

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN**

**INNOVAPORT LLC,**

**Plaintiff,**

**v.**

**TARGET CORPORATION,**

**Defendant.**

C.A. No. 3:22-cv-00425

**JURY TRIAL DEMANDED**

**TARGET'S MOTION FOR SUMMARY JUDGMENT**

Defendant Target Corporation hereby moves for summary judgment and dismissal of Plaintiff Innovaport LLC's claims. In particular, Target moves the Court to enter summary judgment as follows:

- (a) The Asserted Claims are patent-ineligible;
- (b) Out-of-store use of the accused instrumentalities does not infringe the Asserted Claims;
- (c) The accused instrumentalities do not infringe the following claims because Target's website and mobile app do not have "user interfaces": '260 Patent claims 15, 16, 17; '933 Patent claims 1, 3, 6, 7; '690 Patent claims 1, 4-6, 9-14; '670 Patent claims 1, 2, 4, 6, 7, 8, 9, 10, 12, 14;
- (d) The accused instrumentalities do not infringe the following claims because Target does not "provide" mobile devices: '933 Patent claims 1, 3, 6, 7; '690 Patent claims 1, 4-6, 9-14;
- (e) The accused instrumentalities do not infringe the following claims because Innovaport has not shown that they engage in "periodic" communication with any

- user interface: '260 Patent claims 9-11, 15-17; '315 Patent claims 1-5, 9, 12, 14, 16-19;
- (f) Target did not willfully infringe the Asserted Claims;
  - (g) The Asserted Claims are invalid for lack of written description if the Court holds that they are not limited to in-store use; and
  - (h) The following claims are invalid for lack of written description if the Court holds that the term “user interface” is not limited to physical devices: '260 Patent claims 15, 16, 17; '933 Patent claims 1, 3, 6, 7; '690 Patent claims 1, 4-6, 9-14; '670 Patent claims 1, 2, 4, 6, 7, 8, 9, 10, 12, 14.

Target submits in support of this motion its Brief in Support, Proposed Findings of Fact, and the Declaration of Michael A. Vincent and accompanying exhibits.

Dated: September 28, 2023

Respectfully submitted,

**FISH & RICHARDSON P.C.**

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