

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

**WSOU INVESTMENTS, LLC d/b/a
BRAZOS LICENSING AND
DEVELOPMENT,**

Plaintiff,

v.

SALESFORCE.COM, INC.,

Defendant.

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CIVIL ACTION NO. 6:20-cv-1168

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development (“Brazos” or “Plaintiff”), by and through its attorneys, files this Complaint for Patent Infringement against Defendant Salesforce.com, Inc. (“Salesforce”) and alleges:

NATURE OF THE ACTION

1. This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, et seq., including §§ 271, 281, 284, and 285.

THE PARTIES

1. Brazos is a limited liability corporation organized and existing under the laws of Delaware, with its principal place of business at 606 Austin Avenue, Suite 6, Waco, Texas 76701.

2. Defendant Salesforce is a corporation organized and existing under the laws of Delaware that maintains an established place of business at 415 Mission Street, 3rd Floor, San Francisco, California 94105.

JURISDICTION AND VENUE

3. This is an action for patent infringement which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§271, 281, 284, and 285.

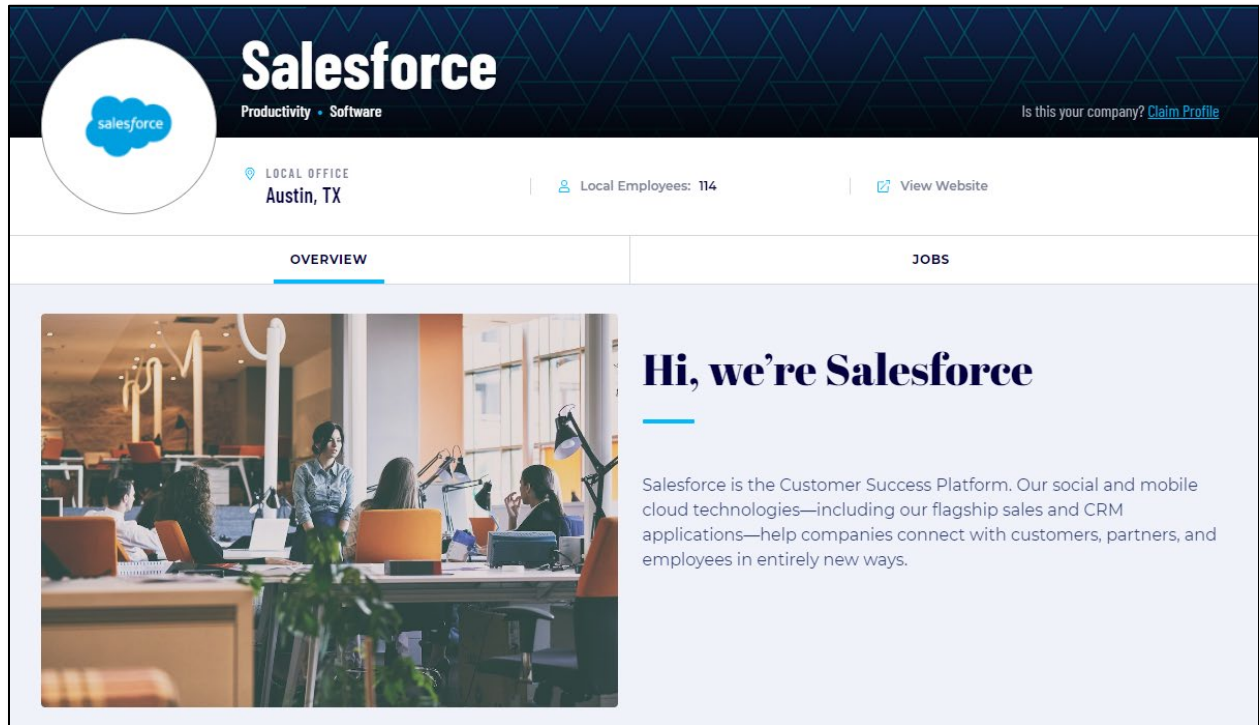
4. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has specific and general personal jurisdiction over Defendant pursuant to due process and/or the Texas Long Arm Statute because Defendant has committed acts giving rise to this action within Texas and within this judicial district. The Court's exercise of jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice because Salesforce has established minimum contacts with the forum. For example, on information and belief, Defendant has committed acts of infringement in this judicial district, by among other things, selling and offering for sale products that infringe the asserted patent, directly or through intermediaries, as alleged herein.

6. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§1391 and 1400(b) because Defendant has committed acts of infringement in this judicial district and has regular and established places of business in this judicial district and in Texas. As non-limiting examples, on information and belief, Defendant uses office space in Austin for client meetings. Salesforce has more than 300 employees that work in this judicial district, including employees working in the cities of Waco, Austin, and San Antonio. The titles of said employees include "Vice President," "Principal Architect," and "Senior Director."

7. Upon information and belief, the majority of Salesforce's nationwide workforce is working from home and will continue to be allowed to do so until at least August of 2021. Upon information and belief, some of the Salesforce employees working in the Western District utilize

their home as a principal place of business for Salesforce. Additionally, such employees are allowed to advertise that they are, for example, an Austin Salesforce employee. Because of such representations, local magazines advertise Salesforce as having a place of business in Austin.



Source: <https://www.builtinaustin.com/company/salesforce>

COUNT ONE - INFRINGEMENT OF U.S. PATENT NO. 8391892

1. Brazos re-alleges and incorporates by reference the preceding paragraphs of this Complaint.

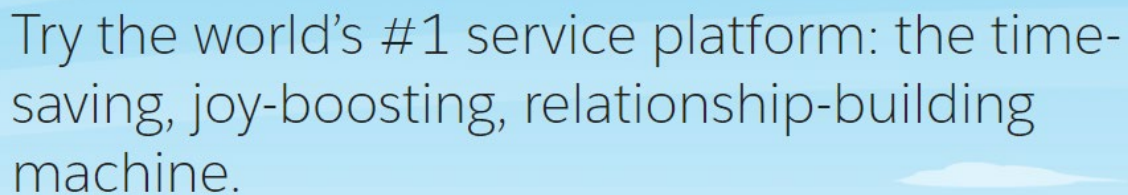
2. On March 5, 2013, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,391,892 (“the ‘892 Patent”), entitled “Method of providing access to presence related information.” A true and correct copy of the ‘892 Patent is attached as Exhibit A to this Complaint.

3. Brazos is the owner of all rights, title, and interest in and to the ‘892 Patent, including the right to assert all causes of action arising under the ‘892 Patent and the right to any

remedies for the infringement of the '892 Patent.

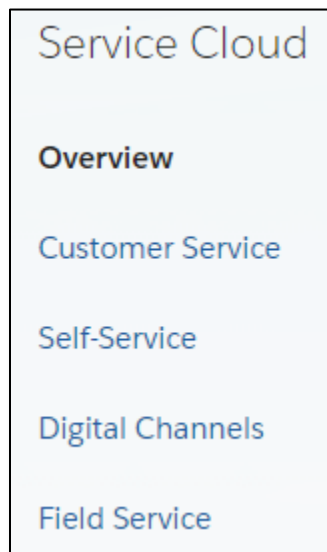
4. Salesforce makes, uses, sells, offers for sale, imports, and/or distributes in the United States, including within this judicial district, products such as, but not limited to, Salesforce Service Cloud (collectively, the “Accused Products”).

5. Salesforce Service Cloud is a customer relationship management (CRM) platform for customer service and support for sales professionals. Service Cloud provides various services such as customer service, self-service, digital channels, and field service.

A light blue rectangular box with a thin black border. Inside, the text "Try the world's #1 service platform: the time-saving, joy-boosting, relationship-building machine." is written in a dark blue, sans-serif font. A small, stylized white cloud is visible in the bottom right corner of the box.

Try the world's #1 service platform: the time-saving, joy-boosting, relationship-building machine.

Source: <https://www.salesforce.com/products/service-cloud/overview/>, Page 1.



Source: <https://www.salesforce.com/products/service-cloud/overview/>, Page 1.

6. Service Cloud digital channel enables users to reach customers across every digital

channel such as mobile messaging, web chat, social networks, and more. Webchat enables the team members to connect with customers in real-time with chat software on either the Salesforce website or the app.

Deliver smarter support on your customers' terms, time frame, and channel.

Be everywhere your customers are with Service Cloud Digital Engagement. Reach customers across every digital channel – including mobile messaging, web chat, social networks, and more – to provide a seamless service experience all on the #1 platform for service.

Source: <https://www.salesforce.com/products/service-cloud/tools/>, Page 1.

Embed real-time support on your website and in your apps with Chat.

Don't lose customers over confusion or questions. Support your customers and prospects while they're still on your site or in your app with real-time, live chat software.

Source: <https://www.salesforce.com/products/service-cloud/features/live-agent/>, Page 1.

7. Salesforce Service Cloud stores the information regarding its users on Salesforce servers. The users can be the calling agents, and the information stored can be their availability statuses to chat with customers.

STATUS	DESCRIPTION
Online	You can receive and accept incoming chats and transfers.
Away	You can continue any chat sessions you've already started, but you can't accept incoming chats or transfers.
Offline	You can't accept incoming chats or transfers, and no chats can be routed to you.

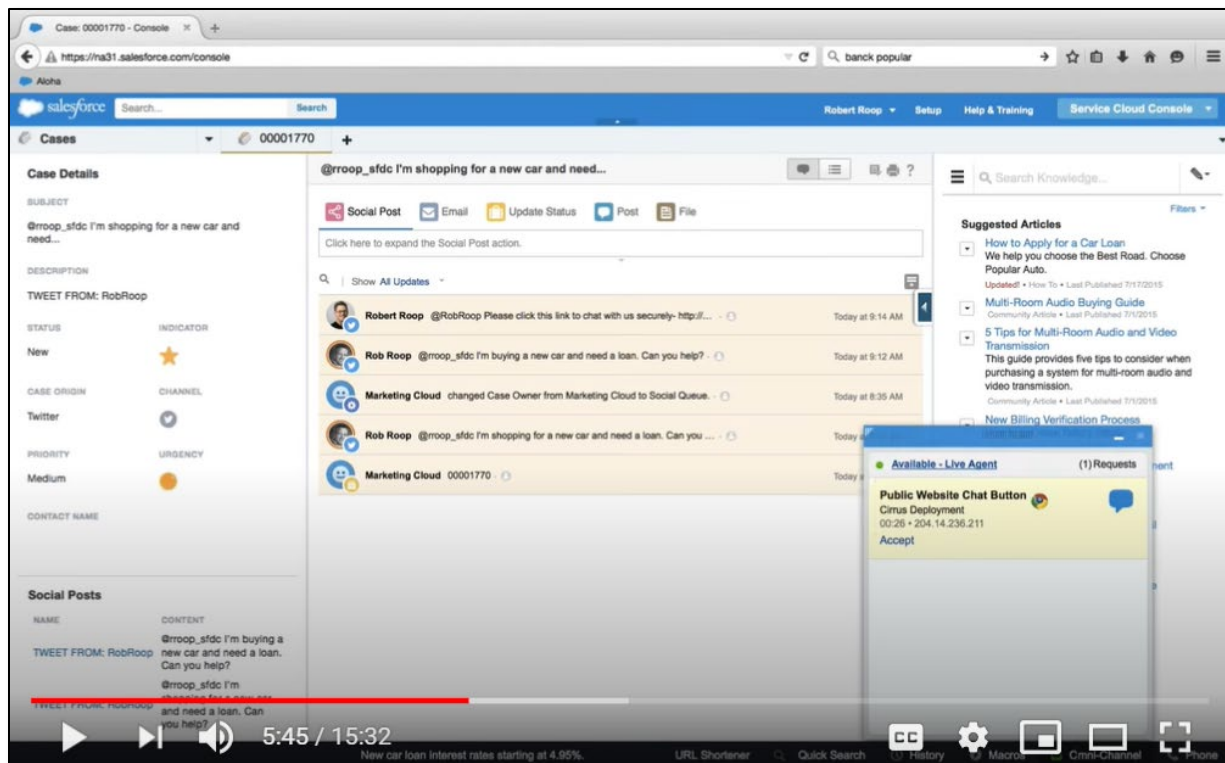
Source: https://help.salesforce.com/articleView?id=live_agent_statuses.htm&type=5, Page 1.

8. Salesforce Service Cloud chat service enables customers to request a company's agent. Based on availability, the agent can either accept or decline to communicate with the

customer.

<p>Get personalized, real-time help online or in your apps.</p> <p>Start personalized live chats, in-app or online, with your customers based on how they're using your site. Deliver chat around the globe with multilingual support. And scale your customer support with AI-powered chatbots that help answer routine asks.</p>	<p>Connect your agents and increase productivity.</p> <p>By connecting each live chat with a complete customer profile for context, agents can move quickly using customer chat sneak peek, keyboard shortcuts, and prewritten messages. Plus, routing chats to the right agents is easy.</p>	<p>Improve your team, improve your customer service.</p> <p>Get the most out of your team by coaching agents in real time with private messages. You can also monitor their queues, balance workloads, tap into metrics, and use instant messaging sessions. That's the power of Chat.</p>
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Source: <https://www.salesforce.com/products/service-cloud/features/live-agent/>, Page 1.



Source: <https://www.youtube.com/watch?v=zZgE0h6UYRs>.

In Chat, you can set your online status to online, away, or offline. When you exit Chat, your status automatically changes to offline and any active chat sessions end.

1. Click the Chat footer or Omni-Channel window to open the chat monitor.
2. Click the drop-down arrow in the upper right corner of the chat monitor to view your status options.
3. Select your status.

Source: https://help.salesforce.com/articleView?id=live_agent_change_status.htm&type=5, Page 1.

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Source: https://help.salesforce.com/articleView?id=live_agent_statuses.htm&type=5, Page 1.

When you receive a new chat or transfer request, the pending request appears in your chat monitor. You can see the deployment or website the chat came from, the customer's name (if it's available), and the number of minutes the request has been waiting to be answered.

You can chat with several customers at the same time. Each chat sessions opens in a separate primary tab.

1. In the chat monitor, click **Accept** on the chat request.
The chat log opens in a new primary tab.
2. Type your message to the customer in the message field.
3. Click **Send** or hit ENTER on your keyboard to send your message to the customer.
4. Click **End Chat** when you're done assisting the customer.
If the customer ends the chat first, a notice appears in the chat log.

Source:
https://help.salesforce.com/articleView?id=live_agent_chat_with_customers.htm&type=5, Page 1.

9. In Salesforce Service Cloud, an agent can block a customer. For example, if a customer is using abusive language, the agent can block the customer from providing a chat request. Blocking a chat blocks any new chat requests coming from that user's IP (Internet Protocol) address. When a customer is blocked, the customer's IP address is added to the blocked list (pre-defined list), which prevents the customer from initiating a chat request, thereby denying access to the agent based on the blocked list.

You can enable your agents to block chat requests from specified IP addresses while they work in the console. For example, if a customer is using abusive language or sending spam messages, the agent can block that user from starting a new chat.

An agent action can block chats from an individual IP address.

Blocked visitors see a message indicating that chat isn't available.

If a customer attempts to request a chat from a blocked IP address, the chat is canceled. In addition, you can modify or delete blocking rules.

1. From Setup, enter **Chat Configurations** in the Quick Find box, then select **Chat Configurations**.
2. Click **Edit** next to the configuration that you want to modify.
3. Under **Basic Information**, select **Visitor Blocking Enabled**.
4. Click **Save**.

Source:

https://help.salesforce.com/articleView?id=live_agent_block_IPs_admin_enable_agents.htm&type=5#live_agent_block_IPs_admin_enable_agents, Page 1.

You can block chat requests from specified IP addresses. For example, if a customer is using abusive language or sending spam messages, you can block that user from starting a new chat. If your Salesforce org is receiving spam chats from a particular region, you can block entire ranges of IP addresses.

Blocked visitors see a message indicating that chat isn't available.

If a customer attempts to request a chat from a blocked IP address, the chat is canceled. In addition, you can modify or delete blocking rules.

1. From Setup, enter **Block Visitors** in the Quick Find box, then select **Block Visitors**. For guidelines on entering valid IP ranges, see [Set Trusted IP Ranges for Your Organization](#).
2. Click **New** and fill in the parameters of your Blocking Rule.
3. Click **Save**.

Source:

https://help.salesforce.com/articleView?id=live_agent_block_IPs_admin_create_blocking_rule.htm&type=5#live_agent_block_IPs_admin_create_blocking_rule, Page 1.

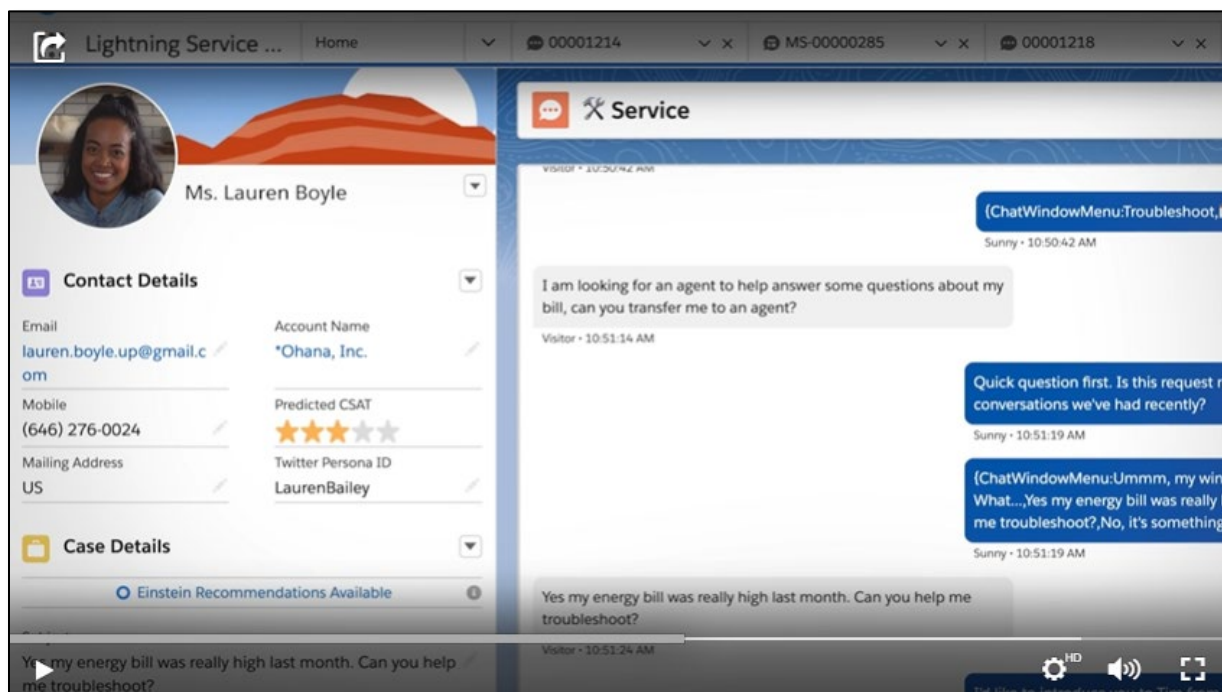
10. Salesforce Service Cloud records the information of the customer each time the customer connects with (i.e. accesses) any agent using webchat. This record is visible to the supervisor of the company and contains information such as customer name, IP, network, and browser.

CUSTOMER DETAIL	DESCRIPTION
Visitor Name	The name of the customer, if available.
IP	The IP address of the customer's device.
Network	The customer's network, if available.
Browser	The type of internet browser the customer is using to connect to their chat window.
City	The city the customer is chatting from.
Country	The country the customer is chatting from.
Duration	The amount of time the customer has been engaged in a chat with the agent.
Action	The actions you can take to view the customer's chat with the agent.

Source:

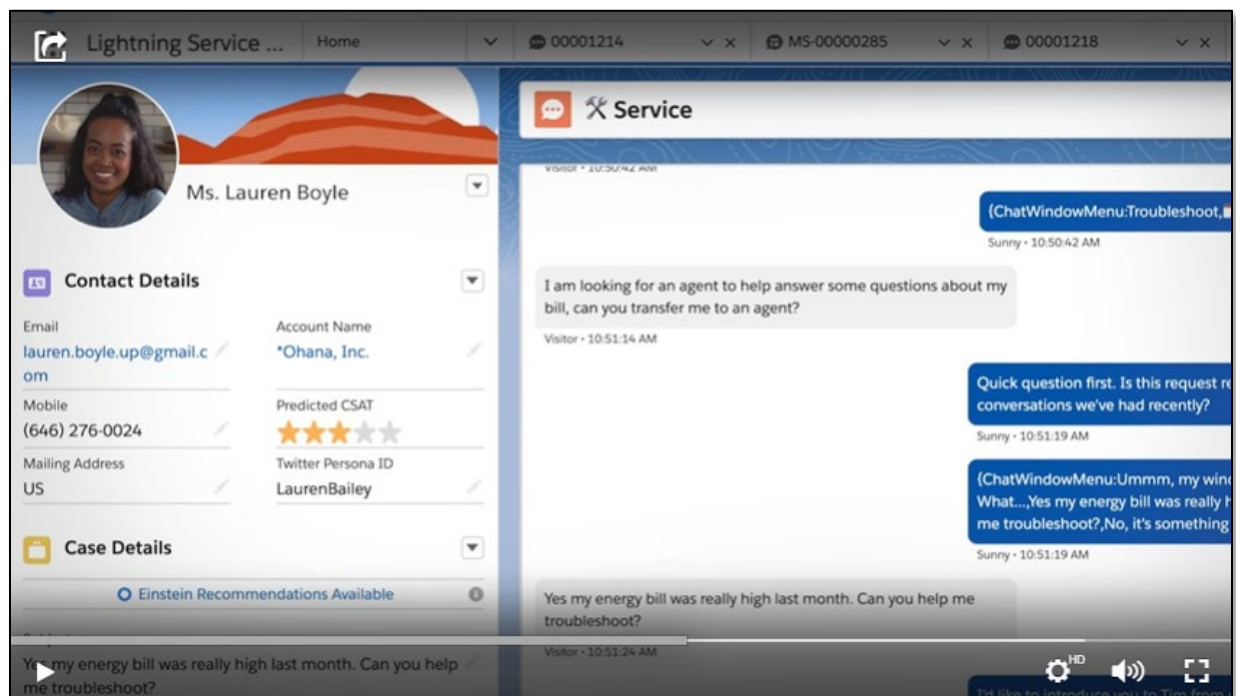
https://help.salesforce.com/articleView?id=live_agent_supervisor_panel_agent_status.htm&type=5, Page 3.

11. The visitor record is also viewable by the agent when the agent communicates with the customer.



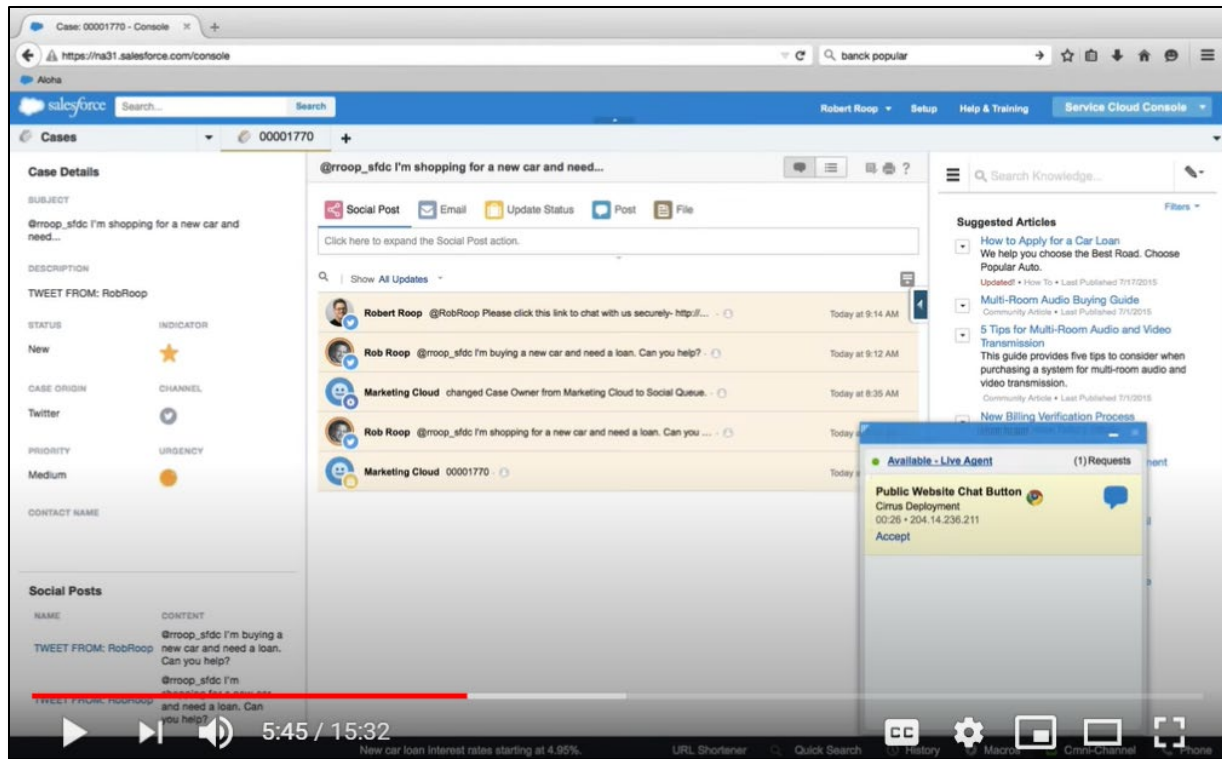
Source: https://www.salesforce.com/form/conf/service-cloud/digital-customer-service-demo?leadcreated=true&redirect=true&chapter=&DriverCampaignId=cta-body-promo-237&player=&FormCampaignId=7010M000002NCNAQA4&videoId=&playlistId=&mcloudHandlingInstructions=&landing_page=, Page 1.

12. In Salesforce Service Cloud, when a customer provides a request to connect with an agent via webchat, the identity information regarding the customer is delivered to the agent's computer (i.e. wireless information terminal).



Source: https://www.salesforce.com/form/conf/service-cloud/digital-customer-service-demo?leadcreated=true&redirect=true&chapter=&DriverCampaignId=cta-body-promo-237&player=&FormCampaignId=7010M000002NCNAQA4&videoId=&playlistId=&mcloudHandlingInstructions=&landing_page=, Page 1.

13. Salesforce Service Cloud records the time when a customer initiates a request to chat with an agent.



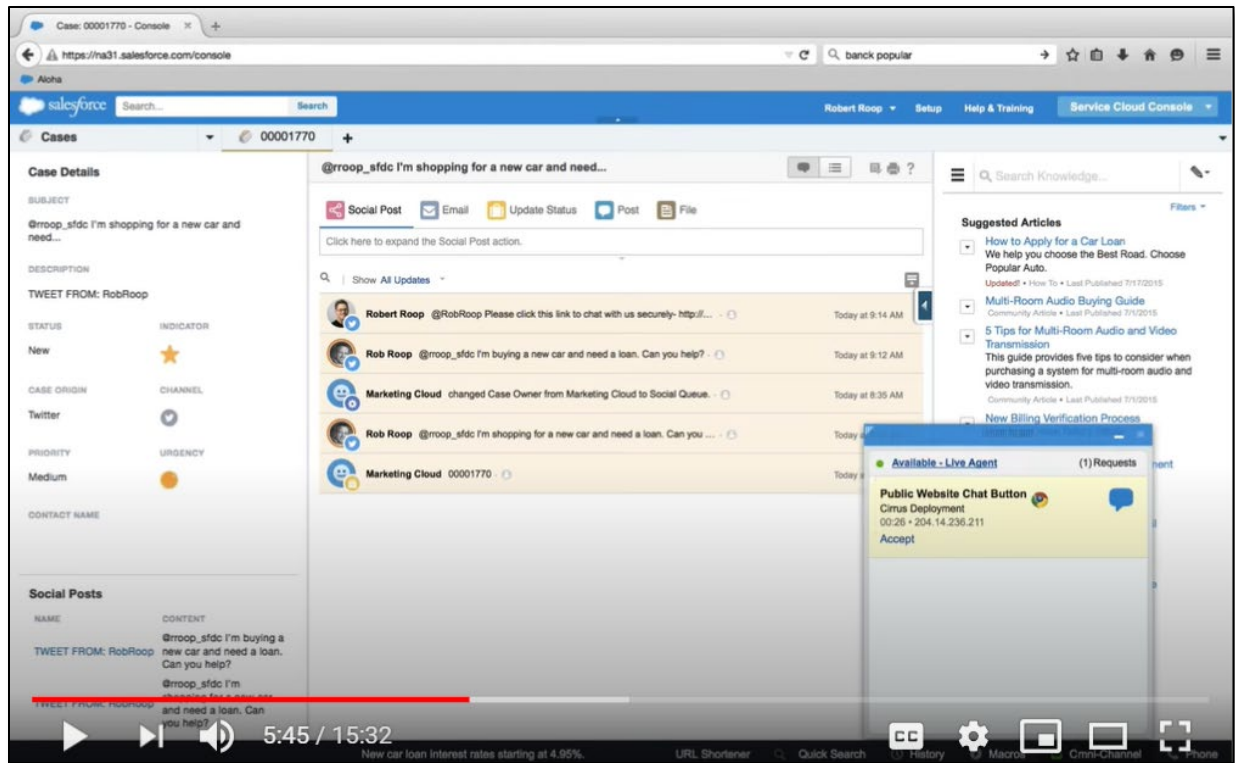
Source: <https://www.youtube.com/watch?v=zZgE0h6UYRs>, 5:45/15:32.

14. In Salesforce Service Cloud, when a customer initiates a request to connect with an agent, the Salesforce Service Cloud records the time the request has been waiting to be answered.

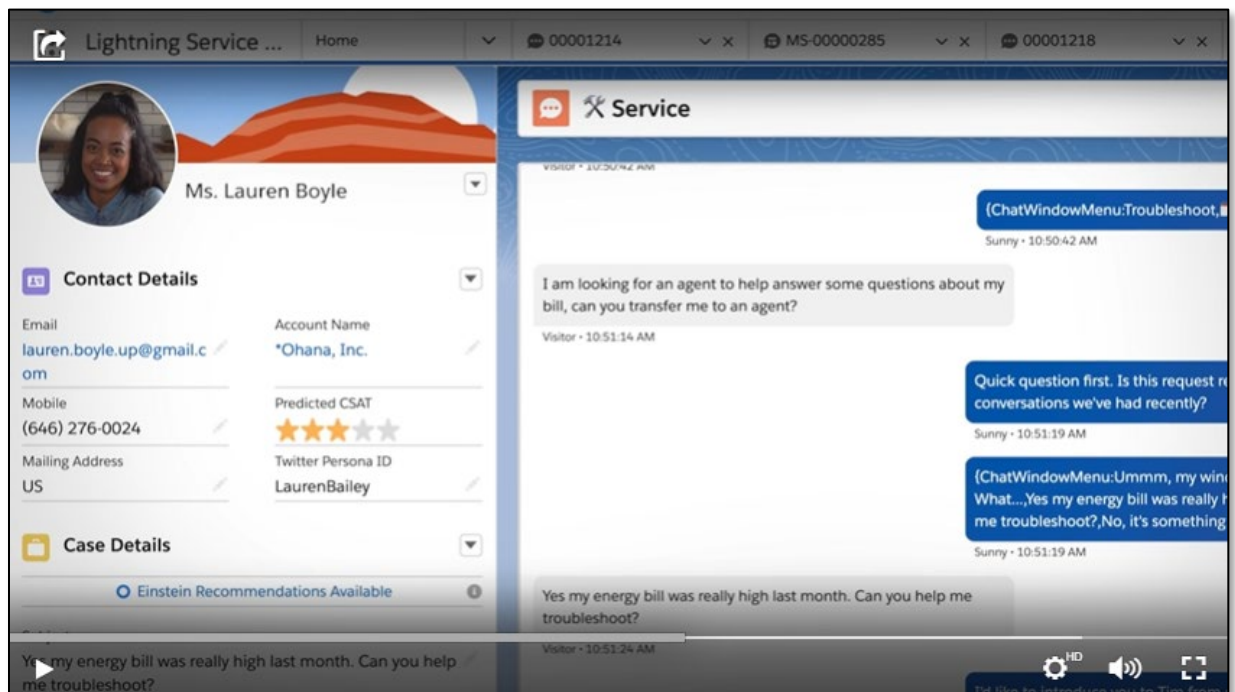
When you receive a new chat or transfer request, the pending request appears in your chat monitor. You can see the deployment or website the chat came from, the customer's name (if it's available), and the number of minutes the request has been waiting to be answered.

Source: https://help.salesforce.com/articleView?id=live_agent_chat_with_customers.htm&type=5#live_agent_block_IPs_admin_enable_agents, Page 1.

15. Salesforce Service Cloud records the information regarding the customer identity, log time of customer request, presence information of the agent (availability), and the selected messaging method (accepting message request). Further, this information is delivered to and displayed on the agent's computer device (e.g., wireless terminal).



Source: <https://www.youtube.com/watch?v=zZgE0h6UYRs>, 5:45/15:32.



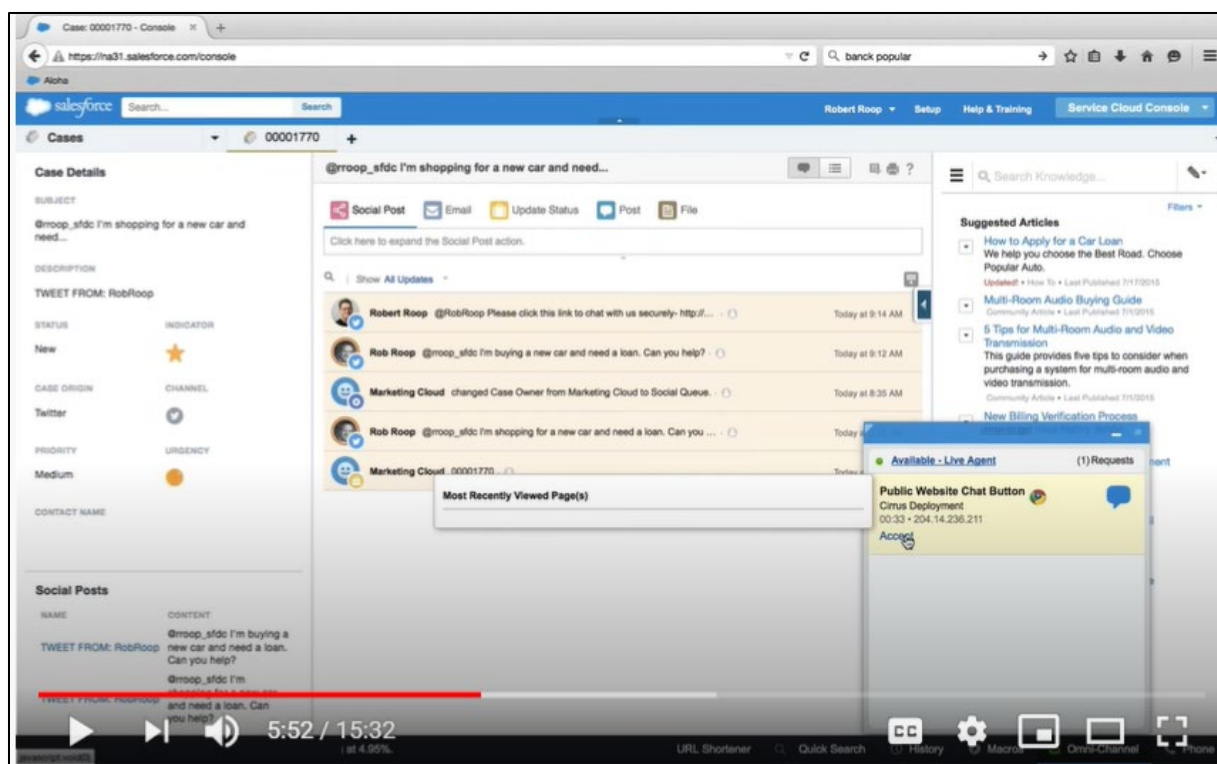
Source: <https://www.salesforce.com/form/conf/service-cloud/digital-customer-service-demo?leadcreated=true&redirect=true&chapter=&DriverCampaignId=cta-body-promo->

[237&player=&FormCampaignId=7010M000002NCNAQA4&videoId=&playlistId=&mcloudHandlingInstructions=&landing_page=](#), Page 1.

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Source: <https://www.youtube.com/watch?v=zZgE0h6UYRs>.

16. In view of preceding paragraphs, each and every element of at least claim 1 of the '892 Patent is found in the Accused Products.

17. Salesforce continues to directly infringe at least one claim of the '892 Patent, literally or under the doctrine of equivalents, by making, using, selling, offering for sale, importing, and/or distributing the Accused Products in the United States, including within this judicial district,

without the authority of Brazos.

18. Salesforce has received notice and actual or constructive knowledge of the '892 Patent since at least the date of service of this Complaint.

19. Since at least the date of service of this Complaint, through its actions, Salesforce has actively induced product makers, distributors, retailers, and/or end users of the Accused Products to infringe the '892 Patent throughout the United States, including within this judicial district, by, among other things, advertising and promoting the use of the Accused Products in various websites, including providing and disseminating product descriptions, operating manuals, and other instructions on how to implement and configure the Accused Products. Examples of such advertising, promoting, and/or instructing include the documents at:

- <https://www.salesforce.com/products/service-cloud/overview/>
- <https://www.salesforce.com/products/service-cloud/tools/>
- <https://www.salesforce.com/products/service-cloud/features/live-agent/>
- https://help.salesforce.com/articleView?id=live_agent_statuses.htm&type=5
- <https://www.youtube.com/watch?v=zZgE0h6UYRs>
- https://help.salesforce.com/articleView?id=live_agent_block_IPs_admin_enable_agents.htm&type=5#live_agent_block_IPs_admin_enable_agents
- https://help.salesforce.com/articleView?id=live_agent_block_IPs_admin_create_blocking_rule.htm&type=5#live_agent_block_IPs_admin_create_blocking_rule
- https://help.salesforce.com/articleView?id=live_agent_supervisor_panel_agent_status.htm&type=5
- https://www.salesforce.com/form/conf/service-cloud/digital-customer-service-demo?leadcreated=true&redirect=true&chapter=&DriverCampaignId=cta-body-promo-237&player=&FormCampaignId=7010M000002NCNAQA4&videoId=&playlistId=&mc_loudHandlingInstructions=&landing_page=
- https://help.salesforce.com/articleView?id=live_agent_chat_with_customers.htm&type=5#live_agent_block_IPs_admin_enable_agents

- https://help.salesforce.com/articleView?id=live_agent_change_status.htm&type=5
- https://help.salesforce.com/articleView?id=live_agent_chat_with_customers.htm&type=5

20. Since at least the date of service of this Complaint, through its actions, Salesforce has contributed to the infringement of the ‘892 Patent by having others sell, offer for sale, or use the Accused Products throughout the United States, including within this judicial district, with knowledge that the Accused Products infringe the ‘892 Patent. The Accused Products are especially made or adapted for infringing the ‘892 Patent and have no substantial non-infringing use. For example, in view of the preceding paragraphs, the Accused Products contain functionality which is material to at least one claim of the ‘892 Patent.

JURY DEMAND

Brazos hereby demands a jury on all issues so triable.

REQUEST FOR RELIEF

WHEREFORE, Brazos respectfully requests that the Court:

(A) Enter judgment that Salesforce infringes one or more claims of the ‘892 Patent literally and/or under the doctrine of equivalents;

(B) Enter judgment that Salesforce has induced infringement and continues to induce infringement of one or more claims of the ‘892 Patent;

(C) Enter judgment that Salesforce has contributed to and continues to contribute to the infringement of one or more claims of the ‘892 Patent;

(D) Award Brazos damages, to be paid by Salesforce in an amount adequate to compensate Brazos for such damages, together with pre-judgment and post-judgment interest for the infringement by Salesforce of the ‘892 Patent through the date such judgment is entered in accordance with 35 U.S.C. § 284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. § 284;

(E) Declare this case exceptional pursuant to 35 U.S.C. § 285; and

(F) Award Brazos its costs, disbursements, attorneys' fees, and such further and additional relief as is deemed appropriate by this Court.

Dated: December 18, 2020

Respectfully submitted,

/s/ James L. Etheridge

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Texas State Bar No. 24059147

Ryan S. Loveless

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