

FILED

2012 DEC 11 PM 3:29
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

1 Derek A. Newman, State Bar No. 190467
derek@newmanlaw.com
2 NEWMAN DU WORS LLP
100 Wilshire Boulevard, Suite 950
3 Santa Monica, CA 90401
Telephone: (310) 359-8200
4 Facsimile: (310) 359-8190
5 John Du Wors, State Bar No. 233913
duwors@newmanlaw.com
6 Derek Linke (*pro hac vice* to be filed)
linke@newmanlaw.com
7 NEWMAN DU WORS LLP
1201 Third Avenue, Suite 1600
8 Seattle, WA 98101
Telephone: (206) 274-2800
9 Facsimile: (206) 274-2801

10 Attorneys for Plaintiff
ESSOCIATE, INC.

11
12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **SOUTHERN DIVISION**

15 ESSOCIATE, INC., a Delaware
corporation,
16 Plaintiff,
17 v.
18 VOOM MEDIA CORP., an Ontario
19 corporation, d/b/a Mundo Media
20 Defendant.
21

Case No. SACV12 - 02156 DOC (JPRx)
**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

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1 ESSOCIATE, INC. (“Essociate” or “Plaintiff”) hereby alleges for its
2 complaint against VOOM MEDIA CORP., an Ontario corporation, d/b/a Mundo
3 Media (“Defendant”) upon personal information as to Plaintiff’s own activities,
4 and upon information and belief as to the activities of others, as follows:
5

6 **I. NATURE OF THE CASE**

7 1. This is a claim for patent infringement arising under the patent laws of
8 the United States, Title 35 of the United States Code.
9

10 **II. JURISDICTION AND VENUE**

11 2. This Court has exclusive subject matter jurisdiction over this action
12 pursuant to 28 U.S.C. §§ 1331 and 1338(a).

13 3. Personal jurisdiction over Defendant is proper in this court. Venue is
14 proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), (c) and/or 1400(b).
15

16 **III. PARTIES**

17 4. Plaintiff Essociate, Inc. is a Delaware corporation with its principal
18 business address at 4630 Geary Boulevard, Suite 101, San Francisco, California
19 94118.

20 5. Essociate is the owner of U.S. Patent No. 6,804,660 (“the ‘660
21 Patent”), entitled “System Method and Article of Manufacture for Internet Based
22 Affiliate Pooling”, issued October 12, 2004 (copy attached as Exhibit A).

23 6. Essociate is the owner of the entire right, title, and interest in the ‘660
24 Patent and has standing to sue for all past, present, and future infringement of the
25 ‘660 Patent.

26 7. Upon information and belief, Defendant Voorn Media Corp. d/b/a/
27 Mundo Media is an Ontario corporation with its headquarters and principal
28 business address at 120 East Beaver Creek Road, Suite 200, Richmond Hill, ON

1 L4B 4V1, Canada. Upon information and belief, Voom Media Corp. transacts
2 business and has provided to customers in this judicial district and throughout the
3 State of California products and/or services that infringe one or more claims of the
4 '660 Patent.

5 8. Upon information and belief, Defendant manufactures, imports into
6 the United States, sells, offers for sale, and/or uses software products that infringe
7 one or more claims of the '660 Patent. Upon information and belief, such software
8 products are offered for sale to customers in this judicial district and throughout the
9 state of California.

10
11 **IV. DEFENDANT'S INFRINGEMENT OF THE '660 PATENT**

12 9. Upon information and belief, Defendant has been and is directly
13 infringing the '660 Patent under 35 U.S.C. § 271(a) by making, using, modifying,
14 upgrading, performing quality control, and providing support for its affiliate
15 software and/or other products and/or services provided by means of that software
16 and/or other products, including without limitation Defendant's affiliate marketing
17 network.

18 10. Upon information and belief, Defendant has also been and is directly
19 infringing the '660 Patent under 35 U.S.C. § 271(a) by selling, offering for sale,
20 and/or importing into the United States affiliate software and/or other products
21 and/or services that infringe one or more claims of the '660 patent, including, by
22 way of example and not limitation, Claim 1.

23 11. Defendant's infringement has injured and will continue to injure
24 Essocate unless and until the Court enters a preliminary or permanent injunction
25 prohibiting further infringement and, specifically, enjoining further manufacture,
26 use, importation, sale, and/or offer for sale of products that fall within the scope of
27 the '660 Patent.

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V. RELIEF REQUESTED

WHEREFORE, Essociate asks this Court to enter judgment against Defendant and against Defendant’s subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

A. A judgment or order declaring that Defendants has infringed the '660 Patent;

B. A judgment, order, or award of damages adequate to compensate Essociate for Defendant’s infringement of the '660 Patent, based on lost sales, lost profits, price erosion, loss of market share, or any other applicable theory, together with prejudgment interest from the date infringement of the '660 Patent began;

C. A permanent injunction prohibiting further infringement of the '660 Patent;

D. A finding that this case is exceptional and an award to Essociate of its attorneys’ fees and costs as provided by 35 U.S.C. § 285;

E. Increased damages as permitted by 35 U.S.C. § 284, together with prejudgment interest; and

F. Such other and further relief as this Court or a jury may deem proper and just.

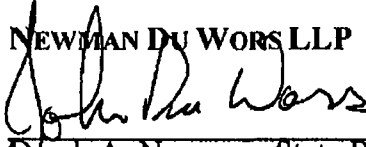
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Dated this 11th day of December, 2012.

Respectfully Submitted,

NEWMAN DU WORS LLP

By:


Derek A. Newman, State Bar No. 190467
derek@newmanlaw.com
John Du Wors, State Bar No. 233913
duwors@newmanlaw.com
Derek Linke (*pro hac vice* to be filed)
linke@newmanlaw.com

Attorneys for Plaintiff
ASSOCIATE, INC.

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JURY DEMAND

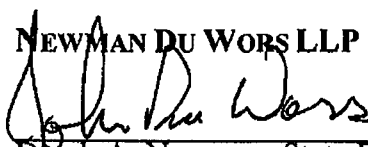
Pursuant to FED. R. CIV. P. 38(b), Plaintiff Associate, Inc. demands a trial by jury of all issues presented in this complaint which are triable by jury.

Dated this 11th day of December, 2012.

Respectfully Submitted,

NEWMAN DU WORS LLP

By:



Derek A. Newman, State Bar No. 190467
derek@newmanlaw.com
John Du Wors, State Bar No. 233913
duwors@newmanlaw.com
Derek Linke (*pro hac vice* to be filed)
linke@newmanlaw.com

Attorneys for Plaintiff
ASSOCIATE, INC.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> ASSOCIATE, INC., a Delaware corporation,	DEFENDANTS VOOM MEDIA CORP., an Ontario corporation, d/b/a Mundo Media
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(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Derek A. Newman, John Du Wors, & Derek Linke Newman Du Wors/1201 Third Avenue, Suite 1600/Seattle, WA 98101 Telephone: (206) 274-2800	Attorneys (If Known)
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II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> </thead> <tbody> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </tbody> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. ORIGIN (Place an X in one box only.)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify):
 6 Multi-District Litigation
 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No
 MONEY DEMANDED IN COMPLAINT: \$

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

35 U.S.C. § 281; patent infringement.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 930 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: SACV12 - 02156 DOC (JPRx)

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
If yes, list case number(s): 10-cv-2107-JVS, 12-cv-00831-JVS, 12-cv-00444-JVS, 12-cv-08455-JVS

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Essoate, Inc., San Francisco County

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Voom Media Corp., Canada

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): *John P. Lewis* Date December 11, 2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FP(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge David O. Carter and the assigned discovery Magistrate Judge is Jean P. Rosenbluth.

The case number on all documents filed with the Court should read as follows:

SACV12- 2156 DOC (JPRx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Derek A. Newman, 190467/derek@newmanlaw.com
 John Du Wors, 233913/duwors@newmanlaw.com
 Derek Linke, ProHac to be filed/linke@newmanlaw.com
 NEWMAN DU WORS LLP
 1201 Third Avenue, Suite 1600/Seattle, WA 98101
 Telephone: (206) 274-2800
 Facsimile: (206) 274-2801

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

ESSOCIATE, INC., a Delaware corporation, <p style="text-align: right;">PLAINTIFF(S)</p>	CASE NUMBER <p style="text-align: center;">SACV12 - 02156 DOC (JPRx)</p>
<p style="text-align: center;">v.</p> VOOM MEDIA CORP., an Ontario corporation, d/b/a Mundo Media <p style="text-align: right;">DEFENDANT(S).</p>	<p style="text-align: center;">SUMMONS</p>

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint _____ amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, John Du Wors, whose address is 1201 Third Avenue, Suite 1600, Seattle, Washington 98101. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DEC 11 2012

Dated: _____

Clerk, U.S. District Court

By: D. Lagman
DODJIE LAGMAN
 Deputy Clerk



(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].