

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MOZLY TECH LLC,

Plaintiff,

vs.

NETFORTRIS CORPORATION

Defendant.

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Case No: 2:17-cv-00705

PATENT CASE

COMPLAINT

Plaintiff Mozly Tech LLC (“Plaintiff” or “Mozly”) files this Complaint against NetFortris Corporation (“Defendant” or “NetFortris”) for infringement of United States Patent No. 7,367,044 (hereinafter “the ‘044 Patent”).

PARTIES AND JURISDICTION

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Plaintiff is a Texas limited liability company with its office address at 3400 Silverstone Dr., Suite 191-G, Plano, Texas 75023.

4. On information and belief, Defendant is a Delaware corporation existing with its principal place of business located at 6900 Dallas Pkwy Suite 250, Plano, Texas 75024.

5. On information and belief, this Court has personal jurisdiction over Defendant

because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. On information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in this District.

VENUE

7. Venue is proper in this District pursuant to 28 U.S.C. §1400(b) because acts of infringement are occurring in this District and Defendant has a regular and established place of business in this District. For instance, on information and belief, Defendant has a regular and established place of business at 6900 Dallas Pkwy Suite 250, Plano, Texas 75024. On information and belief, Defendant has other regular and established places of business in this District.

COUNT I **(INFRINGEMENT OF UNITED STATES PATENT NO. 7,367,044)**

8. Plaintiff incorporates paragraphs 1 through 7 herein by reference.

9. This cause of action arises under the patent laws of the United States and, in particular, under 35 U.S.C. §§ 271, *et seq.*

10. Plaintiff is the owner by assignment of the '044 Patent with sole rights to enforce the '044 Patent and sue infringers.

11. A copy of the '044 Patent, titled "System and Method for Network Operation," is attached hereto as Exhibit A.

12. The '044 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

13. On information and belief, Defendant has infringed and continues to infringe

one or more claims, including at least Claim 1, of the '044 patent by making, using, importing, selling, and/or offering for sale a contact management tool, which is covered by at least Claim 1 of the '044 patent. Defendant has infringed and continues to infringe the '044 patent directly in violation of 35 U.S.C. § 271.

14. Defendant, sells, offers to sell, and/or uses contact management tools including, without limitation, the Heads Up Display (HUD) Web system, and any similar products ("Product"), which infringe at least Claim 1 of the '044 Patent. The Product was previously sold by Fonality, Inc. On information and belief, Fonality, Inc. merged with Defendant and Defendant is the remaining entity. The Product allows for the creation and maintenance of contact information, such as contact phone numbers, for example, for users having accounts. The users are associated with the contact information via user accounts. A user account can be associated with a new telephone so that the new telephone can dial the phone numbers for the contacts.

15. The network includes a number of client telephones that use contact information stored on the Product. The contact information includes telephone numbers.

16. On information and belief the network includes one or more servers on which user accounts are hosted. For example, the Product stores accounts associated with users of the Product.

17. The network also provides for communication between the server and client telephones. For example, a mobile application provided by Defendant permits communication between the server and client telephones via Internet.

18. For each user account, the Product maintains contact information for the associated user. For example, the Product maintains a user profile for a given user account and

the user profile includes the user's personal information such as name and contact information.

19. The Product maintains a contact list of telephone numbers that a given user has selected. The contact list can be accessed and dialed by the user's client telephone.

20. The Product can associate a user account with a new telephone so that the new telephone can dial the contact telephone numbers for that particular user account. For example, when a user uses the HUD mobile app, the user account is associated with the smartphone from which the user is operating the HUD app. The contact list is synced and made available to, and thereby associated with, the user so that the user can dial a number from the contact list.

21. The various elements of Claim 1 are illustrated in the publicly available information (e.g., screen shots) provided below:

Get HUD Softphone

When you log in the first time, you'll be prompted to download and install HUD Sofphone. This allows you to make and receive calls using your computer (usually with a headset) and enables "screen pop" notifications when you're doing other things. Follow your browser's instructions to download and install.

https://www.fonality.com/hubfs/Guides/UG_HUDWeb.pdf

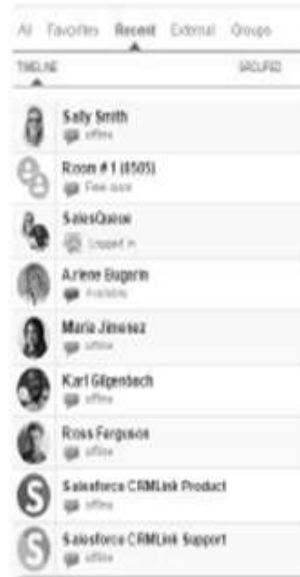
Once you're logged in, you'll see that your HUD dashboard features three main vertical sections.

On the **left**, you'll find your **Company Directory**. This is where you'll manage and communicate with contacts, both internally and externally. Here are two of the five views you can select.

All View



Recent View



https://www.fonality.com/hubfs/Guides/UG_HUDWeb.pdf

All View

All Favorites Recent External Groups		
NAME/EXTENSION	CALL STATUS	HUD STATUS
 James Haynie #7007	 	Available
 Jeff O'Malley #7002	 	Available
 Karl Gilgenbach #7001	 	offline
 Kim Jones #7009	 	offline
 Lushunda Chun #7004	 	offline
 Maria Jimenez #7003	 	offline
 Ross Ferguson #7005	 	offline

Making Calls

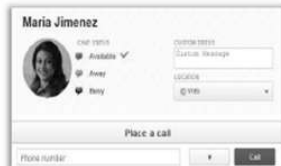
To make calling convenient, HUD gives you several options on your desk phone:

Hover over any **Contact Avatar** photo, and then click Call.

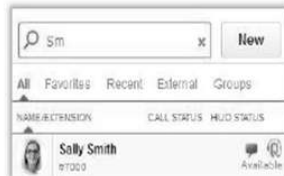


Type or paste the number in one of two **Phone number** boxes located:

1. Bottom left below your Directory on any screen
2. Top middle when on your main "Me" dashboard



To find a contact, type a name in the **Search** box from the All tab of your Directory.



https://www.fonality.com/hubfs/Guides/UG_HUDWeb.pdf

Logging in

1. Open your favorite Web browser – or click the link – and go to <http://hudweb.fonality.com/>. (HINT: Bookmark that URL!)
2. Enter your Username and Password in the fields shown below:



https://www.fonality.com/hubfs/Guides/UG_HUDWeb.pdf

The Defendant provides a Fidelity HUD application for client telephones (e.g., desktop/laptops equipped with softphone application, and mobile phones) that use stored contact information (e.g., Phone number), including telephone numbers (e.g., extension numbers) for dialing.

Making Calls

To make calling convenient, HUD gives you several options on your desk phone:

Hover over any **Contact Avatar** photo, and then click Call.

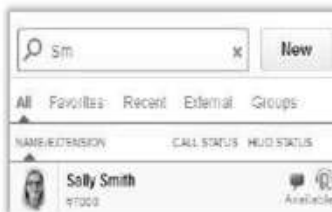


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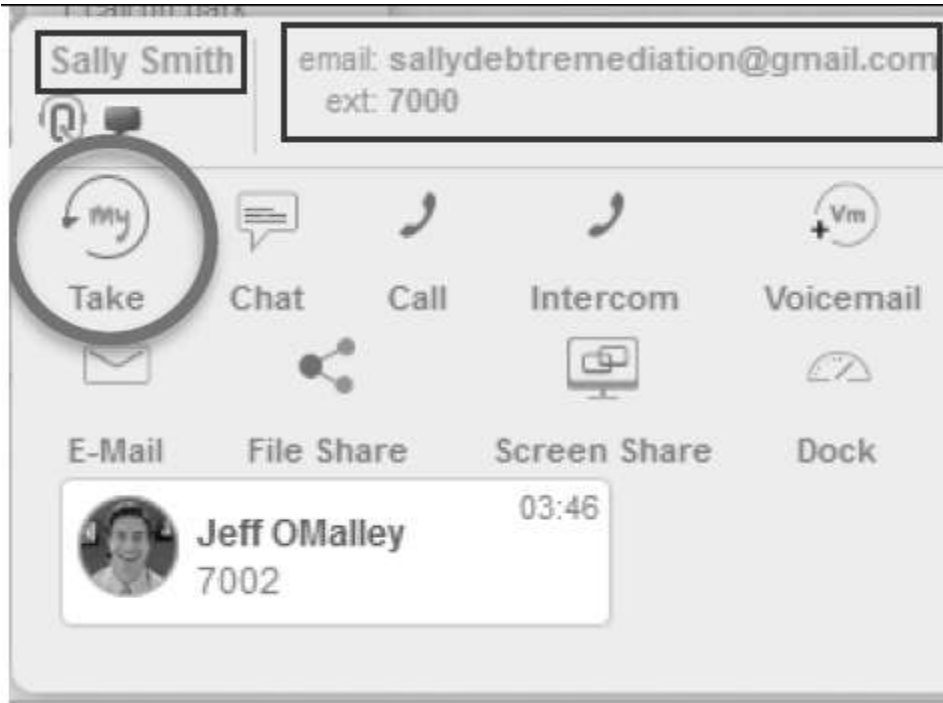
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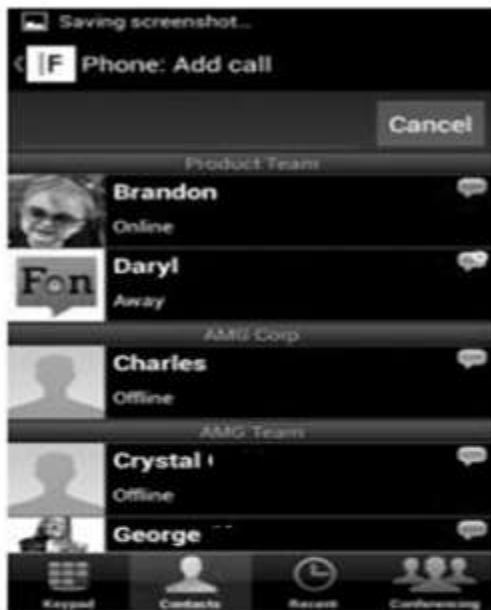


https://www.fonality.com/hubfs/Guides/UG_HUDWeb.pdf



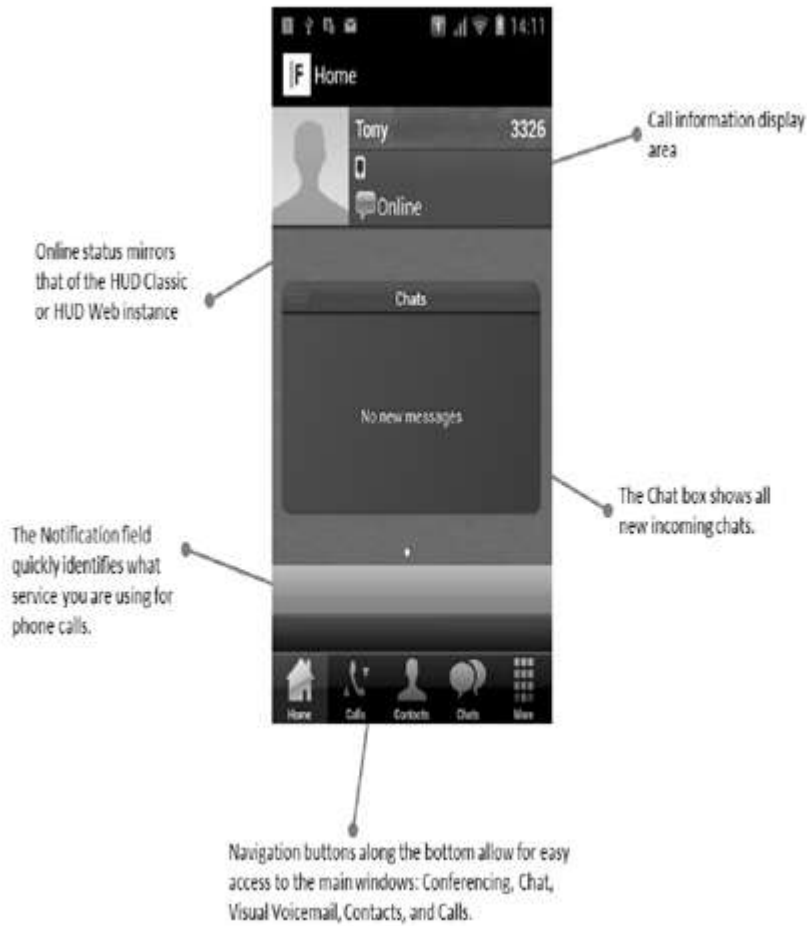
Once on the log in screen enter your username and password.

Once you have entered your username and password credentials, HUD mobile will perform the "First Sync" with your server, linking data between HUD mobile and HUD at your office. Once the data sync is complete (approximately 1 minute), HUD Mobile will possess the same contacts and permissions you have on HUD Desktop.



Contacts

Select from a list of contacts, then press on contact entry to initiate call.



22. Defendant's actions complained of herein will continue unless Defendant is

enjoined by this court.

23. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

24. Plaintiff is in compliance with 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

(a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;

(b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receive notice of the order from further infringement of United States Patent No. 7,367,044 (or, in the alternative, awarding Plaintiff a running royalty from the time of judgment going forward);

(c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;

(d) Award Plaintiff pre-judgment and post-judgment interest and costs; and

(e) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: October 19, 2017

Respectfully submitted,

/s/ Jay Johnson

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ATTORNEYS FOR PLAINTIFF

EXHIBIT A