

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

<b>RONALD A. KATZ TECHNOLOGY LICENSING, L.P.,</b>	)	
	)	<b>CASE NO.</b> _____
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>JUDGE</b>
<b>v.</b>	)	
	)	<b><u>COMPLAINT FOR PATENT</u></b>
<b>CINCINNATI BELL, INC.,</b>	)	<b><u>INFRINGEMENT</u></b>
<b>CINCINNATI BELL WIRELESS LLC,</b>	)	
<b>FIRSTMERIT CORP.,</b>	)	<b>(DEMAND FOR JURY TRIAL)</b>
<b>FIRSTMERIT BANK, N.A., and</b>	)	
<b>FIRSTMERIT MORTGAGE CORP.</b>	)	
	)	
<b>DEFENDANTS.</b>	)	

Plaintiff, Ronald A. Katz Technology Licensing, L.P. (“Katz Technology Licensing”), by counsel, alleges as follows:

**THE PARTIES**

1. Plaintiff Katz Technology Licensing is a limited partnership organized under the laws of the State of California, and having a principal place of business at 9220 Sunset Blvd. #315, Los Angeles, CA 90069.
2. On information and belief, Defendant Cincinnati Bell, Inc. is an Ohio entity maintaining its principal place of business at 221 East Fourth Street, Cincinnati, OH 45202.
3. On information and belief, Defendant Cincinnati Bell Wireless LLC is an Ohio entity maintaining its principal place of business at 221 East Fourth Street, Cincinnati, OH 45202.
4. On information and belief, Defendant FirstMerit Corp. is an Ohio entity maintaining its principal place of business at III Cascade Plaza, 7<sup>th</sup> Floor, Akron, OH 44308.

5. On information and belief, Defendant FirstMerit Bank, N.A. is an Ohio entity maintaining its principal place of business at 106 South Main Street, Akron, OH 44308.

6. On information and belief, Defendant FirstMerit Mortgage Corp. is an Ohio entity maintaining its principal place of business in Canton, Ohio.

### **JURISDICTION AND VENUE**

7. This is a civil action for patent infringement arising under the United States patent statutes, 35 U.S.C. § 1 *et seq.*

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

9. Upon information and belief, Defendants Cincinnati Bell, Inc. and Cincinnati Bell Wireless LLC (collectively, the “Cincinnati Bell defendants”) are subject to this Court’s personal jurisdiction because they do and have done substantial business in this judicial district, including: (i) operating infringing automated telephone call processing systems, including without limitation customer service systems, voicemail systems, and teleconferencing systems, that allow their customers, including customers within this State and in this District, to perform various functions and obtain various services over the telephone, including without limitation completing account payments, obtaining account information, using voicemail services, and participating in teleconference calls; and/or (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from services provided to individuals in this State and in this District.

10. Upon information and belief, Defendants FirstMerit Corp., FirstMerit Bank, N.A., and FirstMerit Mortgage Corp. (collectively, “the FirstMerit defendants”) are subject to this Court’s personal jurisdiction because they do and have done substantial business in this judicial

district, including: (i) operating infringing automated telephone call processing systems, including without limitation customer service systems that allow their customers, including customers within this State and in this District, to perform various functions and obtain various services over the telephone, including without limitation obtaining account information, activating account cards, and changing PINs; and/or (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from services provided to individuals in this State and in this District.

11. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

### **BACKGROUND FACTS**

12. Ronald A. Katz (“Mr. Katz”), founder of Katz Technology Licensing, is a named inventor of each of the patents in suit. Mr. Katz has been widely recognized as one of the most prolific and successful inventors of our time, and his inventions over the last forty-plus years have been utilized by literally millions of people.

13. In 1961, Mr. Katz co-founded Telecredit Inc. (“Telecredit”), the first company to provide online, real-time credit authorization, allowing merchants to verify checks over the telephone. Further innovations from Telecredit include the first online, real-time, point-of-sale credit verification terminal, which enabled merchants to verify checks without requiring the assistance of a live operator, and the first device that used and updated magnetically-encoded cards in automated teller machines. Multiple patents issued from these innovations, including patents co-invented by Mr. Katz.

14. Telecredit was eventually acquired by Equifax, and has now been spun off as Certegy, a public company traded on the New York Stock Exchange. Certegy continues to

provide services in the credit and check verification field established by Mr. Katz and Telecredit.

15. Mr. Katz's inventions have not been limited to telephonic check verification. Indeed, Mr. Katz is responsible for advancements in many fields of technology. Among his most prominent and well-known innovations are those in the field of interactive call processing. Mr. Katz's inventions in that field are directed to the integration of telephonic systems with computer databases and live operator call centers to provide interactive call processing services, including automated multiple party telephone conferencing services.

16. The first of Mr. Katz's interactive call processing patents issued on December 20, 1988. More than fifty U.S. patents have issued to Mr. Katz for his inventions in the interactive call processing field, including each of the patents-in-suit.

17. In 1988, Mr. Katz partnered with American Express to establish FDR Interactive Technologies, later renamed Call Interactive, to provide interactive call processing services based on Mr. Katz's inventions. The American Express business unit involved in this joint venture later became known as First Data.

18. Early clients of Call Interactive included *The New York Times*, ABC's *Monday Night Football*, KABC Radio, CBS News, and Beatrice Foods (Hunt-Wesson division).

19. Many of these clients utilized Call Interactive technology for high-profile events. For example, CBS News hired Call Interactive to operate an interactive, real-time telephone poll to gauge viewer reaction to President George H.W. Bush's 1992 State of the Union address.

20. Mr. Katz sold his interest in Call Interactive to American Express in 1989 but continued to provide advisory services to Call Interactive until 1992. American Express later spun off the First Data business unit into a separate corporation, and with that new entity went Mr. Katz's interactive call processing patents and the Call Interactive call processing business.

The former Call Interactive, now known as First Data Voice Services, continues to provide call processing solutions today.

21. In 1994, Mr. Katz formed Katz Technology Licensing, which acquired the rights to the entire interactive call processing patent portfolio, including the rights to each of the patents-in-suit (with the exception of U.S. Patent No. 6,157,711, which issued on December 5, 2000, with Katz Technology Licensing as assignee), from First Data, the owner of all of the Katz interactive call processing patents at that time.

22. The marketplace has clearly recognized the value of Mr. Katz's inventions. Indeed, over 150 companies have licensed the patents-in-suit. Licensees include IBM, Hewlett-Packard, Bank of America, JPMorgan Chase, Wells Fargo, HSBC, Verizon, Sprint, Microsoft, Delta Airlines, Merck, Sears, and Home Shopping Network. These licenses and others acknowledge the applicability of the patents-in-suit to multiple fields of use, including but not limited to financial services call processing, automated securities transactions, automated credit card authorization services, automated wireless telecommunication services and support, automated health care services, and product and service support.

23. Each of the defendants employs the inventions of certain of the patents-in-suit. Katz Technology Licensing, through its licensing arm A2D, L.P., has attempted to engage the defendants in licensing negotiations, but to date, none of the defendants have agreed to take a license to any of the patents-in-suit.

#### **THE PATENTS-IN-SUIT**

24. On May 29, 1990, the United States Patent and Trademark Office duly and legally issued United States Patent No. 4,930,150 ("the '150 Patent"), entitled "Telephonic Interface Control System," to Ronald A. Katz, sole inventor. The '150 Patent expired on December 20,

2005.

25. On July 3, 1990, the United States Patent and Trademark Office duly and legally issued United States Patent No. 4,939,773 (“the ‘773 Patent”), entitled “Multiple Party Telephone Control System,” to Ronald A. Katz, sole inventor.

26. On January 22, 1991, the United States Patent and Trademark Office duly and legally issued United States Patent No. 4,987,590 (“the ‘590 Patent”), entitled “Multiple Party Telephone Control System,” to Ronald A. Katz, sole inventor.

27. On September 10, 1991, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,048,075 (“the ‘075 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘075 Patent expired on December 20, 2005.

28. On April 28, 1992, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,109,404 (“the ‘404 Patent”), entitled “Telephone Call Processor With Select Call Routing,” to Ronald A. Katz and Thomas D. Thompson, co-inventors. The ‘404 Patent expired on December 20, 2005.

29. On July 7, 1992, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,128,984 (“the ‘984 Patent”), entitled “Telephone Interface Call Processing System With Call Selectivity,” to Ronald A. Katz, sole inventor.

30. On October 5, 1993, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,251,252 (“the ‘252 Patent”), entitled “Telephone Interface Call Processing System With Call Selectivity,” to Ronald A. Katz, sole inventor.

31. On October 19, 1993, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,255,309 (“the ‘309 Patent”), entitled “Telephonic-

Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘309 Patent expired on December 20, 2005.

32. On March 22, 1994, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,297,197 (“the ‘197 Patent”), entitled “Multiple Party Telephone Control System,” to Ronald A. Katz, sole inventor.

33. On September 27, 1994, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,351,285 (“the ‘285 Patent”), entitled “Multiple Format Telephonic Interface Control System,” to Ronald A. Katz, sole inventor. The ‘285 Patent expired on December 20, 2005.

34. On August 15, 1995, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,442,688 (“the ‘688 Patent”), entitled “Multiple Party Telephone Control System,” to Ronald A. Katz, sole inventor.

35. On October 1, 1996, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,561,707 (“the ‘707 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘707 Patent expired on December 20, 2005.

36. On November 4, 1997, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,684,863 (“the ‘863 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘863 Patent expired on December 20, 2005.

37. On July 28, 1998, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,787,156 (“the ‘156 Patent”) entitled “Telephonic-Interface Lottery System,” to Ronald A. Katz, sole inventor. The ‘156 Patent expired on December 20,

2005.

38. On September 29, 1998, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,815,551 (“the ‘551 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘551 Patent expired on December 20, 2005.

39. On October 27, 1998, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,828,734 (“the ‘734 Patent”), entitled “Telephone Interface Call Processing System With Call Selectivity,” to Ronald A. Katz, sole inventor.

40. On November 10, 1998, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,835,576 (“the ‘576 Patent”) entitled “Telephonic-Interface Lottery System,” to Ronald A. Katz, sole inventor. The ‘576 Patent expired on July 10, 2005.

41. On April 27, 1999, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,898,762 (“the ‘762 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘762 Patent expired on December 20, 2005.

42. On June 29, 1999, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,917,893 (“the ‘893 Patent”), entitled “Multiple Format Telephonic Interface Control System,” to Ronald A. Katz, sole inventor. The ‘893 Patent expired on December 20, 2005.

43. On October 26, 1999, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,974,120 (“the ‘120 Patent”), entitled “Telephone Interface Call Processing System With Call Selectivity,” to Ronald A. Katz, sole inventor.



44. On March 7, 2000, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,035,021 (“the ‘021 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘021 Patent expired on December 20, 2005.

45. On March 28, 2000, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,044,135 (“the ‘135 Patent”), entitled “Telephone-Interface Lottery System,” to Ronald A. Katz, sole inventor. The ‘135 Patent expired on July 10, 2005.

46. On November 14, 2000, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,148,065 (“the ‘065 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘065 Patent expired on July 10, 2005.

47. On December 5, 2000, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,157,711 (“the ‘711 Patent”), entitled “Multiple Party Telephone Control System,” to Ronald A. Katz, sole inventor.

48. On January 1, 2002, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,335,965 (“the ‘965 Patent”), entitled “Voice-Data Telephonic Interface Control System,” to Ronald A. Katz, sole inventor. The ‘965 Patent expired on December 20, 2005.

49. On February 19, 2002, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,349,134 (“the ‘134 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘134 Patent expired on December 20, 2005.

50. On August 13, 2002, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,434,223 (“the ‘223 Patent”), entitled “Telephone Interface Call Processing System With Call Selectivity,” to Ronald A. Katz, sole inventor. The ‘223 Patent expired on July 10, 2005.

51. On May 27, 2003, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,570,967 (“the ‘967 Patent”), entitled “Voice-Data Telephonic Interface Control System,” to Ronald A. Katz, sole inventor. The ‘967 Patent expired on July 10, 2005.

52. On January 13, 2004, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,678,360 (“the ‘360 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘360 Patent expired on July 10, 2005.

## **COUNT I**

### **(PATENT INFRINGEMENT BY THE CINCINNATI BELL DEFENDANTS)**

53. Katz Technology Licensing realleges and incorporates by reference paragraphs 1-52 of this Complaint as if fully set forth herein.

54. Katz Technology Licensing is the sole holder of the entire right, title, and interest in the ‘773, ‘590, ‘075, ‘404, ‘984, ‘252, ‘309, ‘197, ‘688, ‘707, ‘863, ‘156, ‘551, ‘734, ‘762, ‘120, ‘021, ‘711, and ‘965 Patents.

55. Upon information and belief, the Cincinnati Bell defendants operate automated telephone systems, including without limitation customer service systems, voicemail systems, and teleconferencing systems, that allow their customers to perform various functions and obtain various services over the telephone, including without limitation completing account payments,

obtaining account information, using voicemail services, and participating in teleconference calls.

56. The Cincinnati Bell defendants have directly and contributorily infringed, and induced others to infringe, one or more claims of each of the patents identified in paragraph 54 of this Complaint by making, using, offering to sell, and/or selling within the United States automated telephone systems, including without limitation customer service systems, voicemail systems, and teleconferencing systems, that allow their customers to perform various functions and obtain various services over the telephone, including without limitation completing account payments, obtaining account information, using voicemail services, and participating in teleconference calls.

57. The Cincinnati Bell defendants continue to infringe, contributorily infringe, and induce others to infringe the '773, '590, '984, '252, '197, '688, '734, '120, and '711 Patents.

58. The Cincinnati Bell defendants' infringement of the patents identified in paragraph 54 of this Complaint has been willful.

59. Katz Technology Licensing has been, and continues to be, damaged and irreparably harmed by the Cincinnati Bell defendants' infringement, which will continue unless the Cincinnati Bell defendants are enjoined by this Court.

## **COUNT II**

### **(PATENT INFRINGEMENT BY THE FIRSTMERIT DEFENDANTS)**

60. Katz Technology Licensing realleges and incorporates by reference paragraphs 1-52 as if fully set forth herein.

61. Katz Technology Licensing is the sole holder of the entire right, title, and interest in the '150, '075, '984, '252, '285, '707, '863, '156, '551, '734, '576, '893, '120, '021, '135,

'065, '965, '134, '223, '967, and '360 Patents.

62. Upon information and belief, the FirstMerit defendants operate automated telephone systems, including without limitation customer service systems that allow their customers to perform various functions and obtain various services over the telephone, including without limitation obtaining account information, activating account cards, and changing PINs.

63. The FirstMerit defendants have directly and contributorily infringed, and induced others to infringe, one or more claims of each of the patents identified in paragraph 61 of this Complaint by making, using, offering to sell, and/or selling within the United States automated telephone systems, including without limitation customer service systems that allow their customers to perform various functions and obtain various services over the telephone, including without limitation obtaining account information, activating account cards, and changing PINs.

64. The FirstMerit defendants continue to infringe, contributorily infringe, and induce others to infringe the '984, '252, '734, and '120 Patents.

65. The FirstMerit defendants' infringement of the patents identified in paragraph 61 of this Complaint has been willful.

66. Katz Technology Licensing has been, and continues to be, damaged and irreparably harmed by the FirstMerit defendants' infringement, which will continue unless the FirstMerit defendants are enjoined by this Court.

#### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiff Katz Technology Licensing respectfully requests the following relief:

A. A judgment holding the Cincinnati Bell defendants liable for infringement of the patents identified in paragraph 54 of this Complaint;

B. A permanent injunction against the Cincinnati Bell defendants, their officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from continued acts of infringement of the '773, '590, '984, '252, '197, '688, '734, '120, and '711 Patents;

C. An accounting for damages resulting from the Cincinnati Bell defendants' infringement of the patents identified in paragraph 54 of this Complaint, together with pre-judgment and post-judgment interest;

D. A judgment holding that the Cincinnati Bell defendants' infringement of the patents identified in paragraph 54 of this Complaint is willful, and a trebling of damages pursuant to 35 U.S.C. § 284;

E. A judgment holding the FirstMerit defendants liable for infringement of the patents identified in paragraph 61 of this Complaint;

F. A permanent injunction against the FirstMerit defendants, their officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from continued acts of infringement of the '984, '252, '734, and '120 Patents;

G. An accounting for damages resulting from the FirstMerit defendants' infringement of the patents identified in paragraph 61 of this Complaint, together with pre-judgment and post-judgment interest;

H. A judgment holding that the FirstMerit defendants' infringement of the patents identified in paragraph 61 of this Complaint is willful, and a trebling of damages pursuant to 35 U.S.C. § 284;

I. A judgment holding this Action an exceptional case, and an award to Plaintiff Katz Technology Licensing for its attorneys' fees and costs pursuant to 35 U.S.C. § 285; and

J. Such other relief as the Court deems just and equitable.

Dated: June 8, 2007

Respectfully submitted,

/s/Robert J. Hanna

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**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff Ronald A. Katz Technology Licensing, L.P. hereby demands trial by jury.

Dated: June 8, 2007

Respectfully submitted,

/s/Robert J. Hanna

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