

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**INTELLIGENT AGENCY, LLC,**

**Plaintiff,**

**v.**

**NEIGHBORFAVOR, INC.,**

**Defendant.**

**CIVIL ACTION NO.: 6:20-cv-39-ADA**

**JURY TRIAL DEMANDED**

**PLAINTIFF’S SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT  
AGAINST NEIGHBORFAVOR, INC.**

1. This is an action under the patent laws of the United States, Title 35 of the United States Code, for patent infringement, in which Intelligent Agency, LLC (“Intelligent Agency” or “Plaintiff”) makes the following allegations against Neighborfavor, Inc. (“Neighborfavor” or “Favor”).

**PARTIES**

2. Plaintiff Intelligent Agency is a Texas limited liability company having its primary office at 4507 Byron Circle, Irving, TX 75038-6324. The owner of Intelligent Agency is Mr. Federico Fraccaroli.

3. On information and belief, Defendant Neighborfavor is a Delaware corporation having a principal place of business at 1705 Guadalupe Street, Suite 300, Austin, Texas 78701-1273. On information and belief, the registered agent for service of process in Texas for Neighborfavor is Cogency Global Inc., 1601 Elm Street, Suite 4360, Dallas, Texas 75201.

**JURISDICTION AND VENUE**

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

5. Venue is proper in this district under 28 U.S.C. §§ 1391(c), generally, and under 1400(b), specifically. On information and belief, Neighborfavor maintains at least one regular and established place of business in this Judicial District and has committed acts of patent infringement in this Judicial District by using, selling and/or offering for sale infringing instrumentalities to customers in this Judicial District.

6. Neighborfavor is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to their presence and substantial business in this forum, including: (i) maintaining a physical presence in this forum; (ii) committing at least a portion of the infringements in this forum; and (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

#### **FACTUAL BACKGROUND OF THE PATENTED TECHNOLOGY**

7. Federico Fraccaroli is an American technologist, inventor, author, and entrepreneur. Mr. Fraccaroli has been recognized for his innovations and contributions to the body of technical knowledge. This recognition includes, but is not limited to, the publication of Mr. Fraccaroli's technical articles in prestigious international technical journals, as well as well-attended public events featuring Mr. Fraccaroli as a speaker. Recently, one of Mr. Fraccaroli's innovative projects was named as a finalist for the Innovation Award at SXSW® 2018, one of the most prominent events in the U.S showcasing emerging technologies.

8. A list of Mr. Fraccaroli's recent publications includes Wearable Electronics Directional Augmented Reality, University Booth, Proc. of IEEE Design, Automation and Test in Europe, Lausanne (CH), Mar. 28-30, 2017; Demo Abstract: Low-Complexity Eyewear System for Direction-based Augmented Reality Applications. Proc. of ACM Conf. on Embedded Network Sensor Systems (SenSys), Delft (NL), Nov. 5-8, 2017; and A System C-based Simulator for Design Space Exploration of Smart Wireless Systems, Dresden (DE), Proc. of IEEE Design, Automation and Test in Europe, Mar. 19-23, 2018.

9. Mr. Fraccaroli is the named inventor of a variety of patents on novel and innovative inventions across a variety of technological fields, including telecommunications, location-based services, augmented reality, and embedded systems. His inventive activity spans

more than twenty years. Some of Mr. Fraccaroli's inventions from the nineties have proven essential to certain location-based services.

**10.** Mr. Fraccaroli's patent portfolio includes, in relevant part:

- United States Patent No. 9,286,610, issued March 15, 2016, entitled "Method and Apparatus for a Principal / Agent Based Mobile Commerce" (the "'610 Patent");
- United States Patent No. 9,439,035, issued September 6th, 2016, entitled "Method, System and Apparatus for Managing Attributes and Functionalities of Areas Exhibiting Density of Users" (the "'035 Patent"); and
- United States Patent No. 9,894,476, issued February 13, 2018, entitled "Method, System and Apparatus for Location-Based Machine-Assisted Interactions" (the "'476 Patent").

**11.** The '610 Patent, '035 Patent and '476 Patent (hereinafter, collectively, the "Intelligent Agency Patents") are valid and enforceable in all respects, and were attached as exhibits A, B and C to Plaintiff's original Complaint.

**12.** The disclosure and claims of the '610 Patent are directed to a variety of methods, systems, and tools for optimizing the efficiency of a machine implemented instrument receiving as an input an agent's proximity to certain users or locations.

**13.** Specifically, the '610 Patent is directed to a machine implemented method for facilitating a prospective business transaction involving a principal, an agent, and a user. The claimed method comprises, in part: at least partially causing the generation of indicia that a first mobile equipment associated with a user digital identifier, and a second mobile equipment, that is associated with an agent digital identifier, meet a location based criterion, as determined by using at least one microprocessor.

**14.** Generation of location-related indicia under the '610 Patent is regulated by a number of factors, including: an agent-user matching algorithm using predefined data selected from the group consisting of data indicating a proclivity of the user toward predetermined business transactions, data related to terms of said prospective business transaction, wherein the terms are controlled by the principal, data related to parameters associated to the prospective business transaction, wherein the parameters are controlled by the principal, data related to a brand that is associated with the agent, data related to preferences associated with the user,

wherein the preferences are controlled by the user, data related to user generated keywords indicating an explicit interest toward a predefined product, data related to user generated keywords indicating an explicit interest toward a predefined service, data related to patterns associated with the user, data related to attributes associated with the user, data related to locations associated with the prospective business transaction, wherein the locations are controlled by the principal, and combinations thereof.

**15.** Finally, the method set forth and claimed in the '610 Patent involves generation of a principal-controlled participation condition associated with the agent digital identifier wherein the principal-controlled participation condition selectably enables the second mobile equipment, associated with the agent digital identifier, to participate to the machine implemented method.

**16.** The disclosure and claims of the '035 Patent are directed to a variety of methods, systems, and tools relating to analytics pertaining, among others, to the permanence of users within and around a session area or to attributes associated to said users.

**17.** According to at least one claimed embodiment, the claimed invention is a computer system having a set of instructions stored in at least one non-transitory computer-readable medium for controlling at least one digital computer in performing desired functions comprising a set of instructions formed into each of a plurality of modules.

**18.** Each of the modules comprises a set of processes. The processes include a process for at least partially facilitating compiling by a computer apparatus a set of attributes related to a first user who belongs to a predetermined group and is determined to be positioned in proximity to other users who also belong to the predetermined group, whereby a set density of members of the predetermined group is achieved.

**19.** The set of processes also includes at least a process for facilitating the providing of indicia, subject to the first user's settings, of at least one subset of the set of attributes related to the first user to at least a second user. The second user is selected from the group consisting of: a user who contributes to achieving set density of members of the predetermined group, a user who does not contribute to achieving set density of members of the predetermined group. The subset of the set of attributes comprises a real-time presence attribute associated with a session area.

**20.** The disclosure and claims of the '476 Patent are directed to a variety of methods, systems, and tools for at least partially enabling a set of functionalities and attributes associated to an area for facilitating business transactions, networking activities, or social interactions of users who are within, proximate, or associated, at least provisionally, with the area.

**21.** According to one claimed embodiment, the '476 Patent is directed to a method comprising facilitating discovery of indicia of a session area via a location aware mobile application.

**22.** The session area has specific attributes. It is anchored to at least one reference point, exhibits at least one first set of spatial boundaries associated with the at least one reference point, and is associated with at least one time-related parameter defining at least one functionality connected with said session area.

**23.** The discovery of indicia of the session area is facilitated, at least in part, based on assessment of distance data from the at least one reference point.

**24.** The claimed method further comprises the steps of facilitating association with the session area of at least one user among a first plurality of users based, at least in part, on a distance parameter from the at least one reference point, and facilitating selectively enabling the activation of a second plurality of users by an authority, wherein said activation facilitates the association of said second plurality of users with said first plurality of users.

**25.** At least one interactive networking functionality for the at least one user among the first plurality of users is enabled. The at least one user among the first plurality of users selectively receives indicia of at least one user among the second plurality of users.

**26.** The method further comprises facilitating determining which user among the second plurality of users has the strongest connection with the reference point based, at least in part, on that user's location, and facilitating activating a timer associated with the one user among the second plurality of users such that if an electronic signal indicating that a task is not accomplished by the one user among the second plurality of users within the expiration of the timer, an association with the at least one user among the first plurality of users is inhibited, at least temporarily, and thus the quality of interactions between the first plurality of users and the second plurality of users is regulated.

27. Finally, the method comprises facilitating providing guidance indicia to the one user among the second plurality of users to facilitate a meeting with the at least one user among the first plurality of users.

### **SUMMARY OF NEIGHBORFAVOR’S INFRINGING INSTRUMENTALITIES**

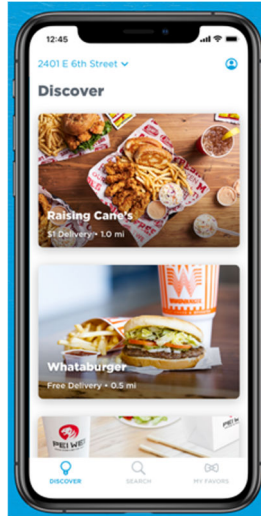
28. Defendant Neighborfavor operates a service-delivery logistical service under the brand name “Favor,” in connection with a variety of instrumentalities, including networking methods, networking systems, mobile software applications and a computer network operated and controlled by Neighborfavor (the “Favor Network” and collectively, the “Favor Infringing Instrumentalities.”)

29. The Favor Network interfaces with a downloadable mobile application operating on mobile devices associated with Favor Customers (the “Favor Customer Mobile App,”) a downloadable mobile software application operating on mobile devices associated with delivery personnel known as “Favor Runners” (the “Favor Runner Mobile App,”) a network of mobile devices having the Favor Customer Mobile App installed thereon (“Favor Customer Mobile Devices”) and a network of mobile devices having the Favor Runner Mobile App installed thereon (“Favor Runner Mobile Devices.”)

30. Neighborfavor provides its Favor Customer Mobile App via the Google Play Store and Apple App Store.

31. According to its promotional materials, Neighborfavor describes its Favor Customer Mobile App to Favor Customers as follows: “Favor is the easiest way to get anything you want in your city delivered to your door in under an hour. Favor delivers what you want, when you want it. Want to order Chinese food? Need to order beer or wine? Our personal assistants (we call them Runners) are ready to help with quick delivery from any of your favorite restaurants and stores. Stay safe and healthy with Doorstep Deliveries, a 100% contact-free delivery experience. Your order will be dropped off at your door, and you can still contact your Runner by text.”

32. Using the Favor Customer Mobile App, Favor Customers can request certain activities, referred to as “Requested Favors.” Requested Favors include, but are not necessarily limited to, food deliveries from restaurants affiliated with Favor.



**33.** Neighborfavor also provides its Favor Runner Mobile App via the Google Play Store and Apple App Store. According to its promotional materials, Neighborfavor describes its Favor Runner Mobile App to potential agents as follows: “MORE THAN A DELIVERY DRIVER We deliver anything our customers need: tacos, groceries, dry cleaning, you name it! We're personal assistants, not delivery drivers. DAILY PAY You receive 100% of your tips. All scheduled hours have minimum guaranteed earnings, though most runners average between \$10 to \$18 per hour. FLEXIBILITY Full-time or part-time, you choose your own schedule and you can even make cash by referring your friends to be Runners.”

**34.** The Favor Network, Favor Customer Mobile App and Favor Runner Mobile App operate together and are coordinated under the control of Favor. The Favor Network receives a prospective delivery order, referred to as a “Requested Favor,” via the Favor Customer Mobile App, from a mobile device associated with a prospective Favor Customer.

**35.** On information and belief, the Favor Network determines a location and other attributes related to the Favor Customer Mobile Device associated with the Requested Favor, the location and related attributes associated with one or more product / service providers associated with the Requested Favor and the location and related attributes of one or more Favor Runner Mobile Devices associated with Favor Runners in order to select a particular Favor Runner Mobile Device for handling of the Requested Favor. Based on this information, the Favor Network determines which Favor Runner Mobile Device will be selected to handle the Requested Favor and enables the selected Favor Runner Mobile Device to facilitate the transaction via the Favor Runner Mobile App.

36. On information and belief, the Favor Network selectively enables and disables Favor Runner Mobile Devices depending on certain conditions for participation generated by the Favor Network. This involves generation of certain Favor-controlled participation conditions associated with the digital identifier associated with the Favor Runner Mobile Device running the Favor Runner Mobile App, wherein the Favor-controlled participation condition selectably enables and disables the Favor Runner Mobile Device associated with the Favor Runner's digital identifier and executing the Favor Runner Mobile App.

37. According to information published by Favor, a Favor Runner Mobile Device running the Favor Runner Mobile App may be enabled or disabled by the Favor Network according to certain conditions, including, but not limited to, settings and preferences on the Favor Runner Mobile Device and software application.

#### **Flexibility**

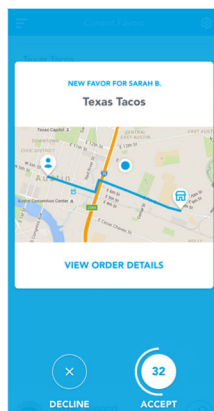
What if the schedule is full? What if you have limited availability? No sweat! You don't need to be scheduled to run Favors. Simply open the Runner App when you're ready to run and start! When you run on-demand, you earn 100% of your tips + FVR for every Favor.

#### **Choose Your Path**

Accept what you want, reassign what you don't. It's your time, so make the most of it. Whether you want to hustle to earn more or slow your pace for a chill night—you are in complete control!

38. When a Requested Favor is received by the Favor Network from a Favor Customer Mobile Device running the Favor Customer Mobile App, a Favor Runner Mobile Device running the Favor Runner Mobile App is identified for potential satisfaction of the Requested Favor. On information and belief, the Favor Runner is then notified of the Requested Favor and given a time limit within which to respond to the notice of the Requested Favor. Included below is an image of a notice of a Requested Favor as presented to Favor Runners by Favor:



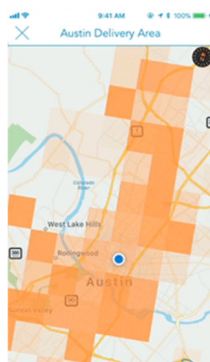


<https://rundown.favordelivery.com/accepting-and-declining-favors-in-the-runner-app-436609e68f8c>

**39.** The Favor Network then causes the generation of certain indicia on the selected Favor Runner Mobile Device via the Favor Runner Mobile App notifying a selected Favor Runner of the Requested Favor. On information and belief, this indicia includes at least the first name of the Favor Customer and a mapped location associated with the Favor Customer.

**40.** After receipt of the visual indicia of the Requested Favor on the Favor Runner Mobile Device, a Favor Runner is provided the opportunity to accept the Requested Favor from the Favor Network.

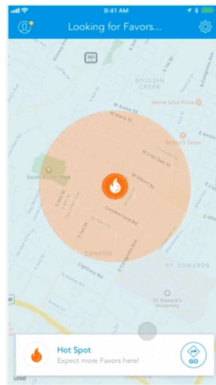
**41.** In order to regulate the density of Favor Runners in an area to the density of Favor Customers in the area, the Favor Runner Mobile App provides a “Heat Map” to Favor Runners via the Favor Runner Mobile App. Within the Favor Heat Map, larger geographical areas are separated into smaller regions, each of which is color-coded to reflect the density of Requested Favors therein. Shown below is an image of a Favor Heat Map as presented to Favor Runners:



<https://rundown.favordelivery.com/location-location-location-85c5a2609ea1>

42. Instructional materials provided to Favor Runners explain, “The Runner App features a Heat Map that shows busy areas...The darker the orange square, the more Favors requests in that area.”

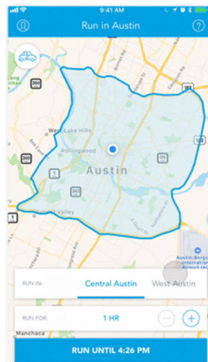
43. The Favor Network also identifies particular geographic areas as “Hot Spots” wherein higher densities of Requested Favors are likely to be found. Included below is an image of a Favor “Hot Spot” as presented to Favor Runners by Favor:



<https://rundown.favordelivery.com/introducing-hot-spots-9333973397db>

44. Materials published by Favor indicate that the geographic location of the Favor Runner relative to the Requested Favor is highly relevant to the algorithm matching Favor Runners to Requested Favors. In Favor’s words, “...location makes a *big difference!* The closer you are to a requested Favor, the more likely you will receive the assignment...”

45. Within the Favor Network, larger geographical areas are separated into smaller geographical areas known as “Favor Neighborhoods.” Included below is an image of a Favor Neighborhood as presented to Favor Runners by Favor:



<https://rundown.favordelivery.com/introducing-neighborhoods-58ed38896934>

46. A Favor Neighborhood constitutes a geographical area bounded by a polygon defined by Favor, with the vertices of the bounding polygon fixed to geographical coordinates, which serve as reference points for the Favor Neighborhood. Visual indicia defining Favor Neighborhoods are presented on Favor Runner Mobile Devices running the Favor Runner Mobile App. Using the Favor Runner Mobile App, a Favor Runner is able to select particular Favor Neighborhoods within which they prefer to receive Requested Favors.

**COUNT I**  
**INFRINGEMENT OF U.S. PATENT NO. 9,286,610**

47. Plaintiff is the owner by assignment of the Intelligent Agency Patents, including all rights to recover for past, present and future acts of infringement.

48. Claim 1 of the ‘610 Patent is directed to a machine implemented method for facilitating a prospective business transaction involving a principal, an agent, and a user.

49. On information and belief, the Favor Network constitutes one or more “machines” and performs “machine implemented methods” on the machines. On information and belief, the Favor Network is hosted, at least in part, on Amazon’s CloudFront network.

50. A Requested Favor received by the Favor Network from a Favor Customer Mobile Device running the Favor Customer Mobile App constitutes a “prospective business transaction,” which is then facilitated by the Favor Network.

51. In the context of a Requested Favor being facilitated by the Favor Network, Favor constitutes a “principal.”

52. In the context of a Requested Favor being facilitated by the Favor Network, a Favor Runner constitutes an “agent.”

53. In the context of a Requested Favor being facilitated by the Favor Network, a Favor Customer constitutes a “user.”

54. Thus, on information and belief, the Favor Network performs a machine implemented method for facilitating a prospective business transaction (a “Requested Favor”) involving a principal, an agent, and a user.

**55.** The method of Claim 1 of the ‘610 Patent comprises, in part: at least partially causing the generation of indicia that a first mobile equipment associated with a user digital identifier, and a second mobile equipment, that is associated with an agent digital identifier, meet a location based criterion, as determined by using at least one microprocessor.

**56.** Within Favor’s transaction facilitation method, a Favor Customer Mobile Device constitutes a “first mobile equipment.”

**57.** Each mobile device owned by a Favor Customer is associated with a unique digital identifier, which constitutes a “user digital identifier.”

**58.** Within Favor’s transaction facilitation method, a Favor Runner Mobile Device constitutes a “second mobile equipment.”

**59.** Each mobile device owned by a Favor Runner is associated with a unique digital identifier, which constitutes an “agent digital identifier.”

**60.** On information and belief, the Favor Network applies geographic criteria designed to facilitate a situation in which a Favor Customer Mobile Device generating a Requested Favor and a Favor Runner Mobile Device handling a Requested Favor be within the same geographic area. This constitutes a form of “location-based criteria.”

**61.** In order to facilitate a prospective business transaction between Favor, a Favor Customer and a Favor Runner, the Favor Network causes the generation of certain visual and digital indicia on the Favor Customer Mobile Device and on the Favor Runner Mobile Device.

**62.** On information and belief, the visual indicia generated include, but are not necessarily limited to, confirmation of the Requested Favor, identification of the Favor Customer on the Favor Runner Mobile Device, a map showing the location of a vendor on the Favor Runner Mobile Device and a map showing the location of the Favor Customer on the Favor Runner Mobile Device.

**63.** At least certain of the indicia caused to be generated by the Favor Network indicate that the Favor Customer Mobile Device, running the Favor Customer Mobile App, associated with a Favor Customer’s digital identifier, and a Favor Runner Mobile Device, running the Favor Runner Mobile App and associated with a Favor Runner’s digital identifier,

meet a location based criterion. On information and belief, location-based criteria used by the Favor Network are defined a priori by settings and constraints dictated by Favor.

**64.** The details of the internal algorithms employed by the Favor Network are not publicly-available, but on information and belief, at least one location-based criterion employed by the Favor Network is geographical proximity between the Favor Runner Mobile Device and a location associated with the Requested Favor and/or Favor Customer Mobile Device. In other words, the Favor Network preferences and ultimately selects Favor Runner Mobile Devices which are geographically proximate to a location associated with the Requested Favor and/or Favor Customer Mobile Device. Geographical proximity may be determined by the geographical distance between a Favor Runner Mobile Device and a location associated with a Requested Favor and/or Favor Customer Mobile Device, or by contemporaneous positioning of such geographical locations within a geofence such as a “Favor Neighborhood.”

**65.** On information and belief, location-based criteria are evaluated by Favor using at least one microprocessor.

**66.** Thus, the Favor Network at least partially causes the generation of indicia that a first mobile equipment associated with a user digital identifier, and a second mobile equipment, that is associated with an agent digital identifier, meet a location based criterion, as determined by using at least one microprocessor, as set forth in Claim 1 of the ‘610 Patent.

**67.** Generation of location-related indicia under the ‘610 Patent is regulated by a number of factors, including: an agent-user matching algorithm using predefined data selected from the group consisting of data indicating a proclivity of the user toward predetermined business transactions, data related to terms of said prospective business transaction, wherein the terms are controlled by the principal, data related to parameters associated to the prospective business transaction, wherein the parameters are controlled by the principal, data related to a brand that is associated with the agent, data related to preferences associated with the user, wherein the preferences are controlled by the user, data related to user generated keywords indicating an explicit interest toward a predefined product, data related to user generated keywords indicating an explicit interest toward a predefined service, data related to patterns associated with the user, data related to attributes associated with the user, data related to

locations associated with the prospective business transaction, wherein the locations are controlled by the principal, and combinations thereof.

**68.** On information and belief, generation of location-related indicia by the Favor Network is regulated by the Favor Network employing a number of factors.

**69.** The details of the internal algorithms employed by Favor for matching Favor Runner Mobile Devices to Requested Favors and/or Favor Customer Mobile Devices are not publicly-available, but Plaintiff has a reasonable good-faith belief, based on publicly-available information, that the Favor matching algorithm employs a runner-customer matching algorithm using certain predefined data.

**70.** The predefined data employed by the Favor Network are not publicly available, but on information and belief, the predefined data used by the Favor Runner-Customer matching algorithm include data related to transaction-related locations, such as available vendor locations, associated with the Requested Favor. The set of available vendor locations is controlled by Favor.

**71.** Thus, generation of location-related indicia by the Favor Network is regulated by a number of factors, including an agent-user matching algorithm using predefined data including data related to locations associated with the prospective business transaction, as set forth in Claim 1 of the '610 Patent.

**72.** The method set forth and claimed in the '610 Patent involves generation of a principal-controlled participation condition associated with the agent digital identifier wherein the principal-controlled participation condition selectably enables the second mobile equipment, associated with the agent digital identifier, to participate in the machine implemented method.

**73.** On information and belief, the Favor Network selectively enables and disables Favor Runners depending on certain conditions for participation, which constitute "participation conditions" generated by the Favor Network. This involves generation of certain Favor-controlled participation conditions associated with the digital identifier associated with the Favor Runner Mobile Device running the Favor Runner Mobile App, wherein the Favor-controlled participation condition selectably enables the Favor Runner Mobile Device associated with the Favor Runner's digital identifier and executing the Favor Runner Mobile App.

**74.** As a particular example of a Favor-controlled participation condition imposed by the Favor Network, the Favor Network is, on information and belief, operable to selectively enable or disable the ability of a Favor Runner Mobile Device to receive Requested Favors from the Favor Network via the Favor Runner Mobile App depending on certain conditions, including the responsiveness of a Favor Runner Mobile Device to incoming electronic signals indicating the request for new tasks, prior performance of transactions involving the Favor Runner Mobile Device, or other relevant factors such as responsiveness of the Favor Runner Mobile Device to signal to the Favor Network that it is available to receive Requested Favors.

**75.** On information and belief, participation conditions may include a Favor Runner Mobile Device not responding to Requested Favors in a timely manner, rejecting too many Requested Favors, having received a threshold amount of Requested Favors, or failing to satisfactorily perform previously-accepted Requested Favors. On information and belief, these situations can result in a Favor Runner Mobile Device being disabled, at least temporarily, from receiving Requested Favors to optimize Favor system's responsiveness and quality of service.

**76.** Accordingly, the transaction facilitation method performed by the Favor Network meets each limitation set forth in of Claim 1 of the '610 Patent, and thus infringes Claim 1 of the '610 Patent.

**77.** Neighborfavor has, either directly or through intermediaries including distributors, partners, contractors, employees, divisions, branches, subsidiaries, or parents, used, operated, provided, supplied, distributed, offered for sale, sold, and/or provided access to the Favor Infringing Instrumentalities.

**78.** The Favor Infringing Instrumentalities meet each limitation set forth in Claim 1 of the '610 Patent, either literally or equivalently, and therefore infringe at least Claim 1 of the '610 Patent.

**79.** Neighborfavor's use, operation, provision, supply, distribution, offer for sale, sale and/or provision of access to the Favor Infringing Instrumentalities covered by the '610 Patent has been conducted without a license, authority or permission of Intelligent Agency.

**80.** Neighborfavor's unauthorized and unlicensed use, operation, import, provision, supply, distribution, offer for sale, sale and/or provision of access to the Favor Infringing

Instrumentalities, and methods and apparatuses covered by the '610 Patent, constitutes patent infringement under at least 35 U.S.C. § 271(a).

**COUNT II**  
**INFRINGEMENT OF U.S. PATENT NO. 9,439,035**

**81.** The allegations of the foregoing paragraphs are incorporated herein by reference.

**82.** As noted above, the disclosure and claims of the '035 Patent are directed to a variety of methods, systems, and tools relating to analytics pertaining, among others, to the permanence of users within and around a session area or to attributes associated to said users.

**83.** According to Claim 8 of the '035 Patent, the claimed invention is a computer system having a set of instructions stored in at least one non-transitory computer-readable medium for controlling at least one digital computer in performing desired functions comprising a set of instructions formed into each of a plurality of modules.

**84.** On information and belief, Neighborfavor operates a computer system, referred to herein as the Favor Network. The specific network architecture details of the Favor Network are not publicly available, but on information and belief, the Favor Network operates on a plurality of servers (hereinafter, "Favor Servers,") connected to the Internet, for facilitating the handling of Requested Favors received from Favor Customers. On information and belief, at least some of the Favor Servers are hosted by Amazon via their CloudFront hosting service. The Favor Servers are digital computers.

**85.** On information and belief, each of the Favor Servers has a set of instructions in the form of software (hereinafter, "Favor Software") stored in at least one non-transitory computer-readable medium. As noted above, the internal details of the Favor Network and Favor Servers are not publicly available, but on information and belief, the Favor Servers have access to Favor Software stored on non-transitory computer-readable media, including but not necessarily limited to magnetic hard drives and solid state storage devices.

**86.** The Favor Software stored within the non-transitory computer-readable media control at least one Favor Server in performing desired functions. At least one such desired function is the facilitation of connections between Favor Customers and Favor Runners in order to perform Requested Favors submitted by Favor Customers.



**87.** The Favor Software running on the Favor Servers is not publicly available, but on information and belief, the Favor Software comprises a set of software instructions formed into a plurality of software modules (“Favor Software Modules”).

**88.** Accordingly, the Favor Network is a computer system having a set of instructions stored in at least one non-transitory computer-readable medium for controlling at least one digital computer in performing desired functions comprising a set of instructions formed into each of a plurality of modules, as set forth in Claim 8 of the ‘035 Patent.

**89.** According to Claim 8 of the ‘035 Patent, each of the modules comprises a set of processes. The processes include a process for at least partially facilitating compiling by a computer apparatus a set of attributes related to a first user who belongs to a predetermined group and is determined to be positioned in proximity to other users who also belong to the predetermined group, whereby a set density of members of the predetermined group is achieved.

**90.** On information and belief, the Favor Software Modules comprise certain software processes (“Favor Software Processes”).

**91.** On information and belief, the Favor Software Processes include a process for at least partially facilitating compiling, by the Favor Servers, certain attributes.

**92.** On information and belief, at least certain of the attributes compiled by the Favor Servers running the Favor Software Processes relate to Favor users.

**93.** Within the Favor Network, a Favor Customer constitutes a “first user.”

**94.** Within at least certain Favor Software Processes, attributes are compiled relating to members of a predetermined group of Favor users. As a matter of non limiting example, on information and belief, attributes relating to users such as Favor Customers running the Favor Customer Mobile App on Favor Customer Mobile Devices are compiled by Favor.

**95.** On information and belief, within at least certain Favor Software Processes, locations relating to the members of the predetermined group of Favor Customers and/or locations related to Favor-affiliated vendors are determined. As an example, locations related to Favor Customers, Favor-affiliated vendors and/or Requested Favors made by Favor Customers are determined, and this information can be compared with the boundaries of predetermined geofenced areas, such that the density of Requested Favors, Favor Customers, or Favor-affiliated

vendors within certain geofenced areas can be determined by the Favor Network based on this information. Users located within the same geofence encompassing a local geographic area are necessarily “in proximity” to one another.

**96.** Accordingly, each of the Favor Software Modules within the Favor Software comprises a set of processes. The processes include a process for at least partially facilitating compiling by a computer apparatus a set of attributes related to a first user who belongs to said predetermined group and is determined to be positioned in proximity to other users who also belong to the predetermined group, whereby a set density of members of the predetermined group is achieved, as set forth in Claim 8 of the ‘035 Patent.

**97.** According to Claim 8 of the ‘035 Patent, the set of processes also includes at least a process for facilitating the providing of indicia, subject to the first user's settings, of at least one subset of the set of attributes related to the first user to at least a second user. The second user is selected from the group consisting of: a user who contributes to achieving set density of members of the predetermined group, a user who does not contribute to achieving set density of members of the predetermined group.

**98.** Within the Favor Network, a Favor Runner constitutes a “second user.” On information and belief, the set of Favor Software Processes includes at least a process for facilitating the providing of visual indicia to a Favor Runner, on the Favor Runner Mobile Device.

**99.** On information and belief, the visual indicia provided to the Favor Runner on the Favor Runner’s Mobile Device relate to at least one subset of the set of attributes related to Favor Customers.

**100.** The Favor Runner’s presence contributes to the achievement of a set density of Favor Runners in the area.

**101.** On information and belief, when a set density of Favor Customer Mobile Devices submitting Requested Favors within a geographic area has reached a threshold, a visual indicium is generated within a Favor Heat Map produced by Favor 's Network.

**102.** On information and belief, when a set density of Favor Customer Mobile Devices submitting Requested Favors within a geographic area has reached a threshold, a visual indicium is generated identifying a Favor Hot Spot.

**103.** On information and belief, Favor Runners receive indicia of high-density areas via Favor Heat Maps and Favor Hot Spot indicia in a Favor Runner Mobile App on a Favor Runner Mobile Device.

**104.** Thus, the set of processes within the Favor Software Modules also includes at least a process for facilitating the providing of indicia, subject to the first user's settings, of at least one subset of the set of attributes related to the first user to at least a second user. The second user is a user who contributes to achieving set density of members of the predetermined group, as set forth in Claim 8 of the '035 Patent.

**105.** According to Claim 8 of the '035 Patent, the subset of the set of attributes comprises a real-time presence attribute associated with a session area.

**106.** Within the context of the Favor Software Processes, data indicating the presence of a Favor Customer Mobile Device and associated Requested Favor within a particular geographic area constitutes a "real time presence attribute."

**107.** Within the context of the Favor Software Processes, a defined geographic area, including a Favor Neighborhood, constitutes a "session area."

**108.** Within the context of the Favor Software Processes, the presence of the Favor Customer is associated with a geographic area. The geographic area constitutes a "session area."

**109.** Thus, the subset of the set of attributes employed by the Favor Software Processes comprises a real-time presence attribute associated with a session area, as set forth in Claim 8 of the '035 Patent.

**110.** The Favor Network meets each limitation set forth in Claim 8 of the '035 Patent, either literally or equivalently, and therefore infringes at least Claim 8 of the '035 Patent.

**111.** Neighborfavor's use, operation, provision, supply, distribution, offer for sale, sale and/or provision of access to the Favor Infringing Instrumentalities covered by the '035 Patent has been conducted without a license, authority or permission of Intelligent Agency.

**112.** Neighborfavor's unauthorized and unlicensed use, operation, import, provision, supply, distribution, offer for sale, sale and/or provision of access to the Favor Infringing Instrumentalities, and methods and apparatuses covered by the '035 Patent, constitutes patent infringement under at least 35 U.S.C. § 271(a).

**COUNT III**  
**INFRINGEMENT OF U.S. PATENT NO. 9,894,476**

**113.** The allegations of the foregoing paragraphs are incorporated herein by reference.

**114.** Claim 1 of the '476 Patent is directed to a method comprising facilitating discovery of indicia of a session area via a location aware mobile application.

**115.** On information and belief, Neighborfavor performs methods comprising facilitating discovery of indicia of a particular Favor Neighborhood via the Favor Runner Mobile App.

**116.** The session area referenced in Claim 1 of the '476 Patent has specific attributes. It is anchored to at least one reference point, exhibits at least one first set of spatial boundaries associated with the at least one reference point, and is associated with at least one time-related parameter defining at least one functionality connected with said session area.

**117.** On information and belief, a Favor Neighborhood has specific attributes. It is anchored to at least one geographic reference point, exhibits at least one first set of spatial boundaries associated with the at least one geographic reference point, and is associated with at least one time-related parameter defining at least one functionality connected with the Favor Neighborhood.

**118.** Time-related parameters associated with a Favor Neighborhood may include, but are not necessarily limited to, the hours of a restaurant, a delivery schedule associated with a Favor Runner Mobile Device, or a timer parameter associated with a Favor Runner Mobile Device, as non-limiting examples.

**119.** According to Claim 1 of the '476 Patent, the discovery of indicia of the session area is facilitated, at least in part, based on assessment of distance data from the at least one reference point.

**120.** On information and belief, the discovery of indicia of the Favor Neighborhood is facilitated, at least in part, based on assessment of distance data from at least one geographic reference point to which the Favor Neighborhood is anchored. Specifically, a Favor Runner Mobile Device receives indicia relating to Favor Neighborhoods which are geographically proximate to the Favor Runner Mobile Device.

**121.** The claimed method of Claim 1 of the '476 Patent further comprises the step of facilitating association with the session area of at least one user among a first plurality of users based, at least in part, on a distance parameter from the at least one reference point.

**122.** On information and belief, the method performed by Neighborfavor further comprises the step of facilitating association between a Favor Neighborhood and at least one Favor Customer Mobile Device based, at least in part, on a distance parameter from at least one geographic reference point associated with the Favor Neighborhood.

**123.** The claimed method of Claim 1 of the '476 Patent further comprises the step of facilitating selectively enabling the activation of a second plurality of users by an authority, wherein said activation facilitates the association of said second plurality of users with said first plurality of users.

**124.** On information and belief, the method performed by Neighborfavor further includes facilitating selectively enabling the activation of at least one Favor Runner Mobile Device by the Favor Network, wherein the activation facilitates the association of a certain Favor Customer Mobile Device with a certain Favor Runner Mobile Device.

**125.** According to Claim 1 of the '476 Patent, at least one interactive networking functionality for the at least one user among the first plurality of users is enabled. The at least one user among the first plurality of users selectively receives indicia of at least one user among the second plurality of users.

**126.** On information and belief, at least one interactive networking functionality is enabled for at least one Favor Customer Mobile Device. The Favor Customer Mobile Device selectively receives indicia of the Favor Runner Mobile Device assigned to the Requested Favor associated with the Favor Customer Mobile Device.

**127.** According to Claim 1 of the '476 Patent, the method further comprises facilitating determining which user among the second plurality of users has the strongest connection with the reference point based, at least in part, on that user's location.

**128.** On information and belief, the method performed by Neighborfavor further comprises facilitating determining which Favor Runner Mobile Device has the strongest connection with the reference point based, at least in part, on the location of the Favor Runner Mobile Device. On information and belief, one of the parameters for a Favor Runner Mobile Device to be associated with a Requested Favor is geographical proximity.

**129.** According to Claim 1 of the '476 Patent, the method further comprises facilitating activating a timer associated with the one user among the second plurality of users such that if an electronic signal indicating that a task is not accomplished by the one user among the second plurality of users within the expiration of the timer, an association with the at least one user among the first plurality of users is inhibited, at least temporarily, and thus the quality of interactions between the first plurality of users and the second plurality of users is regulated.

**130.** On information and belief, the method performed by Neighborfavor further comprises facilitating activating a timer associated with the Favor Runner Mobile Device, such that if a Requested Favor is not accepted by the Favor Runner Mobile Device before the expiration of a timer, or is not successfully accomplished before the expiration of a timer, an association with the Favor Customer Mobile Device is inhibited, at least temporarily, and thus the quality of interactions between the Favor Customer Mobile Devices and the Favor Runner Mobile Devices is regulated by Favor.

**131.** On information and belief, if a Favor Runner Mobile Device does not transmit a signal indicating its availability to receive further indicia related to a Favor Customer Mobile Device before the expiration of said timer, then an association with said Favor Customer Mobile Device is inhibited, at least temporarily.

**132.** While the internal details of Neighborfavor's system and algorithms are not publicly available, Neighborfavor's system appears to employ multiple parameters to regulate interactions between Favor Runner Mobile Devices and Favor Customer Mobile Devices. As an illustration, an advantageously-located yet unresponsive Favor Runner Mobile Device would act

as a bottleneck for the Neighborfavor system, and thus may be disabled or de-prioritized by the Favor Network.

**133.** Finally, the method of Claim 1 of the '476 Patent comprises facilitating providing guidance indicia to the one user among the second plurality of users to facilitate a meeting with the at least one user among the first plurality of users.

**134.** On information and belief, the method performed by Neighborfavor comprises the step of facilitating providing guidance indicia to the Favor Runner Mobile Device to facilitate the completion of the Requested Favor. On information and belief, the Favor Network facilitates the provision of guidance to a Favor Runner Mobile App in the form of a street address and navigation directions.

**135.** The Favor App and Favor Network meet each limitation set forth in Claim 1 of the '476 Patent, either literally or equivalently, and therefore infringe at least Claim 1 of the '476 Patent.

**136.** Neighborfavor's use, operation, provision, supply, distribution, offer for sale, sale and/or provision of access to the Favor Infringing Instrumentalities covered by the '476 Patent has been conducted without a license, authority or permission of Intelligent Agency.

**137.** Neighborfavor's unauthorized and unlicensed use, operation, import, provision, supply, distribution, offer for sale, sale and/or provision of access to the Favor Infringing Instrumentalities, and methods and apparatuses covered by the '476 Patent, constitutes patent infringement under at least 35 U.S.C. § 271(a).

#### **DEMAND FOR JURY TRIAL**

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by a jury of any issues so triable by right.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Intelligent Agency respectfully requests that this Court enter:

- a. A judgment in favor of Intelligent Agency that Neighborfavor has infringed the '610 Patent;
- b. A judgment in favor of Intelligent Agency that Neighborfavor has infringed the

‘035 Patent;

c. A judgment in favor of Intelligent Agency that Neighborfavor has infringed the ‘476 Patent;

d. A permanent injunction enjoining Neighborfavor and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement of the Intelligent Agency Patents;

e. A judgment and order requiring Neighborfavor to pay Intelligent Agency its damages, costs, expenses, and pre-judgment and post-judgment interest for Neighborfavor’s infringement of the Intelligent Agency Patents as provided under 35 U.S.C. § 284;

f. An award to Intelligent Agency for enhanced damages resulting from the knowing and deliberate nature of Neighborfavor’s prohibited conduct with notice being made at least as early as the service date of this complaint, as provided under 35 U.S.C. § 284;

g. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Intelligent Agency its reasonable attorneys’ fees; and

h. Any and all other relief to which Intelligent Agency may show itself to be entitled.

Dated: May 25, 2020

Respectfully Submitted,

By: /s/ Kenneth Thomas Emanuelson

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**ATTORNEY FOR PLAINTIFF  
INTELLIGENT AGENCY, LLC**



**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document is being filed electronically via the Court's ECF system. As such, the foregoing is being served on all counsel of record via ECF.

/s/ Kenneth T. Emanuelson

Kenneth T. Emanuelson