and specific personal jurisdiction over defendants, because each defendant has substantial contacts with the forum as a result of conducting substantial business in the State of Texas and within this district. Upon information and belief, each defendant regularly solicits business in the State of Texas and this district; derives revenue from products and/or services provided to individuals residing in the State of Texas and this district; conducts business utilizing the claimed systems and methods with and for customers residing in the State of Texas and this district; and provides and/or markets products and services directly to consumers in the State of Texas and this district.

12. Defendants are properly joined in this action because (i) Lodsys’s Complaint for Patent Infringement (Dkt. No. 1) (the “Complaint”) asserted claims against each of the defendants for their manufacture, use, sale, importation, and/or offers to sell infringing websites with live interactive chat technology and/or the same infringing process, and (ii) Lodsys’s

Amended Complaint for Patent Infringement asserts claims against each of the defendants for their manufacture, use, sale, importation, and/or offers to sell infringing websites with user feedback form features and/or the same infringing process. In addition, Lodsys's Amended Complaint for Patent Infringement also asserts claims against defendants Bank of America, Hoover's, Network Solutions, and Overstock for their manufacture, use, sale, importation, and/or offers to sell infringing websites with feedback soliciting FAQ features and/or the same infringing process.

INFRINGEMENT OF U.S. PATENT NO. 7,620,565

13. On November 17, 2009, U.S. Patent No. 7,620,565 (the "565 patent") was duly and legally issued for a "Customer-Based Product Design Module." A true and correct copy of the '565 patent is attached hereto as Exhibit A. Lodsys is the owner by assignment of all rights, title, and interest in and to the '565 patent.

14. Defendant Bank of America has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the '565 patent. Bank of America manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to Bank of America's website www.bankofamerica.com, with feedback soliciting FAQ, user feedback form, and survey features, and Bank of America's mobile applications, with "Send App Feedback" features — which infringe at least claim 15 of the '565 patent under 35 U.S.C. § 271.

15. Defendant Epicor has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the '565 patent. Epicor manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to Epicor's website www.epicor.com, with live interactive chat and "Request More Information" form features — which infringe at least claim 15 of the '565 patent under 35 U.S.C. § 271.

16. Defendant Hoover's has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the '565 patent. Hoover's manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to Hoover's website www.hoovers.com, with feedback soliciting FAQ and "Hoover's Feedback Form" features, and Hoover's try and buy subscriptions — which infringe at least claim 15 of the '565 patent under 35 U.S.C. § 271.

17. Defendant MA has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the '565 patent. MA manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to MA's website www.shop.com, with "Contact Customer Service" and "send us your feedback" form features — which infringe at least claim 15 of the '565 patent under 35 U.S.C. § 271.

18. Defendant Network Solutions has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the '565 patent. Network Solutions manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to Network Solutions' websites www.networksolutions.com and www.monstercommerce.com, with feedback soliciting FAQ and user feedback form features — which infringe at least claim 15 of the '565 patent under 35 U.S.C. § 271.

19. Defendant Overstock has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the '565 patent. Overstock manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to Overstock's website www.overstock.com, with live interactive chat, feedback soliciting FAQ, and user feedback form features — which infringe at least claim 15 of the '565 patent under 35 U.S.C. § 271.

20. Defendant Sleepy's has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the '565 patent. Sleepy's manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to Sleepy's website www.sleepys.com, with "Email us" features — which infringe at least claim 15 of the '565 patent under 35 U.S.C. § 271.

21. Defendant Estee Lauder has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the '565 patent. Estee Lauder manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to Estee Lauder's websites www.elcompanies.com, www.esteelauder.com, www.clinique.com, www.prescriptives.com, www.labseries.com, www.origins.com, www.cremedelamer.com, www.bobbibrown.com, www.aveda.com, www.jomalone.com, www.darphin.com, www.americanbeautycosmetics.com, www.goodskinlabs.com, www.grassrootsresearchlabs.com, www.ojon.com, www.smashbox.com, with user feedback form features — which infringe at least claim 15 of the '565 patent under 35 U.S.C. § 271.

22. Defendants Bank of America's, Epicor's, Hoover's, MA's, Network Solutions', Overstock's, Sleepy's, and Estee Lauder's acts of infringement have caused damage to Lodsys, and Lodsys is entitled to recover from defendants the damages sustained by Lodsys as a result of defendants' wrongful acts in an amount subject to proof at trial. Defendants' infringement of Lodsys' exclusive rights under the '565 patent will continue to damage Lodsys, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court. Defendants' infringement is willful and deliberate, including because defendants became aware of the infringing nature of their respective products and services at the latest when they received a notice letter from Lodsys and/or the filing of Lodsys's Complaint, entitling Lodsys to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 7,222,078

23. On May 22, 2007, U.S. Patent No. 7,222,078 (the “‘078 patent”) was duly and legally issued for “Methods and Systems for Gathering Information from Units of a Commodity Across a Network.” A true and correct copy of the ‘078 patent is attached hereto as Exhibit B. Lodsys is the owner by assignment of all rights, title, and interest in and to the ‘078 patent.

24. Defendant Bank of America has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the ‘078 patent. Bank of America manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to Bank of America’s website www.bankofamerica.com, with feedback soliciting FAQ, user feedback form, and survey features, and Bank of America’s mobile applications, with “Send App Feedback” features — which infringe at least claim 1 of the ‘078 patent under 35 U.S.C. § 271.

25. Defendant Epicor has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the ‘078 patent. Epicor manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to Epicor’s website www.epicor.com, with live interactive chat and “Request More Information” form features — which infringe at least claim 1 of the ‘078 patent under 35 U.S.C. § 271.

26. Defendant Hoover’s has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the ‘078 patent. Hoover’s manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to Hoover’s website www.hoovers.com, with feedback soliciting FAQ and “Hoover’s Feedback Form” features, and Hoover’s try and buy subscriptions — which infringe at least claim 1 of the ‘078 patent under 35 U.S.C. § 271.

27. Defendant MA has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the '078 patent. MA manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to MA's website www.shop.com, with "Contact Customer Service" and "send us your feedback" form features — which infringe at least claim 1 of the '078 patent under 35 U.S.C. § 271.

28. Defendant Network Solutions has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the '078 patent. Network Solutions manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to Network Solutions' websites www.networksolutions.com and www.monstercommerce.com, with feedback soliciting FAQ and user feedback form features — which infringe at least claim 1 of the '078 patent under 35 U.S.C. § 271.

29. Defendant Overstock has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the '078 patent. Overstock manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to Overstock's website www.overstock.com, with live interactive chat, feedback soliciting FAQ, and user feedback form features — which infringe at least claim 1 of the '078 patent under 35 U.S.C. § 271.

30. Defendant Sleepy's has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the '078 patent. Sleepy's manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to Sleepy's website www.sleepys.com, with "Email us" feature — which infringe at least claim 1 of the '078 patent under 35 U.S.C. § 271.

31. Defendant Estee Lauder has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the '078 patent. Estee Lauder manufactures, uses, sells, imports, and/or offers to sell infringing products and/or services — including but not limited to Estee Lauder's websites www.elcompanies.com, www.esteelauder.com, www.clinique.com, www.prescriptives.com, www.labseries.com, www.origins.com, www.cremedelamer.com, www.bobbibrown.com, www.aveda.com, www.jomalone.com, www.darphin.com, www.americanbeautycosmetics.com, www.goodskinlabs.com, www.grassrootsresearchlabs.com, www.ojon.com, www.smashbox.com, with user feedback form features — which infringe at least claim 1 of the '078 patent under 35 U.S.C. § 271.

32. Defendants Bank of America's, Epicor's, Hoover's, MA's, Network Solutions', Overstock's, Sleepy's, and Estee Lauder's acts of infringement have caused damage to Lodsys, and Lodsys is entitled to recover from defendants the damages sustained by Lodsys as a result of defendants' wrongful acts in an amount subject to proof at trial. Defendants' infringement of Lodsys' exclusive rights under the '078 patent will continue to damage Lodsys, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court. Defendants' infringement is willful and deliberate, including because defendants became aware of the infringing nature of their respective products and services at the latest when they received a notice letter from Lodsys and/or the filing of Lodsys's Complaint, entitling Lodsys to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 5,999,908

33. On December 7, 1999, U.S. Patent No. 5,999,908 (the "'908 patent'") was duly and legally issued for a "Customer-Based Product Design Module." A true and correct copy of the '908 patent is attached hereto as Exhibit C. Lodsys is the owner by assignment of all rights, title, and interest in and to the '908 patent.

34. Defendant Bank of America has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the '908 patent. Bank of America manufactures, uses, sells, imports, and/or offers to sell infringing website surveys, including but not limited to surveys on www.bankofamerica.com, which infringes at least claim 37 of the '908 patent under 35 U.S.C. § 271.

35. Defendant Bank of America's acts of infringement have caused damage to Lodsys, and Lodsys is entitled to recover from defendant the damages sustained by Lodsys as a result of defendant's wrongful acts in an amount subject to proof at trial. Defendant's infringement of Lodsys's exclusive rights under the '908 patent will continue to damage Lodsys, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court. Defendant's infringement is willful and deliberate, including because defendant became aware of the infringing nature of its respective products and services at the latest when it received a notice letter from Lodsys and/or the filing of Lodsys's Complaint, entitling Lodsys to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Lodsys respectfully requests a trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Lodsys Group, LLC, respectfully requests entry of judgment in its favor and against defendants as follows:

(a) Declaration that (1) defendants Bank of America, Epicor, Hoover's, MA, Network Solutions, Overstock, Sleepy's, and Estee Lauder have infringed U.S. Patent No. 7,620,565; (2) defendants Bank of America, Epicor, Hoover's, MA, Network Solutions, Overstock, Sleepy's, and Estee Lauder have infringed U.S. Patent No. 7,222,078; and (3) defendant Bank of America has infringed U.S. Patent No. 5,999,908;

(b) Awarding the damages arising out of (1) defendants Bank of America's, Epicor's, Hoover's, MA's, Network Solutions', Overstock's, Sleepy's, and Estee Lauder's infringement of U.S. Patent No. 7,620,565; (2) defendants Bank of America's, Epicor's, Hoover's, MA's, Network Solutions', Overstock's, Sleepy's, and Estee Lauder's infringement of U.S. Patent No. 7,222,078; and (3) defendant Bank of America's infringement of U.S. Patent No. 5,999,908 to Lodsys, together with pre-judgment and post-judgment interest, in an amount according to proof;

(c) Finding defendants' infringement to be willful from the time that defendants became aware of the infringing nature of their respective products and services, which is the time of receiving a notice letter from Lodsys or the filing of Lodsys's Complaint at the latest, and awarding treble damages to Lodsys for the period of such willful infringement pursuant to 35 U.S.C. § 284;

(d) Permanently enjoining defendants and their respective officers, agents, employees, and those acting in privity with them, from further infringement, including contributory infringement and/or inducing infringement, of U.S. Patent No. 7,620,565, U.S. Patent No. 7,222,078, and U.S. Patent No. 5,999,908, or in the alternative, awarding a royalty for post-judgment infringement;

(e) Awarding attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law; and

(f) Awarding such other costs and further relief as the Court may deem just and proper.

Dated: August 9, 2012

Respectfully Submitted,

By: /s/ Kit W. Roth
Michael A. Goldfarb
Washington State Bar No. 13492
Christopher M. Huck
Washington State Bar No. 34104
Kit W. Roth
Washington State Bar No. 33059
**KELLEY, GOLDFARB,
GILL, HUCK & ROTH, PLLC**
700 Fifth Avenue, Suite 6100
Seattle, Washington 98104
Phone: (206) 452-0260
Fax: (206) 397-3062
Email: goldfarb@kdg-law.com
huck@kdg-law.com
roth@kdg-law.com

William E. "Bo" Davis, III
Texas State Bar No. 24047416
THE DAVIS FIRM, PC
111 West Tyler Street
Longview, Texas 75601
Phone: (903) 230-9090
Fax: (903) 230-9090
Email: bdavis@bdavisfirm.com

Attorneys for Plaintiff Lodsyst Group, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on August 9, 2012.

/s/ Kit W. Roth