

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

PRAGMATUS TELECOM, LLC,

Plaintiff,

v.

ASPECT SOFTWARE, INC.

Defendant.

Civil Action No. 14-cv-359-RGA

JURY TRIAL DEMANDED

FILED IN 14-cv-26-RGA

SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Pragmatus Telecom, LLC (“Pragmatus”) complains and alleges as follows against Defendant Aspect Software, Inc. (“Aspect Software”):

THE PARTIES

1. Pragmatus is a limited liability company organized and existing under the laws of the Commonwealth of Virginia with its principal place of business at 601 North King Street, Alexandria, Virginia 22314.

2. Pragmatus is informed and believes that Aspect Software is a Delaware Corporation with its principal place of business located at 2325 East Camelback Road (suite 700), Phoenix, Arizona 85016.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, United States Code, 35 U.S.C. § 271 et seq. This Court has subject matter jurisdiction over this action under Title 28 United States Code, §§ 1331 and 1338.

4. Pragmatus is informed and believes that this Court has personal jurisdiction over Aspect Software because Aspect Software has committed, and continues to commit, acts of infringement in Delaware.

5. Venue is proper under 28 U.S.C. §§ 1391 and 1400 because Aspect Software has committed acts of infringement in this district.

THE PATENTS-IN-SUIT

6. On October 30, 2001, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 6,311,231 (“the ’231 Patent”), entitled “Method and System for Coordinating Data and Voice Communications Via Customer Contract Channel Changing System Using Voice Over IP.” Pragmatus holds all right, title, and interest in and to the ’231 Patent. A true and correct copy of the ’231 Patent is attached as Exhibit A.

7. On December 23, 2003, the USPTO duly and legally issued United States Patent No. 6,668,286 (“the ’286 Patent”), entitled “Method and System for Coordinating Data and Voice Communications Via Customer Contact Channel Changing System Over IP.” Pragmatus holds all right, title and interest in and to the ’286 Patent. A true and correct copy of the ’286 Patent is attached as Exhibit B.

8. On January 2, 2007, the USPTO duly and legally issued United States Patent No. 7,159,043 (“the ’043 Patent”), entitled “Method and System for Coordinating Data and Voice Communications Via Contact Channel Changing System.” Pragmatus holds all right, title and interest in and to the ’043 Patent. A true and correct copy of the ’043 Patent is attached as Exhibit C.

9. On May 7, 2013, the USPTO duly and legally issued United States Patent No. 8,438,314 (“the ’314 Patent”), entitled “Method and System for Coordinating Data and Voice Communications Via Customer Contact Channel Changing System.” Pragmatus holds all right, title and interest in and to the ’314 Patent. A true and correct copy of the ’314 Patent is attached as Exhibit D.

COUNT 1

(INFRINGEMENT OF THE ’231 PATENT)

10. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 9 above.

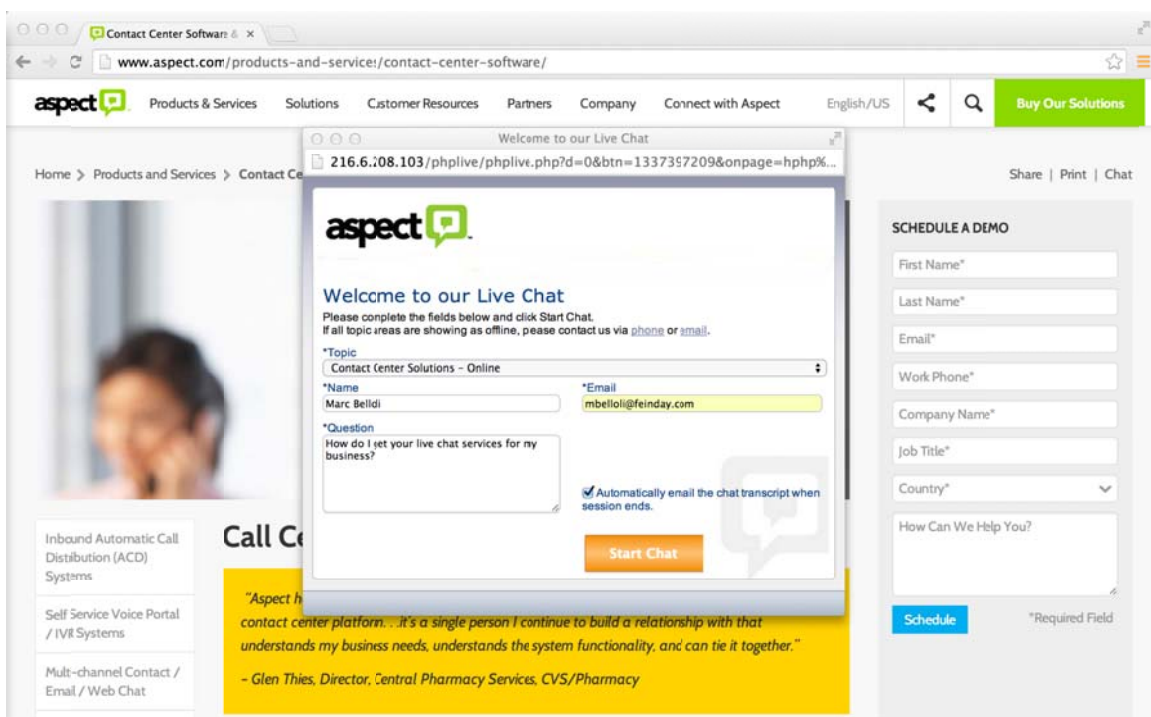
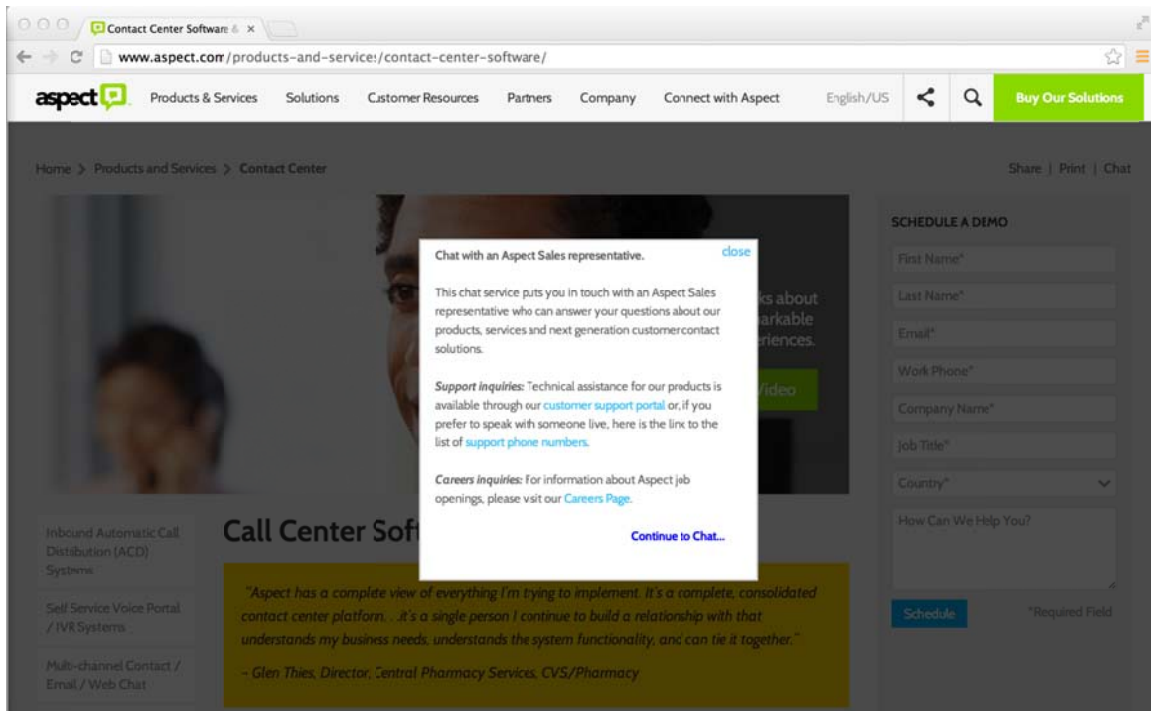
11. Pragmatus is informed and believes, and thereon alleges, that Aspect Software has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, at least claim 9 of the ’231 Patent by making, using, selling, offering for sale and providing contact center, voice and live chat services and systems over the Internet, including Aspect Software’s Call Center products, services and related elements of Aspect’s Unified IP, Communications and Collaboration, Social Customer Care, Inbound Automatic Call Distribution (ACD), Self Service Voice Portal / IVR, Multichannel Contact / Email / Web Chat, and/or Zipwire products and services.

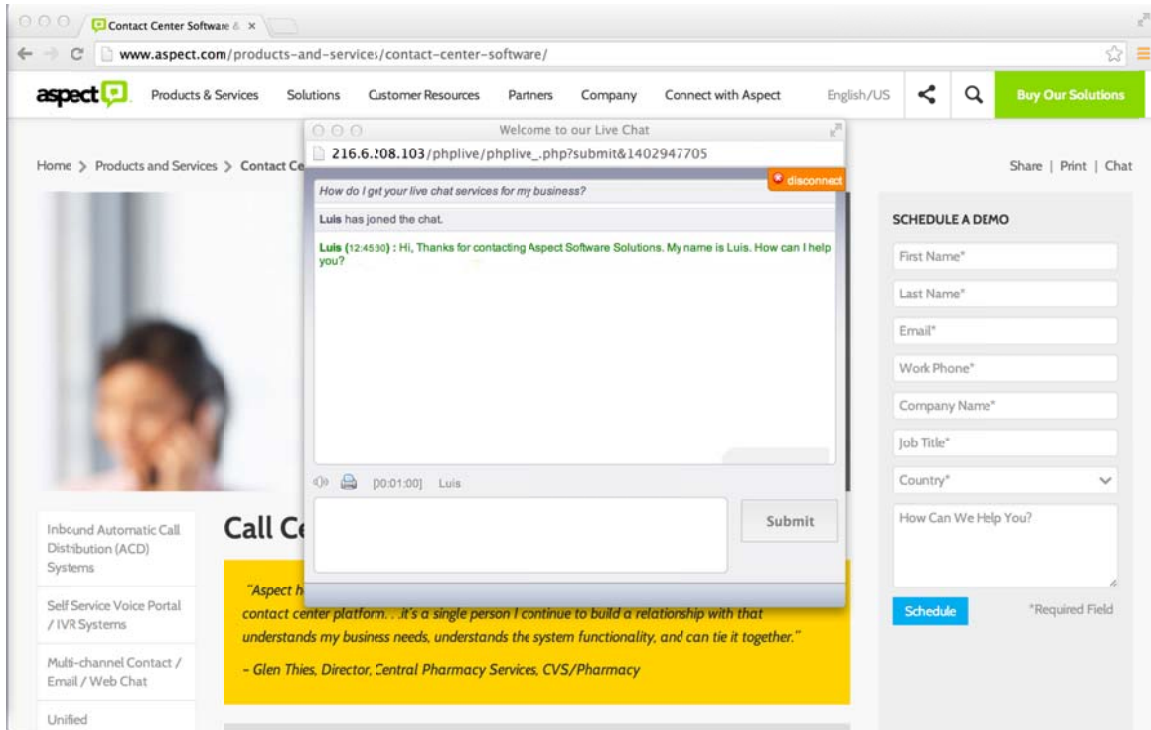
12. Exemplary evidence of Aspect Software’s infringement is provided below.

13. Pragmatus is informed and believes, and thereon alleges, that Aspect Software describes its call center software and systems as built on Unified IP and Zipwire platforms. <http://www.aspect.com/products/contact-center-software/>. Aspect Software touts the primary capability of its Call Center Software as providing “omni-channel connections” that “[f]rom phone calls, to text messages, to emails, to Tweets, [deliver

users with] a great experience.” <http://www.aspect.com/products/contact-center-software/>. In addition to calling Aspect Software directly and/or requesting a voice contact subsequent to submission of a form, Aspect call center product provides live chat, through a series of screen shots demonstrating Aspect Software’s infringement of each of the patents-in-suit. Aspect Software itself calls the accused service/system “live chat” – “Welcome to Our Live Chat.”







14. Pragmatus is informed and believes, and thereon alleges, that Aspect further states “web based contact management capabilities of Aspect Unified IP makes it easy to provide your customers with a broad ranges of ways to contact your agents, including voice, email, web chat, IM, SMS and social channels.” <http://www.aspect.com/products/contact-center-software/web-contact-management/>. As such, Aspect’s servers operate to receive data from customers, for example, indicating a contact channel for the customers with an IP address or telephone contact number. <http://www.aspect.com/company/Contact-Us/>.

15. Pragmatus is informed and believes, and thereon alleges, that Aspect Software also has and continues to indirectly infringe at least claim 9 of the ’231 Patent by inducing others to infringe or contributing to the infringement of others, including

customers of its contact center, voice and live chat services and systems in this judicial district and elsewhere in the United States.

16. Specifically, Pragmatus is informed and believes, and thereon alleges, that Aspect Software has actively induced and continues to induce the infringement of at least claim 9 of the '231 Patent at least by actively inducing third party customers – like Trupanion and customers that receive similar contact center, voice and live chat services – in the United States and this District to infringe.

17. For example, Pragmatus is informed and believes, and thereon alleges, that per Aspect Software's website and customer case studies, Aspect Software provided Trupanion contact center, voice and live chat technology and services. Aspect touts Trupanion's statement that "[w]e wanted a tool that would allow us to IM chat, email, Facetime, be on the phone, all of those things. Video from Aspect Case Study for Trupanion, at 1:38-1:144 (<http://www.youtube.com/watch?v=ucjUgDM7W-1>). "Aspect was the company that met all of our needs which was every single contact channel in one platform," Video from Aspect Case Study for Trupanion, at 2:06-2:16 (<http://www.youtube.com/watch?v=ucjUgDM7W-1>). Aspect further touts Trupanion's statement that "[a]s a small IT department we didn't have to worry about the servers, the storage, the application, Aspect handled all of that for us." Video from Aspect Case Study for Trupanion, at 2:20-2:3516 (<http://www.youtube.com/watch?v=ucjUgDM7W-1>).



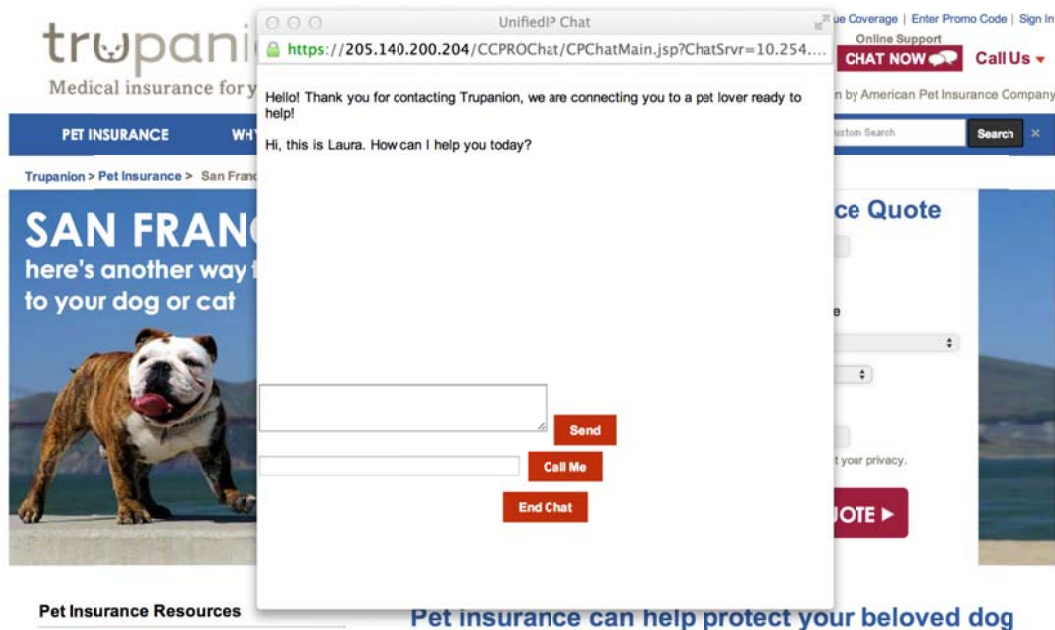
18. Pragmatus is informed and believes, and thereon alleges, that Trupanion’s website displayed live chat and voice services and technology at the top of the splash page (www.trupanion.com) where the customer selected “Chat Now” or “Call Us.” The foregoing is depicted below:

The screenshot shows the Trupanion website with the header "Medical insurance for your pet." and navigation links: PET INSURANCE, WHY TRUPANION, PET CARE, POLICYHOLDERS. A search bar is present. The main content area features a large image of a bulldog in San Francisco with the text "SAN FRANCISCO, here's another way to show love to your dog or cat". To the right is a "Pet Health Insurance Quote" form with fields for Pet Name, Pet Type (Dog/Cat), Gender (Male/Female), Breed, Pet Age, Zip Code, and Email. A "START YOUR QUOTE" button is at the bottom of the form.

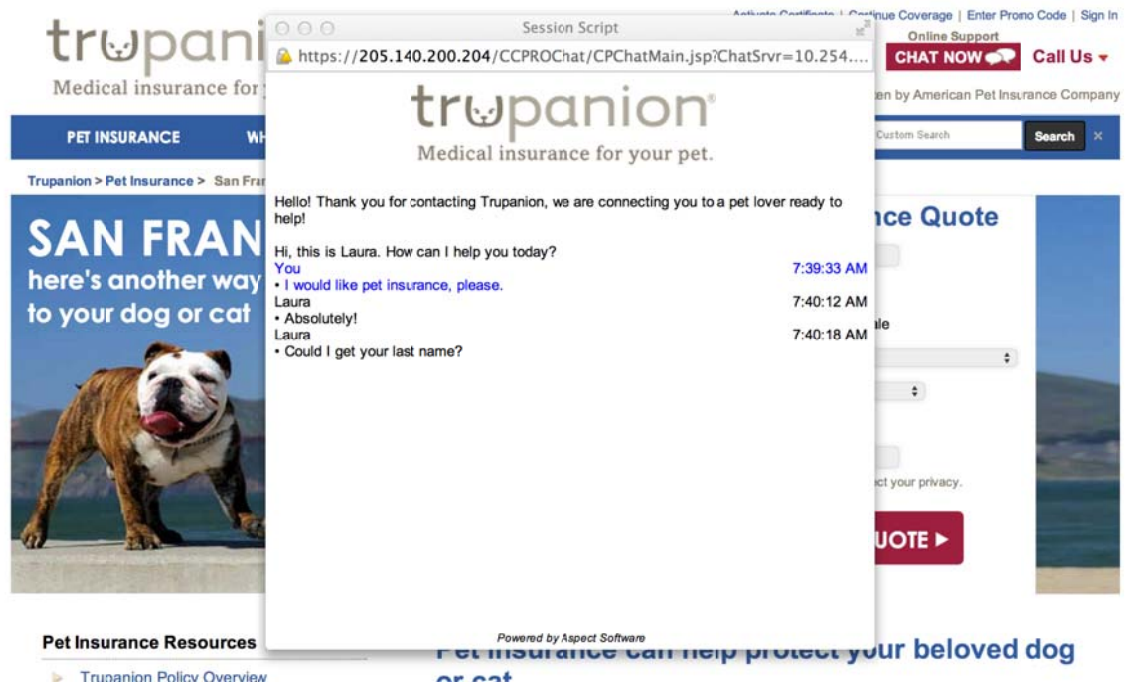
19. Pragmatus is informed and believes, and thereon alleges, that when a customer indicated he/she would like to use this technology by clicking on the “Chat Now” portion of Trupanion’s webpage, the customer was then asked to enter their name, email and the department of Trupanion they would like to chat with:

This screenshot shows a modal window titled "Trupanion Online Support" overlaid on the main website. The modal contains fields for "Your Name:", "Your Email:", and "Department:" (with a dropdown menu). A "Chat Now" button is located below these fields. To the right of the text input fields is a silhouette of a dog and a cat. The background shows the Trupanion website with the "SAN FRANCISCO" banner and a "Pet Insurance Resources" section at the bottom.

20. Pragmatus is informed and believes, and thereon alleges, that once the customer provided this information and clicks on “Chat Now,” the customer entered a live chat with Trupanion where the customer can – among other things – have questions answered or apply for health insurance in real time via the live chat technology and services provided by Aspect Software:



21. Pragmatus is informed and believes, and thereon alleges, that upon completion of the live chat – for example, when the customer clicks on “End Chat” – the transcript of the chat remains available for the customer to review and the customer was informed that Trupanion’s live chat technology is “Powered by Aspect Software”:



The foregoing demonstrates Trupanion's infringement of the '231 patent induced by Aspect Software.

22. Pragmatus is informed and believes, and thereon alleges, that Aspect Software knew or should have known that its conduct and its continued provision of this technology and instructions and assistance with respect to this technology would induce others – like Trupanion and customers that receive similar contact center, voice and live chat services – to use its software and/or hardware for providing contact center, voice and live chat services in a manner than infringes the '231 Patent. Pragmatus is informed and believes, and thereon alleges, that these third parties – like Trupanion – have infringed at least claim 9 of the '231 Patent in violation of 35 U.S.C. § 271(a) by using the infringing system/service ("Direct Infringers"). Pragmatus is informed and believes, and thereon alleges, that Aspect Software through at least the sale and/or license of contact center, voice and live chat software and hardware and related services as well as support and instructions to provides related to the software and hardware and related services actively

induced and continues to induce its customers to infringe at least claim 9 of the '231 Patent.

23. Pragmatus is informed and believes, and thereon alleges, that at least since it knew of the '231 Patent, Aspect Software specifically intended to induce the Direct Infringers to use its contact center, voice and live chat software in a manner that directly infringes at least claim 9 of the '231 Patent because, among other things, it instructs the Direct Infringers on the use of its contact center, voice and live chat products to use the products in an infringing manner.

24. Pragmatus is informed and believes, and thereon alleges, that as a proximate result of Aspect Software's inducement, the Direct Infringers directly infringed and continue to directly infringe at least claim 9 of the '231 Patent at least by using Aspect Software's contact center, voice and live chat software, hardware, and/or related services in connection with the Internet.

25. Pragmatus is informed and believes, and thereon alleges, that at least since Aspect Software knew of the '231 Patent, Aspect Software knew or was willfully blind to knowing that the Direct Infringers were using Aspect Software's contact center, voice and live chat software, hardware, and/or related services in connection with the Internet in a way that directly infringes at least claim 9 of the '231 Patent as a result of its inducement of infringement.

26. Pragmatus is informed and believes, and thereon alleges, that Aspect Software has contributorily infringed and continues to contributorily infringe at least claim 9 of the '231 Patent by providing, selling or offering to sell within the United States infringing software, systems and services to third party customers like Trupanion

that constitute a material part of the claimed invention and are not staple articles of commerce suitable for substantial non-infringing use. Pragmatus is informed and believes, and thereon alleges, that these third parties have infringed and will continue infringe the '231 Patent in violation of 35 U.S.C. § 271(a) by using the infringing contact center, voice and live chat software, hardware, and/or related services ("Direct Infringers").

27. Pragmatus is informed and believes, and thereon alleges, that Aspect Software provides a component of the patented machine and/or material or apparatus for practicing a patented process to the Direct Infringers of at least claim 9 of the '231 patent by providing its contact center, voice and live chat software, hardware, and/or services in conjunction with instructions to Direct Infringers. For example, as set forth above, Aspect Software provides material parts of the invention that have no substantial non-infringing use other than to infringe the '231 patent such as the software that "powers" the contact center, voice and live chat technology that Aspect Software provides to its customers like Trupanion as set forth in detail above.

28. Pragmatus is informed and believes, and thereon alleges, that Aspect Software has received written notice of its infringement from Pragmatus in at least a letter dated March 14, 2014 from counsel for Pragmatus to Stephen Beaver, Senior Vice President & General Counsel at Aspect Software. The letter explains that Aspect Software is infringing the '231 patent, the '286 patent, the '043 patent and the '314 patent. The letter further explains that Aspect Software is infringing by offering its own live chat services as well as inducing and contributing to the infringement of its customers by providing software and/or hardware for customers to use the accused

services. Aspect Software also has written notice of its infringement by virtue of the filing and service of the Complaint.

29. Pragmatus is informed and believes that at least as a result of the foregoing notice and the filing and service of the Complaint, Aspect Software has knowledge of its infringement of the '231 Patent.

30. Pragmatus is informed and believes, and thereon alleges, that the contact center, voice and live chat software, hardware, and/or related services that Aspect Software provides to its customers constitute a material part of the invention of the '231 patent at least because the invention cannot be practiced without these components as set forth above.

31. Pragmatus is informed and believes, and thereon alleges, that the contact center, voice and live chat software, hardware, and/or related services that Aspect Software provides to its customers are not staple articles of commerce, and have no substantial non-infringing uses, at least for the reason that the accused aspects of Aspect Software's contact center, voice and live chat products are designed to only substantially perform in a manner that infringes as set forth above.

32. Pragmatus has suffered damages as a result of Aspect Software's infringement of the '231 Patent in an amount to be proven at trial.

COUNT II

(INFRINGEMENT OF THE '286 PATENT)

33. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 9 above.

34. Pragmatus is informed and believes, and thereon alleges, that Aspect Software has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, at least claim 18 of the '286 Patent by making, using, selling, offering for sale and providing contact center, voice and live chat services and systems over the Internet, including Aspect's Call Center products, services and related elements of Aspect's Unified IP, Communications and Collaboration, Social Customer Care, Inbound Automatic Call Distribution (ACD), Self Service Voice Portal / IVR, Multichannel Contact / Email / Web Chat, and/or Zipwire products and services.

35. Exemplary evidence of Aspect's infringement is provided below.

36. Pragmatus is informed and believes, and thereon alleges, that Aspect describes its call center software and systems as built on Unified IP and Zipwire platforms. <http://www.aspect.com/products/contact-center-software/>. Aspect touts the primary capability of its Call Center Software as providing "omni-channel connections" that "[f]rom phone calls, to text messages, to emails, to Tweets, [deliver users with] a great experience." <http://www.aspect.com/products/contact-center-software/>. In addition to calling Aspect directly and/or requesting a voice contact subsequent to submission of a form, Aspect call center product provides live chat, through a series of screen shots demonstrating Aspect Software's infringement of each of the patents-in-suit. Aspect Software itself calls the accused service/system "live chat" – "Welcome to Our Live Chat."

www.aspect.com/products-and-service/contact-center-software/

aspect Products & Services Solutions Customer Resources Partners Company Connect with Aspect English/US Buy Our Solutions

Home > Products and Services > Contact Center

Share | Print | Chat

Chris Koziol talks about delivering remarkable customer experiences.

Watch the Video

Call Center Software

"Aspect has a complete view of everything I'm trying to implement. It's a complete, consolidated contact center platform. . . it's a single person I continue to build a relationship with that understands my business needs, understands the system functionality, and can tie it together."

- Glen Thies, Director, Central Pharmacy Services, CVS/Pharmacy

Inbound Automatic Call Distribution (ACD) Systems

Self Service Voice Portal / IVR Systems

Multi-channel Contact / Email / Web Chat

SCHEDULE A DEMO

First Name*

Last Name*

Email*

Work Phone*

Company Name*

Job Title*

Country*

How Can We Help You?

Schedule

*Required Field

www.aspect.com/products-and-service/contact-center-software/

aspect Products & Services Solutions Customer Resources Partners Company Connect with Aspect English/US Buy Our Solutions

Home > Products and Services > Contact Center

Share | Print | Chat

Chat with an Aspect Sales representative. close

This chat service puts you in touch with an Aspect Sales representative who can answer your questions about our products, services and next generation customer contact solutions.

Support inquiries: Technical assistance for our products is available through our [customer support portal](#) or, if you prefer to speak with someone live, here is the link to the list of [support phone numbers](#).

Careers inquiries: For information about Aspect job openings, please visit our [Careers Page](#).

Continue to Chat...

Call Center Software

"Aspect has a complete view of everything I'm trying to implement. It's a complete, consolidated contact center platform. . . it's a single person I continue to build a relationship with that understands my business needs, understands the system functionality, and can tie it together."

- Glen Thies, Director, Central Pharmacy Services, CVS/Pharmacy

Inbound Automatic Call Distribution (ACD) Systems

Self Service Voice Portal / IVR Systems

Multi-channel Contact / Email / Web Chat

SCHEDULE A DEMO

First Name*

Last Name*

Email*

Work Phone*

Company Name*

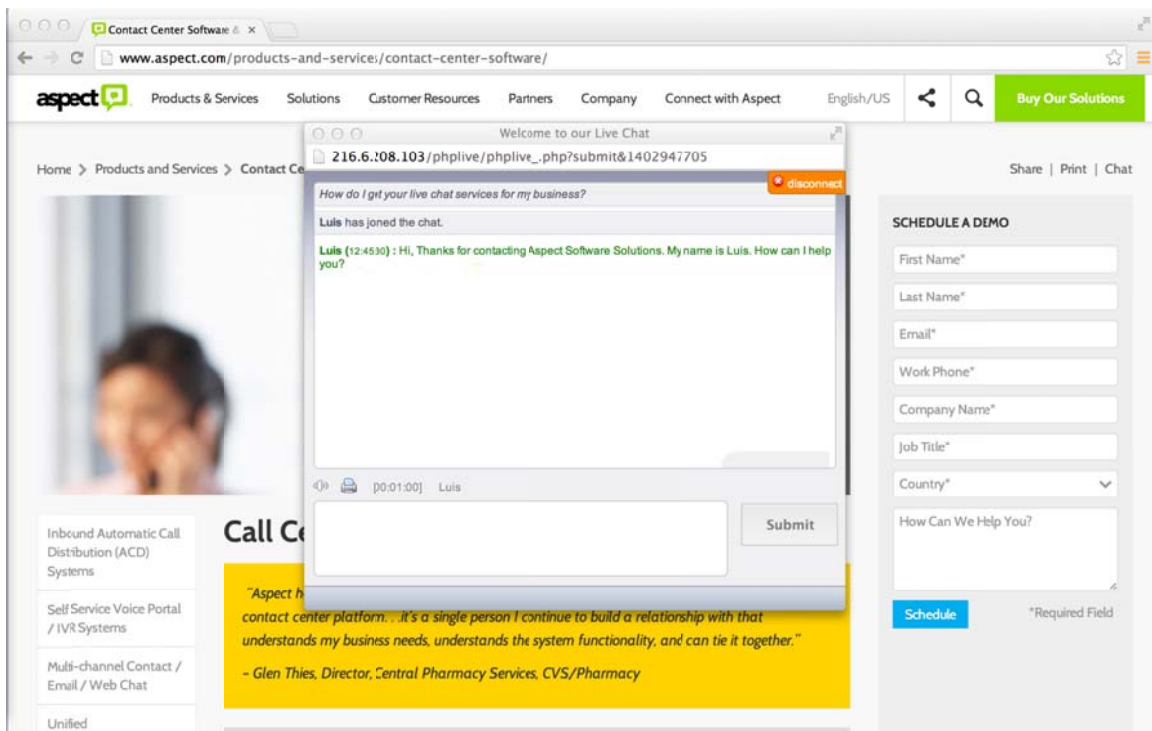
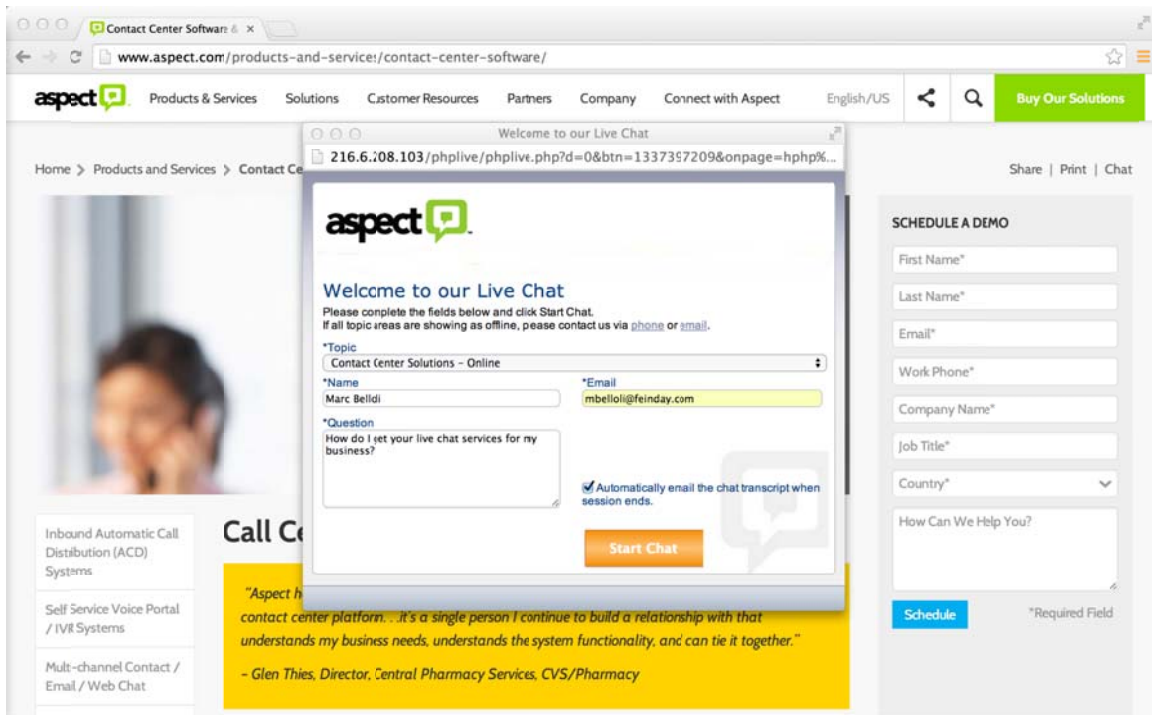
Job Title*

Country*

How Can We Help You?

Schedule

*Required Field



37. Pragmatus is informed and believes, and thereon alleges, that Aspect further states “web based contact management capabilities of Aspect Unified IP makes it

easy to provide your customers with a broad ranges of ways to contact your agents, including voice, email, web chat, IM, SMS and social channels.”

<http://www.aspect.com/products/contact-center-software/web-contact-management/>. As such, Aspect’s servers operate to receive data from customers, for example, indicating a contact channel for the customers with an IP address or telephone contact number.

<http://www.aspect.com/company/Contact-Us/>.

38. Pragmatus is informed and believes, and thereon alleges, that Aspect Software also has and continues to indirectly infringe at least claim 18 of the ’286 Patent by inducing others to infringe or contributing to the infringement of others, including customers of its contact center, voice and live chat services and systems in this judicial district and elsewhere in the United States.

39. Specifically, Pragmatus is informed and believes, and thereon alleges, that Aspect Software has actively induced and continues to induce the infringement of at least claim 18 of the ’286 Patent at least by actively inducing third party customers – like Trupanion and customers that receive similar contact center, voice and live chat services – in the United States and this District to infringe.

40. Pragmatus is informed and believes, and thereon alleges, that for example, per Aspect Software’s website and customer case studies, Aspect provided Trupanion contact center, voice and live chat technology and services. Aspect touts Trupanion’s statement that “[w]e wanted a tool that would allow us to IM chat, email, Facetime, be on the phone, all of those things. Video from Aspect Case Study for Trupanion, at 1:38-1:144 (<http://www.youtube.com/watch?v=ucjUgDM7W-1>). “Aspect was the company that met all of our needs which was every single contact channel in one platform,”

Video from Aspect Case Study for Trupanion, at 2:06-2:16 (<http://www.youtube.com/watch?v=ucjUgDM7W-1>). Aspect further touts Trupanion's statement that "[a]s a small IT department we didn't have to worry about the servers, the storage, the application, Aspect handled all of that for us." Video from Aspect Case Study for Trupanion, at 2:20-2:3516 (<http://www.youtube.com/watch?v=ucjUgDM7W-1>).



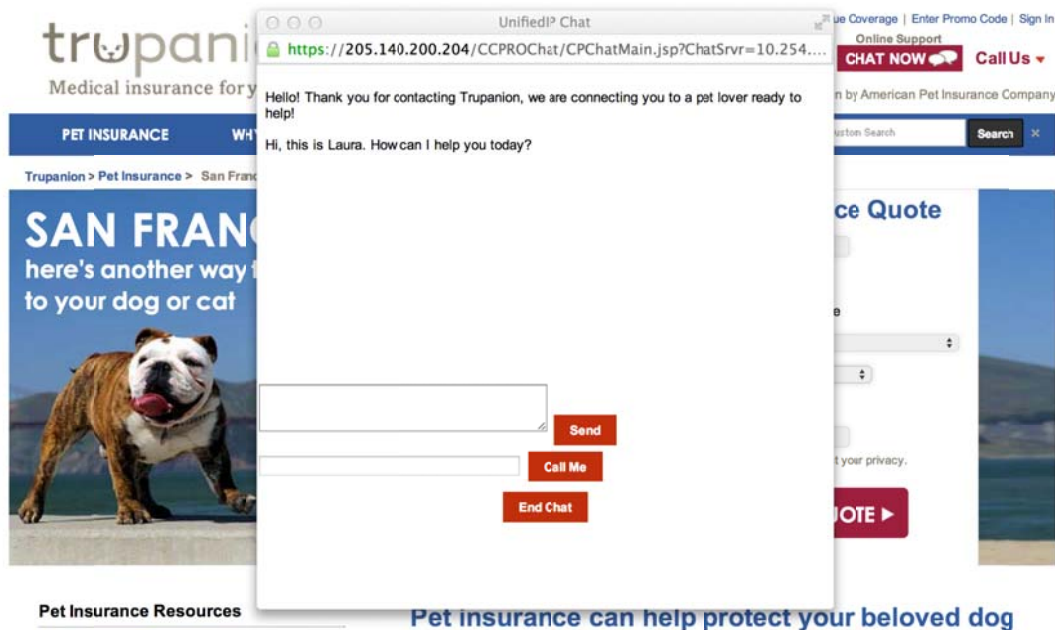
41. Pragmatus is informed and believes, and thereon alleges, that Trupanion's website displayed live chat and voice services and technology at the top of the splash page (www.trupanion.com) where the customer selected "Chat Now" or "Call Us." The foregoing is depicted below:

The screenshot shows the Trupanion website with the header "Medical insurance for your pet." and navigation links: PET INSURANCE, WHY TRUPANION, PET CARE, POLICYHOLDERS. A search bar is present. The main content area features a large image of a bulldog on the left and a "Pet Health Insurance Quote" form on the right. The form includes fields for Pet Name, Pet Type (Dog/Cat), Gender (Male/Female), Breed, Pet Age, Zip Code, and Email. A "START YOUR QUOTE" button is at the bottom of the form. The background of the main content area shows a San Francisco scene with the Golden Gate Bridge.

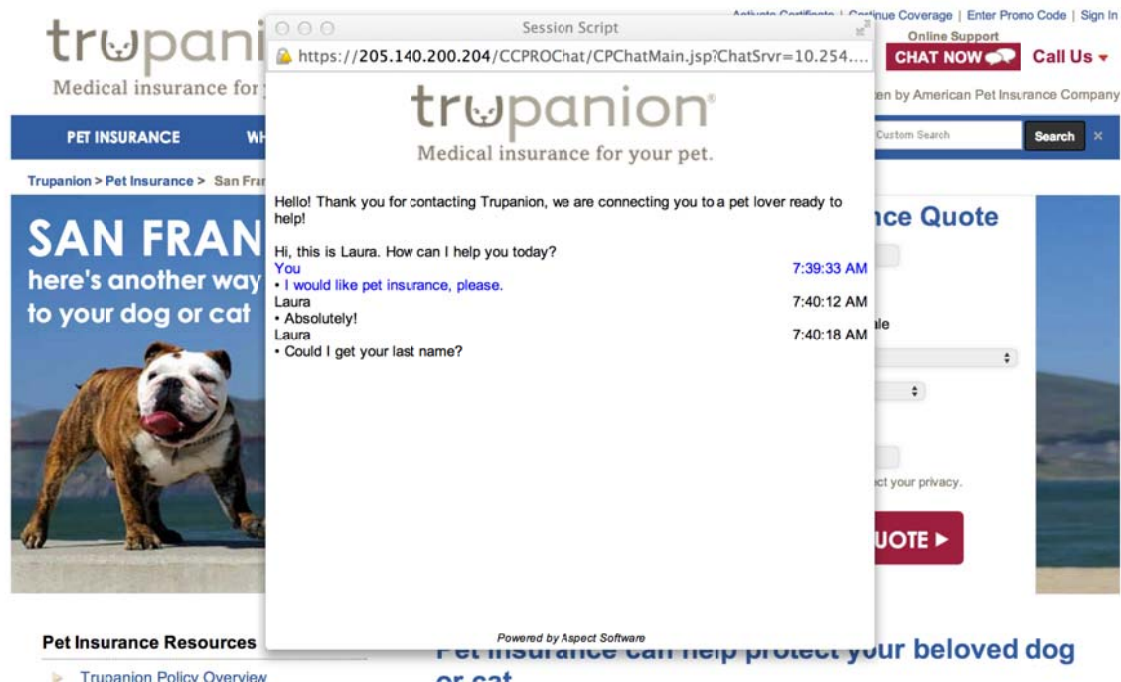
42. Pragmatus is informed and believes, and thereon alleges, that when a customer indicated he/she would like to use this technology by clicking on the “Chat Now” portion of Trupanion’s webpage, the customer was then asked to enter their name, email and the department of Trupanion they would like to chat with:

This screenshot shows the "Trupanion Online Support" chat form overlaid on the main website. The form is titled "Trupanion Online Support" and includes fields for "Your Name:", "Your Email:", and "Department: Select Department:". A "Chat Now" button is located below the Department field. To the right of the form is a silhouette of a dog and a cat. The background shows the main website content, including the bulldog image and the "Pet Health Insurance Quote" form.

43. Pragmatus is informed and believes, and thereon alleges, that once the customer provided this information and clicks on “Chat Now,” the customer entered a live chat with Trupanion where the customer can – among other things – have questions answered or apply for health insurance in real time via the live chat technology and services provided by Aspect Software:



44. Pragmatus is informed and believes, and thereon alleges, that upon completion of the live chat – for example, when the customer clicks on “End Chat” – the transcript of the chat remains available for the customer to review and the customer was informed that Trupanion’s live chat technology is “Powered by Aspect Software”:



The foregoing demonstrates Trupanion's infringement of the '286 patent induced by Aspect Software.

45. Pragmatus is informed and believes, and thereon alleges, that Aspect Software knew or should have known that its conduct and its continued provision of this technology and instructions and assistance with respect to this technology would induce others – like Trupanion and customers that receive similar contact center, voice and live chat services – to use its software and/or hardware for providing contact center, voice and live chat services in a manner than infringes the '286 Patent. Pragmatus is informed and believes, and thereon alleges, that these third parties – like Trupanion – have infringed at least claim 18 of the '286 Patent in violation of 35 U.S.C. § 271(a) by using the infringing system/service ("Direct Infringers"). Pragmatus is informed and believes, and thereon alleges, that Aspect Software through at least the sale and/or license of contact center, voice and live chat software and hardware and related services as well as support and instructions to provides related to the software and hardware and related services

actively induced and continues to induce its customers to infringe at least claim 9 of the '286 Patent.

46. Pragmatus is informed and believes, and thereon alleges, that at least since it knew of the '286 Patent, Aspect Software specifically intended to induce the Direct Infringers to use the its contact center, voice and live chat software in a manner that directly infringes at least claim 18 of the '286 Patent because, among other things, it instructs the Direct Infringers on the use of its contact center, voice and live chat products to use the products in an infringing manner.

47. Pragmatus is informed and believes, and thereon alleges, that as a proximate result of Aspect Software's inducement, the Direct Infringers directly infringed and continue to directly infringe at least claim 18 of the '286 Patent at least by using Aspect Software's contact center, voice and live chat software, hardware, and/or related services in connection with the Internet.

48. Pragmatus is informed and believes, and thereon alleges, that at least since Aspect Software knew of the '286 Patent, Aspect Software knew or was willfully blind to knowing that the Direct Infringers were using Aspect Software's contact center, voice and live chat software, hardware, and/or related services in connection with the Internet in a way that directly infringes at least claim 18 of the '286 Patent as a result of its inducement of infringement.

49. Pragmatus is informed and believes, and thereon alleges, that Aspect Software has contributorily infringed and continues to contributorily infringe at least claim 18 of the '286 Patent by providing, selling or offering to sell within the United States infringing software, systems and services to third party customers like Trupanion

that constitute a material part of the claimed invention and are not staple articles of commerce suitable for substantial non-infringing use. Pragmatus is informed and believes, and thereon alleges, that these third parties have infringed and will continue to infringe the '286 Patent in violation of 35 U.S.C. § 271(a) by using the infringing contact center, voice and live chat software, hardware, and/or related services ("Direct Infringers").

50. Pragmatus is informed and believes, and thereon alleges, that Aspect Software provides a component of the patented machine and/or material or apparatus for practicing a patented process to the Direct Infringers of at least claim 18 of the '286 patent by providing its contact center, voice and live chat software, hardware, and/or services in conjunction with instructions to Direct Infringers. For example, as set forth above, Aspect Software provides material parts of the invention that have no substantial non-infringing use other than to infringe the '286 patent such as the software that "powers" the contact center, voice and live chat technology that Aspect Software provides to its customers like Trupanion as set forth in detail above.

51. Pragmatus is informed and believes, and thereon alleges, that Aspect Software has received written notice of its infringement from Pragmatus in at least a letter dated March 14, 2014 from counsel for Pragmatus to Stephen Beaver, Senior Vice President & General Counsel at Aspect Software. The letter explains that Aspect Software is infringing the '231 patent, the '286 patent, the '043 patent and the '314 patent. The letter further explains that Aspect Software is infringing by offering its own live chat services as well as inducing and contributing to the infringement of its customers by providing software and/or hardware for customers to use the accused

services. Aspect Software also has written notice of its infringement by virtue of the filing and service of the Complaint.

52. Pragmatus is informed and believes that at least as a result of the foregoing notice and the filing and service of the Complaint, Aspect Software has knowledge of its infringement of the '286 Patent.

53. Pragmatus is informed and believes, and thereon alleges, that the contact center, voice and live chat software, hardware, and/or related services that Aspect Software provides to its customers constitute a material part of the invention of the '286 patent at least because the invention cannot be practiced without these components as set forth above.

54. Pragmatus is informed and believes, and thereon alleges, that the contact center, voice and live chat software, hardware, and/or related services that Aspect Software provides to its customers are not staple articles of commerce, and have no substantial non-infringing uses, at least for the reason that the accused aspects of Aspect Software's contact center, voice and live chat products are designed to only substantially perform in a manner that infringes as set forth above.

55. Pragmatus has suffered damages as a result of Aspect Software's infringement of the '286 Patent in an amount to be proven at trial.

COUNT III

(INFRINGEMENT OF THE '043 PATENT)

56. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 9 above.

57. Pragmatus is informed and believes, and thereon alleges, that Aspect Software has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, at least claim 1 of the '043 Patent by making, using, selling, offering for sale and providing contact center, voice and live chat services and systems over the Internet, including Aspect's Call Center products, services and related elements of Aspect's Unified IP, Communications and Collaboration, Social Customer Care, Inbound Automatic Call Distribution (ACD), Self Service Voice Portal / IVR, Multichannel Contact / Email / Web Chat, and/or Zipwire products and services.

58. Exemplary evidence of Aspect's infringement is provided below.

59. Pragmatus is informed and believes, and thereon alleges, that Aspect describes its call center software and systems as built on Unified IP and Zipwire platforms. <http://www.aspect.com/products/contact-center-software/>. Aspect touts the primary capability of its Call Center Software as providing "omni-channel connections" that "[f]rom phone calls, to text messages, to emails, to Tweets, [deliver users with] a great experience." <http://www.aspect.com/products/contact-center-software/>. In addition to calling Aspect directly and/or requesting a voice contact subsequent to submission of a form, Aspect call center product provides live chat, through a series of screen shots demonstrating Aspect Software's infringement of each of the patents-in-suit. Aspect Software itself calls the accused service/system "live chat" – "Welcome to Our Live Chat."

www.aspect.com/products-and-service/contact-center-software/

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Home > Products and Services > Contact Center

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Chris Koziol talks about delivering remarkable customer experiences. [Watch the Video](#)

Call Center Software

"Aspect has a complete view of everything I'm trying to implement. It's a complete, consolidated contact center platform. . . it's a single person I continue to build a relationship with that understands my business needs, understands the system functionality, and can tie it together."

- Glen Thies, Director, Central Pharmacy Services, CVS/Pharmacy

SCHEDULE A DEMO

First Name*
Last Name*
Email*
Work Phone*
Company Name*
Job Title*
Country*
How Can We Help You?
[Schedule](#) *Required Field

Inbound Automatic Call Distribution (ACD) Systems
Self Service Voice Portal / IVR Systems
Multi-channel Contact / Email / Web Chat

www.aspect.com/products-and-service/contact-center-software/

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Home > Products and Services > Contact Center

Share | Print | Chat

Chat with an Aspect Sales representative. [close](#)

This chat service puts you in touch with an Aspect Sales representative who can answer your questions about our products, services and next generation customer contact solutions.

Support inquiries: Technical assistance for our products is available through our [customer support portal](#) or, if you prefer to speak with someone live, here is the link to the list of [support phone numbers](#).

Careers inquiries: For information about Aspect job openings, please visit our [Careers Page](#).

[Continue to Chat...](#)

Call Center Software

"Aspect has a complete view of everything I'm trying to implement. It's a complete, consolidated contact center platform. . . it's a single person I continue to build a relationship with that understands my business needs, understands the system functionality, and can tie it together."

- Glen Thies, Director, Central Pharmacy Services, CVS/Pharmacy

SCHEDULE A DEMO

First Name*
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How Can We Help You?
[Schedule](#) *Required Field

Inbound Automatic Call Distribution (ACD) Systems
Self Service Voice Portal / IVR Systems
Multi-channel Contact / Email / Web Chat

216.6.108.103/phplive/phplive.php?d=0&btn=1337357209&onpage=hphp%

aspect **Products & Services** Solutions Customer Resources Partners Company Connect with Aspect English/US [Buy Our Solutions](#)

Home > Products and Services > Contact Center Software

Welcome to our Live Chat

Please complete the fields below and click Start Chat.
If all topic areas are showing as offline, please contact us via [phone](#) or [email](#).

*Topic
Contact Center Solutions - Online

*Name
Marc Belidi

*Email
mbelloli@feinday.com

*Question
How do I get your live chat services for my business?

☒ Automatically email the chat transcript when session ends.

[Start Chat](#)

SCHEDULE A DEMO

First Name*

Last Name*

Email*

Work Phone*

Company Name*

Job Title*

Country*

How Can We Help You?

[Schedule](#) *Required Field

Inbound Automatic Call Distribution (ACD) Systems

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- Glen Thies, Director, Central Pharmacy Services, CVS/Pharmacy

216.6.108.103/phplive/phplive.php?submit&1402947705

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Home > Products and Services > Contact Center Software

Welcome to our Live Chat

Please complete the fields below and click Start Chat.
If all topic areas are showing as offline, please contact us via [phone](#) or [email](#).

*Topic
Contact Center Solutions - Online

*Name
Luis

*Email
luis@feinday.com

*Question
How do I get your live chat services for my business?

☒ Automatically email the chat transcript when session ends.

[Start Chat](#)

SCHEDULE A DEMO

First Name*

Last Name*

Email*

Work Phone*

Company Name*

Job Title*

Country*

How Can We Help You?

[Schedule](#) *Required Field

Inbound Automatic Call Distribution (ACD) Systems

Self Service Voice Portal / IVR Systems

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"Aspect has been a great contact center platform. It's a single person I continue to build a relationship with that understands my business needs, understands the system functionality, and can tie it together."

- Glen Thies, Director, Central Pharmacy Services, CVS/Pharmacy

60. Pragmatus is informed and believes, and thereon alleges, that Aspect Software further states "web based contact management capabilities of Aspect Unified IP

makes it easy to provide your customers with a broad ranges of ways to contact your agents, including voice, email, web chat, IM, SMS and social channels.”

<http://www.aspect.com/products/contact-center-software/web-contact-management/>. As such, Aspect’s servers operate to receive data from customers, for example, indicating a contact channel for the customers with an IP address or telephone contact number.

<http://www.aspect.com/company/Contact-Us/>.

61. Pragmatus is informed and believes, and thereon alleges, that Aspect Software also has and continues to indirectly infringe at least claim 1 of the ’043 Patent by inducing others to infringe or contributing to the infringement of others, including customers of its contact center, voice and live chat services and systems in this judicial district and elsewhere in the United States.

62. Specifically, Pragmatus is informed and believes, and thereon alleges, that Aspect Software has actively induced and continues to induce the infringement of at least claim 1 of the ’043 Patent at least by actively inducing third party customers – like Trupanion and customers that receive similar contact center, voice and live chat services – in the United States and this District to infringe.

63. Pragmatus is informed and believes, and thereon alleges, that for example, per Aspect Software’s website and customer case studies, Aspect provided Trupanion contact center, voice and live chat technology and services. Aspect touts Trupanion’s statement that “[w]e wanted a tool that would allow us to IM chat, email, Facetime, be on the phone, all of those things. Video from Aspect Case Study for Trupanion, at 1:38-1:144 (<http://www.youtube.com/watch?v=ucjUgDM7W-1>). “Aspect was the company that met all of our needs which was every single contact channel in one platform,”

Video from Aspect Case Study for Trupanion, at 2:06-2:16 (<http://www.youtube.com/watch?v=ucjUgDM7W-1>). Aspect further touts Trupanion's statement that "[a]s a small IT department we didn't have to worry about the servers, the storage, the application, Aspect handled all of that for us." Video from Aspect Case Study for Trupanion, at 2:20-2:3516 (<http://www.youtube.com/watch?v=ucjUgDM7W-1>).



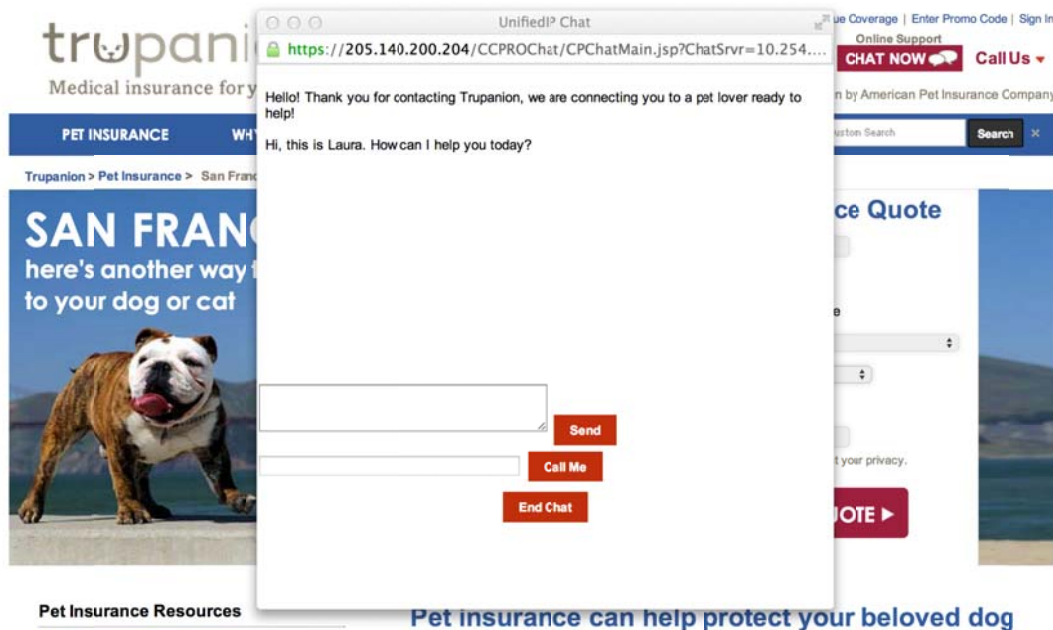
64. Pragmatus is informed and believes, and thereon alleges, that Trupanion's website displayed live chat and voice services and technology at the top of the splash page (www.trupanion.com) where the customer selected "Chat Now" or "Call Us." The foregoing is depicted below:

The screenshot shows the Trupanion website's 'Pet Health Insurance Quote' form. The header includes the Trupanion logo, navigation links (PET INSURANCE, WHY TRUPANION, PET CARE, POLICYHOLDERS), and a search bar. The main content area features a large image of a bulldog on the left and the quote form on the right. The form includes fields for Pet Name, Pet Type (Dog/Cat), Gender (Male/Female), Breed, Pet Age, Zip Code, and Email. A 'START YOUR QUOTE' button is prominently displayed at the bottom of the form.

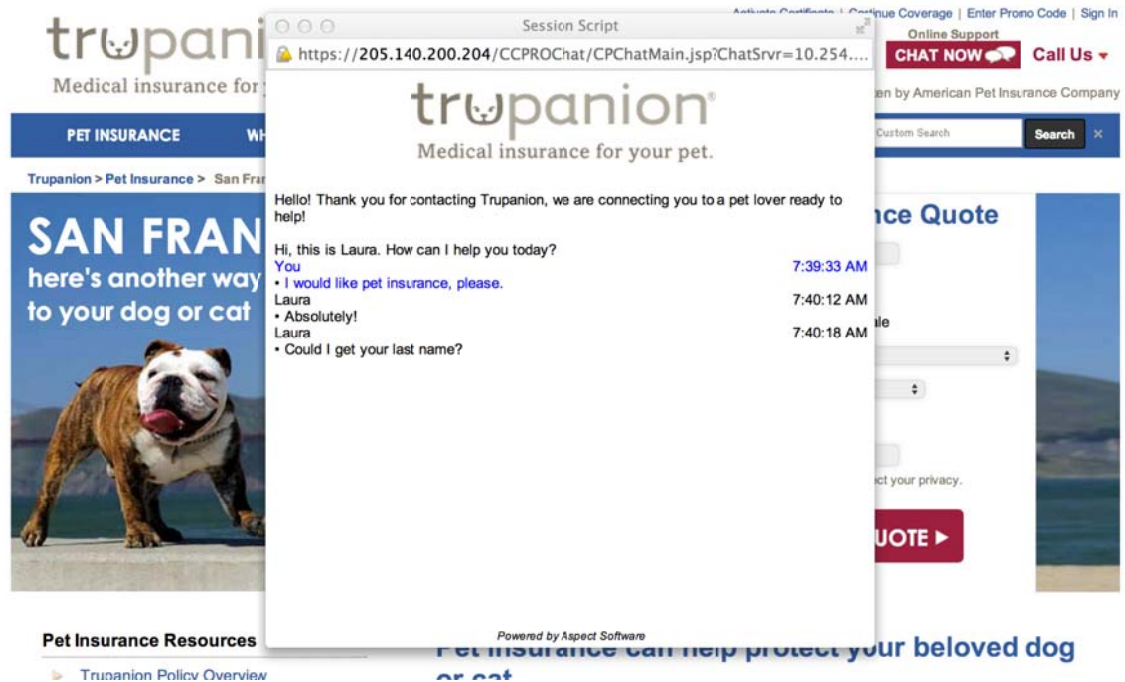
65. Pragmatus is informed and believes, and thereon alleges, that when a customer indicated he/she would like to use this technology by clicking on the “Chat Now” portion of Trupanion’s webpage, the customer was then asked to enter their name, email and the department of Trupanion they would like to chat with:

This screenshot shows the 'Trupanion Online Support' chat form overlaid on the main website. The form is titled 'Trupanion Online Support' and includes fields for 'Your Name', 'Your Email', and 'Department' (with a dropdown menu). A 'Chat Now' button is located below these fields. To the right of the form is a silhouette of a dog and a cat. The background shows the main website content, including the 'SAN FRANCISCO' banner and the 'Pet Health Insurance Quote' form.

66. Pragmatus is informed and believes, and thereon alleges, that once the customer provided this information and clicks on “Chat Now,” the customer entered a live chat with Trupanion where the customer can – among other things – have questions answered or apply for health insurance in real time via the live chat technology and services provided by Aspect Software:



67. Pragmatus is informed and believes, and thereon alleges, that upon completion of the live chat – for example, when the customer clicks on “End Chat” – the transcript of the chat remains available for the customer to review and the customer was informed that Trupanion’s live chat technology is “Powered by Aspect Software”:



The foregoing demonstrates Trupanion's infringement of the '043 patent induced by Aspect Software.

68. Pragmatus is informed and believes, and thereon alleges, that Aspect Software knew or should have known that its conduct and its continued provision of this technology and instructions and assistance with respect to this technology would induce others – like Trupanion and customers that receive similar contact center, voice and live chat services – to use its software and/or hardware for providing contact center, voice and live chat services in a manner than infringes the '043 Patent. Pragmatus is informed and believes, and thereon alleges, that these third parties – like Trupanion – have infringed at least claim 1 of the '043 Patent in violation of 35 U.S.C. § 271(a) by using the infringing system/service ("Direct Infringers"). Pragmatus is informed and believes, and thereon alleges, that Aspect Software through at least the sale and/or license of contact center, voice and live chat software and hardware and related services as well as support and instructions to provides related to the software and hardware and related services actively

induced and continues to induce its customers to infringe at least claim 1 of the '043 Patent.

69. Pragmatus is informed and believes, and thereon alleges, that at least since it knew of the '043 Patent, Aspect Software specifically intended to induce the Direct Infringers to use the its contact center, voice and live chat software in a manner that directly infringes at least claim 1 of the '043 Patent because, among other things, it instructs the Direct Infringers on the use of its contact center, voice and live chat products to use the products in an infringing manner.

70. Pragmatus is informed and believes, and thereon alleges, that as a proximate result of Aspect Software's inducement, the Direct Infringers directly infringed and continue to directly infringe at least claim 1 of the '043 Patent at least by using Aspect Software's contact center, voice and live chat software, hardware, and/or related services in connection with the Internet.

71. Pragmatus is informed and believes, and thereon alleges, that at least since Aspect Software knew of the '043 Patent, Aspect Software knew or was willfully blind to knowing that the Direct Infringers were using Aspect Software's contact center, voice and live chat software, hardware, and/or related services in connection with the Internet in a way that directly infringes at least claim 1 of the '043 Patent as a result of its inducement of infringement.

72. Pragmatus is informed and believes, and thereon alleges, that Aspect Software has contributorily infringed and continues to contributorily infringe at least claim 1 of the '043 Patent by providing, selling or offering to sell within the United States infringing software, systems and services to third party customers like Trupanion

that constitute a material part of the claimed invention and are not staple articles of commerce suitable for substantial non-infringing use. Pragmatus is informed and believes, and thereon alleges, that these third parties have infringed and will continue to infringe the '043 Patent in violation of 35 U.S.C. § 271(a) by using the infringing contact center, voice and live chat software, hardware, and/or related services ("Direct Infringers").

73. Pragmatus is informed and believes, and thereon alleges, that Aspect Software provides a component of the patented machine and/or material or apparatus for practicing a patented process to the Direct Infringers of at least claim 1 of the '043 patent by providing its contact center, voice and live chat software, hardware, and/or services in conjunction with instructions to Direct Infringers. For example, as set forth above, Aspect Software provides material parts of the invention that have no substantial non-infringing use other than to infringe the '043 patent such as the software that "powers" the contact center, voice and live chat technology that Aspect Software provides to its customers like Trupanion as set forth in detail above.

74. Pragmatus is informed and believes, and thereon alleges, that Aspect Software has received written notice of its infringement from Pragmatus in at least a letter dated March 14, 2014 from counsel for Pragmatus to Stephen Beaver, Senior Vice President & General Counsel at Aspect Software. The letter explains that Aspect Software is infringing the '231 patent, the '286 patent, the '043 patent and the '314 patent. The letter further explains that Aspect Software is infringing by offering its own live chat services as well as inducing and contributing to the infringement of its customers by providing software and/or hardware for customers to use the accused

services. Aspect Software also has written notice of its infringement by virtue of the filing and service of the Complaint.

75. Pragmatus is informed and believes that at least as a result of the foregoing notice and the filing and service of the Complaint, Aspect Software has knowledge of its infringement of the '043 Patent.

76. Pragmatus is informed and believes, and thereon alleges, that the contact center, voice and live chat software, hardware, and/or related services that Aspect Software provides to its customers constitute a material part of the invention of the '043 patent at least because the invention cannot be practiced without these components as set forth above.

77. Pragmatus is informed and believes that the contact center, voice and live chat software, hardware, and/or related services that Aspect Software provides to its customers are not staple articles of commerce, and have no substantial non-infringing uses, at least for the reason that the accused aspects of Aspect Software's contact center, voice and live chat products are designed to only substantially perform in a manner that infringes as set forth above.

78. Pragmatus has suffered damages as a result of Aspect Software's infringement of the '043 Patent in an amount to be proven at trial.

COUNT IV

(INFRINGEMENT OF THE '314 PATENT)

79. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 9 above.

80. Pragmatus is informed and believes, and thereon alleges, that Aspect Software has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, at least claim 1 of the '314 Patent by making, using, selling, offering for sale and providing contact center, voice and live chat services and systems over the Internet, including Aspect's Call Center products, services and related elements of Aspect's Unified IP, Communications and Collaboration, Social Customer Care, Inbound Automatic Call Distribution (ACD), Self Service Voice Portal / IVR, Multichannel Contact / Email / Web Chat, and/or Zipwire products and services.

81. Exemplary evidence of Aspect's infringement is provided below.

82. Pragmatus is informed and believes, and thereon alleges, that Aspect Software describes its call center software and systems as built on Unified IP and Zipwire platforms. <http://www.aspect.com/products/contact-center-software/>. Aspect touts the primary capability of its Call Center Software as providing "omni-channel connections" that "[f]rom phone calls, to text messages, to emails, to Tweets, [deliver users with] a great experience." <http://www.aspect.com/products/contact-center-software/>. In addition to calling Aspect directly and/or requesting a voice contact subsequent to submission of a form, Aspect call center product provides live chat, through a series of screen shots demonstrating Aspect Software's infringement of each of the patents-in-suit. Aspect Software itself calls the accused service/system "live chat" – "Welcome to Our Live Chat."

www.aspect.com/products-and-service/contact-center-software/

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Chris Koziol talks about delivering remarkable customer experiences.

Watch the Video

Call Center Software

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- Glen Thies, Director, Central Pharmacy Services, CVS/Pharmacy

SCHEDULE A DEMO

First Name*

Last Name*

Email*

Work Phone*

Company Name*

Job Title*

Country*

How Can We Help You?

Schedule *Required Field

Inbound Automatic Call Distribution (ACD) Systems

Self Service Voice Portal / IVR Systems

Multi-channel Contact / Email / Web Chat

www.aspect.com/products-and-service/contact-center-software/

aspect Products & Services Solutions Customer Resources Partners Company Connect with Aspect English/US Buy Our Solutions

Home > Products and Services > Contact Center

Share | Print | Chat

Chat with an Aspect Sales representative. close

This chat service puts you in touch with an Aspect Sales representative who can answer your questions about our products, services and next generation customer contact solutions.

Support inquiries: Technical assistance for our products is available through our [customer support portal](#) or, if you prefer to speak with someone live, here is the link to the list of [support phone numbers](#).

Careers inquiries: For information about Aspect job openings, please visit our [Careers Page](#).

Continue to Chat...

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SCHEDULE A DEMO

First Name*

Last Name*

Email*

Work Phone*

Company Name*

Job Title*

Country*

How Can We Help You?

Schedule *Required Field

aspect

Welcome to our Live Chat

Please complete the fields below and click Start Chat.
If all topic areas are showing as offline, please contact us via [phone](#) or [email](#).

*Topic
Contact Center Solutions - Online

*Name
Marc Belidi

*Email
mbelloli@feinday.com

*Question
How do I get your live chat services for my business?

☒ Automatically email the chat transcript when session ends.

Start Chat

Inbound Automatic Call Distribution (ACD) Systems

Self Service Voice Portal / IVR Systems

Multi-channel Contact / Email / Web Chat

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SCHEDULE A DEMO

First Name*

Last Name*

Email*

Work Phone*

Company Name*

Job Title*

Country*

How Can We Help You?

Schedule *Required Field

aspect

Welcome to our Live Chat

How do I get your live chat services for my business?

Luis has joined the chat.

Luis (12:45:30): Hi, Thanks for contacting Aspect Software Solutions. My name is Luis. How can I help you?

0:01:00 Luis

Submit

Inbound Automatic Call Distribution (ACD) Systems

Self Service Voice Portal / IVR Systems

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Call Center Software

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83. Pragmatus is informed and believes, and thereon alleges, that Aspect Software further states "web based contact management capabilities of Aspect Unified IP

makes it easy to provide your customers with a broad ranges of ways to contact your agents, including voice, email, web chat, IM, SMS and social channels.” <http://www.aspect.com/products/contact-center-software/web-contact-management/>. As such, Aspect’s servers operate to receive data from customers, for example, indicating a contact channel for the customers with an IP address or telephone contact number. <http://www.aspect.com/company/Contact-Us/>.

84. Pragmatus is informed and believes, and thereon alleges, that Aspect Software also has and continues to indirectly infringe at least claim 1 of the ’314 Patent by inducing others to infringe or contributing to the infringement of others, including customers of its contact center, voice and live chat services and systems in this judicial district and elsewhere in the United States.

85. Specifically, Pragmatus is informed and believes, and thereon alleges, that Aspect Software has actively induced and continues to induce the infringement of at least claim 1 of the ’314 Patent at least by actively inducing third party customers – like Trupanion and customers that receive similar contact center, voice and live chat services – in the United States and this District to infringe.

86. Pragmatus is informed and believes, and thereon alleges, that for example, per Aspect Software’s website and customer case studies, Aspect provided Trupanion contact center, voice and live chat technology and services. Aspect touts Trupanion’s statement that “[w]e wanted a tool that would allow us to IM chat, email, Facetime, be on the phone, all of those things. Video from Aspect Case Study for Trupanion, at 1:38-1:144 (<http://www.youtube.com/watch?v=ucjUgDM7W-1>). “Aspect was the company that met all of our needs which was every single contact channel in one platform,”

Video from Aspect Case Study for Trupanion, at 2:06-2:16 (<http://www.youtube.com/watch?v=ucjUgDM7W-1>). Aspect further touts Trupanion's statement that "[a]s a small IT department we didn't have to worry about the servers, the storage, the application, Aspect handled all of that for us." Video from Aspect Case Study for Trupanion, at 2:20-2:3516 (<http://www.youtube.com/watch?v=ucjUgDM7W-1>).



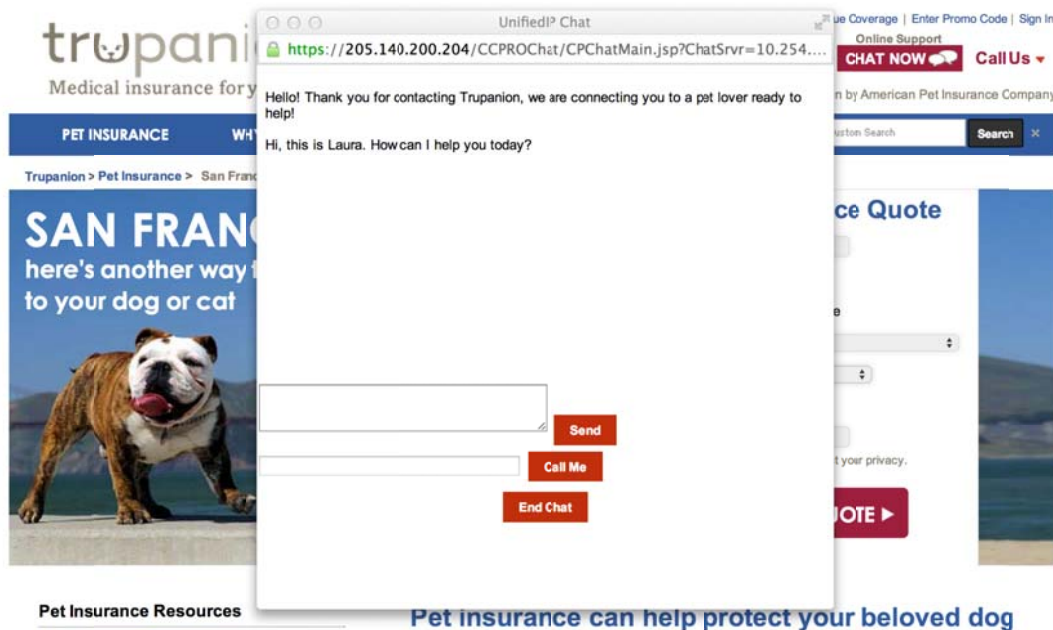
87. Pragmatus is informed and believes, and thereon alleges, that Trupanion's website displayed live chat and voice services and technology at the top of the splash page (www.trupanion.com) where the customer selected "Chat Now" or "Call Us." The foregoing is depicted below:

The screenshot shows the Trupanion website's 'Pet Health Insurance Quote' form. The header includes the Trupanion logo, navigation links (PET INSURANCE, WHY TRUPANION, PET CARE, POLICYHOLDERS), and a search bar. The main content area features a large image of a bulldog on the left and the quote form on the right. The form includes fields for Pet Name, Pet Type (Dog/Cat), Gender (Male/Female), Breed, Pet Age, Zip Code, and Email. A 'START YOUR QUOTE' button is prominently displayed at the bottom of the form.

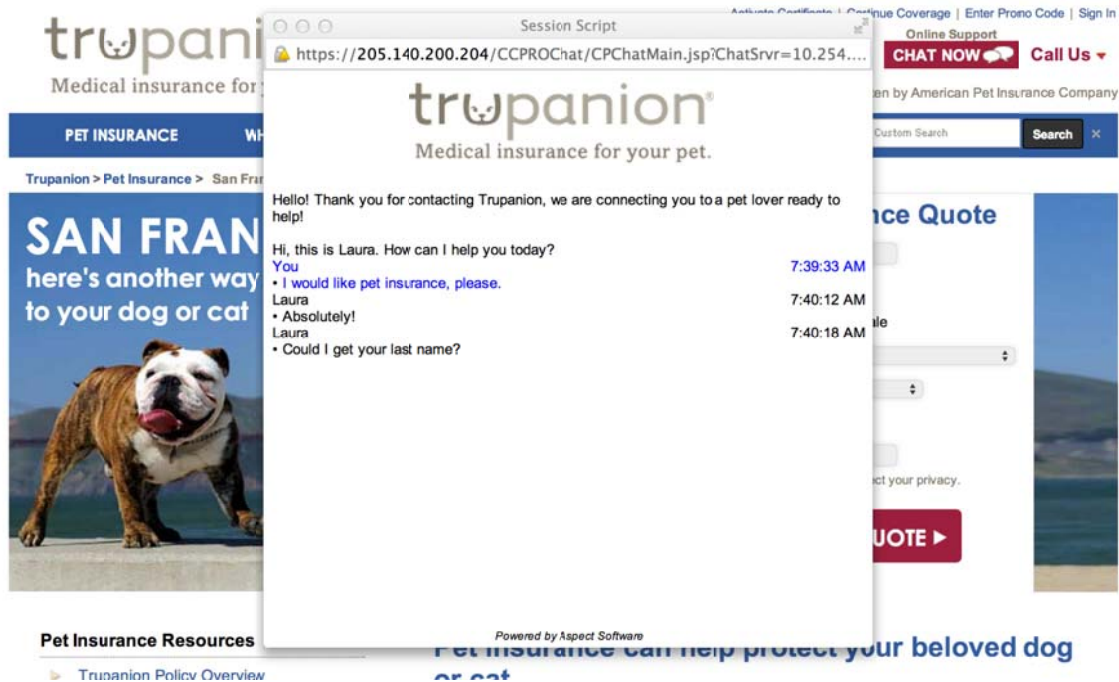
88. Pragmatus is informed and believes, and thereon alleges, that when a customer indicated he/she would like to use this technology by clicking on the “Chat Now” portion of Trupanion’s webpage, the customer was then asked to enter their name, email and the department of Trupanion they would like to chat with:

This screenshot shows the 'Trupanion Online Support' chat form overlaid on the main website. The chat form is a modal window with a title bar that reads 'trupanion.com/chat'. It contains fields for 'Your Name', 'Your Email', and 'Department' (with a dropdown menu). A 'Chat Now' button is located at the bottom of the form. The background shows the main website content, including the bulldog image and the 'Pet Health Insurance Quote' form.

89. Pragmatus is informed and believes, and thereon alleges, that once the customer provided this information and clicks on “Chat Now,” the customer entered a live chat with Trupanion where the customer can – among other things – have questions answered or apply for health insurance in real time via the live chat technology and services provided by Aspect Software:



90. Pragmatus is informed and believes, and thereon alleges, that upon completion of the live chat – for example, when the customer clicks on “End Chat” – the transcript of the chat remains available for the customer to review and the customer was informed that Trupanion’s live chat technology is “Powered by Aspect Software”:



The foregoing demonstrates Trupanion's infringement of the '314 patent induced by Aspect Software.

91. Pragmatus is informed and believes, and thereon alleges, that Aspect Software knew or should have known that its conduct and its continued provision of this technology and instructions and assistance with respect to this technology would induce others – like Trupanion and customers that receive similar contact center, voice and live chat services – to use its software and/or hardware for providing contact center, voice and live chat services in a manner than infringes the '231 Patent. Pragmatus is informed and believes, and thereon alleges, that these third parties – like Trupanion – have infringed at least claim 9 of the '231 Patent in violation of 35 U.S.C. § 271(a) by using the infringing system/service ("Direct Infringers"). Pragmatus is informed and believes, and thereon alleges, that Aspect Software through at least the sale and/or license of contact center, voice and live chat software and hardware and related services as well as support and instructions to provides related to the software and hardware and related services actively

induced and continues to induce its customers to infringe at least claim 1 of the '314 Patent.

92. Pragmatus is informed and believes, and thereon alleges, that at least since it knew of the '231 Patent, Aspect Software specifically intended to induce the Direct Infringers to use the its contact center, voice and live chat software in a manner that directly infringes at least claim 1 of the '314 Patent because, among other things, it instructs the Direct Infringers on the use of its contact center, voice and live chat products to use the products in an infringing manner.

93. Pragmatus is informed and believes, and thereon alleges, that as a proximate result of Aspect Software's inducement, the Direct Infringers directly infringed and continue to directly infringe at least claim 1 of the '314 Patent at least by using Aspect Software's contact center, voice and live chat software, hardware, and/or related services in connection with the Internet.

94. Pragmatus is informed and believes, and thereon alleges, that at least since Aspect Software knew of the '314 Patent, Aspect Software knew or was willfully blind to knowing that the Direct Infringers were using Aspect Software's contact center, voice and live chat software, hardware, and/or related services in connection with the Internet in a way that directly infringes at least claim 1 of the '314 Patent as a result of its inducement of infringement.

95. Pragmatus is informed and believes, and thereon alleges, that Aspect Software has contributorily infringed and continues to contributorily infringe at least claim 1 of the '314 Patent by providing, selling or offering to sell within the United States infringing software, systems and services to third party customers like Trupanion

that constitute a material part of the claimed invention and are not staple articles of commerce suitable for substantial non-infringing use. Pragmatus is informed and believes, and thereon alleges, that these third parties have infringed and will continue infringe the '314 Patent in violation of 35 U.S.C. § 271(a) by using the infringing contact center, voice and live chat software, hardware, and/or related services ("Direct Infringers").

96. Pragmatus is informed and believes, and thereon alleges, that Aspect Software provides a component of the patented machine and/or material or apparatus for practicing a patented process to the Direct Infringers of at least claim 1 of the '314 patent by providing its contact center, voice and live chat software, hardware, and/or services in conjunction with instructions to Direct Infringers. For example, as set forth above, Aspect Software provides material parts of the invention that have no substantial non-infringing use other than to infringe the '314 patent such as the software that "powers" the contact center, voice and live chat technology that Aspect Software provides to its customers like Trupanion as set forth in detail above.

97. Pragmatus is informed and believes, and thereon alleges, that Aspect Software has received written notice of its infringement from Pragmatus in at least a letter dated March 14, 2014 from counsel for Pragmatus to Stephen Beaver, Senior Vice President & General Counsel at Aspect Software. The letter explains that Aspect Software is infringing the '231 patent, the '286 patent, the '043 patent and the '314 patent. The letter further explains that Aspect Software is infringing by offering its own live chat services as well as inducing and contributing to the infringement of its customers by providing software and/or hardware for customers to use the accused

services. Aspect Software also has written notice of its infringement by virtue of the filing and service of the Complaint.

98. Pragmatus is informed and believes that at least as a result of the foregoing notice and the filing and service of the Complaint, Aspect Software has knowledge of its infringement of the '314 Patent.

99. Pragmatus is informed and believes, and thereon alleges, that the contact center, voice and live chat software, hardware, and/or related services that Aspect Software provides to its customers constitute a material part of the invention of the '314 patent at least because the invention cannot be practiced without these components as set forth above.

100. Pragmatus is informed and believes that the contact center, voice and live chat software, hardware, and/or related services that Aspect Software provides to its customers are not staple articles of commerce, and have no substantial non-infringing uses, at least for the reason that the accused aspects of Aspect Software's contact center, voice and live chat products are designed to only substantially perform in a manner that infringes as set forth above.

101. Pragmatus has suffered damages as a result of Aspect Software's infringement of the '314 Patent in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Pragmatus respectfully requests the following relief:

a. A judgment that Aspect Software has infringed one or more claims of United States Patent Nos. 6,311,231, 6,668,286, 7,159,043 and 8,438,314;

- b. A judgment that United States Patent Nos. 6,311,231, 6,668,286, 7,159,043 and 8,438,314 are valid and enforceable;
- c. Pragmatus be awarded damages adequate to compensate Pragmatus for Aspect Software's infringement of United States Patent Nos. 6,311,231, 6,668,286, 7,159,043 and 8,438,314 up until the date such judgment is entered, including prejudgment and post-judgment interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary adequately to compensate Pragmatus for Aspect Software's infringement, an accounting;
- d. A judgment that Pragmatus be awarded attorneys' fees, costs, and expenses incurred in prosecuting this action;
- e. An injunction preventing Aspect Software's infringement of United States Patent Nos. 6,311,231, 6,668,286, 7,159,043 and 8,438,314; and
- f. A judgment that Pragmatus be awarded such further relief at law or in equity as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pragmatus hereby demands trial by jury on all claims and issues so triable.

Dated: January 12, 2015

Respectfully submitted,

FARNAN LLP

/s/ Brian E. Farnan

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