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12 Attorneys for Plaintiff
13 NOBELBIZ, INC.

14 Pursuant to Civ. L.R. 3-4, additional counsel are
15 listed on the signature page.

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 OAKLAND DIVISION

19
20 NOBELBIZ, INC.,
21 Plaintiff,
22 v.

23 LIVEVOX, INC.,
24 Defendant.

Case No. 13-01773-YGR

RELATED CASES:
CV 13-01846 YGR
CV 13-02423 YGR

CORRECTED AMENDED COMPLAINT

First Action Filed: April 3, 2012
Action Transferred: April 18, 2013
Trial Date: None Set

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1 Plaintiff, NobelBiz, Inc. (“NobelBiz”), by and through its counsel, Coblenz, Patch, Duffy
2 & Bass LLP and Gibbons P.C., as for its Amended Complaint against Defendant, LiveVox, Inc.
3 (hereafter referred to as “Defendant”), pursuant to the Parties’ Joint Case Management Statement
4 (Dkt. No. 89) states as follows:

5
6 **THE PARTIES**

7 1. Plaintiff NobelBiz is a privately held company incorporated under the laws of the
8 State of Delaware, and having its principal place of business at 5973 Avenida Encinas, Suite 202,
9 Carlsbad, California 92008. NobelBiz is a provider of telecommunications solutions to call
10 centers worldwide.

11 2. Upon information and belief, Defendant is a corporation organized and existing
12 under the laws of the State of Delaware, and having its principal place of business at 450 Sansome
13 Street, Suite 910, San Francisco, California 94111.

14
15 **JURISDICTION AND VENUE**

16 3. This is an action for patent infringement arising under the patent laws of the United
17 States, Title 35 of the United States Code § 1, *et seq.*

18 4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§
19 1331 and 1338(a).

20 5. This Court has personal jurisdiction over Defendant because of its continuous and
21 systematic business contacts with the state of California.

22 6. Venue is appropriate in this district pursuant to 28 U.S.C. §§ 1391(b) and (c),
23 and/or 28 U.S.C. § 1400(b). LiveVox’s principal place of business is located in this District. Ex.

24 A.
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NOBELBIZ'S PATENTS

U.S. Patent No. 8,135,122

7. On March 13, 2012, the USPTO issued United States Patent No. 8,135,122 (“the ‘122 patent”), entitled “SYSTEM AND METHOD FOR MODIFYING COMMUNICATION INFORMATION (MCI).” A copy of the ‘122 patent is attached hereto as Exhibit B.

8. NobelBiz is the assignee of the ‘122 patent.

9. By way of a general description, the ‘122 patent discloses a system for processing a telephone call from a call originator (also referred to as a calling party) to a call target (also referred to as a receiving party), where the system accesses a database storing outgoing telephone numbers, selects a replacement telephone number from the outgoing telephone numbers based on the telephone number of the call target, and originates an outbound call to the call target with a modified outgoing caller identification (“caller ID”). *See, e.g.*, ‘122 patent, Abstract.

10. In practice, the invention of the ‘122 patent allows a calling party in one geographical location to originate a call to a receiving party in another geographical location, and for the caller ID or calling party number (“CPN”) (“caller ID” and “CPN” collectively hereafter, “caller ID”) of that call to appear to the receiving party as a telephone number from the receiving party’s local geographical region (e.g., area code) instead of the calling party’s actual telephone number that would have a caller ID from the calling party’s geographical region.

U.S. Patent No. 8,565,399

11. On October 22, 2013, the United States Patent and Trademark Office issued United States Patent No. 8,565,399 (“the ‘399 patent”), entitled “SYSTEM AND METHOD FOR MODIFYING COMMUNICATION INFORMATION (MCI),” a copy of which is attached hereto as Exhibit C.

12. NobelBiz is the assignee of the ‘399 patent.

13. By way of a general description, the ‘399 patent discloses a system for processing a telephone call from a call originator (calling party) to a call target (receiving party), comprising a database for storing telephone numbers, as well as a processor to select from the database a

1 telephone number based on the call target's area code, to set caller identification (or caller ID) data
2 to the selected number, and to transmit the caller ID data to the call target.

3 14. In practice, the invention of the '399 patent allows a calling party's number to
4 appear local or from the same area code as the receiving party.

5 Award-Winning Patented Service

6 15. NobelBiz has embodied features of the '122 and '399 patents in its LocalTouch™
7 service.

8 16. LocalTouch™ is designed to enhance the effectiveness of, e.g., outbound
9 teleservice call centers, such as collection agencies and marketing firms, by increasing contact
10 rates between calling parties and receiving parties.

11 17. For example, by implementing the novel process of the '122 and '399 patents,
12 LocalTouch™ has been shown to increase contact rates between calling parties and receiving
13 parties by over thirty percent (30%).

14 18. LocalTouch™ has also received professional approval in the form of the
15 Technovation Award from the American Teleservices Association ("ATA") in 2006, as well as the
16 Fulcrum Award from the ATA in 2009.

17 **DEFENDANT'S INFRINGING SYSTEM**

18 19. LiveVox is a provider of hosted contact center solutions. Dkt. No. 27, ¶ 15

19 20. Defendant offers applications to contact centers (i.e., call centers) including the
20 Compliance Suite, Predictive Dialer, Private Branch Exchange, Private VoIP Cloud, which upon
21 information and belief, each include a local caller ID feature (hereafter the "LiveVox Services").
22 Dkt. No. 27, ¶ 16 ("LiveVox admits that it offers a Compliance Suite and offers a local caller ID
23 feature to its customers.").

24 21. Upon information and belief, the LiveVox Services contain a database for storing
25 outgoing telephone numbers.

26 22. Upon information and belief, the LiveVox Services contain a processor to process a
27 trigger comprising a telephone number of the call target.

28

1 23. Upon information and belief, the LiveVox Services contain a processor to select
2 from the database a telephone number that has the same area code as the call target’s area code.

3 24. Upon information and belief, the LiveVox Services contain a processor to set caller
4 ID data to the selected number.

5 25. Upon information and belief, the LiveVox Services contain a processor to transmit
6 the caller ID data to the call target.

7 26. Upon information and belief, Paragraphs 21-25 are practiced in the LiveVox
8 Services using the Local Caller ID feature (the “Local Caller ID Feature”). Dkt. No. 27, ¶ 16
9 (“LiveVox admits that it offers a Compliance Suite and offers a local caller ID feature to its
10 customers.”); Ex. D (“the hosted LiveVox system searches lists, identifies area/state codes and
11 manages the dialing frequency, exclusions or other restrictions programmed into the system.”);
12 Ex. E (“ . . . LiveVox request[ed] . . . an opinion . . . [on] the use of technology allowing a debt
13 collector to display a local area code on a consumer’s caller identification device instead of the
14 actual area code from which the call originates”); Ex. F (“Collection Services Local Caller
15 ID”).

16 27. Upon information and belief, the LiveVox Services practice each and every
17 element of one or more claims of the ‘122 and ‘399 patents.

18 **COUNT I – PATENT INFRINGEMENT OF THE ‘122 PATENT**

19
20 28. NobelBiz restates and incorporates by reference paragraphs 1 through 27 as if
21 stated fully herein.

22 29. On information and belief, and in violation of 35 U.S.C. § 271(a), Defendant has,
23 literally and under the doctrine of equivalents, infringed the ‘122 patent and still is, literally and
24 under the doctrine of equivalents, infringing the ‘122 patent, by, among other things, making,
25 using, offering for sale, and/or selling its LiveVox Services and will continue to do so unless such
26 infringing activities are enjoined by this Court.

1 30. Upon information and belief, Defendant is willfully infringing the ‘122 patent by
2 offering to sell and selling the LiveVox Services in the United States, including within this judicial
3 district.

4 (a) Prior to this lawsuit, Defendant knew or should have known of NobelBiz’s
5 ‘122 patent. On February 22, 2010 NobelBiz sent LiveVox a letter advising LiveVox of the
6 application which ultimately led to U.S. Patent No. 7,899,169 (the “‘169 patent”). Ex. G.
7 NobelBiz also advised that it “intends to . . . enforce any and all patents that may issue from this
8 patent application.” *Id.* Based on this letter and the fact that the ‘122 patent claimed priority to or
9 issued from the ‘169 patent, LiveVox had knowledge or should have had knowledge of the ‘122
10 patent pre-suit.

11 (b) Defendant has disregarded and continues to disregard an objectively high
12 likelihood that its actions constitute infringement of the ‘122 patent. This objectively-defined risk
13 has been known or is so obvious that it should have been known to Defendant. Ex. G and the
14 above discussion.

15 31. In violation of 35 U.S.C. § 271(b), Defendant is indirectly infringing the ‘122
16 patent by offering to sell and selling the LiveVox Services in the United States, including within
17 this judicial district.

18 (a) Defendant had knowledge of the ‘122 patent based on the above discussion
19 and further by virtue of service of the complaint on April 4, 2012.

20 (b) Defendant also knowingly induced infringement and possessed specific
21 intent to encourage another’s infringement which led to direct infringement by a third party of one
22 or more claims of the ‘122 patent, e.g., call centers, by use of the LiveVox Services, and by
23 soliciting end users to purchase and use the LiveVox Services, in this district and elsewhere in the
24 United States.

25 (c) On information and belief, Defendant, for example, provides and advertises
26 to its customers the benefits of the Local Caller ID Feature through user manuals and other
27 marketing and instructional materials. Dkt. No. 27, ¶ 16 and the above discussion.

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1 (d) On information and belief, as another example, Defendant further offers
2 training, where customers can learn or be instructed on how the Local Caller ID Feature operate.
3 Ex. H.

4 (e) By following the materials (and the Local Caller ID Feature), these
5 customers can, are intended to, and do practice the ‘122 patent.

6 32. In violation of 35 U.S.C. § 271(c), Defendant has contributorily infringed and
7 continues to contributorily infringe by selling and/or offering to sell in the United States the
8 Local Caller ID Feature, which:

9 (a) constitute a material part of the invention of the ‘122 patent;

10 (b) are known by Defendant to be especially adapted for use in infringing the
11 ‘122 patent. Dkt. No. 27, ¶ 16; Exs. E-G and the above discussion; and

12 (c) are not suitable for substantial noninfringing use. The Local Caller ID
13 Feature allows a calling party’s number to appear local or from the same area code as the
14 receiving party and thus, have no substantial use that do not infringe one or more claims of the
15 ‘122 patent.

16 **COUNT II – PATENT INFRINGEMENT OF THE ‘399 PATENT**

17
18 33. NobelBiz restates and incorporates by reference paragraphs 1 through 32 as if
19 stated fully herein.

20 34. On information and belief, and in violation of 35 U.S.C. § 271(a), Defendant has,
21 literally and under the doctrine of equivalents, infringed the ‘399 patent and still is, literally and
22 under the doctrine of equivalents, infringing the ‘399 patent, by, among other things, making,
23 using, offering for sale, and/or selling its LiveVox Services and will continue to do so unless such
24 infringing activities are enjoined by this Court.

25 35. In violation of 35 U.S.C. § 271(b), Defendant is indirectly infringing the ‘399
26 patent since the service of this Amended Complaint by offering to sell and selling the LiveVox
27 Services in the United States, including within this judicial district.

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1 (a) Defendant had knowledge of the ‘399 patent at least as of upon service of
2 this Amended Complaint, including the ‘399 patent.

3 (b) Defendant also knowingly induced infringement and possessed specific
4 intent to encourage another’s infringement which led to direct infringement by a third party of one
5 or more claims of the ‘399 patent, e.g., call centers, by use of the LiveVox Services, and by
6 soliciting end users to purchase and use the LiveVox Services, in this district and elsewhere in the
7 United States.

8 (c) On information and belief, Defendant, for example, provides and advertises
9 to its customers the benefits of the Local Caller ID Feature through user manuals and other
10 marketing and instructional materials. Dkt. No. 27, ¶ 16 and the above discussion.

11 (d) On information and belief, as another example, Defendant further offers
12 training, where customers can learn or be instructed on how the Local Caller ID Feature operate.
13 Ex. H.

14 (e) By following the materials (and the Local Caller ID Feature), these
15 customers can, are intended to, and do practice the ‘399 patent.

16 36. In violation of 35 U.S.C. § 271(c), Defendant has contributorily infringed and
17 continues to contributorily infringe since the service of this Amended Complaint, by selling
18 and/or offering to sell in the United States the Local Caller ID Feature, which:

19 (a) constitute a material part of the invention of the ‘399 patent;

20 (b) are known by Defendant since at least as of upon the service of this
21 Amended Complaint, including the ‘399 patent, to be especially adapted for use in infringing the
22 ‘399 patent. Dkt. No. 27, ¶ 16; Exs. E-G and the above discussion; and

23 (c) are not suitable for substantial noninfringing use. The Local Caller ID
24 Feature allows a calling party’s number to appear local or from the same area code as the
25 receiving party and thus, have no substantial use that do not infringe one or more claims of the
26 ‘399 patent.

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1 37. NobelBiz will be substantially and irreparably harmed if Defendant's infringement
2 of the '122 and '399 patents is not enjoined. NobelBiz does not have an adequate remedy at law.

3 38. NobelBiz is entitled to recover from the Defendant the damages sustained as a
4 result of Defendant's infringing acts.

5
6 **PRAYER FOR RELIEF**

7 Plaintiff requests that:

8 (a) Judgment be entered that Defendant has directly and indirectly infringed the
9 '122 and 399 patents;

10 (b) An accounting be had for the damages resulting from Defendant's
11 infringement of the '122 patent, including, without limitation, treble damages and lost profits
12 caused by the infringing activities of Defendant, and that the damages so ascertained be awarded
13 together with interest and costs;

14 (c) An accounting be had for the damages resulting from Defendant's
15 infringement of the '399 patent, including, without limitation, lost profits caused by the infringing
16 activities of Defendant, and that the damages so ascertained be awarded together with interest and
17 costs;

18 (d) Judgment be entered that this is an exceptional case, and that NobelBiz is
19 entitled to its reasonable attorney fees pursuant to 35 U.S.C. § 285;

20 (e) A permanent injunction be issued, restraining and enjoining Defendant, its
21 officers, agents, attorneys, and employees, and those acting in privity or concert with them, from
22 engaging in the commercial manufacture, use, offer for sale, or sale within the United States, or
23 importation into the United States, of systems claimed in the '122 and '399 patents; and

24 (f) The Court award such other and further relief as the Court may deem just
25 and proper under the circumstances.

