

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SMARTER AGENT, LLC, a)	
Delaware limited liability company,)	
)	
Plaintiff,)	C.A. No. _____
)	
v.)	JURY TRIAL DEMANDED
)	
BOOPSIE, INC.,)	
CLASSIFIED VENTURES, LLC,)	
HOTPADS, INC.,)	
IDX, INC.,)	
MOVE, INC.,)	
REALSELECT, INC.,)	
MULTIFAMILY TECHNOLOGY)	
SOLUTIONS, INC., d/b/a MYNEWPLACE,)	
PRIMEDIA, INC.,)	
CONSUMER SOURCE, INC.)	
TRSOFT, Inc., d/b/a PLANETRE,)	
TRULIA, INC.,)	
ZILLOW, INC., and)	
ZIPREALTY, INC.,)	
)	
Defendants.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Smarter Agent, LLC (“Plaintiff” or “Smarter Agent”), by and through its undersigned counsel, files this Complaint against Boopsie, Inc., Classified Ventures, LLC, HotPads, Inc., IDX, Inc., Move, Inc., RealSelect, Inc., Multifamily Technology Solutions, Inc. d/b/a MyNewPlace, Primedia, Inc., Consumer Source, Inc., TRSoft d/b/a planetRE, Trulia, Inc., Zillow, Inc., and ZipRealty, Inc. (collectively “Defendants”) alleges as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to stop each Defendant's infringement of United States Patent Nos. 6,385,541 entitled "Global positioning-based real estate database access device and method" ("the '541 patent"; a copy of which is attached hereto as Exhibit A), United States Patent No. 6,496,776 entitled "Position-based information access device and method" ("the '776 patent"; a copy of which is attached hereto as Exhibit B) and United States Patent No. 7,072,665 entitled "Position-based information access device and method of searching" ("the '665 patent"; a copy of which is attached hereto as Exhibit C). The '541, '776 and '665 patents may be collectively referred to as the "patents-in-suit." Smarter Agent is the legal owner of the patents-in-suit. Smarter Agent seeks injunctive relief and monetary damages.

THE PARTIES

2. Plaintiff Smarter Agent is a limited liability company organized and existing under the laws of the State of Delaware. Smarter Agent maintains its principal place of business at Waterfront Technology Center, 200 Federal Street, Suite 300, Camden, New Jersey 08103. Smarter Agent is the legal owner of the patents-in-suit, including the right to sue for infringement and recover past damages.

3. Upon information and belief, Boopsie, Inc. ("Boopsie") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 464 Linden Street, Laguna Beach, California 92651.

4. Upon information and belief, Classified Ventures, LLC ("Classified Ventures") is a limited liability company organized and existing under the

laws of the State of Delaware, with its principal place of business located at 175 W. Jackson Boulevard, Chicago, Illinois 60604.

5. Upon information and belief, HotPads, Inc. (“HotPads”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 1054 31st Street NW, Washington, DC 20007.

6. Upon information and belief, IDX, Inc. (“IDX”), is a corporation organized and existing under the laws of the State of Oregon, with its principal place of business located at PO Box 71866, Eugene, Oregon 97401.

7. Upon information and belief, Move, Inc. (“Move”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 910 East Hamilton Avenue, Campbell, California 95008.

8. Upon information and belief, RealSelect, Inc. (“RealSelect”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 30700 Russell Ranch Road, Westlake Village, California 91362. Upon information and belief, RealSelect is a subsidiary of Move.

9. Upon information and belief, Multifamily Technology Solutions, Inc. d/b/a MyNewPlace (“MyNewPlace”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 343 Sansome Street, Suite 700, San Francisco, California 94104.

10. Upon information and belief, Primedia, Inc. (“Primedia”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 3585 Engineering Drive, Suite 100, Norcross, Georgia 30092.

11. Upon information and belief, Consumer Source, Inc. (“Consumer Source”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 3585 Engineering Drive, Suite 100, Norcross, Georgia 30092. Upon information and belief, Consumer Source, Inc. is a wholly owned subsidiary of Primedia, Inc.

12. Upon information and belief, TRSoft, Inc. d/b/a planetRE (“planetRE”) is a corporation organized and existing under the laws of the State of California, with its principal place of business located at 2770 Glauser Drive, San Jose, California 95133.

13. Upon information and belief, Trulia, Inc. (“Trulia”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 500 Treat Avenue, San Francisco, California 94110.

14. Upon information and belief, Zillow, Inc. (“Zillow”) is a corporation organized and existing under the laws of the State of Washington, with its principal place of business located at 999 3rd Avenue, Suite 4100, Seattle, Washington 98104.

15. Upon information and belief, ZipRealty, Inc. (“ZipRealty”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 2000 Powell Street, Suite 300, Emeryville, California 94608.

JURISDICTION AND VENUE

16. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. § 271, 281-285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

17. Upon information and belief, Defendants have transacted business and committed acts of infringement within the State of Delaware and the District of Delaware and are subject to the personal jurisdiction of this Court.

18. Upon information and belief, each Defendant has offered for sale, sold or made available software for use with a mobile device that, *inter alia*, enables a user to access information relating to real estate.

19. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b).

20. Defendants reside in this District for the purposes of venue, insofar as they are subject to the personal jurisdiction of this District, have committed acts of infringement in this District, solicit business in this District, provide services in this District, encourage others to practice infringing methods in this District and conduct other business in this District.

BACKGROUND

21. On May 7, 2002, the United States Patent and Trademark Office duly and legally issued the '541 patent. The '541 patent is in full force and effect. Smarter Agent is the legal owner of the '541 patent and possesses all rights of recovery under the '541 patent.

22. On December 17, 2002, the United States Patent and Trademark Office duly and legally issued the '776 patent. The '776 patent is in full force and effect. Smarter Agent is the legal owner of the '776 patent and possesses all rights of recovery under the '776 patent.

23. On July 4, 2006, the United States Patent and Trademark Office duly and legally issued the '665 patent. The '665 patent is in full force and effect. Smarter Agent is the legal owner of the '665 patent and possesses all rights of recovery under the '665 patent.

24. Smarter Agent was founded by two brothers that developed and perfected the core technologies of the patents-in-suit.

25. Those technologies covered by the patents-in-suit enable users to access information relating to real estate via a mobile device.

26. Smarter Agent creates and offers mobile real estate applications incorporating the technology of the patents-in-suit.

27. The marketplace has long recognized the value of Smarter Agent's inventions, including the patents-in-suit.

28. Upon information and belief, Boopsie has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Boopsie has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation,

Boopsie distributes and supports an application for mobile telephones entitled “Boopsie for Real Estate” which provides real estate information to a user. The application may be operated on, for example, a Research In Motion (RIM) Blackberry.

29. Upon information and belief, Classified Ventures has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Classified Ventures has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, Classified Ventures distributes and supports an application for mobile telephones entitled “Apartments.com” which provides real estate information to a user. The “Apartments.com” application may be operated on, for example, an Apple iPhone.

30. Upon information and belief, HotPads has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. HotPads has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, HotPads distributes and supports an application for mobile telephones entitled “hotpads.com” which provides real estate information to a user. The application may be operated on, for example, an Apple iPhone.

31. Upon information and belief, IDX has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. IDX has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, IDX distributes and supports an application for mobile telephones entitled “myAgent by IDX” which provides real estate information to a user. The “myAgent by IDX” application may be operated on, for example, an Apple iPhone.

32. Upon information and belief, Move and RealSelect have infringed and continue to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Move and RealSelect have also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, Move and RealSelect operate a website accessible at iphone.realtor.com which provides real estate information to a user of an Apple iPhone.

33. Upon information and belief, MyNewPlace has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States.

MyNewPlace has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, MyNewPlace distributes and supports an application for mobile telephones entitled “MyNewPlace” which provides real estate information to a user. The application may be operated on, for example, an Apple iPhone.

34. Upon information and belief, Primedia and Consumer Source have infringed and continue to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Primedia and Consumer Source have also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, Primedia and Consumer Source distribute and support an application for mobile telephones entitled “Apartment guide” which provides real estate information to a user. The “Apartment guide” application may be operated on, for example, an Apple iPhone.

35. Upon information and belief, planetRE has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. planetRE has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this

District and elsewhere in the United States. By way of example and not limitation, planetRE provides “Mobile Websites from planetRE,” Internet websites accessible by mobile telephones which provide real estate information to a user. The websites may be accessed by, for example, an Apple iPhone.

36. Upon information and belief, Trulia has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Trulia has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, Trulia distributes and supports an application for mobile telephones entitled “trulia” which provides real estate information to a user. The application may be operated on, for example, an Apple iPhone.

37. Upon information and belief, Zillow has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Zillow has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, Zillow distributes and supports an application for mobile telephones entitled “Zillow Real

Estate” which provides real estate information to a user. The application may be operated on, for example, an Apple iPhone.

38. Upon information and belief, ZipRealty has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. ZipRealty has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, ZipRealty distributes and supports an application for mobile telephones entitled “ZipRealty” which provides real estate information to a user. The application may be operated on, for example, an Apple iPhone.

39. Upon information and belief, the Defendants derive revenue from their infringing products and services by, for example, selling advertisements displayed via their infringing products and services and/or receiving compensation for lead generation from their infringing products and services and/or selling or licensing the use of their infringing products and services.

FIRST CLAIM FOR RELIEF
INFRINGEMENT OF THE ‘541 PATENT

40. Smarter Agent repeats and incorporates by reference each of the allegations set forth in Paragraphs 1-39 above as if fully set forth herein.

41. The Defendants have infringed and continue to infringe, directly, contributorily and/or by inducement, one or more claims of the ‘541 patent, including at least Claim 1 of the ‘541 patent, by making, using, importing, providing, offering to sell,

and selling (directly or through intermediaries), infringing products and/or services that incorporate the inventions claimed in the '541 patent.

42. Each Defendant's aforesaid activities have been without authority and/or license from Smarter Agent.

43. Smarter Agent is entitled to recover from the Defendants the damages sustained by Smarter Agent as a result of the Defendants' wrongful acts in an amount subject to proof at trial.

44. Smarter Agent is entitled to temporary and permanent injunctions enjoining each of the Defendants from infringing the '541 patent directly, contributorily and/or by inducement.

45. Upon information and belief, the infringement of one or more claims of the patents-in-suit by Classified Ventures, Move, RealSelect, Primedia, Consumer Source, Trulia, Zillow and ZipRealty is willful and deliberate. Upon information and belief, the inducement and contributory infringement of one or more claims of the patents-in-suit by Classified Ventures, Move, RealSelect, Primedia, Consumer Source, Trulia, Zillow and ZipRealty is willful and deliberate. As a result, Smarter Agent is entitled to increased damages under 35 U.S.C. § 284 and to attorney fees and costs incurred in prosecuting this action under 35 U.S.C. § 285 with respect to these defendants.

46. Defendants' infringement of Smarter Agent's exclusive rights under one or more of the patents-in-suit will continue to damage Smarter Agent, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

SECOND CLAIM FOR RELIEF
INFRINGEMENT OF THE '776 PATENT

47. Smarter Agent repeats and incorporates by reference each of the allegations set forth in Paragraphs 1-46 above as if fully set forth herein.

48. The Defendants have infringed and continue to infringe, directly, contributorily and/or by inducement, one or more claims of the '776 patent, including at least Claim 1 of the '776 patent, by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services that incorporate the inventions claimed in the '776 patent.

49. Each Defendant's aforesaid activities have been without authority and/or license from Smarter Agent.

50. Smarter Agent is entitled to recover from the Defendants the damages sustained by Smarter Agent as a result of the Defendants' wrongful acts in an amount subject to proof at trial.

51. Smarter Agent is entitled to temporary and permanent injunctions enjoining each of the Defendants from infringing the '776 patent directly, contributorily and/or by inducement.

52. Upon information and belief, the infringement of one or more claims of the patents-in-suit by Classified Ventures, Move, RealSelect, Primedia, Consumer Source, Trulia, Zillow and ZipRealty is willful and deliberate. Upon information and belief, the inducement and contributory infringement of one or more claims of the patents-in-suit by Classified Ventures, Move, RealSelect, Primedia, Consumer Source, Trulia, Zillow and ZipRealty is willful and deliberate. As a result, Smarter Agent is entitled to increased damages under 35 U.S.C. § 284 and to attorney

fees and costs incurred in prosecuting this action under 35 U.S.C. § 285 with respect to these defendants.

53. Defendants' infringement of Smarter Agent's exclusive rights under one or more of the patents-in-suit will continue to damage Smarter Agent, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

THIRD CLAIM FOR RELIEF
INFRINGEMENT OF THE '665 PATENT

54. Smarter Agent repeats and incorporates by reference each of the allegations set forth in Paragraphs 1-53 above as if fully set forth herein.

55. The Defendants have infringed and continue to infringe, directly, contributorily and/or by inducement, one or more claims of the '665, including at least Claim 1 of the '665 patent, patent by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services that incorporate the inventions claimed in the '665 patent.

56. Each Defendant's aforesaid activities have been without authority and/or license from Smarter Agent.

57. Smarter Agent is entitled to recover from the Defendants the damages sustained by Smarter Agent as a result of the Defendants' wrongful acts in an amount subject to proof at trial.

58. Smarter Agent is entitled to temporary and permanent injunctions enjoining each of the Defendants from infringing the '665 patent directly, contributorily and/or by inducement.

59. Upon information and belief, the infringement of one or more claims of the patents-in-suit by Classified Ventures, Move, RealSelect, Primedia, Consumer Source, Trulia, Zillow and ZipRealty is willful and deliberate. Upon information and belief, the inducement and contributory infringement of one or more claims of the patents-in-suit by Classified Ventures, Move, RealSelect, Primedia, Consumer Source, Trulia, Zillow and ZipRealty is willful and deliberate. As a result, Smarter Agent is entitled to increased damages under 35 U.S.C. § 284 and to attorney fees and costs incurred in prosecuting this action under 35 U.S.C. § 285 with respect to these defendants.

60. Defendants' infringement of Smarter Agent's exclusive rights under one or more of the patents-in-suit will continue to damage Smarter Agent, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

A. A declaration that each of the Defendants has infringed the '541, '776 and '665 patents;

B. An award of temporary and permanent injunctions enjoining each of the Defendants, and its agents, servants, officers, directors, employees and persons or entities acting in concert with Defendants, from infringing directly or indirectly, inducing others to infringe and/or contributing to the infringement of the '541, '776 and '665 patents;

C. A declaration that the Defendants' infringement has been and is willful;

D. That Defendants account for and pay Smarter Agent the damages necessary to compensate it for Defendants' infringement of the '541, '776 and '665 patents pursuant to 35 U.S.C. § 284;

E. An award to Smarter Agent for enhanced damages for the willful infringement of the '541, '776 and '665 patents pursuant to 35 U.S.C. § 284;

F. An award to Smarter Agent of its attorney fees, costs, expert witness fees and expenses incurred by Smarter Agent in connection with this action pursuant to 35 U.S.C. § 285;

G. Pre-judgment and post-judgment interest; and

H. Any other and further relief that the Court deems equitable and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all issues triable of right by a jury.

**BOUCHARD MARGULES &
FRIEDLANDER, P.A.**

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**ATTORNEYS FOR PLAINTIFF
SMARTER AGENT, LLC**

Dated: March 26, 2010