Stuart G. Gross (#251019)
sgross@grosskleinlaw.com
George A. Croton (#323766)
gcroton@grosskleinlaw.com
Timothy S. Kline (#319227)
tk@grosskleinlaw.com
GROSS & KLEIN LLP
The Embarcadero
Pier 9, Suite 100
San Francisco, CA 94111
Telephone: (415) 671-4628
Facsimile: (415) 480-6688

Steven F. Molo *(pro hac vice forthcoming)*
smolo@mololamken.com
Benoit Quarmby *(pro hac vice forthcoming)*
bquarmby@mololamken.com
Leonid Grinberg *(pro hac vice forthcoming)*
lgrinberg@mololamken.com
MOLOLAMKEN LLP
430 Park Avenue
New York, NY 10022
Telephone: (212) 607-8160
Facsimile: (212) 607-8161

Rayiner I. Hashem *(pro hac vice forthcoming)*
rhashem@mololamken.com
Sarah J. Newman *(pro hac vice forthcoming)*
snewman@mololamken.com
Benjamin T. Sirolly *(pro hac vice forthcoming)*
bsirolly@mololamken.com
MOLOLAMKEN LLP
The Watergate, Suite 500
600 New Hampshire Avenue, N.W.
Washington, D.C. 20037
Telephone: (202) 556-2000
Facsimile: (202) 556-2001

Counsel for Plaintiff Express Mobile, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

EXPRESS MOBILE, INC., Plaintiff, v. AMAZON.COM, INC., Defendant.	Case No. **COMPLAINT FOR PATENT INFRINGEMENT** **JURY TRIAL DEMANDED**

Plaintiff Express Mobile, Inc. ("Express Mobile" or "Plaintiff"), for its complaint against Defendant Amazon.com, Inc. ("Amazon" or "Defendant"), alleges the following:

NATURE OF THE ACTION

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

THE PARTIES

2. Express Mobile is a corporation organized under the laws of the State of Delaware with a place of business at 38 Washington Street, Novato, CA 94947.

3. Amazon is a corporation organized under the laws of the State of Delaware with a place of business at 188 Spear Street, San Francisco, CA 94105. It can be served through its registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

4. Amazon offers services throughout the United States, including in this judicial District, and introduces services into the stream of commerce that incorporate infringing technology knowing that those services would be used in this judicial District and elsewhere in the United States.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Amazon because it has purposefully availed itself of the rights and benefits of the laws of this State and this District. Amazon resides in the Northern District of California by maintaining a regular and established place of business at 188 Spear St, San Francisco, CA 94105. This Court also has personal jurisdiction over Amazon because it has done and is doing substantial business in this District, both generally and, on information and belief, with respect to the allegations in this complaint, including Amazon's one or more acts of infringement in this District.

7. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 1400(b). Amazon has committed acts of infringement through provision of its website builder in the Northern District of California and has at least one regular and established place of business in this District, specifically 188 Spear St, San Francisco, CA 94105. Amazon's office in San Francisco is a physical

1 place in the District, it is an established location where Amazon's business has been carried out for

2 years, and Amazon publicly advertises its presence in the District. *See In re Cray, Inc.*, 871 F.3d 1355,

3 1360-61 (Fed. Cir. 2017).

Background

5   8.   Plaintiff Express Mobile is an innovator and leader in the business of developing mobile

6 application and website design and creation platforms. Express Mobile is managed by individuals with

7 many years of technology and business experience. The CEO of Express Mobile, Steve Rempell, is the

8 inventor of the breakthrough technology held in Express Mobile's patent portfolio. Mr. Rempell has

9 over 50 years' experience working in technology companies, with much of that experience focused on

10 web-based technologies and applications.

11   9.   Before the Express Mobile invention at issue, webpages were created, stored, and

12 rendered using code files that defined all the fixed parameters of the webpage, including, for example,

13 the formatting and location of text, or the location, size, and aspect ratio of images. Typically,

14 webpages could not be viewed during the creation process as they would later appear in the various

15 available browsers or on different devices, and each individual webpage of a website needed to be

16 stored as a separate file. The size and formatting of the stored files led to slow download times to the

17 user's computer, increasing the wait time for a page to load.

18   10.   Express Mobile developed groundbreaking improvements in the process for creating,

19 storing, and building webpages and websites. Express Mobile's invention enables defining the

20 webpage as a collection of user settings, storing information related to those settings in a database, and

21 then later using that information to render a webpage. The page can be viewed, as it is created or

22 edited, in the same manner that it would appear on different types of screens when later accessed. The

23 result is not a collection of computer code, but instead a group of user-selected objects and settings

24 describing the final webpage. These objects and settings can be saved in a database for ease of access

25 and efficient storage. The invention allows faster loading speeds and permits more efficient storage of

26 the data used to later build the webpages. It also makes changing the webpage more efficient through

27 editing user settings rather than editing multiple lines or versions of code.

28

1   11.   Defendant Amazon is the largest e-commerce company in the world. Amazon sells

2 products from its own supply chain – where Amazon acts as the retailer – and also allows third-party

3 retailers to sell products through Amazon's website. More than half of Amazon's sales are products

4 sold by third parties.

5   12.   Amazon offers third-party retailers several options for customizing their Amazon

6 presence. For example, it offers Amazon Stores, which allows merchants to create custom "digital

7 storefronts" showcasing their products. Customers can browse products and make purchases directly

8 through the storefronts. Many companies, including large companies such as Samsung

9 (https://www.amazon.com/samsung), Apple (https://amazon.com/apple), and Microsoft

10 (https://www.amazon.com/microsoft) sell products on Amazon through customized storefronts.

11   13.   Amazon Stores features a "store builder" tool that allows retailers to create custom

12 Amazon storefronts by selecting certain settings from menus. The tool presents a menu with user-

13 selectable settings that control the formatting and positioning of "tiles" that display the store's available

14 products. The tool then generates a real-time display reflecting the selected settings – *i.e.*, a real-time

15 preview of the finished site. Settings controlling the appearance of the final website are stored in a

16 database. When a customer accesses the storefront, the settings are retrieved from the database and are

17 used in conjunction with JavaScript "run time files" to render the final webpage for the storefront.

18   <u>**COUNT I – Infringement of U.S. Patent No. 6,546,397**</u>

19   14.   The allegations set forth in the foregoing paragraphs 1 through 13 are incorporated into

20 this First Claim for Relief.

21   15.   On April 8, 2003, U.S. Patent No. 6,546,397 ("the '397 patent"), entitled *Browser Based*

22 *Web Site Generation Tool and Run Time Engine*, was duly and legally issued by the United States

23 Patent and Trademark Office. A true and correct copy of the '397 patent is attached as Exhibit A.

24   16.   The claimed invention of the '397 patent resolves technical problems related to website

25 creation and generation. Prior to the invention taught and disclosed in the '397 patent, webpages were

26

27

28

1   generally created, stored, and rendered either by programming directly in HTML, CSS,[1] or JavaScript

2   code, or by using a visual editor that produced HTML files. The result was a collection of pages of

3   computer code – typically HTML, CSS, JavaScript, or Java applets – which defined the visual layout,

4   style, and business logic of websites.

5   17.   Conventional website creation and generation methods suffered from many flaws.

6   Creating a webpage could be cumbersome. Webpages could not be viewed throughout the creation

7   process as they would later appear in various browsers or on different devices. Each individual

8   webpage of a website was stored as a separate HTML, CSS, or JavaScript file, which wasted computer

9   resources and required longer access times in the form of hard drive access while editing websites and

10   in the form of network traffic while downloading them. Prior-art methods also led to slow

11   downloading of the webpage file to a user's computer and slower rendering by the browser, which

12   increased the wait time for a page to load.

13   18.   Unlike prior-art methods, the '397 patent brings together disparate ideas and concepts

14   for creating, storing, and building webpages. The Express Mobile invention at issue defines webpages

15   as combinations of user-selected objects and settings stored in a database, rather than as combinations

16   of computer code. Because code files do not need to be stored, the page structure – the vast majority of

17   the HTML code itself – is created on the fly each time the page is loaded in a user browser. This

18   unconventional step of building the webpage HTML code on the fly is performed by the run time

19   engine of the invention, using data representative of the user settings. This allows the system to

20   optimize the page based on device-specific information, including the operating system, browser, and

21   screen size. Moreover, the process of defining the webpages is done through a "What You See Is What

22   You Get" or "WYSIWYG" environment, so that, as the page is created or edited, it can be viewed in

23   the same manner it will appear on different types of screens when later accessed.

24   19.   Express Mobile's patents are directed at a revolutionary technological solution to a

25   technological problem – how to create webpages for the Internet in a manner that permits "what you

26

27   [1] CSS, or "Cascading Style Sheets," is a programming language designed to interoperate with HTML to specify the appearance and placement of web elements.

28

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

fastcase®
Smarter legal research.