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13 Locata LBS LLC

14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA
16 WESTERN DIVISION
17

18 LOCATA LBS LLC, a California limited
19 liability company,

20 Plaintiff,

21 v.

22 FACTUAL INC., a Delaware corporation,
23

24 Defendant.
25
26
27
28

CASE NO: 2:13-cv-07664-JAK-SHx
LEAD CASE

CASE NO: 2:13-cv-07743-JAK-SHx
CONSOLIDATED CASE

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

1 Plaintiff Locata LBS LLC ("Locata LBS") hereby alleges patent infringement
2 against Defendant Factual Inc. ("Defendant" or "Factual") on personal knowledge
3 and information and belief, as follows:

4 **THE PARTIES**

5 1. Locata LBS is a California limited liability company with a principal
6 location at 5716 Corsa Avenue, Suite 110, Westlake Village, CA 91362.

7 2. On information and belief, Defendant Factual is a Delaware corporation
8 with a principal place of business at 1801 Avenue of the Stars, Suite 1450, Los
9 Angeles, CA 90067.

10 **JURISDICTION AND VENUE**

11 3. This action arises under the patent laws of the United States, Title 35 of
12 the United States Code. This Court has subject matter jurisdiction pursuant to 28
13 U.S.C. §§ 1331 and 1338(a).

14 4. Personal jurisdiction and venue are proper in this district under 28 U.S.C.
15 §§ 1391 and 1400(b). On information and belief, Defendant has a regular and
16 established place of business in this district, has transacted business in this district,
17 and/or has committed, contributed to, and/or induced acts of patent infringement in
18 this district.

19 5. On information and belief, Defendant is subject to this Court's specific
20 and general personal jurisdiction consistent with the principles of due process and/or
21 the California Long Arm Statute, due at least to its substantial business in this forum
22 directly related to the allegations set forth herein, including: (i) a portion of the
23 infringement alleged herein, including making, using, selling, offering to sell, and/or
24 importing products, methods and/or systems that infringe the patent-in-suit; (ii) the
25 presence of established distribution and/or marketing channels; and (iii) regularly
26 doing or soliciting business, engaging in other persistent courses of conduct, and/or
27 deriving substantial revenue from goods and services provided to individuals and
28 entities in California and this judicial district.

COUNT I

INFRINGEMENT OF UNITED STATES PATENT NO. 6,259,381

6. United States Patent No. 6,259,381, entitled “Method of Triggering An Event” (“’381 Patent”), was duly issued by the United States Patent and Trademark Office on July 10, 2001 to Locata Corporation Pty. Ltd. (“Locata PTY”), an Australian company specializing in location based technologies since 1997. Locata LBS is the exclusive owner by assignment of all rights in and to the ’381 Patent, including but not limited to the right to sue for past and present damages. A true and correct copy of the ’381 Patent is attached to this Complaint as Exhibit A.

7. Location-Based Services (LBS) makes use of location data or position intelligence to deliver targeted and/or tailored services. Location-Based Advertising (LBA) may be viewed as a species of LBS, essentially integrating mobile advertising with LBS such that customized advertising is delivered to mobile users. Businesses across a wide range of industries benefit from LBS and LBA technologies. Various studies already peg the LBS/LBA industry to be generating over \$6 Billion, and predict revenues to well exceed \$10 Billion by 2016, if not sooner.

8. The ’381 Patent is directed to a concrete technological innovation with direct application to the LBS and LBA fields. Specifically, the ’381 Patent provides methods for triggering an event (*e.g.*, an advertisement, a deal, a promotion, an announcement, information collection, surveys, task, etc.) in a roving apparatus (*e.g.*, a mobile device, smartphone, tablet, etc.), as well as roving apparatuses specifically structured for such services.

9. Defendant Facual performs, practices, or otherwise implements, directly and/or indirectly, the claimed inventions by triggering an event in a roving apparatus (*e.g.*, of a mobile user) in conjunction with the location-based (LBS and/or LBA) products and services it provides for its customers.

10. Defendant Factual provides location-based products and/or services, such as its Mobile Personalization and Ad Targeting, which delivers “app experiences,

1 content, and ads” to mobile devices. According to Defendant Factual’s website,
2 “Factual’s location platform enriches mobile location signals with definitive global
3 data, enabling personalized and contextually relevant mobile experiences. Built from
4 billions of inputs, the data is constantly updated by Factual’s real-time data stack.”

5 11. Also according to Defendant Factual’s website, Mobile Personalization
6 and Ad Targeting include Geopulse Audience, Geopulse Proximity, and GeoPulse
7 Context “[t]ransform location signals into contextual data,” and enable delivery of
8 “contextually relevant content, experiences, and ads (to mobile users) based on where
9 mobile users are.”

10 12. According to a July 9, 2013 press release through Business Wire, which
11 included quotes from Gil Elbaz, founder and CEO of Factual: “Factual, Inc. a leading
12 location data platform, today announced Geopulse Audience and Geopulse Proximity,
13 new products aimed at the mobile advertising market that enable advertisers,
14 developers and publishers to use location data to deliver more personalized,
15 contextually relevant mobile app and advertising experiences for consumers. The
16 company also announced two new partners that are using the new products today
17 including MoPub, the world’s leading mobile ad exchange and Turn, a cloud
18 marketing platform that provides real-time insights that transform how marketers
19 make decisions. . . . The new Geopulse Proximity is a geofencing solution designed to
20 help developers make sense of the massive volume of location data emitted by mobile
21 applications. Geopulse Proximity allows developers to create thousands of geofences
22 with Factual’s global data – generated using business name, chain name, or business
23 category amongst others – and validate massive streams of coordinate data at
24 unprecedented speed. Factual’s new partner Turn will be integrating Geopulse
25 Proximity into their platform, enabling their advertisers to run advertising campaigns
26 against geofencees around any set of places in Factual’s Global Places data.”

27 13. According to Defendant Factual’s website, “Geopulse Audience
28 combines the power of Factual’s global location data and deep understanding of

1 location to analyze the geo-behavior of mobile users to generate rich user profiles to
2 help you understand your users.” This enables mobile publishers and app developers
3 to “[p]ersonalize your app experience with contextual awareness to deliver more
4 timely and relevant content to your mobile users” and mobile ad exchanges, DSPs and
5 networks to “deliver relevant content to the correct user in the optimal context.”

6 14. According to Defendant Factual’s website, “Geopulse Proximity’s
7 server-side implementation and optimized data format enables massive query
8 throughput,” using “Proximity Filters with existing Factual Data or... your own.”
9 “Geopulse Proximity supports... point of interest data from third parties... [c]ustom
10 polygons... GeoJSON files.”

11 15. According to a press release found on Defendant Factual’s website,
12 GeoPulse Proximity “creates ‘campaign files’ based on high volume geofencing data.
13 In a second (or less), GeoPulse Proximity can identify an app user’s location, check it
14 against a data file of Factual’s Global Places data or other location geofencing data
15 and decide whether the location should stream particular content. For example,
16 geofences could be set up to identify all store locations for a big chain, or all farmers
17 markets located across a country. In less than a second, an app’s publishing content
18 could be personalized based on whether the app user is within a few minutes walk
19 from the nearest location.”

20 16. According to another press release found on Defendant Factual’s website,
21 “Geopulse Proximity, is a complementary geofencing technology that increases the
22 speed and accuracy with which developers and advertisers can validate the position of
23 mobile users with respect to any of the 65 million of global businesses and points of
24 interest in Factual’s database. For example, a discount shopping app may want to
25 alert consumers of relevant deals any time they’re within 2 miles of a Westfield
26 shopping mall, just as a to-do app would want to alert its user when they’re within a
27 certain proximity of a listed task, such as picking up the dry cleaning. By offering
28 Geopulse Proximity as an on-premise solution, Elbaz says that Factual was able to

1 reduce latency to nanoseconds, rather than milliseconds, and allow geofences to for
2 the first time take the shape of any irregular polygon.”

3 17. According to Defendant Factual’s website, GeoPulse Context
4 “[u]nderstand[s] the demographic and commercial context of [app developers’] users’
5 location to develop personalized app experiences.” In particular, GeoPulse Content is
6 able to “[u]nderstand where [app developers’] users are –whether it’s a retail district,
7 commercial center, or residential neighborhood - to provide them the most relevant
8 information.” It also allows more knowledge “about [app developers’] users based on
9 the demographic characteristics – wealth, education, race, gender, age – of their
10 locations to tailor their experience in [app developers’] app.”

11 18. Also according to Defendant Factual’s website, Defendant provides Data
12 Mapping and Cleaning to “[c]lean, connect, and enhance location data with Factual's
13 suite of data cleaning and mapping tools.” These tools include Resolve, a data
14 management tool that “use[s] Factual’s data stack to clean and de-dupe location data
15 or map your data to Factual data,” and Places Crosswalk, a “mapping of places across
16 50+ different services [... and] the easiest way to bridge multiple location APIs.” In
17 addition, Defendant provides Consumer Products Data, such as Global Products,
18 which includes “[d]ata on over 600,000 consumer packaged goods in a UPC centric
19 database with ingredients and nutrition information,” and Products Crosswalk, which
20 is a “mapping of products across 35+ different services [... and] [t]he easiest way to
21 integrate different affiliate programs for CPG products.” Defendant further provides
22 Additional Location Tools, such as Reverse Geocoder, which “[c]onvert[s]
23 coordinates into street addresses or administrative regional information in 50 different
24 countries,” and World Geographies, which includes the “[n]ames and relationships of
25 5 million geographies around the globe with translations in 19 different languages.”

26 19. On information and belief, Defendant Factual has been and is directly
27 infringing, inducing others to infringe, and/or contributorily infringing, literally,
28 under the doctrine of equivalents, and/or jointly, claims 1-12 (“Asserted Claims”) of

1 the '381 Patent in the State of California, in this judicial district, and elsewhere in the
2 United States by, among other things, using methods that implement, utilize or
3 otherwise embody the patented invention, including by way of example using
4 methods inherent to and/or implemented by Defendant Factual's location-based
5 services, including but not limited to GeoPulse Audience, GeoPulse Proximity, and
6 GeoPulse Context, which are described or have been described at least in part online
7 at <http://www.factual.com/products>. Therefore, Defendant Factual is liable for
8 infringement of the '381 Patent.

9 20. Defendant Factual has been and is inducing and/or contributing to the
10 direct infringement of the '381 Patent by at least, but not limited to, customers of
11 Defendant Factual, partners of Defendant Factual, and/or mobile consumers ("Factual
12 Direct Infringers"), including but not limited to GeoPulse Audience, GeoPulse
13 Proximity, and GeoPulse Context, who directly implement, use or otherwise
14 participate in the use of the accused systems, products and services, which have no
15 substantial non-infringing uses, by at least the following affirmative acts: (1)
16 advertising in public and marketing the features, benefits and availability of the
17 accused systems, products, and services; (2) promoting the adoption and installation
18 of the accused systems, products and services; and (3) providing instructions on how
19 to use the accused systems, products and services.

20 21. Defendant Factual indirectly infringes by actively, knowingly, and/or
21 intentionally inducing or contributing to infringement of the Asserted Claims by a
22 third-party, including but not limited to Factual Direct Infringers, who directly
23 implement, use or otherwise participate in the use of the accused systems, products
24 and services including but not limited to Defendant Factual's location-based services
25 identified above. On information and belief, Defendant actively, knowingly, and/or
26 intentionally induces the use of the Accused Instrumentalities by the Factual Direct
27 Infringers and/or provides, hosts or otherwise implements material components of the
28 Asserted Claims, which were especially made or adapted for use in the infringement

1 of one or more Asserted Claims and are not a staple article or commodity of
2 commerce suitable for substantial non-infringing use.

3 22. Defendant Factual has knowledge of the '381 Patent and has had the
4 specific knowledge that its location-based services described above infringe the '381
5 Patent, since at least the filing of the complaint in this litigation.

6 23. Locata LBS has been and is irreparably harmed by Defendant Factual's
7 infringement of the '381 Patent. Locata LBS has incurred and will continue to incur
8 substantial damages, including monetary damages, unless Defendant is enjoined from
9 further acts of infringement.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Locata LBS respectfully requests that this Court:

12 (a) enter judgment in favor of Locata LBS that Defendant has infringed, and
13 continues to infringe, a valid and enforceable '381 Patent;

14 (b) enjoin Defendant, its officers, subsidiaries, agents, servants, employees,
15 and all persons in active concert with any of them, from any further infringement of
16 the '381 Patent;

17 (c) award Locata LBS all monetary relief available under the patent laws of
18 the United States, including but not limited to actual damages, pre- and post-
19 judgment interest, enhanced damages, and costs pursuant to 35 U.S.C. § 284;

20 (d) declare this case exceptional and award Locata LBS its reasonable
21 attorneys' fees pursuant to 35 U.S.C. § 285; and

22 (e) grant Locata LBS such other relief as the Court deems just and equitable.

23 **DEMAND FOR JURY TRIAL**

24 Locata LBS demands a trial by jury on all issues so triable pursuant to Rule 38
25 of the Federal Rules of Civil Procedure.

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1 Date: April 25, 2014

Respectfully submitted,

3 /s/ Andrew Y. Choung

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