UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

WEBVENTION LLC **Plaintiff,** **v.** **VITACOST.COM, INC.** **Defendant.**	**Case No. 2:11-cv-492** **JURY TRIAL DEMANDED**

PLAINTIFF'S ORIGINAL COMPLAINT

1. Plaintiff WEBVENTION LLC files this Original Complaint against the above-named Defendant, alleging as follows:

THE PARTIES

2. Plaintiff WEBVENTION LLC ("Webvention") is a Texas Limited Liability Company with its principal place of business at 505 East Travis Street, Suite 209, Marshall, Texas 75670.

3. Defendant VITACOST.COM, INC. ("Vitacost.com") is a Delaware corporation having its principal offices located at 5400 Broken Sound Blvd. - NW, Suite 500, Boca Raton, FL 33487-3521. Vitacost.com may be served with process via its registered agent, C T CORPORATION SYSTEM, located at 1200 South Pine Island Road, Plantation, FL, 33324.

JURISDICTION AND VENUE

4. This is an action for infringement of United States patents arising under 35 U.S.C. §§ 271; 281; 284-285; and 171, among others. This Court has subject matter jurisdiction of this action under Title 28 U.S.C. §§1331 and 1338(a).

5. The Court has general and specific personal jurisdiction over Defendant, and venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b). Defendant has substantial contacts

with the forum as a result of conducting substantial business within the State of Texas and within this District. Upon information and belief, Defendant regularly solicits business in the State of Texas and in this District, and derives substantial revenue from products and/or services provided to individuals residing in the State of Texas and in this District. In addition, Defendant conducts business utilizing the claimed systems and methods of the patent-at-suit, with and for customers residing in this District. Specifically, Defendant provides and/or markets its products and services directly to consumers in this District through its website(s). By means of its website(s), Defendant has committed and continues to commit acts of patent infringement in the State of Texas and in this District.

6. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§1391 and 1400(b).

INFRINGEMENT OF U.S. PATENT NO. 5,251,294

7. On October 5, 1993, United States Patent No. 5,251,294 ("the '294 patent") was duly and legally issued for "Accessing, Assembling, and Using Bodies of Information." Webvention is the owner by assignment of all rights, title and interest in and to the '294 patent and possesses all rights of recovery thereunder. A true and correct copy of the '294 patent is attached hereto as Exhibit A.

8. Defendant Vitacost.com has infringed and continues to infringe the patent-in-suit directly by making, selling, offering for sale and/or using websites, including but not limited to www.vitacost.com, that practice or embody the patented invention. Defendant Vitacost.com has also infringed and continues to infringe contributorily, and/or through the inducement of others, by making, selling, offering for sale and/or using websites, including but not limited to www.vitacost.com. With regards to Defendant's indirect infringement, direct infringers include end users of the www.vitacost.com website.

9. Webvention has been damaged as a result of Defendant's infringing conduct. Defendant is thus liable to Webvention in an amount that adequately compensates Webvention for Defendant's infringement of the '294 patent—which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

10. Upon information and belief, Defendant's infringement of the '294 patent has been willful and deliberate, entitling Webvention to enhanced damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

JURY DEMAND

11. Webvention hereby requests trial by jury pursuant to FED. R. CIV. P. 38.

PRAYER FOR RELIEF

12. Webvention respectfully requests the Court find in its favor and against Defendant, and that the Court grant Webvention the following relief:

13. Judgment that one or more claims of United States Patent No. 5,251,294 has been infringed, either literally and/or under the doctrine of equivalents, by Defendant and/or by others to whose infringement Defendant has contributed and/or by others whose infringement has been induced by Defendant;

14. Judgment that Defendant account for and pay to Webvention all damages and costs incurred by Webvention due to Defendant's infringing activities and other conduct complained of herein;

15. A finding that Defendant's infringement was willful from the time that Defendant became aware of the infringing nature of its products and services, which is the time of filing Plaintiff's Original Complaint at the latest, and a concomitant award of treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;

16. A finding that this an exceptional case, and an award of reasonable attorney's fees and costs to Webvention in accordance with 35 U.S.C. § 285;

17. Grant of pre-judgment and post-judgment interest to Webvention on damages caused by Defendant's infringing activities and other conduct complained of herein; and

18. Grant of such other and further relief as the Court may deem just and proper to accord Webvention under the circumstances.

Dated: November 17, 2011

Respectfully Submitted,

WEBVENTION LLC

By: /s/ William E. Davis, III
William E. Davis III
Texas State Bar No. 24047416
The Davis Firm, PC
111 West Tyler Street
Longview, Texas 75601
Telephone: (903) 230-9090
Facsimile: (903) 230-9661
Email: bdavis@bdavisfirm.com

Eric M. Albritton
Texas State Bar No. 00790215
Stephen E. Edwards
Texas State Bar No. 0784008
Debra Coleman
Texas State Bar No. 24059595
Albritton Law Firm
P.O. Box 2649
Longview, Texas 75606
Telephone: (903) 757-8449
Facsimile: (903) 758-7397
Email: ema@emafirm.com
Email: see@emafirm.com
Email: drc@emafirm.com

ATTORNEYS FOR PLAINTIFF WEBVENTION LLC