

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

EXECWARE, LLC,

Plaintiff,

v.

TARGET CORP., TARGET BRANDS,  
INC., and TARGET.COM,

Defendants.

C.A. No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Execware, LLC files its Complaint for Patent Infringement against Defendant Target Corporation, Target Brands, Inc., and Target.com (collectively, “Target”), alleging, based on Target’s knowledge of its actions and the actions of others, and based on Execware’s information and belief as to all other matters.

**PARTIES**

1. Execware, LLC is a limited liability company organized under the laws of the Commonwealth of Virginia, having its principal offices at 3440 South Jefferson Street #1125, Falls Church, Virginia 22041.

2. On information and belief, Defendant Target Corporation is a Minnesota corporation with a principal place of business at 1000 Nicollet Mall, Minneapolis, Minnesota 55403.

3. On information and belief, Defendant Target Brands, Inc. is a Minnesota corporation with a principal place of business at 1000 Nicollet Mall, Minneapolis, Minnesota 55403. On information and belief, Target Brands, Inc. is a subsidiary of Target Corporation.

4. On information and belief, Defendant Target.com is a Minnesota corporation with a principal place of business at 1000 Nicollet Mall, Minneapolis, Minnesota 55403. On information and belief, Target.com is a subsidiary of Target Corporation.

**JURISDICTION AND VENUE**

5. This is an action for infringement of a United States patent arising under 35 U.S.C. §§ 271, 281, 284, 285, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. § 1331 and § 1338(a).

6. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b). On information and belief, Target receives service of process in this district, Target has transacted business in this district, and Target has directly and indirectly committed acts of patent infringement in this district.

7. Target is subject to this Court's specific and general personal jurisdiction under due process and the Delaware Long Arm Statute due at least to Target receiving service of process and substantial business in this district, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and deriving substantial revenue from goods and services provided to individuals in Delaware.

**COUNT I**  
**INFRINGEMENT OF U.S. PATENT NO. 6,216,139**

8. On April 10, 2001, the United States Patent and Trademark Office ("PTO") duly and legally issued United States Patent No. 6,216,139 ("the 139 patent"), titled "Integrated Dialog Box for Rapidly Altering Presentation of Parametric Text Data Objects on a Computer Display," and invented by Robert Listou.

9. Execware is the owner of the 139 patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the 139 patent against infringers, and to collect damages for all relevant times.

10. Target has notice of its infringement of the 139 patent at least from the filing and service dates of this Complaint.

11. Target also has knowledge of the 139 patent and notice of its infringement of the 139 patent at least from December 20, 2010 when the 139 patent was cited as prior art in its application for U.S. Patent No. 8,589,242, titled “Retail Interface,” originally assigned to Target Brands, Inc., issued on November 19, 2013, and invented by Michael F. Gonsalves, Gregory M. Nations, Chad R. Gourley, Patricia Korth-McDonnell, Sarah E. Schoeffler, and Joe Stewart.

12. On information and belief, Michael F. Gonsalves is currently a Lead for Multi-Channel User Experience Strategy at Target, Mr. Gonsalves held that position on the date of issue of U.S. Patent No. 8,589,242, and Mr. Gonsalves was a Manager for Guest Experience and eCommerce at Target on the date of filing of U.S. Patent No. 8,589,242.

13. On information and belief, Gregory M. Nations is currently a Senior Design Manager for the Creative Vision Group at Target, Mr. Nations held that position on the date of issue of U.S. Patent No. 8,589,242, and Mr. Nations was a Senior Design Manager for Creative and Site Interaction at Target on the date of filing of U.S. Patent No. 8,589,242.

14. On information and belief, Chad R. Gourley is currently a Manager working in Multi-Channel Category Experience Strategy—Headlines at Target, Mr. Gourley held that position on the date of issue of U.S. Patent No. 8,589,242, and Mr. Gourley was a Manager and Digital Planner for Target’s Replatforming Initiative on the date of filing of U.S. Patent No. 8,589,242.

15. On information and belief, Sarah E. Schoeffler (now Sarah Schoeffler-Fox) is currently a Manager for Merchandising Projects at Target.com and worked for Target on the date of filing and issue of U.S. Patent No. 8,589,242.

16. For the reasons stated paragraphs 12–15, at least Messrs. Gonsalves, Nations, and Gourley and Ms. Schoeffler-Fox have imputed to Target their knowledge of the 139 patent and the patented technology and claims therein.

17. Target also has knowledge of the 139 patent and notice of its infringement of the 139 patent at least from December 20, 2010 when the 139 patent was cited as prior art in its application for U.S. Patent No. 8,606,652, titled “Topical Page Layout,” originally assigned to Target Brands, Inc., issued on December 10, 2013, and invented by Michael F. Gonsalves, Gregory M. Nations, Chad R. Gourley, Patricia Korth-McDonnell, Sarah E. Schoeffler, and Joe Stewart.

18. For the reasons stated in paragraphs 12–15, at least Messrs. Gonsalves, Nations, and Gourley and Ms. Schoeffler-Fox have imputed to Target their knowledge of the 139 patent and the patented technology and claims therein.

19. Target also has knowledge of the 139 patent and notice of its infringement of the 139 patent at least from December 20, 2010 when the 139 patent was cited as prior art in its application for U.S. Patent No. 8,606,643, titled “Linking A Retail User Profile To A Social Network User Profile,” originally assigned to Target Brands, Inc., issued on December 10, 2013, and invented by Sarah Lawrence, Sarah Peterson, Gregory M. Nations, Chad R. Gourley, Patricia Korth-McDonnell, Sarah E. Schoeffler, and Joe Stewart.

20. On information and belief, Sarah Lawrence is currently employed at Target, Ms. Lawrence is or was a User Experience Manager for the Target.com Replatform at Target, and

Ms. Lawrence was employed at Target on the dates of filing and issue of U.S. Patent No. 8,606,643.

21. On information and belief, Sarah Peterson is currently a Cartwheel Product Lead Group Manager at Target, Ms. Peterson held that position on the date of issue of U.S. Patent No. 8,606,643, and Ms. Peterson was a Product Manager for Social Shopping, Registries and Lists, and Accounts at Target.com on the date of filing U.S. Patent No. 8,606,643.

22. For the reasons stated in paragraphs 13–14 and 20–21, at least Mses. Lawrence and Peterson and Messrs. Nations and Gourley have imputed to Target their knowledge of the 139 patent and the patented technology and claims therein.

23. Target also has knowledge of the 139 patent and notice of its infringement of the 139 patent at least from December 20, 2010 when the 139 patent was cited as prior art in its application for U.S. Patent No. 8,630,913, titled “Online Registry Splash Page,” originally assigned to Target Brands, Inc., issued on January 14, 2014, and invented by Sarah Lawrence, Sarah Peterson, Gregory M. Nations, Chad R. Gourley, Patricia Korth-McDonnell, and Joe Stewart.

24. For the reasons stated in paragraphs 13–14 and 20–21, at least Mses. Lawrence and Peterson and Messrs. Nations and Gourley have imputed to Target their knowledge of the 139 patent and the patented technology and claims therein.

25. Target, alone, or with one or more of its customers, suppliers, and distributors directly (literally and under the doctrine of equivalents) and indirectly infringed (under induced and contributory infringement) one or more claims of the 139 patent in this district and in the United States by, among other ways, making, having made, selling, offering for sale, using, or

importing products that format and reformat tabular displays of records, parameters, and text data objects under its <http://www.target.com/> website (hereinafter, “Accused Product”).<sup>1</sup>

26. Target specifically intended to induce infringement of the 139 patent by taking active steps, directly or through contractual relationships with others, to cause its customers, suppliers, and distributors to make, use, sell, offer for sale, import, or otherwise provide the Accused Product in a manner that directly infringed one or more claims of the 139 patent. Target’s specific intent is shown by, for example, its advertising, advising, consulting, instructing, guiding, or directing its customers, suppliers, and distributors how to make, use, sell, offer to sell, or import the Accused Product in a directly infringing manner. Target has sufficiently detailed knowledge of the activities of its customers, suppliers, and distributors since at least the filing of this Complaint.

27. Target specifically intended to contribute to the infringement of one or more claims of the 139 patent by designing or making software components of the Accused Product that are especially designed or made for use with computer systems and other mobile or static devices or systems in an infringing manner. To the extent Target did not provide these computer systems and devices, it took active steps, directly or through contractual relationships, to cause direct infringement by its customers, suppliers, and distributors from its advertising, advising, consulting, instructing, guiding, or directing its customers, suppliers, and distributors how to integrate such computer systems and devices with the Accused Product. Target had knowledge of its contributory infringement since at least the filing of this Complaint.

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<sup>1</sup> Execware accuses Target of past, present, and future infringement of the 139 patent. All allegations of infringement or acts leading to infringement are made in the past tense, rather than also in the present and future tense, strictly for simplicity’s sake.

28. The Accused Product have hardware or software components that are especially designed and adapted for use with such other computer systems and devices in carrying out the formatting and reformatting tabular displays of records, parameters, and text data objects, as seen by how prominently these functions are promoted by Target on its website and in its marketing literature. These components in the Accused Product constitute a material part of the invention of one or more asserted claims of the 139 patent and are not staple articles of commerce suitable for substantial non-infringing uses. These distinct and separate components are used only to perform the formatting and reformatting functionality and not any other functionality.

29. Target's infringement was willful since at least December 20, 2010; Target acted despite an objectively high likelihood and risk that its actions constituted direct and indirect infringement of one or more claims of the 139 patent. Target's objectively-defined risk was either known or so obvious that Target should have known if its willful infringement, despite any defense Target may assert.

30. Execware has been, is being, and will continue to be damaged by Target's infringing conduct. Target is liable to Execware for damages in an amount that adequately compensates Execware for Target's infringement. By law, this amount is no less than a reasonable royalty for Target and its customers', suppliers', and distributors' use of its Accused Product, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

#### **JURY DEMAND**

Execware requests a jury trial for the claims asserted in this Complaint.

#### **PRAYER FOR RELIEF**

Execware requests this Court to find in its favor, against Target, and that this Court grant Execware the following relief.

a. Judgment that Target directly infringed of one or more claims of the 139 patent, either literally or under the doctrine of equivalents, or that Target, alone or in combination with others, indirectly infringed one or more claims of the 139 patent, either contributorily or by induced infringement;

b. A permanent injunction enjoining Target, its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting together with Target from directly infringing, contributorily infringing, or inducing infringement of the 139 patent;

c. Judgment that Target account for and pay to Execware all damages and costs that Execware incurred from Target's direct or indirect infringing activities and conduct described in this Complaint;

d. Judgment that this Court grant Execware its pre- and post-judgment interest on its damages caused by Target's directly and indirectly infringing activities and conduct described in this Complaint;

e. Judgment that this Court declare this an exceptional case and award Execware its reasonable attorneys' fees and costs under 35 U.S.C. § 285; and

f. Judgment that this Court grant all additional relief that this Court deems just and proper.



Dated: February 21, 2014

BAYARD, P.A.

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