

4. The Court has personal jurisdiction over Pricetector because, as detailed below, Pricetector is engaged in business within the State of Texas, including, but not limited to, marketing its products and services to Texas residents who receive such products and services in Texas. In addition, as detailed below, Pricetector's unlawful conduct has caused ShopSavvy to suffer damages, and such damages have been and will be sustained by ShopSavvy in Texas.

FACTUAL BACKGROUND

5. ShopSavvy owns and markets to the public a mobile phone application named, "ShopSavvy." The "ShopSavvy" application enables a shopper, using his or her mobile phone, to scan a product's bar code and thereby gain competitive pricing information regarding the subject product. The "ShopSavvy" application assists a consumer in gaining the best available pricing in the marketplace. To date, consumers have downloaded the "ShopSavvy" application more than 20 million times.

6. ShopSavvy additionally licenses its "ShopSavvy" technology to a large number of companies such as Walmart, CNET, PriceGrabber and Consumer Reports.

7. The owners of ShopSavvy have invested many millions of dollars into the company, including to develop the goodwill associated with the "ShopSavvy" trademark described immediately below.

8. ShopSavvy is the owner of U.S. Trademark Registration No. 3,618,894 for the "ShopSavvy" trademark ("Mark"). ShopSavvy has continuously used and exclusively promoted its Mark in connection with its business since 2008. ShopSavvy has also continuously and exclusively promoted the Mark on its website at www.shopsavvy.com for the purpose of marketing its mobile phone application, and ShopSavvy continues to operate the website in such a manner today.

9. Pricetector is a company formed in February 2011. Pricetector markets a mobile phone application that purports to aid shoppers in gaining pricing information, which Pricetector calls, "Savvy."

10. In the latter part of this year, in or around November 2011, Pricetector began using the internet domain www.savvy.com to market "Savvy."

11. According to Pricetector's marketing to the public, including on www.savvy.com, Facebook and Twitter, "Savvy" is a "[f]ree mobile and web shopping app that helps you get the best price for items you want to buy, every day" (from Twitter). Pricetector markets the "Savvy" mobile phone application to the public by, among other things, presenting a visual image of a mobile phone with a screen containing the word "Savvy" overwriting the image of a bar code. An example of Pricetector's marketing of the "Savvy" mobile phone application is attached as Exhibit A.

12. In November 2011, ShopSavvy became aware of Pricetector's infringement upon ShopSavvy's Mark, including through the www.savvy.com internet domain.

13. ShopSavvy immediately requested that Pricetector cease in its infringement of the Mark and its use of the www.savvy.com internet domain name to confuse consumers into believing that Pricetector and "Savvy" have some affiliation with the established business and notoriety of ShopSavvy.

14. In response, Pricetector refused to cease in its marketing of the "Savvy" mobile phone application - - which, upon information and belief, the company had only recently developed - - and thereafter continued to use www.savvy.com to market that application to the public.

CAUSES OF ACTION

Count One

Trademark Infringement Under 15 U.S.C. Section 1114(1)

15. Paragraphs 5 through 14 of this Original Complaint are incorporated herein as if each were separately set forth below.

16. Pricetector's use of "Savvy" and the domain name www.savvy.com, as detailed above, is likely to cause confusion, or to cause mistake, or to deceive.

17. Pricetector's conduct constitutes trademark infringement under 15 U.S.C. §1114(1).

18. In addition to causing financial harm to ShopSavvy, Pricetector's actions have caused irreparable injury to ShopSavvy and, unless such conduct is enjoined, ShopSavvy will continue to suffer great and irreparable injury for which there is no adequate remedy at law.

Count Two

Federal Unfair Competition in Violation of 15 U.S.C. § 1125(a)

19. Paragraphs 5 through 14 of this Original Complaint are incorporated herein as if each were separately set forth below.

20. Pricetector's knowing and intentional infringement upon ShopSavvy's Mark, and Pricetector's use of the domain www.savvy.com, as detailed above, constitute a false designation of origin, and false or misleading descriptions or representations that are likely to cause confusion, or to cause mistake or to deceive as to the affiliation, connection, or association of Pricetector with ShopSavvy, or as to the origin, sponsorship, or approval of Pricetector's services in violation of 15 U.S.C. § 1125(a).

21. In addition to causing financial harm to ShopSavvy, Pricetector's actions have caused irreparable injury to ShopSavvy and, unless such conduct is enjoined, ShopSavvy will continue to suffer great and irreparable injury for which there is no adequate remedy at law.

Count Three
Federal Trademark Dilution Under 15 U.S.C. §1125(c)

22. Paragraphs 5 through 14 of this Original Complaint are incorporated herein as if each were separately set forth below.

23. As a result of the extent of use of the ShopSavvy Mark, the extent of the advertising and publicity of the ShopSavvy Mark, the geographical extent of the distribution of the same, and the degree of recognition of the ShopSavvy Mark, the ShopSavvy Mark has achieved an extensive degree of distinctiveness and is a famous trademark.

24. As a result of its intentional infringement upon ShopSavvy's Mark, Pricetector is diluting the distinctive quality of the Mark in violation of 15 U.S.C. §1125(c).

25. ShopSavvy will suffer irreparable harm should Pricetector's illegal acts be allowed to continue to the great detriment of ShopSavvy's reputation and goodwill. Pricetector's acts will continue unless enjoined.

Count Four
Violations of the Anticybersquatting
Consumer Protection Act Under 15 U.S.C. §1125(d)

26. Paragraphs 5 through 14 of this Original Complaint are incorporated herein as if each were separately set forth below.

27. Pricetector, with knowledge of ShopSavvy's rights and use of the Mark, has trafficked in and/or used the domain name www.savvy.com, which is confusingly similar to the Mark and ShopSavvy's domain name www.shopsavvy.com, to market Pricetector's mobile phone application. Pricetector had no prior use of the Mark; and Pricetector's conduct serves the purposes of diverting customers and causing confusion, with a bad faith intent in violation of 15 U.S.C. §1125(d).

28. Pursuant to 15 U.S.C. §1125(d)(1)(C), the Court should order the transfer of the registration of the infringing domain name to ShopSavvy. Alternatively, the Court should order the forfeiture or cancellation of Pricetector's www.savvy.com domain name registration.

Count Five
Injury to Business Reputation or Trademark/Dilution under Texas Law

29. Paragraphs 5 through 14 of this Original Complaint are incorporated herein as if each were separately set forth below.

30. Pricetector's infringement upon ShopSavvy's Mark is likely to injure ShopSavvy's business reputation or to dilute the distinctive quality of ShopSavvy's Mark, and the products and services associated with ShopSavvy's Mark, in violation of Tex.Bus.& Com.Code §16.29.

31. Pricetector's actions have caused financial loss and damage to ShopSavvy and such actions have caused and will continue to cause ShopSavvy irreparable injury for which there is no adequate remedy at law.

Count Six
Request for Injunctive Relief

32. Paragraphs 5 through 14 of this Original Complaint are incorporated herein as if each were separately set forth below.

33. Pricetector has violated 15 U.S.C. §1114(a), 15 U.S.C. §1125(a), 15 U.S.C. §1125(d) and Tex. Bus. & Com. Code § 16.29, thereby entitling ShopSavvy to injunctive relief pursuant to 15 U.S.C. §1116 and Tex. Bus. & Com. Code § 16.29.

34. In addition, Pricetector has demonstrated a willingness to cause irreparable harm to ShopSavvy's reputation, property and rights. Pricetector's conduct is completely without right or entitlement in that it constitutes, among other wrongs, infringement of ShopSavvy's trademark rights.

35. ShopSavvy has been, and will continue to be, damaged and injured by Pricetector's conduct in the form of loss and permanent injury to ShopSavvy's goodwill.

36. Monetary damages alone will not compensate ShopSavvy for the injuries described above and therefore there is no adequate remedy at law. The injuries and losses are continuing. The property and rights involved are unique and irreplaceable, such that it will be impossible to accurately measure, in monetary terms, the damages caused by Pricetector's conduct. Moreover, the losses to ShopSavvy caused by Pricetector's conduct are likely to exceed the financial worth of Pricetector, so as to prevent any adequate compensation to ShopSavvy even if money damages were a sufficient remedy.

37. For the reasons stated herein, ShopSavvy requests that the Court issue preliminary and permanent injunctive relief enjoining Pricetector and any person acting on its behalf from doing, aiding, causing or abetting any of the following:

- a) using the trademark "ShopSavvy" or any confusingly similar language

(including “Savvy”) to market mobile phone applications;

- b) committing further acts that are likely to injure ShopSavvy’s business reputation or to dilute the distinctive quality of ShopSavvy’s trademark “ShopSavvy” in violation of Tex. Bus. & Com. Code §16.20; and
- c) engaging anyone else, for any consideration, to commit any of the above-described acts.

**Count Seven
Attorney’s Fees**

38. In addition to the above relief, ShopSavvy seeks recovery of its reasonable and necessary attorneys’ fees in this case. ShopSavvy seeks recovery of its attorneys’ fees for the prosecution of this action through trial, post trial, pre-appeal services, and appeals to the Fifth Circuit Court of Appeals or the United States Supreme Court.

JURY DEMAND

39. ShopSavvy demands a trial by jury of all triable issues alleged in this case.

PRAYER

WHEREFORE, ShopSavvy requests that defendant Pricetector be cited to appear and answer, and that upon final trial of this cause, judgment be rendered in favor of ShopSavvy as follows:

1. Preliminary and permanent injunctive relief as set forth in this pleading;
2. Directing Pricetector to transfer the domain name registration for <http://www.savvy.com> to ShopSavvy;
3. Awarding ShopSavvy statutory damages under 15 U.S.C. § 1117(d);
4. Awarding ShopSavvy its damages derived by reason of the unlawful acts complained of herein as provided by law;

5. Awarding ShopSavvy treble damages as provided under 15 U.S.C. §1117;
6. Declaring this to be an exceptional case, awarding ShopSavvy its full costs and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117;
7. Granting ShopSavvy any other remedy to which it may be entitled as provided for in 15 U.S.C. §§ 1114, 1116 and 1117 or under state law; and,
8. Awarding pre-judgment and post-judgment interest as allowed by law, other fees and costs of court and for such other and further relief at law or in equity to which it may be justly entitled.

Dated this 29th day of November 2011.

Respectfully Submitted,

SCHEEF & STONE, LLP
500 N. Akard, Suite 2700
Dallas, Texas 75201
(214) 706-4200 (phone)
(214) 706-4242 (fax)

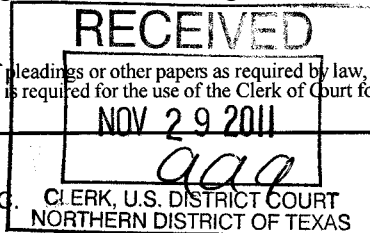


William J. Garrison
State Bar No. 24043411
Email: wgarrison@scheefandstone.com
Tom A. Kulik
State Bar No. 24025482
Email: tom.kulik@solidcounsel.com

**ATTORNEYS FOR PLAINTIFF
SHOPSAVVY, INC.**

JS 44 (TXND Rev. 2/10)

CIVIL COVER SHEET



The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

SHOPSAVVY, INC.

(b) County of Residence of First Listed Plaintiff DE corp; Dallas (TX)
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
William J. Garrison, Scheef & Stone, LLP, 500 N. Akard Street,
Suite 2700, Dallas, Texas 75201; (214) 706-4200

DEFENDANTS

PRICETECTOR, INC.

County of Residence of First Listed Defendant DE corp; Santa Clara (CA)
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known) **311 - CV 3294 - P**

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		

V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. 1114 (trademark infringement)

Brief description of cause:

Plaintiff alleges various causes against Defendant arising, in large part, from trademark infringement

VII. REQUESTED IN COMPLAINT:

- CHECK IF THIS IS A CLASS ACTION DEMANDS
- CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) (See instructions) PENDING OR CLOSED:

JUDGE _____ DOCKET NUMBER _____

DATE 11/29/2011

SIGNATURE OF ATTORNEY OF RECORD

William J. Garrison

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____