



Dallas, Collin County, Texas 75252-5725. Winans may be served with process through its its counsel of record.

4. Winans, Inc. alleges to be the proper and necessary party to this matter instead of previously named Defendant David Winans GMAC TexasMLS.com, LLC. Dkt. 24 at 4-6.<sup>1</sup> Winans, Inc. acknowledges receipt of the summons and complaint by virtue of such allegations. *Id.* Thus, Winans, Inc. has been served with process as of the time David Winans GMAC TexasMLS.com, LLC was served with process. *See* Dkts. 1, 10, and 24.

### **JURISDICTION AND VENUE**

5. This is an action for patent infringement arising under the patent laws of the United States of America, Title 35, United States Code.

6. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendants have regular and established places of business in this district and/or have transacted business in this district and has committed and/or induced acts of patent infringement in this district. Specifically, Winans' principal place of business is located in this district.

### **THE `167 PATENT-IN-SUIT**

8. On September 1, 2009, the United States Patent and Trademark Office issued United States Patent No. 7,584,167 (the “167 Patent”) entitled “Real Estate Disclosure Reporting Method,” a true copy of which is attached as Exhibit A, to inventor G. Randall Bell.

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<sup>1</sup> PDT amends this complaint based on David Winans GMAC TexasMLS.com, LLC's allegations that it is not the proper party and representations that David Winans, Inc. is the proper and necessary party to this litigation. *See* Dkt. 24. PDT, therefore, provides notice that it dismisses the prior defendant David Winans GMAC TexasMLS.com, LLC without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A).

9. PDT is the assignee of the `167 Patent and possesses all rights to sue for and recover all past, present and future damages for infringement of the `167 Patent.

**THE `530 PATENT-IN-SUIT**

10. On May 17, 2011, the United States Patent and Trademark Office issued United States Patent No. 7,945,530 (the “`530 Patent”) entitled “Real Estate Disclosure Reporting Method,” a true copy of which is attached as Exhibit B, to inventor G. Randall Bell, Ph.D.

11. PDT is the assignee of the `530 Patent and possesses all rights to sue for and recover all past, present and future damages for infringement of the `530 Patent.

**THE `974 PATENT-IN-SUIT**

11. On January 14, 2014, the United States Patent and Trademark Office issued United States Patent No. 8,630,974 (the “`974 Patent”) entitled “Real Estate Disclosure Reporting Method,” a true copy of which is attached as Exhibit C, to inventor G. Randall Bell, Ph.D.

12. PDT is the assignee of the `974 Patent and possesses all rights to sue for and recover all past, present and future damages for infringement of the `974 Patent.

**CLAIM 1  
INFRINGEMENT OF U.S. PATENT NO. 7,584,167**

13. Defendants have been and now are directly infringing one or more claims of the `167 Patent, in violation of 35 U.S.C. § 271, by making, offering and/or using in the United States the computer implemented websites <http://www.bhgrealestate.com> and <http://texasmls.com>, which provide computerized real estate searching and reporting functionality that performs one or more methods claimed in the `167 Patent.

14. On information and belief, BHGRE created, developed, supports and operates both of the aforementioned websites. On information and belief, Winans is a real estate broker

and a member BHGRE's franchise brand network and owns and operates the BHGRE website at <http://texasmls.com>.

15. In addition and/or in the alternative, Defendants have been and/or are now indirectly infringing one or more claims of the `167 Patent, in violation of 35 U.S.C. § 271(b), by inducing visitors ("End Users") to their websites to directly infringe the `167 Patent through their use of the infringing functionality. Defendants have been aware of the `167 Patent since at least the date they were provided notice of the Complaint and may have been aware of the `167 Patent prior to this date given that the inventor, Dr. Bell, is a well-known economist and property damages consultant in the real estate industry.

16. As a direct and proximate consequence of the acts and practices of Defendants in infringing, directly and/or indirectly, one or more claims of the `167 Patent, PDT has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284 in an amount to be determined at trial.

**CLAIM 2**  
**INFRINGEMENT OF U.S. PATENT NO. 7,945,530**

17. Defendants have been and now are directly infringing one or more claims of the `530 Patent, in violation of 35 U.S.C. § 271, by making, offering and/or using in the United States the computer implemented websites <http://www.bhgrealestate.com> and <http://texasmls.com>, which provide computerized real estate searching and reporting functionality that performs one or more methods claimed in the `530 Patent.

18. On information and belief, BHGRE created, developed, supports and operates both of the aforementioned websites. On information and belief, Winans is a real estate broker and a member BHGRE's franchise brand network and owns and operates the BHGRE website at <http://texasmls.com>.

19. In addition and/or in the alternative, Defendants have been and/or are now indirectly infringing one or more claims of the `530 Patent, in violation of 35 U.S.C. § 271(b), by inducing visitors (“End Users”) to their websites to directly infringe the `530 Patent through their use of the infringing functionality. Defendants will have been aware of the `530 Patent since at least the date they were provided notice of the Complaint and may have been aware of the `530 Patent prior to this date given that the inventor, Dr. Bell, is a well-known economist and property damages consultant in the real estate industry.

20. As a direct and proximate consequence of the acts and practices of Defendants in infringing, directly and/or indirectly, one or more claims of the `530 Patent, PDT has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284 in an amount to be determined at trial.

**CLAIM 3**  
**INFRINGEMENT OF U.S. PATENT 8,630,974**

21. Defendants have been and now are directly infringing one or more claims of the `974 Patent, in violation of 35 U.S.C. § 271, by making, offering and/or using in the United States the computer implemented websites <http://www.bhgrealestate.com> and <http://texasmls.com>, which provide computerized real estate searching and reporting functionality that performs one or more methods claimed in the `974 Patent.

22. On information and belief, BHGRE created, developed, supports and operates both of the aforementioned websites. On information and belief, Winans is a real estate broker and a member BHGRE’s franchise brand network and owns and operates the BHGRE website at <http://texasmls.com>.

23. In addition and/or in the alternative, Defendants have been and/or are now indirectly infringing one or more claims of the `974 Patent, in violation of 35 U.S.C. § 271(b), by

inducing visitors (“End Users”) to their websites to directly infringe the `974 Patent through their use of the infringing functionality. Defendants have been aware of the `974 Patent since at least the date they were provided notice of the Complaint and may have been aware of the `974 Patent prior to this date given that the inventor, Dr. Bell, is a well-known economist and property damages consultant in the real estate industry.

24. As a direct and proximate consequence of the acts and practices of Defendants in infringing, directly and/or indirectly, one or more claims of the `974 Patent, PDT has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284 in an amount to be determined at trial.

#### **GENERAL ALLEGATIONS**

25. The limitation of damages provision of 35 U.S.C. § 287(a) is not applicable to PDT.

26. This case presents exceptional circumstances within the meaning of 35 U.S.C. § 285 and PDT is thus entitled to an award of its reasonable attorneys’ fees.

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

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

#### **PRAYER FOR RELIEF**

WHEREFORE, PDT requests entry of judgment that:

1. Defendants have infringed each of the patents-in-suit;
2. Defendants account for and pay to Plaintiff all damages caused by their infringement of the patents-in-suit;

3. Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to it by reason of one or more of Defendants' patent infringement;
4. Plaintiff be awarded enhanced damages in accordance with 35 U.S.C. § 284;
5. The Court declare this an exceptional case and that Plaintiff be granted reasonable attorneys' fees in accordance with 35 U.S.C. § 285;
6. Costs be awarded to Plaintiff; and
7. Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: March 26, 2014

Respectfully submitted,

**BUETHER JOE & CARPENTER, LLC**

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**ATTORNEYS FOR PLAINTIFF PROPERTY  
DISCLOSURE TECHNOLOGIES LLC**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a) on this 26th day of March, 2014. Any other counsel of record will be served by facsimile transmission and first class mail.

/s/ Christopher M. Joe  
Christopher M. Joe