

1 STEPHEN C. NEAL (170085)
(nealsc@cooley.com)
2 COOLEY GODWARD KRONISH LLP
Five Palo Alto Square
3 3000 El Camino Real
Palo Alto, CA 94306-2155
4 Telephone: (650) 843-5000
Facsimile: (650) 857-0663

5 ANDREW HARTMAN (pro hac vice)
(ahartman@cooley.com)
6 WAYNE O. STACY (pro hac vice)
(wstacy@cooley.com)
7 COOLEY GODWARD KRONISH LLP
8 380 Interlocken Crescent, Suite 900
Broomfield, CO 80021-8023
9 Telephone: (720) 566-4000
Facsimile: (720) 566-4099

10 Attorneys for Plaintiff
11 RONALD A. KATZ TECHNOLOGY LICENSING, L.P.
in the Cases Transferred from the Eastern District of
12 Texas except *Katz v. GE*

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **WESTERN DIVISION**

16 IN RE KATZ INTERACTIVE CALL
17 PROCESSING PATENT
LITIGATION
18 RONALD A. KATZ TECHNOLOGY
19 LICENSING, L.P.,
20 Plaintiff,
21 v.
22 U.S. BANCORP AND U.S. BANK,
N.A.,
23 Defendants.

Case No. 07-ML-01816-B RGK
(FFMx)
Case No. CV 07-2360-RGK
(FFMx)
**THIRD AMENDED
COMPLAINT FOR PATENT
INFRINGEMENT**
DEMAND FOR JURY TRIAL
Judge: Hon. R. Gary Klausner

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

3 **I. THE PARTIES**

4 1. Plaintiff Katz Technology Licensing is a limited partnership organized
5 under the laws of the State of California, and having a principal place of business at
6 9220 Sunset Blvd. #315, Los Angeles, California 90069.

7 2. On information and belief, Defendant U.S. Bancorp is a corporation
8 organized under the laws of the State of Delaware, and having a principal place of
9 business at 800 Nicolett Mall, Minneapolis, Minnesota 55402.

10 3. On information and belief, Defendant U.S. Bank, N.A. is a national
11 banking association having a principal place of business at 800 Nicolett Mall,
12 Minneapolis, Minnesota 55402.

13 **II. JURISDICTION AND VENUE**

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

16 5. The United States District Court for the Eastern District of Texas (“the
17 Texas Court”) has jurisdiction over the subject matter of this action under 28 U.S.C.
18 §§ 1331 and 1338(a).

19 6. U.S. Bancorp and U.S. Bank, N.A. (collectively, the “U.S. Bancorp
20 defendants”) are subject to the Texas Court’s personal jurisdiction because they do
21 and have done substantial business in the Eastern District of Texas, including: (i)
22 selling financial products and services within the Eastern District of Texas; (ii)
23 operating infringing automated telephone systems, including without limitation the
24 U.S. Bancorp customer service, business solutions, financial sales, Bankcard
25 customer service – credit line, investments center, touch tone investments, check
26 card activation and credit card customer service telephone systems, that allow their
27 customers, including customers within the State of Texas and in the Eastern District
28 of Texas, to perform and obtain credit, finance, banking, payment, activation and

1 other services over the telephone; and (iii) regularly doing or soliciting business,
2 engaging in other persistent courses of conduct, and/or deriving substantial revenue
3 from goods used or consumed by, and services provided to, individuals in the State
4 of Texas and in the Eastern District of Texas.

5 7. Venue is proper in the Eastern District of Texas under 28 U.S.C.
6 §§ 1391(b)-(c) and 1400(b). This case is before this Court pursuant to the Transfer
7 Order dated March 20, 2007, *In re Katz Interactive Call Processing Patent Litig.*,
8 Docket No. 1816.

9 **III. BACKGROUND FACTS**

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

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

23 10. Telecredit was eventually acquired by Equifax, and has now been spun
24 off as Certegy, a public company traded on the New York Stock Exchange.
25 Certegy continues to provide services in the credit and check verification field
26 established by Mr. Katz and Telecredit.

27 11. Mr. Katz’s inventions have not been limited to telephonic check
28 verification. Indeed, Mr. Katz is responsible for advancements in many fields of

1 technology. Among his most prominent and well-known innovations are those in
2 the field of interactive call processing. Mr. Katz's inventions in that field are
3 directed to the integration of telephonic systems with computer databases and live
4 operator call centers to provide interactive call processing services.

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

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

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

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

20 16. Mr. Katz sold his interest in Call Interactive to American Express in
21 1989 but continued to provide advisory services to Call Interactive until 1992.
22 American Express later spun off the First Data business unit into a separate
23 corporation, and with that new entity went Mr. Katz's interactive call processing
24 patents and the Call Interactive call processing business. The former Call
25 Interactive, now known as First Data Voice Services, continues to provide call
26 processing solutions today.

27 17. In 1994, Mr. Katz formed Katz Technology Licensing, which acquired
28 the rights to the entire interactive call processing patent portfolio, including the

1 rights to each of the patents-in-suit, from First Data, the owner of all of the Katz
2 interactive call processing patents at that time.

3 18. The marketplace has clearly recognized the value of Mr. Katz's
4 inventions. Indeed, over 200 companies, including in some instances direct
5 competitors of the defendants, have licensed the patents-in-suit. Licensees include
6 IBM, Hewlett-Packard, Bank of America, JPMorgan Chase, Wells Fargo, HSBC,
7 AT&T, Verizon, Sprint, Microsoft, Delta Airlines, Merck, Sears, and Home
8 Shopping Network. These licensees and others acknowledge the applicability of
9 the patents-in-suit to multiple fields of use, including but not limited to financial
10 services call processing, automated securities transactions, automated credit card
11 authorization services, automated wireless telecommunication services and support,
12 automated health care services, and product and service support.

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

18 **IV. THE PATENTS-IN-SUIT**

19 20. On December 20, 1988, the United States Patent and Trademark
20 Office duly and legally issued United States Patent No. 4,792,968 ("the '968
21 Patent"), entitled "Statistical Analysis System For Use With Public Communication
22 Facility," to Ronald A. Katz, sole inventor. The '968 Patent expired on December
23 20, 2005.

24 21. On October 19, 1993, the United States Patent and Trademark Office
25 duly and legally issued United States Patent No. 5,255,309 ("the '309 Patent"),
26 entitled "Telephonic-Interface Statistical Analysis System," to Ronald A. Katz, sole
27 inventor. The '309 Patent expired on December 20, 2005.

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

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

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

13 25. On July 28, 1998, the United States Patent and Trademark Office duly
14 and legally issued United States Patent No. 5,787,156 (“the ‘156 Patent”), entitled
15 “Telephonic-Interface Lottery System,” to Ronald A. Katz, sole inventor. The ‘156
16 Patent expired on December 20, 2005.

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

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

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

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

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

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

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

17 33. On September 18, 2001, the United States Patent and Trademark
18 Office duly and legally issued United States Patent No. 6,292,547 (“the ‘547
19 Patent”), entitled “Telephonic Interface Statistical Analysis System,” to Ronald A.
20 Katz, sole inventor. The ‘547 Patent expired on July 10, 2005.

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

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

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

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

9 **COUNT I**

10 **(PATENT INFRINGEMENT BY U.S. BANCORP and U.S. BANK, NA)**

11 38. Katz Technology Licensing realleges and incorporates by reference
12 paragraphs 1-37 as if fully set forth herein.

13 39. Katz Technology Licensing is the sole holder of the entire right, title,
14 and interest in the ‘968, ‘309, ‘285, ‘707, ‘863, ‘156, ‘551, ‘734, ‘762, ‘893, ‘120,
15 ‘135, ‘065, ‘547, ‘965, ‘134, ‘223, and ‘360 Patents.

16 40. The U.S. Bancorp defendants operate automated telephone systems,
17 including without limitation the U.S. Bancorp customer service, business solutions,
18 financial sales, Bankcard customer service – credit line, investments center, touch
19 tone investments, check card activation, credit card activation, and credit card
20 customer service telephone systems, that allow their customers to perform and
21 obtain credit, finance, banking, payment, activation and other services over the
22 telephone.

23 41. The U.S. Bancorp defendants have directly and contributorily
24 infringed, and induced others to infringe, one or more claims of each of the patents
25 identified in paragraph 39 of this Complaint by making, using, offering to sell,
26 and/or selling within the United States automated telephone systems, including
27 without limitation their the U.S. Bancorp customer service, business solutions,
28 financial sales, Bankcard customer service – credit line, investments center, touch

1 tone investments, check card activation and credit card customer service telephone
2 systems.

3 42. The U.S. Bancorp defendants continue to infringe, contributorily
4 infringe, and induce others to infringe the '734 and '120 Patents.

5 43. The U.S. Bancorp defendants' infringement of the patents identified in
6 paragraph 39 of this Complaint has been willful.

7 44. Katz Technology Licensing has been, and continues to be, damaged
8 and irreparably harmed by the U.S. Bancorp defendants' infringement, which will
9 continue unless the U.S. Bancorp defendants are enjoined by this Court and/or the
10 Texas Court.

11 **REQUEST FOR RELIEF**

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

14 A. A judgment holding the U.S. Bancorp defendants liable for
15 infringement of the patents identified in paragraph 39 of this Complaint;

16 B. A permanent injunction against the U.S. Bancorp defendants, their
17 officers, agents, servants, employees, attorneys, parent and subsidiary corporations,
18 assigns and successors in interest, and those persons in active concert or
19 participation with them, enjoining them from continued acts of infringement of the
20 '734 and '120 Patents;

21 C. An accounting for damages resulting from the U.S. Bancorp
22 defendants' infringement of the patents identified in paragraph 39 of this
23 Complaint, together with pre-judgment and post-judgment interest;

24 D. A judgment holding that the U.S. Bancorp defendants'
25 infringement of the patents identified in paragraph 39 of this Complaint is willful,
26 and a trebling of damages pursuant to 35 U.S.C. § 284;

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28

1 E. A judgment holding this Action an exceptional case, and an award
2 to Plaintiff Katz Technology Licensing for its attorneys' fees and costs pursuant to
3 35 U.S.C. § 285; and

4 F. Such other relief as this Court and/or the Texas Court deem just and
5 equitable.

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Dated: December 11, 2007

Respectfully submitted,
COOLEY GODWARD KRONISH LLP

/s/ Wayne Stacy
Wayne O. Stacy (pro hac vice)
wstacy@cooley.com
COOLEY GODWARD KRONISH LLP
380 Interlocken Crescent, Suite 900
Broomfield, CO 80021-8023
Telephone: (720) 566-4000
Facsimile: (720) 566-4099

Stephen C. Neal
nealsc@cooley.com
COOLEY GODWARD KRONISH LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155
Telephone: (650) 843-5000
Facsimile: (650) 857-0663

Attorneys for Plaintiff
RONALD A. KATZ TECHNOLOGY
LICENSING L.P.

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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 a trial by jury.

Dated: December 11, 2007

Respectfully submitted,

COOLEY GODWARD KRONISH LLP

/s/ Wayne Stacy

Wayne O. Stacy (pro hac vice)
wstacy@cooley.com
COOLEY GODWARD KRONISH LLP
380 Interlocken Crescent, Suite 900
Broomfield, CO 80021-8023
Telephone: (720) 566-4000
Facsimile: (720) 566-4099

Stephen C. Neal
nealsc@cooley.com
COOLEY GODWARD KRONISH LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155
Telephone: (650) 843-5000
Facsimile: (650) 857-0663

Attorneys for Plaintiff
RONALD A. KATZ TECHNOLOGY
LICENSING L.P.

283237 v1/CO