

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**BLUE CALYPSO, INC.,
Plaintiff**

v.

**IZEA, INC.
Defendant**

Civil Action No. 6:13-cv-456

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Blue Calypso files this Original Complaint and demand for jury trial seeking relief for patent infringement by Izea. Blue Calypso alleges the following:

THE PARTIES

1. Plaintiff Blue Calypso, Inc. is a Delaware corporation, with its principal place of business located in this District at 19111 North Dallas Parkway, Suite 200, Dallas, Texas 75287.

2. On information and belief, Defendant Izea, Inc. is a Nevada corporation, with its principal place of business at 150 North Orange Avenue, Suite 412, Orlando, FL 32801. Defendant Izea, Inc. may be served with summons by serving its registered agent for the service of process, VCorp Services, LLC., 1645 Village Center Circle, Suite 170, Las Vegas, Nevada 89143.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 et. seq. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Izea because Izea has sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and

within this judicial district and because Izea has committed acts of patent infringement within the State of Texas and within this judicial district.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1390(b) and (c) and 1400(b).

INFRINGEMENT

6. On June 4, 2013, United States Patent No. 8,457,670 (“the ‘670 patent”) entitled “System and Method for Peer-To-Peer Advertising Between Mobile Communication Devices” was duly and legally issued by the United States Patent and Trademark Office. Blue Calypso owns the ‘670 patent by assignment. Izea operates at least two platforms that infringe the ‘670 patent, including Sponsored Tweets and Social Sparks.

7. Sponsored Tweets is a system typified by the screen shots attached as Exhibits A and B. In doing so Sponsored Tweets infringes one or more claims of the ‘670 patent, literally or under the doctrine of equivalents. Sponsored Tweets directly infringes by using the system and making it available to advertisers and consumers. Sponsored Tweets induces infringement by consumers and advertisers by encouraging them to use the system. Sponsored Tweets contributorily infringes by providing content to consumers for use in the system.

8. Social Sparks is a system typified by the screen shots of the Social Sparks “How It Works” webpage attached as Exhibits C. In doing so Social Sparks infringes one or more claims of the ‘670 patent, literally or under the doctrine of equivalents. Social Sparks directly infringes by using the system and making it available to advertisers and consumers. Social Sparks induces infringement by consumers and advertisers by encouraging them to use the system. Sponsored Tweets contributorily infringes by providing content to consumers for use in the system.

9. On information and belief, Izea will continue to infringe the ‘670 patent unless and until it is enjoined by this Court.

10. Izea has caused and will continue to cause Blue Calypso irreparable injury and damage by infringing the ‘670 patent. Blue Calypso will suffer further irreparable injury, for which it has no adequate remedy at law, unless and until Izea is enjoined from infringing the ‘670 patent.

PRAYER FOR RELIEF

WHEREFORE, Blue Calypso respectfully requests that this Court:

1. Enter judgment that Izea has infringed the ‘670 patent;
2. Enter an order permanently enjoining Izea and its officers, agents, employees, attorneys, and all persons in active concert or participation with any of them, from infringing the ‘670 patent;
3. Award Blue Calypso damages in an amount sufficient to compensate it for Izea’s infringement of the ‘670 patent, together with prejudgment and post-judgment interest and costs under 35 U.S.C. § 284;
4. Award Blue Calypso an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
5. Declare this case to be “exceptional” under 35 U.S.C. § 285 and award Blue Calypso its attorney fees, expenses, and costs incurred in this action; and
6. Award Blue Calypso such other and further relief as this Court deems just and proper.

JURY DEMAND

Blue Calypso hereby requests a trial by jury on issues so triable by right.

Dated: June 3, 2013

Respectfully submitted,

FISH & RICHARDSON P.C.

By: /s/ Carl E. Bruce

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**LOCAL COUNSEL FOR
BLUE CALYPSO, INC.**

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on June 3, 2013 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/Carl E. Bruce

Carl E. Bruce