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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MATTERPORT, INC., a Delaware corporation,

Plaintiff,

v.

APPLIANCE COMPUTING III, INC. D/B/A SUREFIELD, a Delaware corporation,

Defendant.

CASE NO. 2:22-cv-00669

**COMPLAINT FOR DECLARATORY
JUDGMENT OF PATENT
INVALIDITY AND
NONINFRINGEMENT**

JURY DEMAND

Plaintiff Matterport, Inc. (“Matterport”), for causes of actions against defendant Appliance Computing III, Inc. d/b/a Surefield (“Surefield”), alleges as follows:

I. NATURE OF THE ACTION

1. This is an action for declaratory judgment of invalidity and noninfringement of U.S. Patent Nos. 11,062,384 (“the ’384 patent”); 10,592,973 (the “’973 patent”); 10,510,111 (the “’111 patent”); 10,102,673 (the “’673 patent”); 9,836,885 (the “’885 patent”) (collectively, the “patents-in-suit”) arising under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, and the patent laws of the United States, 35 U.S.C. §§ 1 et seq. The patents-in-suit claim priority to the same provisional patent application and, thus, are all related.

II. PARTIES

2. Plaintiff Matterport, Inc. is a corporation organized and existing under the laws of Delaware with its principal place of business at 352 East Java Drive, Sunnyvale, CA 94089.

1 3. On information and belief, Defendant Appliance Computing III, Inc. d/b/a
2 Surefield is a corporation organized and existing under the laws of Delaware with its principal
3 place of business at 3100 Airport Way, South #21, Seattle, WA 98134.

4 **III. JURISDICTION AND VENUE**

5 4. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202,
6 and under the patent laws of the United States, 35 U.S.C. §§ 1, et seq.

7 5. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331,
8 1338(a), and 2201(a).

9 6. There is an actual controversy within the jurisdiction of this Court under 28
10 U.S.C. §§ 2201 and 2202. On May 11, 2020, Surefield filed a complaint in the United States District
11 Court for the Western District of Texas, Waco Division, alleging that a Matterport customer,
12 Redfin Corporation (“Redfin”), infringed four of the patents-in-suit based on Redfin’s “3D
13 Walkthrough” virtual tours provided by Matterport.

14 7. Surefield alleges that the Matterport 3D modeling technology used to provide
15 virtual tours of real estate properties offered for sale through the Redfin website infringes the ’973
16 patent, the ’111 patent, the ’673 patent, and the ’885 patent.

17 8. Further, on information and belief, Surefield has also alleged infringement of the
18 ’384 patent by asserting that Matterport directly infringes claims in the related patents including
19 the ’973 patent, the ’111 patent, the ’673 patent, and the ’885 patent.

20 9. On information and belief, in addition to Matterport’s customer Redfin, Surefield
21 has also alleged infringement of the ’973 patent, the ’111 patent, the ’673 patent, and the ’885
22 patent by other third-parties through their use of Matterport’s 3D modeling technology.

23 10. Matterport alleges that the claims of the patents-in-suit are invalid and/or not
24 infringed.

25 11. Based on the foregoing, a justiciable controversy exists between Matterport and
26 Surefield as to whether Surefield’s patents-in-suit are valid and whether Matterport’s technology
27 infringes the patents-in-suit. Absent a declaration of invalidity and noninfringement, Surefield will

1 continue to wrongfully allege that Matterport's technology infringes the patents-in-suit and will
2 seek to enforce remedies against Matterport and/or its customers, and thereby cause Matterport
3 injury and damage.

4 12. This Court has personal jurisdiction over Surefield because Surefield has availed
5 itself of the rights and benefits of the laws of Washington State. Surefield conducts business
6 relating to the patents-in-suit, in this State and this District, and has purposefully directed actions
7 to enforce its patents against Matterport's customers in this District, which gives rise to this action.
8 Surefield has maintained systematic and continuous business contacts with Washington State and
9 this District, including deriving revenue in this State and this District.

10 13. Venue in this District is proper under 28 U.S.C. §§ 1391(b). Surefield is subject to
11 personal jurisdiction in this judicial district, has directed its enforcement activities against business
12 conducted in this judicial district, and a substantial part of the events giving rise to the claims
13 occurred in this judicial district.

14 **IV. PATENTS-IN-SUIT**

15 14. The '384 patent, entitled IMAGE-BASED RENDERING OF REAL SPACES,
16 states on its face that it issued on July 13, 2021. A true and correct copy of the '384 patent is
17 attached as Exhibit 1.

18 15. The '973 patent, entitled IMAGE-BASED RENDERING OF REAL SPACES,
19 states on its face that it issued on March 17, 2020. A true and correct copy of the '973 patent is
20 attached as Exhibit 2.

21 16. The '111 patent, entitled IMAGE-BASED RENDERING OF REAL SPACES,
22 states on its face that it issued on December 17, 2019. A true and correct copy of the '111 patent
23 is attached as Exhibit 3.

24 17. The '673 patent, entitled IMAGE-BASED RENDERING OF REAL SPACES,
25 states on its face that it issued on October 16, 2018. A true and correct copy of the '673 patent is
26 attached as Exhibit 4.

1 18. The '885 patent, entitled IMAGE-BASED RENDERING OF REAL SPACES,
2 states on its face that it issued on December 5, 2017. A true and correct copy of the '885 patent is
3 attached as Exhibit 5.

4 **V. FACTUAL BACKGROUND**

5 19. Matterport was founded in 2011 with the express goal of establishing 3D and virtual
6 reality models as a primary medium for experiencing, sharing, and reimaging the world. In 2014,
7 Matterport released the first commercially available comprehensive product platform for
8 capturing, creating and experiencing 3D photographic models. Since its inception, Matterport has
9 invested tens of millions of dollars developing innovative technology to power its end-to-end
10 system for creating, modifying, distributing, and navigating immersive 3D and virtual reality (VR)
11 versions of real-world spaces. During this time, Matterport has become to be recognized as the
12 leading spatial data company focused on digitizing and indexing the built world.

13 20. Matterport continues to contend that the patents-in-suit are invalid and/or not
14 infringed by Matterport or its customers.

15 21. For example, the claims of the '973 patent, the '111 patent, the '673 patent, and the
16 '885 patent are invalid on the ground that they fail to satisfy the conditions and requirements for
17 patentability as set forth, inter alia, in Sections 101, 102, 103, and/or 112 of Title 35 of the United
18 States Code. The real estate industry has been developing and designing 3D photographic
19 modeling technology for over a decade. Matterport has been one of the innovators in this industry.
20 Particularly, Matterport has been designing, developing, and selling a variety of 3D virtual
21 modeling products with features versatile enough to meet specific consumer demands and any type
22 of 3D virtual modeling application. These include products and patents that anticipate and/or
23 render obvious the claims of the '973 patent, the '111 patent, the '673 patent, and the '885 patent,
24 including the Bell et al. patents issued to Matterport. Other innovators in the industry have also
25 developed invalidating prior art, including Microsoft Corporation and Google, Inc.
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1 22. The claims of the patents-in-suit are also not infringed by the Matterport 3D
2 modeling technology. For example, Matterport’s 3D modeling technology does not include the
3 “spatial boundaries” and “parcel outline” limitations required by all claims of the ’384, ’885, ’111,
4 and ’973 patents or the rendering of “a virtual model of a selected space” of the ’673 patent. In
5 several other material and substantial ways, Matterport’s 3D modeling technology does not
6 infringe the claims of the patents-in-suit. Matterport does not directly or indirectly infringe any
7 valid claim of the patents-in-suit.

8 23. An actual and justiciable controversy exists between Matterport and Surefield
9 regarding whether the patents-in-suit are valid, and whether Matterport directly or indirectly
10 infringes any valid claim of the patents-in-suit, either literally or under the doctrine of equivalents.

11 24. A judicial declaration is necessary to determine the respective rights of the parties
12 regarding the patents-in-suit. Matterport, therefore, seeks a judicial declaration that it did not
13 directly or indirectly infringe any claim of the patents-in-suit, literally or under the doctrine of
14 equivalents and that the claims of the ’973, the ’111, the ’673, and the ’885 patents are invalid.

15
16 **FIRST CAUSE OF ACTION:**
17 **Declaratory Judgment of Noninfringement of U.S. Patent No. 11,062,384**

18 25. Matterport repeats and realleges each allegation set forth in paragraphs 1 through
19 24 above as if fully set forth herein.

20 26. Matterport does not infringe any claim of the ’384 patent by its manufacture, use,
21 distribution, or sale of its 3D modeling technology, whether directly or indirectly, literally or under
22 the doctrine of equivalents. For example, among other limitations, the Matterport 3D modeling
23 technology does not have any defining or generating of “a plurality of spatial boundaries of the
24 plurality of spaces” required by all claims of the ’384 patent.

25 27. Accordingly, an actual and justiciable controversy has arisen and exists between
26 Matterport and Surefield as to alleged infringement of the ’384 patent. A judicial determination
27 and declaration that Matterport has not infringed, and does not infringe, any claim of the ’384

1 patent is necessary and appropriate at this time in order for the parties to ascertain their respective
2 rights and duties regarding the '384 patent.

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4 **SECOND CAUSE OF ACTION:**

5 **Declaratory Judgment of Invalidity of U.S. Patent No. 10,592,973**

6 28. Matterport repeats and realleges each allegation set forth in paragraphs 1 through
7 27 above as if fully set forth herein.

8 29. The claims of the '973 patent are invalid because they fail to satisfy the conditions
9 and requirements for patentability as set forth in Title 35 of the United States Code, including at
10 least 35 U.S.C. §§ 101, 102, 103, and 112.

11 30. For example, the claims of the '973 patent are invalid because none of the named
12 inventors conceived of the claimed invention. Accordingly, the claims of the '973 patent are
13 invalid under 35 U.S.C. § 101.

14 31. For example, the claims of the '973 patent are anticipated by and/or rendered
15 obvious by the "Street View" 3D modeling technology of Google, Inc. that was patented, described
16 in printed publications, or in public use, on sale, or otherwise available to the public before the
17 effective filing date of the patents-in-suit. Accordingly, the claims of the '973 patent are invalid
18 under 35 U.S.C. §§ 102 and 103.

19 32. An actual and justiciable controversy has arisen and exists between Matterport and
20 Surefield as to the alleged validity of the claims of the '973 patent. A judicial determination and
21 declaration that the claims of the '973 patent are invalid is necessary and appropriate at this time
22 in order for the parties to ascertain their respective rights and duties regarding the '973 patent.

23 **THIRD CAUSE OF ACTION:**

24 **Declaratory Judgment of Noninfringement of U.S. Patent No. 10,592,973**

25 33. Matterport repeats and realleges each allegation set forth in paragraphs 1 through
26 32 above as if fully set forth herein.

27 34. Matterport does not infringe any claim of the '973 patent by its manufacture, use,
distribution, or sale of its 3D modeling technology, whether directly or indirectly, literally or under

1 the doctrine of equivalents. For example, among other limitations, Matterport’s 3D modeling
2 technology does not have any “parcel outline” as required by all claims of the ’973 patent.

3 35. Accordingly, an actual and justiciable controversy has arisen and exists between
4 Matterport and Surefield as to alleged infringement of the ’973 patent. A judicial determination
5 and declaration that Matterport has not infringed, and does not infringe, any claim of the ’973
6 patent is necessary and appropriate at this time in order for the parties to ascertain their respective
7 rights and duties regarding the ’973 patent.

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9 **FOURTH CAUSE OF ACTION:**
Declaratory Judgment of Invalidity of U.S. Patent No. 10,510,111

10 36. Matterport repeats and realleges each allegation set forth in paragraphs 1 through
11 35 above as if fully set forth herein.

12 37. The claims of the ’111 patent are invalid because they fail to satisfy the conditions
13 and requirements for patentability as set forth in Title 35 of the United States Code, including at
14 least 35 U.S.C. §§ 101, 102, 103, and 112.

15 38. For example, the claims of the ’111 patent are invalid because none of the named
16 inventors conceived of the claimed invention. Accordingly, the claims of the ’111 patent are
17 invalid under 35 U.S.C. § 101.

18 39. For example, the claims of the ’111 patent are anticipated by and/or rendered
19 obvious by the “Street View” 3D modeling technology of Google, Inc. that was patented, described
20 in printed publications, or in public use, on sale, or otherwise available to the public before the
21 effective filing date of the patents-in-suit. Accordingly, the claims of the ’111 patent are invalid
22 under 35 U.S.C. §§ 102 and 103.

23 40. An actual and justiciable controversy has arisen and exists between Matterport and
24 Surefield as to the alleged validity of the claims of the ’111 patent. A judicial determination and
25 declaration that the claims of the ’111 patent are invalid is necessary and appropriate at this time
26 in order for the parties to ascertain their respective rights and duties regarding the ’111 patent.

1 **FIFTH CAUSE OF ACTION:**
2 **Declaratory Judgment of Noninfringement of U.S. Patent No. 10,510,111**

3 41. Matterport repeats and realleges each allegation set forth in paragraphs 1 through
4 40 above as if fully set forth herein.

5 42. Matterport does not infringe any claim of the '111 patent by its manufacture, use,
6 distribution, or sale of its 3D modeling technology, whether directly or indirectly, literally or under
7 the doctrine of equivalents. For example, among other limitations, Matterport's 3D modeling
8 technology does not have any "parcel outline" as required by all claims of the '111 patent.

9 43. Accordingly, an actual and justiciable controversy has arisen and exists between
10 Matterport and Surefield as to alleged infringement of the '111 patent. A judicial determination
11 and declaration that Matterport has not infringed, and does not infringe, any claim of the '111
12 patent is necessary and appropriate at this time in order for the parties to ascertain their respective
13 rights and duties regarding the '111 patent.

14 **SIXTH CAUSE OF ACTION:**
15 **Declaratory Judgment of Invalidity of U.S. Patent No. 10,102,673**

16 44. Matterport repeats and realleges each allegation set forth in paragraphs 1 through
17 43 above as if fully set forth herein.

18 45. The claims of the '673 patent are invalid because they fail to satisfy the conditions
19 and requirements for patentability as set forth in Title 35 of the United States Code, including at
20 least 35 U.S.C. §§ 101, 102, 103, and 112.

21 46. For example, the claims of the '673 patent are invalid because none of the named
22 inventors conceived of the claimed invention. Accordingly, the claims of the '673 patent are
23 invalid under 35 U.S.C. § 101.

24 47. For example, the claims of the '111 patent are anticipated by and/or rendered
25 obvious by the "Street View" 3D modeling technology of Google, Inc. that was patented, described
26 in printed publications, or in public use, on sale, or otherwise available to the public before the
27 effective filing date of the patents-in-suit. Accordingly, the claims of the '673 patent are invalid
under 35 U.S.C. §§ 102 and 103.

1 48. An actual and justiciable controversy has arisen and exists between Matterport and
2 Surefield as to the alleged validity of the claims of the '673 patent. A judicial determination and
3 declaration that the claims of the '673 patent are invalid is necessary and appropriate at this time
4 in order for the parties to ascertain their respective rights and duties regarding the '673 patent.

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6 **SEVENTH CAUSE OF ACTION:**
7 **Declaratory Judgment of Noninfringement of U.S. Patent No. 10,102,673**

8 49. Matterport repeats and realleges each allegation set forth in paragraphs 1 through
9 48 above as if fully set forth herein.

10 50. Matterport does not infringe any claim of the '673 patent by its manufacture, use,
11 distribution, or sale of its 3D modeling technology, whether directly or indirectly, literally or under
12 the doctrine of equivalents. For example, among other limitations, Matterport's 3D modeling
13 technology does not have any rendering of "a virtual model of a selected space" required by all
14 claims of the '673 patent.

15 51. Accordingly, an actual and justiciable controversy has arisen and exists between
16 Matterport and Surefield as to alleged infringement of the '673 patent. A judicial determination
17 and declaration that Matterport has not infringed, and does not infringe, any claim of the '673
18 patent is necessary and appropriate at this time in order for the parties to ascertain their respective
19 rights and duties regarding the '673 patent.

20 **EIGHTH CAUSE OF ACTION:**
21 **Declaratory Judgment of Invalidity of U.S. Patent No. 9,836,885**

22 52. Matterport repeats and realleges each allegation set forth in paragraphs 1 through
23 51 above as if fully set forth herein.

24 53. The claims of the '885 patent are invalid because they fail to satisfy the conditions
25 and requirements for patentability as set forth in Title 35 of the United States Code, including at
26 least 35 U.S.C. §§ 101, 102, 103, and 112.
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1 54. For example, the claims of the '885 patent are invalid because none of the named
2 inventors conceived of the claimed invention. Accordingly, the claims of the '885 patent are
3 invalid under 35 U.S.C. § 101.

4 55. For example, the claims of the '885 patent are anticipated by and/or rendered
5 obvious by the "Street View" 3D modeling technology of Google, Inc. that was patented, described
6 in printed publications, or in public use, on sale, or otherwise available to the public before the
7 effective filing date of the patents-in-suit. Accordingly, the claims of the '885 patent are invalid
8 under 35 U.S.C. §§ 102 and 103.

9 56. An actual and justiciable controversy has arisen and exists between Matterport and
10 Surefield as to the alleged validity of the claims of the '885 patent. A judicial determination and
11 declaration that the claims of the '885 patent are invalid is necessary and appropriate at this time
12 in order for the parties to ascertain their respective rights and duties regarding the '885 patent.

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14 **NINTH CAUSE OF ACTION:**
Declaratory Judgment of Noninfringement of U.S. Patent No. 9,836,885

15 57. Matterport repeats and realleges each allegation set forth in paragraphs 1 through
16 56 above as if fully set forth herein.

17 58. Matterport does not infringe any claim of the '885 patent by its manufacture, use,
18 distribution, or sale of the products-at-issue, whether directly or indirectly, literally or under the
19 doctrine of equivalents. For example, among other limitations, Matterport's 3D modeling
20 technology does not have any "parcel outline" as required by all claims of the '885 patent.

21 59. Accordingly, an actual and justiciable controversy has arisen and exists between
22 Matterport and Surefield as to alleged infringement of the '885 patent. A judicial determination
23 and declaration that Matterport has not infringed, and does not infringe, any claim of the '885
24 patent is necessary and appropriate at this time in order for the parties to ascertain their respective
25 rights and duties regarding the '885 patent.

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VI. DEMAND FOR JURY TRIAL

60. Pursuant to Federal Rule of Civil Procedure 38 and Civil Local Rule 38, Matterport hereby demands a trial of jury of all issues so triable that are raised herein or which hereinafter may be raised in this action.

VII. PRAYER FOR RELIEF

Wherefore, Matterport requests that the Court enter judgment in its favor and against Surefield as follows:

A. Declaring that Matterport has not infringed, directly or indirectly, literally or by equivalents, any claim of the patents-in-suit;

B. Declaring that the claims of the '111 patent, '673 patent, '973 patent, and '885 patent are invalid;

C. Declaring that judgment be entered in favor of Matterport and against Surefield;

D. Enjoining Surefield, its agents, and all persons acting in concert or participation with it, from alleging, representing, claiming, or otherwise stating that Matterport infringes the patents-in-suit;

E. Awarding Matterport its costs and attorneys' fees in connection with this action;

F. For leave to amend this Complaint as necessary; and

G. For such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED this 17th day of May, 2022.

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