

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Doc Halo, LLC,	:	Civil Action No.
	:	
Plaintiff,	:	Judge:
v.	:	
	:	COMPLAINT
TigerText, Inc.,	:	
	:	
Defendant.	:	

Doc Halo, LLC ("**Plaintiff**") by and through its attorneys, for its Complaint against defendant TigerText, Inc. ("**Defendant**"), alleges as follows:

PRELIMINARY STATEMENT

1. This is an action for a declaratory judgment of non-infringement of United States Patent No. 9,443,227 arising under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, and the patent laws of the United States, including Title 35, United States Code.

JURISDICTION

2. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202 and the patent laws of the United States, 35 U.S.C. § 1 et seq.

3. This court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, 1338(a), 2201 and 2202.

4. Personal jurisdiction over Defendant is proper in this District because of its presence in this District, it has conducted business relating to the licensing and enforcement of patents in Ohio and it has systematic and continuous business contacts with Ohio.

VENUE

5. Venue is proper in this district under 28 U.S.C. § 1391(b) because Defendant is subject to personal jurisdiction in this judicial district, and has directed its business, licensing and enforcement activities at this judicial district and a substantial part of the events giving rise to the claim occurred in this judicial district.

PARTIES

6. Doc Halo is a limited liability company formed under the laws of Ohio and does business in Cincinnati, Ohio. Doc Halo is an industry-leading provider of software-based clinical communication products.

7. Defendant is a corporation that is incorporated in California and has its principal place of business in Santa Monica, California. Upon information and belief, Defendant's "TigerText" brand name and technology platform have garnered much attention in prominent publications (NBC NEWS, PC WORLD, and others) as "The App for Spies and Cheaters".¹ Particularly, upon information and belief, Defendant's TigerText brand name and technology platform were originally used as a platform for cheating spouses to delete text messages,² and is now instead used for a clinical communications platform.

FACTS

The Patent at Issue

8. United States Patent Number 9,443,227 ("**the '227 Patent'**"), entitled MESSAGING SYSTEM APPARATUSES CIRCUITS AND METHODS OF OPERATIONS

¹ Sarah Jacobsson, *TigerText: The app for spies and cheaters*, NBC NEWS (msnbc.com Mar. 1, 2010), http://www.nbcnews.com/id/35652331/ns/technology_and_science-wireless/t/tigertext-app-spies-cheaters/#.WLB-V2eo6Uk.

² Belinda Luscombe, *TigerText: An iPhone App for Cheating Spouses?*, (TIME.com Feb. 26, 2010), <http://content.time.com/time/business/article/0,8599,1968233,00.html>.

THEREOF, names Jeffrey Evans and Brad Brooks as the inventors and states an issue date of September 13, 2016. Attached as **Exhibit 1** is a copy of the '227 Patent.

9. The '227 Patent is directed to a messaging system comprising a first mobile messaging client device executing a messaging application and associated with a first authorized user, the mobile messaging client device having a processor configured to a) receive from a messaging server a notification of the presence of a message at the messaging server, where the message is addressed to the first authorized user; b) send to the messaging server a request to retrieve the message, the request including client authentication data, where the first mobile messaging client device sends the request automatically in response to receipt of the notification; c) receive the message, the message having message content; d) manage the message in accordance with a message attribute, wherein managing the message comprises limiting a functionality of the message based on the message attribute, where the message and the message attribute are stored in non-volatile memory in the first mobile messaging client device at least until the message is managed by the first mobile messaging device in accordance with the message attribute; and e) send to the messaging server a message management notification; the messaging server having a processor configured to a) receive the message addressed to the first authorized user from a second mobile messaging client device executing the messaging application and associated with a second authorized user; b) store the message in a database; c) transmit to the first mobile messaging client device the notification of the presence of the message at the messaging server; d) receive from the first mobile messaging client device the request to retrieve the message, the request including client authentication data; e) validate the first mobile messaging client device based on the client authentication data; f) transmit the

message to the first mobile messaging client device; and g) receive from the first mobile messaging client device the message management notification.

10. The '227 Patent is further directed to a messaging system comprising a messaging server having a processor configured to a) receive a message from a second mobile messaging client device executing a messaging application and associated with a second authorized user; b) store the message in a database; c) transmit to a first mobile messaging client device executing the messaging application and associated with a first authorized user, a notification of the presence of the message at the messaging server, where the message is addressed to the first authorized user; d) receive from the first mobile messaging client device a request to retrieve the message, the request including client authentication data; e) validate the first mobile messaging client device based on the client authentication data; f) transmit the message and a message attribute to the first mobile messaging client device, where the message and the message attribute are stored in non-volatile memory in the first mobile messaging client device at least until the message is managed by the first mobile messaging device in accordance with the message attribute; and g) receive from the first mobile messaging client device a message management notification generated by the first mobile messaging client device in connection with managing the message in accordance with the message attribute at the first mobile messaging client device.

11. The '227 Patent is further directed to a method for managing a messaging system comprising the steps of a) receiving at a messaging server a message addressed to a first authorized user from a second mobile messaging client device executing a messaging application and associated with a second authorized user; b) storing the message in a database; c) transmitting from the messaging server to a first mobile messaging client device executing the messaging application and associated with a first authorized user, a notification of the presence

of the message at the messaging server; d) receiving at the messaging server from the first mobile messaging client device a request to retrieve the message, the request including client authentication data; e) validating the first mobile messaging client device at the messaging server based on the client authentication data; f) transmitting the message and a message attribute from the messaging server to the first mobile messaging client device, where the message and the message attribute are stored in non-volatile memory in the first mobile messaging client device at least until the message is managed by the first mobile messaging device in accordance with the message attribute; g) managing the message in accordance with the message attribute at the messaging server; and h) receiving at the messaging server from the first mobile messaging client device a message management notification generated by the first mobile messaging client device in connection with managing the message in accordance with the message attribute at the first mobile messaging client device.

12. On information and belief, Defendant is the owner of all right, title and interest in the '227 Patent.

Existence of an Actual Controversy

13. There is an actual controversy within the jurisdiction of this Court under 28 U.S.C. §§ 2201 and 2202.

14. In 2015, Defendant contacted Jose Barreau, the Chief Executive Officer of Doc Halo, to make him aware of a pending patent application of Defendant's and to point out the features of Doc Halo's products relative to the pending application.

15. On February 17, 2017, Defendant sent to Mr. Barreau a letter "to discuss [Doc Halo's] clinical communication platform (CCP) product in light of TigerText's U.S. Patent No.

9,443,227.” Defendant’s statements raises the allegation that Doc Halo’s clinical communication products infringe the ‘227 Patent.

16. In addition to Mr. Barreau, Defendant e-mailed a copy of the letter to an e-mail address associated with several employees of Doc Halo. Defendant sent this e-mail on a Friday afternoon just before such Doc Halo employees were leaving for the largest Healthcare IT conference in the industry. Notably, the vast majority of the employees who received the letter are not senior management in a position to assess patentability.

17. Based on the foregoing, a justiciable controversy exists between Doc Halo and Defendant as to whether Doc Halo's clinical communication products infringe the '227 Patent.

18. Absent a declaration of non-infringement, Defendant will continue to wrongfully allege that Doc Halo's clinical communication products infringe the '227 Patent, and thereby cause Doc Halo irreparable injury and damage.

COUNT ONE

(Declaratory Judgment of Non-Infringement)

19. Doc Halo repeats and realleges paragraphs 1 through 17 hereof, as if fully set forth herein.

20. As a result of the acts described in the preceding paragraphs, there exists a controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment of non-infringement.

21. A judicial declaration is necessary and appropriate so that Doc Halo may ascertain its rights regarding its clinical communication products and the '227 Patent.

22. Doc Halo is entitled to a declaratory judgment that Doc Halo has not infringed and does not infringe, either directly or indirectly, any valid and enforceable claims of the '227 Patent under 35 U.S.C. § 271.

WHEREFORE, Doc Halo requests judgment against Defendant as follows:

1. Adjudging that Plaintiff has not infringed and is not infringing, either directly or indirectly, any valid and enforceable claim of the '227 Patent, in violation of 35 U.S.C. § 271;
2. A judgment that Defendant and each of its officers, directors, agents, counsel, servants, employees and all of persons in active concert or participation with any of them, be restrained and enjoined from alleging, representing or otherwise stating that Doc Halo infringes any claims of the '227 Patent or from instituting or initiating any action or proceeding alleging infringement of any claims of the '227 Patent against Doc Halo or any customers, manufacturers, users, or sellers of Doc Halo's clinical communications products;
3. Declaring Doc Halo as the prevailing party and this case as exceptional, and awarding Doc Halo its reasonable attorneys' fees, pursuant to 35 U.S.C. § 285;
4. That Defendant be ordered to pay all fees, expenses and costs associated with this action; and
5. Awarding such other and further relief as this Court deems just and proper.

Dated: March 2, 2017

Respectfully submitted,

/s/ Donnell Bell
Donnell Bell (0091265)
TAFT STETTINIUS & HOLLISTER LLP
425 Walnut Street, Suite 1800
Cincinnati, OH 45202-3957
Ph: (513) 381-2838
dbell@taftlaw.com
Attorneys for Plaintiff