

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

ACCUHIRE.COM CORP.,

Plaintiff,

v.

KRONOS INCORPORATED,
JOS. A. BANK CLOTHIERS, INC.,
LOVE'S TRAVEL STOPS & COUNTRY
STORES, INC., NORTHERN TOOL &
EQUIPMENT CATALOG COMPANY,
INC.,SECURITAS SECURITY SERVICES
USA, INC.,ULTA SALON, COSMETICS &
FRAGRANCE, INC., and WEST MARINE,
INC.,

Defendants.

Case No. 13-2093-JTM-DJW

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Accuhire.com Corp. ("Accuhire.com" or "Plaintiff") makes the following allegations against Kronos Incorporated, Jos. A. Bank Clothiers, Inc.; Love's Travel Stops & Country Stores, Inc.; Northern Tool & Equipment Catalog Company, Inc.; Securitas Security Services USA, Inc.; ULTA Salon, Cosmetics & Fragrance, Inc. and West Marine, Inc. (collectively "Defendants").

PARTIES

1. Plaintiff Accuhire.com is a corporation organized and existing under the laws of the State of Kansas with its principal place of business located at 15 Highland Oak Dr., Ellington, CT 06029.

2. On information and belief, Kronos Incorporated ("Kronos") is a Massachusetts corporation with its principal place of business at 297 Billerica Rd., Chelmsford, MA 01824.

Kronos may be served with process by service upon its registered agent The Corporation Company, Inc., 112 SW 7th St., Ste. 3C, Topeka, KS 66603.

3. On information and belief, Jos. A. Bank Clothiers, Inc. (“Jos. A. Bank”) is a Delaware corporation with its principal place of business at 500 Hanover Pike, Hampstead, MD 21074. Jos. A. Bank may be served with process by service upon its registered agent The Corporation Company, Inc., 112 SW 7th St., Ste. 3C, Topeka, KS 66603.

4. On information and belief, Love’s Travel Stops & Country Stores, Inc. (“Love’s”) is an Oklahoma corporation with its principal place of business at 10601 N. Pennsylvania Ave., Oklahoma City, OK 73120. Love’s may be served with process by service upon its registered agent The Corporation Company, Inc., 112 SW 7th St., Ste. 3C, Topeka, KS 66603.

5. On information and belief, Northern Tool & Equipment Catalog Company, Inc. (“Northern Tool”) is a Minnesota corporation with its principal place of business at 2800 Southcross Dr. W, Burnsville, MN 55306. On information and belief, Northern Tool may be served with process by service upon Donald L. Kotula, its Chief Executive Officer, located at 2800 Southcross Dr, W, Burnsville, MN 55306.

6. On information and belief, Securitas Security Services USA, Inc. (“Securitas”) is a Delaware corporation with its principal place of business at 2 Campus Dr., Parsippany, NJ 07054. Securitas may be served with process by service upon its registered agent National Registered Agents, Inc. of KS, 112 SW 7th St., Suite 3C, Topeka, KS 66603.

7. On information and belief, ULTA Salon, Cosmetics & Fragrance, Inc. (“ULTA”) is a Delaware corporation with its principal place of business at 1000 Remington Blvd., Bolingbrook, IL 60440. ULTA may be served with process by service upon its registered agent Corporation Service Company, 2900 SW Wanamaker Drive, Suite 204, Topeka, KS 66614.

8. On information and belief, West Marine, Inc. (“West Marine”) is a Delaware corporation with its principal place of business at 500 Westridge Dr., Watsonville, CA 95076. On information and belief, West Marine may be served with process by service upon its registered agent for process, CT Corporation System, 818 W. Seventh St., Los Angeles, Ca 90017.

JURISDICTION AND VENUE

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

10. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendants have transacted business in this district, and have committed acts of patent infringement in this district.

JOINDER

11. Joinder is proper under 35 U.S.C. § 299. Each Defendant utilizes Kronos’s Internet-based platform for screening of job applicants to infringe Accuhire.com’s U.S. Patent No. 7,778,938 as explained under Count 1, *infra*. Therefore, there are questions of fact common to all Defendants in this action.

FACTUAL BACKGROUND

A. Accuhire.com’s Historical and Current Contacts with this Forum.

12. Plaintiff Accuhire.com is in the business of helping companies streamline and standardize their recruitment, assessment, selection, and management of applicants’ data for hiring new employees using Internet-based technology, using position specific questionnaires and competency-based solutions that help clients identify to what extent an applicant can do the job, have the motivation to do the job and will fit with the client’s culture.

13. Accuhire.com's main computerized, internet-based technology solution was invented by the Chief Executive Officer of Accuhire.com, D. Joseph Stimac, and it comprises building position-specific questionnaires that target the important requirements of a given employment position.

14. Mr. Stimac invented and designed Accuhire.com's proprietary technology that is the subject of this litigation in the late 1990's and early 2000's in Lawrence, Kansas.

15. The attorney that filed the corporate formation documents for Accuhire.com was Mr. Patrick Trysla, then employed at Husch & Eppenberger in Kansas City, Missouri. Mr. Trysla later accepted employment at the investment firm George K. Baum & Company ("Baum"), also in Kansas City, Missouri. While employed there, Mr. Trysla enlisted Accuhire.com to provide a presentation of its technology to the executives at Baum. On information and belief, Mr. Trysla currently resides in Kansas City, Missouri.

16. At the time Accuhire.com began commercializing its services, the hosting servers were operated by Hypervine Communications, which later became Internet Direct Communications, Inc., located in Overland Park, Kansas. Mr. Stimac's main contact person at Hypervine/Internet Direct, and the person responsible for providing Internet access to Accuhire.com's servers, was Mr. Peter Churchill. On information and belief, Mr. Churchill currently resides in the Kansas City, Kansas area.

17. At that time, Accuhire.com used a software programming company called Celeritas Technologies, LLC ("Celeritas"), located in Overland Park, Kansas, for programming and troubleshooting services. Mr. Stimac's main contact person at Celeritas was Mr. Brian Coatney and the programmer primarily responsible for installing, programming and troubleshooting Accuhire.com's system was Mr. Gary Helton. On information and belief,

Messrs. Coatney and Helton still reside in the Kansas City, Kansas area. Accuhire.com also used the programming services of Cyteworks, Inc. (“Cyteworks”), located in Lee’s Summit, Missouri on occasion.

18. Accuhire.com later began using Arsalon Technologies LLC in Lenexa, Kansas to host its computerized applicant screening services, but continued using Celeritas for programming and troubleshooting services. Accuhire.com’s primary contact persons at Arsalon most familiar with Accuhire.com’s services and servers were Mr. Bryan Porter, Mr. Gary Hall and Mr. Brad Hajek.

19. In October of 2011, Accuhire.com began using Cyteworks for hosting, programming and troubleshooting services. The primary programmers at Cyteworks who do work for Accuhire.com and are most familiar with Accuhire.com’s services are Mr. Robb Washeck and Mr. Duane Blankenship, both of whom, on information and belief, currently reside in the Kansas City, Missouri area.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,778,938

20. On August 17, 2010, United States Patent No. 7,778,938 (“the ’938 patent”) entitled “System and Method for Screening of Job Applicants” issued. A true and correct copy of the ’938 Patent is attached hereto as Exhibit A.

21. Accuhire.com is the owner by assignment of the ’938 patent, including all rights to recover for past and future acts of infringement.

22. On May 3, 2012, Accuhire.com sued Starbucks Corporation, a Kronos customer, in C.A. No. 2:12-cv-02252-CM-GLR (D. Kan.) (“Starbucks Action”).

23. On June 6, 2012, Accuhire.com has sued CVS Caremark Corporation and CVS Pharmacy, Inc., another Kronos customer, in C.A. No. 3:12-cv-693-DW (W.D. Mo.) (“CVS Action”).

24. Kronos practices each and every method step of at least method claims 1 and 10. Defendants Jos. A. Bank, Love’s, Northern Tool, Securitas, ULTA and West Marine (collectively “Kronos’s customers”) also practice each and every method step of at least method claims 1 and 10. Alternatively, Kronos’s customers hire, direct and control Kronos’s performance of one or more of these method steps and should be deemed to directly or jointly infringe by these actions.

25. By virtue of a contractual relationship by which Kronos’s customers purchase Kronos’s infringing system, Kronos has induced its customers to directly infringe method claims 1 and 10 by using Kronos’s infringing systems. At latest as of the filing of the Starbucks Action in May of 2012, Kronos has known of its infringement and has intended to induce Kronos’s customers to infringe at least method claims 1 and 10.

26. Kronos, without limitation, makes, uses, offers for sale, and/or sells within the United States, and/or imports into the United States, Internet-based systems for screening of job applicants comprising each element of at least system claims 23, 34, 35 and 44. Kronos’s customers directly infringe these claims by using Kronos’s infringing system.

27. By virtue of a contractual relationship by which Kronos’s customers purchase Kronos’s infringing system, Kronos has induced its customers to directly infringe claims 23, 34, 35 and 44 by using its infringing systems. At latest as of the filing of the Starbucks Action in May of 2012, Kronos has known of its infringement and has intended to induce Kronos’s

customers to infringe at least system claims 23, 34, 35 and 44 by selling to Kronos's customers the systems containing all the elements within each claim.

28. By virtue of the provision by Kronos of systems to job applicants comprising each element of at least system claims 23, 34, 35 and 44, Kronos has also induced those job applicants to use infringing systems, and thus directly infringe those claims. At latest as of the filing of the Starbucks Action in May of 2012, Kronos has known of its infringement and has intended to induce Kronos's customers to infringe at least system claims 23, 34, 35 and 44 by selling to Kronos's customers the systems containing all the elements within each claim.

29. As stated, Defendants each infringe at least Claims 1, 10, 23, 34, 35 and 44 of the '938 Patent. By way of example only, and without limitation on Accuhire.com's assertion of infringement by Defendants of other claims of the '938 Patent, Accuhire.com provides detailed allegations in the paragraphs that follow regarding Defendants' infringement of Claim 1 and 23.

30. Claim 1 of the '938 Patent reads as follows:

1. A method for screening a plurality of job applicants comprising: receiving input to a predetermined plurality of job related profile questions through at least one input device, which are locked to prevent alteration by the job applicant, wherein the plurality of job related profile questions include at least one job-related question regarding a preferred work style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job, and are targeted to a predetermined job opening from the plurality of job applicants; providing a numeral score associated with each predetermined response with at least one processor; and tabulating the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor for viewing on at least one electronic display.

31. Claim 23 of the '938 Patent reads as follows:

23. A system for screening a plurality of job applicants comprising: at least one input device that receives an input regarding a predetermined plurality of job related profile questions which are locked to prevent alteration by the job applicant, wherein the plurality of job related profile questions include at least one job-related question that provides information regarding a preferred work style for

a job applicant, that provides an indication of motivation for the job applicant to perform a particular job, that is targeted to a predetermined job opening from the plurality of job applicants; at least one processor that provides a numeral score associated with each predetermined response and tabulates the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants; and at least one electronic display for showing the numeral score associated with each predetermined response and the tabulation of the total score for all predetermined responses.

Kronos's Infringement

32. On information and belief, Kronos has been and now is infringing the '938 Patent in this judicial district, and elsewhere in the United States. Acts of infringement by Kronos include, without limitation, making, using, offering for sale to its customers, and/or selling to its customers within the United States, and/or importing into the United States, at least an Internet-based system and method for screening of job applicants. Kronos is thus liable for infringement of the '938 Patent under 35 U.S.C. § 271(a) and (b). Such infringing systems include, for example, Kronos "Workforce Ready HR" and "Workforce Talent Acquisition systems described, at least as of the date of the filing of this Complaint, at <http://www.kronos.com/products/smb-solutions/workforce-ready.aspx?tab=hiring> ("Kronos Workforce Ready HR") and <http://www.kronos.com/hiring-software/hiring.aspx> ("Kronos Workforce Talent Acquisition"), respectively (collectively "Kronos Systems"). True and correct copies of screenshots of these webpages are attached hereto as Exhibit B and C, respectively.

33. The Kronos System webpages shown in Exhibits B and C evidence that Kronos practices a "method for screening a plurality of job applicants," per Claim 1, and "a system for screening a plurality of job applicants," per claim 23.

34. Kronos practices the first step of Claim 1, "receiving input to a predetermined plurality of job related profile questions through at least one input device, which are locked to prevent alteration by the job applicant," whenever Kronos begins receiving information from

applicants who fill out any of Kronos's or Kronos's customers' employment questionnaires online. See, for example, the explanation of the content of the various questions and assessments used by Kronos and its customers on pages 2-3 of Kronos's Workforce Talent Acquisition Hiring Management Console v9.0 manual ("the Kronos Manual"), as accessed from <http://dallasynetwork.org/Portals/0/Kronos%20WFA%20-%20Position%20Based%20System%20Resource%20-%20Hiring%20Managers.pdf>, a true and correct copy of which is attached as Exhibit D). Exhibit D illustrates a portion of the "predetermined plurality of job related profile questions" that the Kronos Systems utilize. An example of an "input device" from which Kronos and its customers receive the "input" is the computer used to complete the questionnaire. On information and belief, all questions and answers on the Kronos Systems are "locked to prevent alteration by the job applicant." Based on the same evidence set forth in this paragraph, the Kronos Systems also each include the first element of Claim 23, "at least one input device that receives an input regarding a predetermined plurality of job related profile questions which are locked to prevent alteration by the job applicant."

35. Kronos further practices the next element of Claim 1, "wherein the plurality of job related profile questions include at least one job-related question regarding a preferred work style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job." The Kronos Systems use "Behavioral Assessments" to "identify the traits necessary to be successful and satisfied in desired position" which are "a preferred work style for a job applicant;" the applicant's answers to which indicate the "motivation for the job applicant to perform a particular job." See Exhibit D, the Kronos Manual, at p. 3. Based on the same evidence set forth in this paragraph, the Kronos Systems also include the next element of Claim

23, “wherein the plurality of job related profile questions include at least one job-related question that provides information regarding a preferred work style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job.”

36. Kronos further practices the next element of Claim 1, that the questions “are targeted to a predetermined job opening from the plurality of job applicants.” The Kronos Manual makes it clear that the questions used by the Kronos Systems take into account the particular job opening being applied for, as explained by the “Job Specific Questions” section of Exhibit D at p. 3. Based on the same evidence set forth in this paragraph, the Kronos Systems also each include the next element of Claim 23, i.e. that the questions are “targeted to a predetermined job opening from the plurality of job applicants.”

37. Kronos further practices the next steps of Claim 1, “providing a numeral score associated with each predetermined response with at least one processor; and tabulating the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor for viewing on at least one electronic display.” In addition to the detailed availability report and color coded job fit that the Kronos Systems’ platform provides, the platform also enables the Kronos Systems to provide an “Assessment Results” score in bar graph format as shown on page 20 of the Kronos Manual, a true and correct copy of which is attached as Exhibit E. Further, the list of “Applications” also includes a “Score” column with a color coded circle based on the score, in addition to a colored bar showing how the applicant scored in terms of availability, as shown on page 14 of the Kronos Manual, a true and correct copy of which is attached as Exhibit F. Because these are computer-driven systems, the score is necessarily provided by a “processor.” The tabulation of a score is performed, on information and belief, “so that each job applicant can

be objectively compared to other job applicants based on the received input” using the at least one processor to create the “Assessment Results” bar graph. Finally, the internet-based nature of the Kronos Systems demonstrates that the scores are viewed by Kronos and its customers on an “electronic display.” Based on the same evidence set forth in this paragraph, the Kronos Systems also each include the final element of Claim 23, “at least one processor that provides a numeral score associated with each predetermined response and tabulates the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants; and at least one electronic display for showing the numeral score associated with each predetermined response and the tabulation of the total score for all predetermined responses.”

38. Further, the Kronos Manual demonstrates that the questions on the Kronos Systems (1) are related to “a preferred work style for a job applicant”, (2) provide “an indication of motivation for the job applicant to perform a particular job” and (3) are “targeted to a predetermined job opening” per both Claims 1 and 23. See, for example in Exhibit D at p. 3, stating that there are “Behavioral Assessments” which are “personality-based ... assessments that measure an applicant’s personal attributes for a potential job ‘fit’.” Page 20 of the Kronos Manual, attached at Exhibit E, also shows that the Kronos Systems (1) provide “a numeral score associated with each predetermined response with at least one processor”, and (2) tabulate “the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor” as recited by Claims 1 and 23. As stated above, the internet-based nature of the Kronos Systems demonstrate that the scores are viewed by Kronos and its customers on an “electronic display.”

Jos. A. Bank's Infringement

39. On information and belief, Jos. A. Bank has been and now is directly infringing the '938 Patent in this judicial district, and elsewhere in the United States. Acts of infringement by Jos. A. Bank include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least an Internet-based system and method for screening of job applicants. Such infringing systems and methods include, for example, Jos. A. Bank's "Career Opportunities" system hosted, at least as of the date of the filing of this Complaint, at http://jobs.josbank.com/?utm_source=careersite. A true and correct screenshot of that webpage is attached as Exhibit G. Jos. A. Bank is thus liable for infringement of the '938 Patent under 35 U.S.C. § 271.

40. The "Career Opportunities" webpage shown in Exhibit G evidences that Jos. A. Bank practices a "method for screening a plurality of job applicants," per Claim 1, and "a system for screening a plurality of job applicants," per claim 23.

41. Jos. A. Bank practices the first step of Claim 1, "receiving input to a predetermined plurality of job related profile questions through at least one input device, which are locked to prevent alteration by the job applicant," whenever it begins receiving information from applicants who fill out any of the Jos. A. Bank Career Opportunities employment questionnaires online. A true and correct screenshot exemplifying a portion of Jos. A. Bank's "predetermined plurality of job related profile questions" is attached hereto as Exhibit H. An example of an "input device" from which Jos. A. Bank receives the "input" is the computer used to complete the questionnaire. On information and belief, Jos. A. Bank's Career Opportunities' questions and answers are "locked to prevent alteration by the job applicant." Based on the same evidence set forth in this paragraph, Jos. A. Bank Career Opportunities also includes the first

element of Claim 23, “at least one input device that receives an input regarding a predetermined plurality of job related profile questions which are locked to prevent alteration by the job applicant.”

42. Jos. A. Bank further practices the next step of Claim 1, “wherein the plurality of job related profile questions include at least one job-related question regarding a preferred work style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job.” Many of the Jos. A. Bank Career Opportunities questions relate to “a preferred work style for a job applicant” the answers to which indicate “motivation for the job applicant to perform a particular job”. As an example, a true and correct copy of a screenshot of a portion of the Jos. A. Bank Career Opportunities questionnaire tailored to probe the job applicant’s motivation to perform the job is attached as Exhibit I. Based on the same evidence set forth in this paragraph, Jos. A. Bank Career Opportunities also includes the next element of Claim 23, “wherein the plurality of job related profile questions include at least one job-related question that provides information regarding a preferred work style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job.”

43. Jos. A. Bank further practices the next step of Claim 1 reciting that the questions “are targeted to a predetermined job opening from the plurality of job applicants.” Jos. A. Bank Career Opportunities makes it clear that the questions take into account the particular job opening being applied for. For example, a portion of Jos A. Bank Career Opportunities questionnaires, a true and correct copy of which is attached as Exhibit J, is directed specifically to the applied position “Sales Associate-Commissioned” Based on the same evidence set forth in this paragraph, Jos. A. Bank Career Opportunities also includes the next element of Claim 23,

i.e. that the questions are “targeted to a predetermined job opening from the plurality of job applicants.”

44. Jos. A. Bank practices the final step of Claim 1, “providing a numeral score associated with each predetermined response with at least one processor; and tabulating the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor for viewing on at least one electronic display.” In addition to the detailed availability report and color coded job fit that the Kronos Systems provide, the platforms also enable Jos. A. Bank Career Opportunities to provide an Assessment Results score in bar graph format as shown by pages 20 and 14 of the Kronos Manual, true and correct copies of which is attached as Exhibits E and F. Further, the Rating Scale format of answers (i.e., multiple options which are increasingly desirable to Jos. A. Bank or single yes/no formats that are essential to the position) indicate that the answers are given a “numerical score” which is used to create the Assessment Results bar graph format score. Because these are computer-driven systems, the score is necessarily provided by a “processor.” The use of an indirect Rating Scale also shows that a total score is tabulated “so that each job applicant can be objectively compared to other job applicants based on the received input” using the at least one processor, creating the Assessment Results bar graph. Finally, the internet-based nature of Jos. A. Bank Career Opportunities demonstrates that the scores are viewed by Jos. A. Bank on an “electronic display.” Based on the same evidence set forth in this paragraph, Jos. A. Bank Career Opportunities also includes the final element of Claim 23, “at least one processor that provides a numeral score associated with each predetermined response and tabulates the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants; and at least one electronic display for showing the numeral

score associated with each predetermined response and the tabulation of the total score for all predetermined responses.”

45. Further, portions of Jos. A. Bank Career Opportunities questionnaires demonstrate that the questions (1) are related to “a preferred work style for a job applicant”, (2) provide “an indication of motivation for the job applicant to perform a particular job” and (3) are “targeted to a predetermined job opening” per both Claims 1 and 23. See for example, questions shown in Exhibits I and J such as “As a part of the sales process, our associates often need to take a customer’s ... measurements to ensure a proper fit. Would you be willing and able to do this ...?” The Rating Scale format of questions also shows that the system (1) provides “a numeral score associated with each predetermined response with at least one processor”, and (2) tabulates “the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor” per both Claims 1 and 23. As stated above, the internet-based nature of Jos. A. Bank Career Opportunities demonstrates that the scores are viewed by Jos. A. Bank on an “electronic display.”

Love’s Infringement

46. On information and belief, Love’s has been and now is infringing the ’938 Patent in this judicial district, and elsewhere in the United States. Acts of infringement by Love’s include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least an Internet-based system and method for screening of job applicants. Such infringing systems include, for example, the “Love’s Careers” system hosted, at least as of the date of the filing of this Complaint, at

<http://www.loves.com/Careers.aspx>. A true and correct screenshot of that webpage is attached as Exhibit K. Love's is thus liable for infringement of the '938 Patent under 35 U.S.C. § 271.

47. The "Love's Careers" webpage shown in Exhibit K evidences that Love's practices a "method for screening a plurality of job applicants," per Claim 1, and "a system for screening a plurality of job applicants," per claim 23.

48. Love's practices the first step of Claim 1, "receiving input to a predetermined plurality of job related profile questions through at least one input device, which are locked to prevent alteration by the job applicant," whenever it begins receiving information from applicants who fill out any of the Love's Careers employment questionnaires online. A true and correct screenshot exemplifying a portion of Love's Careers' "predetermined plurality of job related profile questions" is attached as Exhibit L. An example of an "input device" from which Love's receives the "input" is the computer used to complete the questionnaire. On information and belief, Love's Careers' questions and answers are "locked to prevent alteration by the job applicant. Based on the same evidence set forth in this paragraph, Love's Careers also includes the first element of Claim 23, "at least one input device that receives an input regarding a predetermined plurality of job related profile questions which are locked to prevent alteration by the job applicant."

49. Love's further practices the next step of Claim 1, "wherein the plurality of job related profile questions include at least one job-related question regarding a preferred work style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job." Many of the Love's Careers questions relate to "a preferred work style for a job applicant," the answers to which indicate "motivation for the job applicant to perform a particular job." Indeed, a portion of the Love's Careers questionnaire, a true and correct copy of

which is attached as Exhibit M, is tailored to probe the job applicant's motivation to perform the job. Based on the same evidence set forth in this paragraph, Love's Careers also includes the next element of Claim 23, "wherein the plurality of job related profile questions include at least one job-related question that provides information regarding a preferred work style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job."

50. Love's further practices the next step of Claim 1 reciting that the questions "are targeted to a predetermined job opening from the plurality of job applicants." Love's Careers makes it clear that the questions take into account the particular job opening being applied for. For example, a portion of Love's Careers questionnaires, a true and correct copy of which is attached as Exhibit N, is directed specifically to the applied position "Cashier / Clerk". Such questions include, "How much experience do you have operating a cash register, including processing credit card transactions and/or being responsible for balancing the drawer at the end of the day?" Based on the same evidence set forth in this paragraph, Love's Careers also includes the next element of Claim 23, i.e. that the questions are "targeted to a predetermined job opening from the plurality of job applicants."

51. On information and belief, Love's practices the final step of Claim 1, "providing a numeral score associated with each predetermined response with at least one processor; and tabulating the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor for viewing on at least one electronic display" is also met by Love's Careers. On information and belief, in addition to the detailed availability report and color coded job fit that the Kronos Systems provide, the platforms also enable Love's Careers to provide an Assessment

Results score in bar graph format as shown by pages 20 and 14 of the Kronos Manual attached as Exhibits E and F. Further, the Rating Scale format of answers (i.e., multiple options which are increasingly desirable to Love's or single yes/no formats that are essential to the position) indicate that the answers are given a "numerical score" which is used to create the Assessment Results bar graph format score. Because these are computer-driven systems, the score is necessarily provided by a "processor." The use of an indirect Rating Scale also shows that a total score is tabulated "so that each job applicant can be objectively compared to other job applicants based on the received input" using the at least one processor, creating the Assessment Results bar graph. Finally, the internet-based nature of Love's Careers demonstrates that the scores are viewed by Love's on an "electronic display." Based on the same evidence set forth in this paragraph, Love's Careers also includes the final element of Claim 23, "at least one processor that provides a numeral score associated with each predetermined response and tabulates the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants; and at least one electronic display for showing the numeral score associated with each predetermined response and the tabulation of the total score for all predetermined responses."

52. Further, portions of the Love's Careers questionnaires demonstrate that the questions (1) are related to "a preferred work style for a job applicant", (2) provide "an indication of motivation for the job applicant to perform a particular job" and (3) are "targeted to a predetermined job opening" per both Claims 1 and 23. See, for example, questions, shown in Exhibits M and N such as "Can you wait patiently for a long time." The Rating Scale format of questions also shows that the system (1) provides "a numeral score associated with each predetermined response with at least one processor", and (2) tabulates "the total score for all

predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor” per both Claims 1 and 23. As stated above, the internet-based nature of Love’s Careers demonstrates that the scores are viewed by Loves on an “electronic display.”

Northern Tool’s Infringement

53. On information and belief, Northern Tool has been and now is directly infringing the ’938 Patent in this judicial district, and elsewhere in the United States. Acts of infringement by Northern Tool include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least an Internet-based system and method for screening of job applicants. Such infringing systems include, for example, Northern Tool’s “Northern Tool Opportunities” system hosted, at least as of the date of the filing of this Complaint, at http://www.northerntool.com/shop/tools/careers_careers-index. A true and correct screenshot of that webpage is attached as Exhibit O. Northern Tool is thus liable for infringement of the ’938 Patent under 35 U.S.C. § 271.

54. The “Northern Tool Opportunities” webpage shown in Exhibit O evidences that Northern Tool practices a “method for screening a plurality of job applicants,” per Claim 1, and “a system for screening a plurality of job applicants,” per claim 23

55. Northern Tool practices the first step of Claim 1, “receiving input to a predetermined plurality of job related profile questions through at least one input device, which are locked to prevent alteration by the job applicant,” whenever it begins receiving information from applicants who fill out any of the Northern Tool Opportunities employment questionnaires online. A true and correct screenshot exemplifying a portion of Northern Tool Opportunities’ “predetermined plurality of job related profile questions” is attached as Exhibit P. An example

of an “input device” from which Northern Tool receives the “input” is the computer used to complete the questionnaire. On information and belief, Northern Tool Opportunities’ questions and answers are “locked to prevent alteration by the job applicant. Based on the same evidence set forth in this paragraph, Northern Tool Opportunities also includes the first element of Claim 23, “at least one input device that receives an input regarding a predetermined plurality of job related profile questions which are locked to prevent alteration by the job applicant.”

56. Northern Tool further practices the next step of Claim 1, “wherein the plurality of job related profile questions include at least one job-related question regarding a preferred work style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job.” Many of the Northern Tool Opportunities questions relate to “a preferred work style for a job applicant” the answers to which indicate “motivation for the job applicant to perform a particular job”. Indeed, a portion of the Northern Tool Opportunities questionnaire, a true and correct copy of which is attached as Exhibit Q, is tailored to probe the job applicant’s motivation to perform the job. Based on the same evidence set forth in this paragraph, Northern Tool Opportunities also includes the next element of Claim 23, “wherein the plurality of job related profile questions include at least one job-related question that provides information regarding a preferred work style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job.”

57. Northern Tool further practices the next step of Claim 1 reciting that the questions “are targeted to a predetermined job opening from the plurality of job applicants,” Northern Tool Opportunities makes it clear that the questions take into account the particular job opening being applied for. For example, a portion of Northern Tool Opportunities questionnaires, a true and correct copy of which is attached as Exhibit R, is directed specifically

to the applied position “Product Placement Lead.” Such questions include, “Have you ever been given any formal awards for outstanding work performance such as ..., rewards for exemplary customer service, teamwork or work quality ...?” Based on the same evidence set forth in this paragraph, Northern Tool Opportunities also includes the next element of Claim 23, i.e. that the questions are “targeted to a predetermined job opening from the plurality of job applicants.”

58. Northern Tool practices the final step of Claim 1, “providing a numeral score associated with each predetermined response with at least one processor; and tabulating the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor for viewing on at least one electronic display.” On information and belief, in addition to the detailed availability report and color coded job fit that the Kronos Systems provide, the platforms also enable Northern Tool Opportunities to provide an Assessment Results score in bar graph format as shown by pages 20 and 14 of the Kronos Manual attached as Exhibits E and F. Further, the Rating Scale format of answers (i.e., multiple options which are increasingly desirable to Northern Tool or single yes/no formats that are essential to the position) indicate that the answers are given a “numerical score” which is used to create the Assessment Results bar graph format score. Because these are computer-driven systems, the score is necessarily provided by a “processor.” The use of an indirect Rating Scale also shows that a total score is tabulated “so that each job applicant can be objectively compared to other job applicants based on the received input” using the at least one processor, creating the Assessment Results bar graph. Finally, the internet-based nature of Northern Tool Opportunities demonstrates that the scores are viewed by Northern Tool on an “electronic display.” Based on the same evidence set forth in this paragraph, Northern Tool Opportunities also includes the final element of Claim 23, “at least one

processor that provides a numeral score associated with each predetermined response and tabulates the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants; and at least one electronic display for showing the numeral score associated with each predetermined response and the tabulation of the total score for all predetermined responses.”

59. Further, portions of the Northern Tool Opportunities questionnaires demonstrate that the questions (1) are related to “a preferred work style for a job applicant”, (2) provide “an indication of motivation for the job applicant to perform a particular job” and (3) are “targeted to a predetermined job opening” per both Claims 1 and 23. See, for example, questions shown in Exhibits Q and R such as “What are you currently looking for in terms of a job?” The Rating Scale format of questions also shows that the system (1) provides “a numeral score associated with each predetermined response with at least one processor”, and (2) tabulates “the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor” per both Claims 1 and 23. As stated above, the internet-based nature of Northern Tool Opportunities demonstrates that the scores are viewed by Northern Tool on an “electronic display.”

Securitas’s Infringement

60. On information and belief, Securitas has been and now is directly infringing the ’938 Patent in this judicial district, and elsewhere in the United States. Acts of infringement by Securitas include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least an Internet-based system and method for screening of job applicants. Such infringing systems include, for example, Securitas’ “Securitas Join Us” system hosted, at least as of the date of the filing of this Complaint, at

<http://www.securitas.com/us/en/Career/>. A true and correct screenshot of that webpage is attached as Exhibit S. Securitas is thus liable for infringement of the '938 Patent under 35 U.S.C. § 271.

61. The “Securitas Join Us” webpage shown in Exhibit S evidences that Securitas practices a “method for screening a plurality of job applicants,” per Claim 1, and “a system for screening a plurality of job applicants,” per claim 23.

62. Securitas practices the first step of Claim 1, “receiving input to a predetermined plurality of job related profile questions through at least one input device, which are locked to prevent alteration by the job applicant,” whenever it begins receiving information from applicants who fill out any of the Securitas Join Us employment questionnaires online. A true and correct screenshot exemplifying a portion of Securitas Join Us “predetermined plurality of job related profile questions” is attached as Exhibit T. An example of an “input device” from which Securitas receives the “input” is the computer used to complete the questionnaire. On information and belief, Securitas Join Us questions and answers are “locked to prevent alteration by the job applicant.” Based on the same evidence set forth in this paragraph, Securitas Join Us also includes the first element of Claim 23, “at least one input device that receives an input regarding a predetermined plurality of job related profile questions which are locked to prevent alteration by the job applicant.”

63. Securitas further practices the next step of Claim 1, “wherein the plurality of job related profile questions include at least one job-related question regarding a preferred work style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job.” Many of the Securitas Join Us questions relate to “a preferred work style for a job applicant” the answers to which indicate “motivation for the job applicant to perform a

particular job”. Indeed, a portion of the Securitas Join Us questionnaire, a true and correct copy of which is attached as Exhibit U, is tailored to probe the job applicant’s motivation to perform the job. Based on the same evidence set forth in this paragraph, Securitas Join Us also includes the next element of Claim 23, “wherein the plurality of job related profile questions include at least one job-related question that provides information regarding a preferred work style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job.”

64. Securitas further practices the next step of Claim 1 reciting that the questions “are targeted to a predetermined job opening from the plurality of job applicants,” Securitas Join Us makes it clear that the questions take into account the particular job opening being applied for. For example, a portion of Securitas Join Us questionnaires, a true and correct copy of which is attached as Exhibit V, is directed specifically to the applied position “Security Officer – Regular.” Based on the same evidence set forth in this paragraph, Securitas Join Us also includes the next element of Claim 23, i.e. that the questions are “targeted to a predetermined job opening from the plurality of job applicants.”

65. Securitas practices the final element of Claim 1, “providing a numeral score associated with each predetermined response with at least one processor; and tabulating the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor for viewing on at least one electronic display” is also met by Securitas Join Us. On information and belief, in addition to the detailed availability report and color coded job fit that the Kronos Systems provide, the platforms also enable Securitas Join Us to provide an Assessment Results score in bar graph format as shown by pages 20 and 14 of the Kronos Manual attached as Exhibits E and

F. Further, the Rating Scale format of answers (i.e., multiple options which are increasingly desirable to Securitas or single yes/no formats that are essential to the position) indicate that the answers are given a “numerical score” which is used to create the Assessment Results bar graph format score. Because these are computer-driven systems, the score is necessarily provided by a “processor.” The use of an indirect Rating Scale also shows that a total score is tabulated “so that each job applicant can be objectively compared to other job applicants based on the received input” using the at least one processor, creating the Assessment Results bar graph. Finally, the internet-based nature of Securitas Join Us demonstrates that the scores are viewed by Securitas on an “electronic display.” Based on the same evidence set forth in this paragraph, Securitas Join Us also includes the final element of Claim 23, “at least one processor that provides a numeral score associated with each predetermined response and tabulates the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants; and at least one electronic display for showing the numeral score associated with each predetermined response and the tabulation of the total score for all predetermined responses.”

66. Further, portions of the Securitas Join Us questionnaires demonstrate that the questions (1) are related to “a preferred work style for a job applicant”, (2) provide “an indication of motivation for the job applicant to perform a particular job” and (3) are “targeted to a predetermined job opening” per both Claims 1 and 23. See for example questions shown in Exhibits U and V such as “You receive a call from your supervisor who requests that you work a double shift in order to cover for the usual second shift officer who will no longer be working there. When questioned by fellow workers about why you are still at work you should.” The Rating Scale format of questions also shows that the system (1) provides “a numeral score associated with each predetermined response with at least one processor”, and (2) tabulates “the

total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor” per both Claims 1 and 23. As stated above, the internet-based nature of Securitas Join Us demonstrates that the scores are viewed by Securitas on an “electronic display.”

ULTA’s Infringement

67. On information and belief, ULTA has been and now is directly infringing the ’938 Patent in this judicial district, and elsewhere in the United States. Acts of infringement by ULTA include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least an Internet-based system and method for screening of job applicants. Such infringing systems include, for example, ULTA’s “Be Part of Something Beautiful” system hosted, at least as of the date of the filing of this Complaint, at <http://careers.ulta.com/> (“ULTA’s Be Part of Something Beautiful”), a true and correct copy of which is attached as Exhibit W. ULTA is thus liable for infringement of the ’938 Patent under 35 U.S.C. § 271.

68. The “Be Part of Something Beautiful” webpage shown in Exhibit W evidences that ULTA practices a “method for screening a plurality of job applicants,” per Claim 1, and “a system for screening a plurality of job applicants,” per claim 23.

69. ULTA practices the first step of Claim 1, “receiving input to a predetermined plurality of job related profile questions through at least one input device, which are locked to prevent alteration by the job applicant,” whenever it begins receiving information from applicants who fill out any of the ULTA’s Be Part of Something Beautiful employment questionnaires online. A true and correct screenshot exemplifying a portion of ULTA’s Be Part of Something Beautiful’s “predetermined plurality of job related profile questions” is attached as

Exhibit X. An example of an “input device” from which ULTA receives the “input” is the computer used to complete the questionnaire. On information and belief, ULTA’s Be Part of Something Beautiful’s questions and answers are “locked to prevent alteration by the job applicant.” Based on the same evidence set forth in this paragraph, ULTA’s Be Part of Something Beautiful also includes the first element of Claim 23, “at least one input device that receives an input regarding a predetermined plurality of job related profile questions which are locked to prevent alteration by the job applicant.”

70. ULTA further practices the next step of Claim 1, “wherein the plurality of job related profile questions include at least one job-related question regarding a preferred work style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job.” Many of the ULTA’s Be Part of Something Beautiful questions relate to “a preferred work style for a job applicant” the answers to which indicate “motivation for the job applicant to perform a particular job”. Indeed, a portion of the ULTA’s Be Part of Something Beautiful questionnaire, a true and correct copy of which is attached as Exhibit Y, is tailored to probe the job applicant’s motivation to perform the job. Based on the same evidence set forth in this paragraph, ULTA’s Be Part of Something Beautiful also includes the next element of Claim 23, “wherein the plurality of job related profile questions include at least one job-related question that provides information regarding a preferred work style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job.”

71. ULTA further practices the next step of Claim 1 reciting that the questions “are targeted to a predetermined job opening from the plurality of job applicants.” ULTA’s Be Part of Something Beautiful makes it clear that the questions take into account the particular job opening being applied for. For example, a portion of ULTA’s Be Part of Something Beautiful

questionnaires, a true and correct copy of which is attached as Exhibit Z, is directed specifically to the applied position by asking the applicant, by way of example, “The customer is always right?” Based on the same evidence set forth in this paragraph, ULTA’s Be Part of Something Beautiful also includes the next element of Claim 23, i.e. that the questions are “targeted to a predetermined job opening from the plurality of job applicants.”

72. ULTA practices the final step of Claim 1, “providing a numeral score associated with each predetermined response with at least one processor; and tabulating the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor for viewing on at least one electronic display” is also met by ULTA’s Be Part of Something Beautiful. On information and belief, in addition to the detailed availability report and color coded job fit that the Kronos Systems provide, the platforms also enable ULTA’s Be Part of Something Beautiful to provide an Assessment Results score in bar graph format as shown by pages 20 and 14 of the Kronos Manual attached as Exhibits E and F. Further, the Rating Scale format of answers (i.e., multiple options which are increasingly desirable to ULTA or single yes/no formats that are essential to the position) indicate that the answers are given a “numerical score” which is used to create the Assessment Results bar graph format score. Because these are computer-driven systems, the score is necessarily provided by a “processor.” The use of an indirect Rating Scale also shows that a total score is tabulated “so that each job applicant can be objectively compared to other job applicants based on the received input” using the at least one processor, creating the Assessment Results bar graph. Finally, the internet-based nature of ULTA’s Be Part of Something Beautiful demonstrates that the scores are viewed by ULTA on an “electronic display.” Based on the same evidence set forth in this paragraph, ULTA’s Be Part of Something Beautiful also includes the

final element of Claim 23, “at least one processor that provides a numeral score associated with each predetermined response and tabulates the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants; and at least one electronic display for showing the numeral score associated with each predetermined response and the tabulation of the total score for all predetermined responses.”

73. Further, portions of the ULTA’s Be Part of Something Beautiful questionnaires demonstrate that the questions (1) are related to “a preferred work style for a job applicant”, (2) provide “an indication of motivation for the job applicant to perform a particular job” and (3) are “targeted to a predetermined job opening” per both Claims 1 and 23. See for example questions from Exhibits Y and Z such as “You are in charge of promoting a new POS (Point of Sales) system in your store. You are not sure why it is better than the old one. Which of the following would you most likely do?” The Rating Scale format of questions also shows that the system (1) provides “a numeral score associated with each predetermined response with at least one processor”, and (2) tabulates “the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor” per both Claims 1 and 23. As stated above, the internet-based nature of ULTA’s Be Part of Something Beautiful demonstrates that the scores are viewed by ULTA on an “electronic display.”

West Marine’s Infringement

74. On information and belief, West Marine has been and now is directly infringing the ’938 Patent in this judicial district, and elsewhere in the United States. Acts of infringement by West Marine include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least an Internet-based

system and method for screening of job applicants. Such infringing systems include, for example, West Marine's "Careers at West Marine" system hosted at http://www.westmarine.com/webapp/wcs/stores/servlet/AboutUsView?langId=-1&storeId=11151&catalogId=10001&page=Careers-at-West-Marine#.UOtHWG_AeCk. A true and correct copy of which is attached as Exhibit AA. West Marine is thus liable for infringement of the '938 Patent under 35 U.S.C. § 271.

75. The "Careers at West Marine" webpage shown in Exhibit AA evidences that West Marine practices a "method for screening a plurality of job applicants," per Claim 1, and "a system for screening a plurality of job applicants," per claim 23.

76. West Marine practices the first step of Claim 1, "receiving input to a predetermined plurality of job related profile questions through at least one input device, which are locked to prevent alteration by the job applicant," whenever it begins receiving information from applicants who fill out any of the Careers at West Marine employment questionnaires online. A true and correct screenshot exemplifying a portion of Careers at West Marine's "predetermined plurality of job related profile questions" is attached as Exhibit BB. An example of an "input device" from which West Marine receives the "input" is the computer used to complete the questionnaire. On information and belief, Careers at West Marine's questions and answers are "locked to prevent alteration by the job applicant. Based on the same evidence set forth in this paragraph, Careers at West Marine also includes the first element of Claim 23, "at least one input device that receives an input regarding a predetermined plurality of job related profile questions which are locked to prevent alteration by the job applicant."

77. West Marine further practices the next step of Claim 1, "wherein the plurality of job related profile questions include at least one job-related question regarding a preferred work

style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job.” Many of the Careers at West Marine questions relate to “a preferred work style for a job applicant” the answers to which indicate “motivation for the job applicant to perform a particular job”. Indeed, a portion of the Careers at West Marine questionnaire, a true and correct copy of which is attached as Exhibit CC, is tailored to probe the job applicant’s motivation to perform the job. Based on the same evidence set forth in this paragraph, Careers at West Marine also includes the next element of Claim 23, “wherein the plurality of job related profile questions include at least one job-related question that provides information regarding a preferred work style for a job applicant, that provides an indication of motivation for the job applicant to perform a particular job.”

78. West marine further practices the next element of Claim 1 reciting that the questions “are targeted to a predetermined job opening from the plurality of job applicants,” Careers at West Marine makes it clear that the questions take into account the particular job opening being applied for. For example, a portion of Careers at West Marine questionnaires, a true and correct copy of which is attached as Exhibit DD, is directed specifically to the applied position by asking the applicant, by way of example, “As a requirement of the job, are you willing to climb ladders to reach merchandise?” Based on the same evidence set forth in this paragraph, Careers at West Marine also includes the next element of Claim 23, i.e. that the questions are “targeted to a predetermined job opening from the plurality of job applicants.”

79. West Marine practices the final step of Claim 1, “providing a numeral score associated with each predetermined response with at least one processor; and tabulating the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor for viewing on at

least one electronic display” is also met by Careers at West Marine. On information and belief, in addition to the detailed availability report and color coded job fit that the Kronos Systems provide, the platforms also enable Careers at West Marine to provide an Assessment Results score in bar graph format as shown by pages 20 and 14 of the Kronos Manual attached as Exhibits E and F. Further, the Rating Scale format of answers (i.e., multiple options which are increasingly desirable to West Marine or single yes/no formats that are essential to the position) indicate that the answers are given a “numerical score” which is used to create the Assessment Results bar graph format score. Because these are computer-driven systems, the score is necessarily provided by a “processor.” The use of an indirect Rating Scale also shows that a total score is tabulated “so that each job applicant can be objectively compared to other job applicants based on the received input” using the at least one processor, creating the Assessment Results bar graph. Finally, the internet-based nature of Careers at West Marine demonstrates that the scores are viewed by West Marine on an “electronic display.” Based on the same evidence set forth in this paragraph, Careers at West Marine also includes the final element of Claim 23, “at least one processor that provides a numeral score associated with each predetermined response and tabulates the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants; and at least one electronic display for showing the numeral score associated with each predetermined response and the tabulation of the total score for all predetermined responses.”

80. Further, portions of the Careers at West Marine questionnaires demonstrate that the questions (1) are related to “a preferred work style for a job applicant”, (2) provide “an indication of motivation for the job applicant to perform a particular job” and (3) are “targeted to a predetermined job opening” per both Claims 1 and 23. See for example questions from

Exhibits CC and DD such as “Are you willing to remain calm and patient with customers who are angry, rude, or frustrated?” The Rating Scale format of questions also shows that the system (1) provides “a numeral score associated with each predetermined response with at least one processor”, and (2) tabulates “the total score for all predetermined responses so that each job applicant can be objectively compared to other job applicants based on the received input with the at least one processor” per both Claims 1 and 23. As stated above, the internet-based nature of Careers at West Marine demonstrates that the scores are viewed by West Marine on an “electronic display.”

81. In addition to Claims 1 and 23, Defendants’ use of their respective Accused Systems also includes the practice all of the method steps of at least method Claim 10 and all of the elements of at least system Claims 34, 35 and 44, without limitation, and therefore infringes at least those claims as well.

82. On information and belief, at least due to (1) The Starbucks Action filed on May 3, 2012 and (2) The CVS Action filed on June 6, 2012, Kronos knew that Accuhire.com’s technology was proprietary, and subject to the ’938 Patent. Yet Kronos continued to make, use, offer for sale and sell its systems without regard to Accuhire.com’s rights and without offering to compensate Accuhire.com for the use of its proprietary technology.

83. There is an objectively high likelihood that Kronos’s actions constituted infringement of a valid patent, and the likelihood was either known or so obvious that it should have been known by Kronos. Thus, given Kronos’s knowledge of the ’938 Patent, stemming at least from its knowledge, at least as of the filing of the Starbucks Action, about Accuhire.com, its technology, and its pending patent application, among other things, Kronos is engaging in willful

infringement of the '938 Patent, and are also liable for enhanced damages under 35 U.S.C. § 284 and this case should be declared exceptional under 35 U.S.C. §285.

84. Accuhire.com is entitled to the issuance of a permanent injunction enjoining Defendants from continuing their infringement. Accuhire.com has suffered irreparable harm as Defendants' infringement has diluted the value of Accuhire.com's patent rights, and has taken business away from Accuhire.com, resulting in lost profits, and a loss of market share and good will, in amounts that cannot be compensated by payment of money. Moreover, allowing Defendants to continue in its infringement would encourage other would-be infringers to attempt to gain access, resulting in significant litigation expenses and uncertainty about the value of Accuhire.com's patent, which is the foundation of Accuhire.com's business. In addition, a remedy in equity is warranted because, considering the balance of hardship as between Defendants and Accuhire.com, Defendants would suffer far less hardship from the issuance of an injunction than Accuhire.com would suffer if an injunction is not issued. Finally, the public interest would not be disserved by the issuance of a permanent injunction, as the public does not have any substantial interest in the means by which Defendants select their employee candidates.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment:

1. In favor of Plaintiff that Defendants have infringed the '938 Patent;
2. Enjoining Defendants from making, importing, using, selling or offering to sell any method or system covered under one or more claims of the '938 Patent;
3. Requiring Defendants to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendants' infringement of the '938 Patent as provided under 35 U.S.C. § 284;

3. Finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees; and

4. Granting Accuhire.com any and all other relief to which Plaintiff may show itself to be entitled.

DEMAND FOR JURY TRIAL

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

DESIGNATION OF PLACE OF TRIAL

Plaintiff hereby requests Kansas City, Kansas as place of trial.

February 22, 2013

WAGSTAFF & CARTMELL, LLP

OF COUNSEL:

Scott E. Stevens
Gregory P. Love
Darrell G. Dotson
Todd Y. Brandt
Stevens Love
222 N. Fredonia St.
Longview, Texas 75601
(903) 753-6760
scott@stevenslove.com
greg@stevenslove.com
darrell@stevenslove.com
todd@stevenslove.com

/s/ Eric D. Barton

Thomas P. Cartmell KS Bar No. 17020
Eric D. Barton KS Bar No. 16503
Wagstaff & Cartmell, LLP
4740 Grand Avenue
Suite 300
Kansas City, MO 64112
Tel: (816) 701-1100
Fax: (816) 531-2372
tcartmell@wcllp.com
ebarton@wcllp.com

Counsel for Plaintiff Accuhire.com, Corp.
