

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MOUNT HAMILTON PARTNERS, LLC)	
)	C.A. No.
Plaintiff,)	
)	JURY TRIAL DEMANDED
vs.)	
GROUPON, INC.,)	
)	
Defendant.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Mount Hamilton Partners, LLC ("Mount Hamilton") files this Complaint for Patent Infringement against Defendant Groupon, Inc. ("Groupon") and alleges as follows:

PARTIES

1. Plaintiff Mount Hamilton is a limited liability company organized and existing under the laws of the state of Delaware with its principal place of business at 201 San Antonio Circle, Suite 290 Mountain View, CA 94040.
2. Upon information and belief, Defendant Groupon is a corporation organized and existing under the laws of the state of Delaware with its principal place of business at 600 W. Chicago Avenue, Chicago IL 60654.

JURISDICTION

3. This is an action for infringement of United States Patent No. 7,904,334 B2 ("the 334 Patent") under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*
4. This Court has subject matter jurisdiction over this case for patent infringement pursuant to 28 U.S.C. §§ 1331 and 1338(a).
5. This Court has personal jurisdiction over Groupon based on the following, among other reasons: (a) Groupon is a Delaware corporation thus is authorized to do business in

the State of Delaware and regularly conducts such business; (b) Groupon maintains a website and social media presence that are accessible to residents of the State of Delaware; (c) Groupon has purposefully availed itself of the benefits and protections of Delaware law by doing and transacting business in the State of Delaware; and (d) Groupon has committed tortious acts, including committing acts of patent infringement in violation of 35 U.S.C. § 271, that it knew or should have known would cause injury to Mount Hamilton in the State of Delaware. All of Groupon's contacts with the State of Delaware are systematic, continuous and substantial.

VENUE

6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because Groupon is subject to personal jurisdiction in this District and regularly transacts business in this District, and because a substantial part of the events giving rise to the claims herein have occurred in this District.

FACTS

7. On March 8, 2011, the United States Patent and Trademark Office duly and legally issued the '334 Patent, entitled "SYSTEM AND METHOD FOR REDUCING EXCESS CAPACITY FOR RESTAURANTS AND OTHER INDUSTRIES DURING OFF-PEAK OR OTHER TIMES." A copy of the '334 Patent is attached hereto as Exhibit A.

8. Mount Hamilton is the owner of all right, title and interest in and to the '334 Patent, and has the right to sue and recover damages for infringement thereof.

9. The '334 Patent is a pioneering patent. The '334 Patent provides an innovative solution that simultaneously addresses several problems facing restaurants and other service industries. These problems include, without limitation, the challenges of (a) reducing excess capacity during off-peak hours (e.g., because unused seats translate to lost sales for a restaurant); and (b) businesses, such as restaurants, not having detailed information about their customers, thereby making it difficult to effectively market to customers and generate repeat business and customer loyalty, among other things.

10. The '334 Patent relates, in part, to providing a unique combination of features to address these and other problems.

11. Groupon operates a system to help restaurants and other businesses reduce excess capacity by offering "Groupons" to users. Groupon operates one or more servers that enable users to register and create an account. Through this and other actions, Groupon collects and stores information from users. The Groupon system enables users to receive incentives to purchase a service from a business. Groupons are deals whereby a user pays a fee for an incentive (for example pay \$40 to get \$80 worth of services). The incentives are subject to restrictions. For example, at least some Groupons are only valid for certain dates and/or at certain times. Groupons are also offered via Groupon's downloadable software applications available on the iOS and Android platforms.

12. Additionally, a portion of the Groupon website (www.groupon.com) includes a feature called "Now! Deals." Certain incentives available through the Now! Deals are only good on a given date and/or at a certain time, which may correspond to off peak periods for the services. Different businesses can offer deals that are good at different times corresponding to periods of non-peak demand for their service. Groupon also offers the Now! Deals via its downloadable software applications available on the iOS and Android platforms.

13. On information and belief, regardless of the restrictions that any business may elect to impose, Groupon at least offers to sell to all such businesses an option to include date and/or time restrictions.

14. On or about December 6, 2011, Mount Hamilton provided notice via Federal Express to Groupon identifying Groupon's infringement of at least one claim of the '334 Patent. Groupon did not respond to Mount Hamilton and instead continues to infringe the '334 Patent.

COUNT 1- PATENT INFRINGEMENT

15. The allegations of Paragraphs 1-14 are repeated and incorporated herein by reference, as though fully set forth herein.

16. Groupon has infringed, contributorily infringed, and/or induced infringement of one or more claims of the '334 Patent in violation of the patent laws of the United States, including one or more of 35 U.S.C., §§ 271(a), (b), and/or (c), by making, having made, using, selling, offering to sell, and/or importing in or into the United States, including this judicial district, without authority, products and services that infringe one or more claims of the '334 Patent, including without limitation the Infringing Products and/or Services set forth above.

17. Upon information and belief, after reasonable opportunity for further investigation and discovery, it is likely that the evidence will show that the acts of infringement of Groupon have occurred with knowledge of the '334 Patent and are willful and deliberate. This action, therefore, is "exceptional" within the meaning of 35 U.S.C. § 285.

18. Mount Hamilton has been damaged by the infringement by Groupon and is suffering, and will continue to suffer, irreparable harm and damage as a result of this infringement, unless such infringement is enjoined by this Court.

19. Mount Hamilton has no adequate remedy at law.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands trial by jury for all claims triable by jury in this action.

PRAYER FOR RELIEF

WHEREFORE, Mount Hamilton prays for the following relief:

A. A judgment for Plaintiff on the Complaint, including a finding that Groupon has infringed, contributorily infringed, and/or induced infringement of the '334 Patent;

B. A judgment and order preliminarily and permanently enjoining Groupon, its employees and agents, and any other person(s) in active concert or participation with it from infringing, contributorily infringing, and/or inducing infringement of the '334 Patent;

C. An order directing Groupon to file with the Court, and serve upon Mount Hamilton's counsel, within thirty (30) days after entry of the order of injunction, a report setting forth the manner and form in which it has complied with the injunction;

D. A judgment that Groupon has willfully infringed and is willfully infringing the '334 Patent;

E. A judgment and order requiring Groupon to pay Mount Hamilton damages, including damages under 35 U.S.C. § 284, along with prejudgment interest and supplemental damages for any continuing post-verdict infringement up until entry of the final judgment with an accounting as needed, but in no event less than a reasonable royalty, including treble damages for willful infringement as provided by 35 U.S.C. § 284;

F. A judgment and order declaring this an exceptional case and awarding Mount Hamilton attorneys' fees and expenses, as provided by 35 U.S.C. § 285; and

G. A judgment and order awarding Mount Hamilton such other and further relief as this Court may deem just and proper.

Date: December 21, 2011

FARNAN LLP

/s/ Brian E. Farnan

Joseph J. Farnan, Jr. (Bar No. 100245)
Brian E. Farnan (Bar No. 4089)
919 North Market Street, 12th Fl.
Wilmington, Delaware 19801
302-777-0300 Telephone
302-777-0301 Facsimile
bfarnan@farnanlaw.com

Of Counsel:

James G. Gatto
PILLSBURY WINTHROP SHAW PITTMAN LLP
1650 Tysons Boulevard
14th Floor
McLean, VA 22102-4856
Phone: (703) 770-7754
Fax: (703) 770-7901
james.gatto@pillsburylaw.com