

FILED

June 22, 2021

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

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

BY: BW
DEPUTY

FRESHUB, INC. and FRESHUB, LTD.,

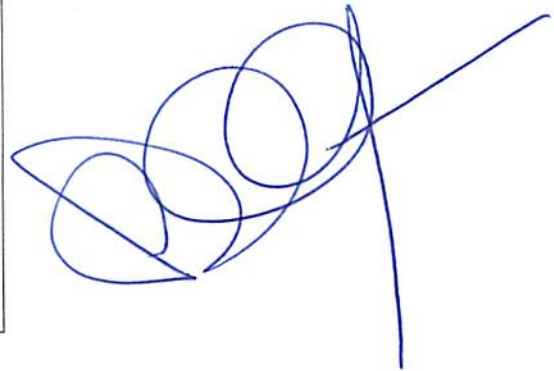
Plaintiffs,

v.

AMAZON.COM, INC., a Delaware Corporation,
AMAZON.COM SERVICES LLC, a Delaware
Limited Liability Company, PRIME NOW, LLC, a
Delaware Limited Liability Company, and WHOLE
FOODS MARKET SERVICES, INC., a Texas
Corporation,

Defendants.

Case No. 6:21-cv-00511-ADA



VERDICT FORM

In answering the following questions, you are to follow the instructions I have given you in the Court's jury charge. Your answers to each question must be unanimous. Some of the questions contain legal terms that are defined and explained in detail in the Final Jury Instructions. You should refer to and consider the Final Jury Instructions as you answer these questions in the verdict Form.

You can deliberate on and answer Questions 1 through 3 in any order as long as the decision is unanimous.

Please do not answer Questions 4 and 5 unless the instructions for the questions have been met.

QUESTION 1: INFRINGEMENT

Has Freshub proven, by a preponderance of the evidence, that Amazon infringed the following claims of the asserted patents?

Answer "Yes" or "No" for each claim.

"Yes" is a finding for Freshub. "No" is a finding for Amazon.

'153 Patent

Claim 1: YES____ NO X

Claim 6: YES____ NO X

'810 Patent

Claim 1: YES____ NO X

'408 Patent

Claim 20: YES____ NO X

Claim 30: YES____ NO X

Please proceed to the next question.

QUESTION 2: INVALIDITY

Did Amazon prove, by clear and convincing evidence, that the following claims of the asserted patents are invalid?

Answer "Yes" or "No" for each claim.

"Yes" is a finding for Amazon. "No" is a finding for Freshub.

'153 Patent

Claim 1: YES____ NO ☒

Claim 6: YES____ NO ☒

'810 Patent

Claim 1: YES____ NO ☒

'408 Patent

Claim 20: YES____ NO ☒

Claim 30: YES____ NO ☒

Please proceed to the next question.

QUESTION 3: PATENT ELIGIBILITY

Did Amazon prove by clear and convincing evidence that, from the perspective of one of ordinary skill in the art, the following claims of the asserted patents only involved activities that were well-understood, routine, and conventional as of December 12, 2005?

Answer "Yes" or "No" for each claim.

"Yes" is a finding for Amazon. "No" is a finding for Freshub.

'153 Patent

Claim 1: YES____ NO____

Claim 6: YES____ NO____

'810 Patent

Claim 1: YES____ NO____

'408 Patent

Claim 20: YES____ NO____

Claim 30: YES____ NO____

Please proceed to the next page.

If you have reached this point in the verdict form, you should have answered Questions 1 through 3. If you have not answered Questions 1 through 3, please go back and answer them before proceeding.

You should only proceed to answer Questions 4 and 5 if you (1) answered “YES” for any claims in Question 1, and (2) you answered “NO” for those same claims in Question 2.

If you answered “NO” for all parts in Questions 1, OR if you answered “YES” for all parts of Questions 2, then do not answer any further questions. Proceed to the last page, have your Jury Foreperson sign and date this Verdict Form, and then deliver it to the Court Security Officer. You should not pay attention to any other instructions between this point and the signature page found at the end of this verdict form.

QUESTION 4a: DAMAGES

What sum of money, if paid in cash today, do you find Freshub has proven it is entitled to?

\$ _____

QUESTION 4b: DAMAGES

Did you calculate this number based on a running royalty or a one-time lump sum (please check only one)?

☐ Running Royalty

OR

☐ Lump sum

Please proceed to the next page.

QUESTION 5: WILLFULNESS

If you found any patent infringed and not invalid, did Freshub prove, by a preponderance of the evidence, that Amazon's infringement of that patent was willful?

Answer "Yes" or "No" for each claim.

"Yes" is a finding for Freshub "No" is a finding for Amazon.

'153 Patent: YES____ NO____

'408 Patent: YES____ NO____

'810 Patent: YES____ NO____

Please proceed to the Final Page of the Verdict Form.

FINAL PAGE OF THE JURY VERDICT

You have now reached the end of the Verdict Form and should review it to ensure it accurately reflects your unanimous determinations. The jury foreperson should then sign and date the Verdict Form in the spaces below. Once this is done, notify the Court Security Officer that you have reached a verdict. The jury foreperson should keep the Verdict Form and bring it when the jury is brought back to the court room.

Signed this 22 day of June, 2021.

Jury Foreperson

