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7
8 **UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10
11 TEESPRING, INC.,

12 Plaintiff,

13 vs.

14 STONEMARK TECHNOLOGIES LLC,

15 Defendant.

Case No. 16-1116

JURY TRIAL DEMANDED

COMPLAINT FOR DECLARATORY RELIEF

Plaintiff Teespring, Inc. (“Teespring”) as and for its Complaint against defendant Stonemark Technologies LLC (“Stonemark”), alleges as follows:

INTRODUCTION

1. This is a suit for declaratory judgment action arising out of a patent dispute between Stonemark and Teespring. Stonemark has accused Teespring of infringing U.S. Patent Nos. 7,050,654 (“the ’654 patent”); 7,236,647 (“the ’647 patent”); 7,302,114 (“the ’114 patent”); 7,315,659 (“the ’659 patent”) and 7,835,591 (“the ’591 patent,” collectively the “patents-in-suit”). Teespring denies liability with respect to each of the patents-in-suit. In short, there is a current, actual controversy between the parties that requires this Court’s intervention.

THE PARTIES

2. Plaintiff Teespring is a Delaware corporation with its principal place of business at 460 Bryant Street, 2nd Floor, San Francisco, CA 94107

3. On information and belief, defendant Stonemark is a Texas limited liability company with a place of business at 1400 Preston Road, Suite 400, Plano, Texas 75093.

BACKGROUND OF THE CONTROVERSY

4. On information and belief, Stonemark was established as a Texas limited liability company on November 17, 2015.

5. On information and belief, Stonemark acquired title to and ownership of the patents-in-suit on November 25, 2015.

6. On information and belief, Stonemark’s sole business is acquiring and asserting patents, and generates any revenue solely through licensing those patents.

7. On information and belief, Stonemark has not in the past made, sold or offered for sale any products or services covered by the patents-in-suit, and has no plans to do in the future.

8. On January 9, 2016, Stonemark’s “exclusive licensing agent” sent a letter to Teespring stating that Stonemark believed Teespring needed a license to the patents-in-suit.

9. On February 12, 2016, Stonemark’s agent sent another letter to Teespring reiterating Stonemark’s claim that Teespring supposedly needs a license to the patents-in-suit and stating that

1 “your lack of response to our previous letter raises concerns that you do not respect the intellectual
2 property rights of others.” The February 12 letter threatened an “erupt[ion]” of litigation if
3 Teespring did not license the patents-in-suit.

4 10. On March 4, 2016, Stonemark filed a lawsuit in the Eastern District of Texas,
5 captioned *Stonemark Technologies LLC v. Office Depot, Inc.*, Case No. 2:16-cv-00191, in which
6 Stonemark asserted infringement of the ’654, ’647, ’659, and ’591 patents (four of the five patents-
7 in-suit) against Office Depot, Inc.

8 **JURISDICTION AND VENUE**

9 11. This is an action pursuant to 28 U.S.C. § 2201 and § 2202 for a declaration of the
10 rights of the parties with respect to an actual controversy concerning the patents-in-suit. The
11 patents-in-suit are presently assigned to and owned by Stonemark. An actual controversy exists
12 between Teespring and Stonemark regarding the infringement of the patents-in-suit. Further, as set
13 forth above, Stonemark has taken actions – such as threatening litigation against Teespring and
14 initiating litigation against another company for alleged infringement of the same patents – that
15 demonstrate the existence of a substantial controversy between parties having adverse legal interests
16 of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

17 12. This Court has original jurisdiction over the subject matter of this action pursuant to
18 28 U.S.C. §§ 1331 and 1338(a) for the claims herein arising under the United States Patent Act, 35
19 U.S.C. § 1 *et seq.* The existence of this controversy is demonstrated by, for example, the letter sent
20 on behalf of Stonemark too Teespring on February 12, 2016.

21 13. This Court has personal jurisdiction over Defendant pursuant to the laws of the State
22 of California, including California’s long-arm statute (California Code of Civil Procedure § 410.10).

23 14. Plaintiff is informed and believes that the original assignee and owner of the patents
24 in suit, Branders, Inc., was based within this district in San Mateo, California when the applications
25 for the patents-in-suit were made, and still maintains an office in this District.

26 15. Plaintiff is informed and believes that the named inventors of the patents-in-suit
27 including Larry Lunetta, Elliot Jones, Chris Harms, Gerald McGlaughlin and David Sipes, have at
28 all times relevant herein resided within this District.

1 16. Personal jurisdiction also exists over Defendant because it has availed itself of the
2 Northern District of California by, among other things, conducting its patent enforcement activities
3 in this District and towards residents of this District. Specifically, but without limitation, Stonemark
4 has sent correspondence concerning the patents-in-suit to companies in this District including at least
5 Teespring which is based in San Francisco, California.

6 17. Venue is proper in the Northern District of California pursuant to 28 U.S.C.
7 §§ 1391 and 1400 because Defendant is subject to personal jurisdiction in this district. Plaintiff
8 Teespring and a substantial portion of its employees currently reside in this District. A substantial
9 portion of the events giving rise to this action, including on information and belief the development
10 of the patented inventions, and the development of the accused Teespring products and services,
11 took place in this District.

12 **COUNT 1: DECLARATORY JUDGMENT OF**
13 **NON-INFRINGEMENT OF U.S. PATENT NO. 7,050,654**

14 18. Teespring repeats and realleges the allegations set forth in paragraphs 1 through 17 as
15 if fully set forth herein.

16 19. On information and belief, Stonemark is the owner of the '654 patent, issued on May
17 23, 2006 to Larry Lunetta et al., and which is entitled "Methods for Generating Composite Images
18 Including Positioning Grid." A true and accurate copy of the '654 patent is attached as Exhibit A.

19 20. Teespring does not infringe any of the claims of the '654 patent.

20 21. A judicial declaration that the claims of the '654 patent are not infringed is
21 appropriate and necessary.

22 **COUNT 2: DECLARATORY JUDGMENT OF**
23 **NON-INFRINGEMENT OF U.S. PATENT NO. 7,236,647**

24 22. Teespring repeats and realleges the allegations set forth in paragraphs 1 through 21 as
25 if fully set forth herein.

26 23. On information and belief, Stonemark is the owner of the '647 patent, issued on June
27 26, 2007, to Larry Lunetta et al., and which is entitled "Methods and Apparatuses for Generating
28 Composite Images Including Warping." A true and accurate copy of the '647 patent is attached as
Exhibit B.

1 24. Teespring does not infringe any of the claims of the '647 patent.

2 25. A judicial declaration that the claims of the '647 patent are not infringed is
3 appropriate and necessary.

4 **COUNT 3: DECLARATORY JUDGMENT OF**
5 **NON-INFRINGEMENT OF U.S. PATENT NO. 7,302,114**

6 26. Teespring repeats and realleges the allegations set forth in paragraphs 1 through 25 as
7 if fully set forth herein.

8 27. On information and belief, Stonemark is the owner of the '114 patent, issued on
9 November 27, 2007, to Larry Lunetta et al., and which is entitled "Methods and Apparatuses for
10 Generating Composite Images." A true and accurate copy of the '114 patent is attached as Exhibit
11 C.

12 28. Teespring does not infringe any of the claims of the '114 patent.

13 29. A judicial declaration that the claims of the '114 patent are not infringed is
14 appropriate and necessary.

15 **COUNT 4: DECLARATORY JUDGMENT OF**
16 **NON-INFRINGEMENT OF U.S. PATENT NO. 7,315,659**

17 30. Teespring repeats and realleges the allegations set forth in paragraphs 1 through 29 as
18 if fully set forth herein.

19 31. On information and belief, Stonemark is the owner of the '659 patent, issued on
20 January 1, 2008, to Larry Lunetta et al., and which is entitled "Methods for Generating Composite
21 Images Including Filtering and Embroidery Price Calculation." A true and accurate copy of the '659
22 patent is attached as Exhibit D.

23 32. Teespring does not infringe any of the claims of the '659 patent.

24 33. A judicial declaration that the claims of the '659 patent are not infringed is
25 appropriate and necessary.

26 **COUNT 5: DECLARATORY JUDGMENT OF**
27 **NON-INFRINGEMENT OF U.S. PATENT NO. 7,835,591**

28 34. Teespring repeats and realleges the allegations set forth in paragraphs 1 through 33 as
if fully set forth herein.

 35. On information and belief, Stonemark is the owner of the '591 patent, issued on

1 November 16, 2010, to Larry Lunetta et al., and which is entitled “Methods and Apparatuses for
2 Generating Composite Images.” A true and accurate copy of the ’591 patent is attached as Exhibit
3 E.

4 36. Teespring does not infringe any of the claims of the ’591 patent.

5 37. A judicial declaration that the claims of the ’591 patent are not infringed is
6 appropriate and necessary.

7 **REQUEST FOR RELIEF**

8 WHEREFORE, Teespring demands judgment against Defendants:

- 9 (a) Adjudging and declaring that Teespring does not infringe any of the ’654 patent;
10 (b) Adjudging and declaring that Teespring does not infringe any of the ’647 patent;
11 (c) Adjudging and declaring that Teespring does not infringe any of the ’114 patent;
12 (d) Adjudging and declaring that Teespring does not infringe any of the ’659 patent;
13 (e) Adjudging and declaring that Teespring does not infringe any of the ’591 patent;
14 (f) Awarding Teespring its attorneys’ fees and costs pursuant to 35 U.S.C. § 285, and/or
15 other applicable laws, and
16 (g) Awarding Teespring such other and further relief, in law and equity, as this Court
17 deems just and proper.

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2 Dated: March 4, 2016

Respectfully submitted,

3 By: /s/ Brett M. Schuman

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