

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

PROXENSE, LLC,

Plaintiffs,

v.

GOOGLE LLC and GOOGLE PAYMENT
CORP.

Defendants.

Civil Action No. 6:23-cv-320

JURY TRIAL REQUESTED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Proxense, LLC (“Proxense” or “Plaintiff”) hereby sets forth its Complaint for patent infringement against Defendants Google LLC and Google Payment Corp. (“Google” or “Defendant”), and states as follows:

NATURE OF THE CASE

1. This action is for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1, et seq. As further stated herein, Proxense alleges that Google infringes one or more claims of patents owned by Proxense. Accordingly, Proxense seeks monetary damages and injunctive relief in this action.

THE PARTIES

2. Plaintiff Proxense, LLC is a Delaware company with its principal place of business at 689 NW Stonepine Drive, Bend, Oregon 97703.

3. On information and belief, Google LLC is a Delaware corporation with a physical address of 500 West Second Street, Austin, Texas, 78601. On information and belief, Google LLC

also maintains a regular and established place of business at 110 East Houston Street, #300, San Antonio, Texas 78205. Google LLC is registered to do business in the State of Texas and has been registered since 2006. Google LLC may be served through its registered agent, the Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, at 211 East Seventh Street, Suite 620, Austin, Texas, 78701 - 3218.

4. Google Payment Corp. is a Delaware corporation and maintains its principal place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043. Google Payment Corp. is registered to do business in the State of Texas and has been registered since 2005. Google Payment Corp. may be served with process through its registered agent, Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, at 211 East Seventh Street, Suite 620, Austin, Texas, 78701 - 3218.

JURISDICTION AND VENUE

5. This Court has exclusive subject matter jurisdiction over this case pursuant to 28 U.S.C. §§ 1331 and 1338(a) on the grounds that this action arises under the Patent Laws of the United States, 35 U.S.C. § 1 et seq., including, without limitation, 35 U.S.C. §§ 271, 281, 284, and 285.

6. This Court has personal jurisdiction over Google LLC and Google Payment Corp. (collectively, “Google”) because Google is a multinational technology company that has a significant presence in the District through the products and services Google provides residents of this District. Defendants regularly conduct business and have committed acts of patent infringement within this Judicial District that give rise to this action and have established minimum contacts within this forum such that the exercise of jurisdiction over Google would not offend traditional notions of fair play and substantial justice. Google has committed and continues to

commit acts of infringement in this Judicial District, by, among other things, offering to sell, selling, using, importing, and/or making products and services that infringe the asserted patents. Google has further induced acts of patent infringement by others in this Judicial District and/or has contributed to patent infringement by others in this Judicial District, the State of Texas, and elsewhere in the United States.

7. On information and belief, Google has authorized retailers in this Judicial District that offer and sell products on its behalf in this District, including products accused of infringement herein. On information and belief, these include Best Buy, *e.g.*, at 4627 S. Jack Kultgen Expy., Waco, TX 76706; Target, *e.g.*, at 5401 Bosque Blvd., Waco, TX 76710; T-Mobile, *e.g.*, 100 N New Rd Ste 110, Waco, TX 76710 and 2448 West Loop 340 Suite 24a, TX 76711; and Verizon, *e.g.*, 1820 S Valley Mills Dr., Waco, TX 76711 and 2812 W Loop 340 Waco, TX, 76711.

8. Proxense's causes of action arise directly from Google's business contacts and other activities in the State of Texas and this District.

9. Google has derived substantial revenues from its infringing acts within the State of Texas and this District.

10. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1400(b). Google is registered to do business in Texas and, upon information and belief, Google has transacted business in the Western District of Texas and has a regular and established places of business in this Judicial District.

11. Joinder of Google LLC and Google Payment Corp. is proper because they are related entities that are either jointly and severally liable for infringement, or that make, use, sell, offer to sell, and/or import the same or similar products accused of infringement herein. Further, upon information and belief, Google LLC and Google Payment Corp. act in concert to provide the

software, hardware, infrastructure, and payment networks used by the accused products. Therefore, the factual question of infringement will substantially overlap between Google LLC and Google Payment Corp. Additionally, Proxense anticipates there will be substantial overlap with respect to discovery.

12. Google also maintains a significant physical presence in this Judicial District and employs many people in this Judicial District. According to CultureMap Austin, Google already leases more than 550,000 square feet at three locations in and around downtown Austin: 100 Congress Ave., 901 E. Fifth St., and 500 W. Second St. *See* John Egan, “Austin’s next iconic high-rise sails towards opening date with Google as anchor tenant,” CultureMap Austin (March 19, 2021) *See Exhibit 7* In addition to its current offices, including its Austin headquarters at 500 W 2nd Street in Austin, Google has leased an entire building down the street at 601 West 2nd Street that is being built out. Last year, Google announced that it plans to occupy the 37-story building, which will be Austin’s tallest office tower and contains 814,081 square feet. *Id.*

13. Google currently employs approximately 1,100 people in Austin. Among these employees are people specifically responsible for the infringing technology in this lawsuit. For example, Nik Bhattacharya, a Senior Software Engineering Manager, who works for Google in Austin, Texas, describes on his LinkedIn profile that he is “[l]eading the FIDO passkeys effort at Google.” *See Exhibit 8.* Aspects of Google’s particular implementation of FIDO are among the grounds for the claims of patent infringement asserted here.

14. On Google’s Careers website, careers.google.com, as of December 15, 2022, Google lists 209 open jobs for its Austin, Texas location. Many of its jobs list multiple potential locations for the job applicant to work from, because Google employees are able to work collaboratively from essentially anywhere, on the “cloud,” because all relevant information,

including on information and belief documents relevant to this litigation, including documents and code are decentralized and exist on Google's intranet that is available from any of its physical office locations, or even remotely. By way of a non-limiting example, as of December 15, 2022, Google's Careers website had a listing for a Senior Product Manager, Core Privacy, Safety, and Security. The position listed potential in-office locations as Seattle, Washington; Austin, Texas; and New York City, New York. The position's responsibilities included: "[l]aunch[ing] new products and features..."; "[w]ork[ing] collaboratively with engineering, marketing, legal, UX, and other teams on cutting edge technologies"; and "[d]evelop[ing] solutions to problems by collaborating as needed across regions, product areas, and functions."

15. On information and belief, Google has also committed acts of direct and indirect infringement in the Western District of Texas. For example, Google sells its Pixel line of phones to individuals in this Judicial District, which ship with various versions of the Android operating system ("Android OS" or "Android"). Google also distributes Google Pay, also known as "G Pay," "Pay with Google" and "Android Pay" which it describes as a "simple, secure way to pay and save," in this Judicial District, both on its Pixel phones and otherwise. *See Exhibit 9.*

PATENTS-IN-SUIT

16. On January 8, 2013, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,352,730 (the "730 Patent") entitled "Biometric Personal Data Key (PDK) Authentication." A true and correct copy of the 730 Patent is attached hereto as **Exhibit 1**.

17. On November 11, 2014, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,886,954 (the "954 Patent") entitled "Biometric Personal Data Key (PDK) Authentication." A true and correct copy of the 954 Patent is attached hereto as **Exhibit 2**.

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