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

15
16 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
17 WESTERN DIVISION

18 IN RE KATZ INTERACTIVE CALL
19 PROCESSING PATENT
20 LITIGATION

21 This document relates to:
RONALD A. KATZ TECHNOLOGY
22 LICENSING, L.P.,

23 Plaintiff,

24 v.

25 TRACFONE WIRELESS, INC.,

26 Defendant and
27 Counter Claimant.
28

Case No. 2:07-ML-1816-B-RGK
(FFMx)

Case No. 2:07-CV-2326-RGK
(FFMx)

**PLAINTIFF'S THIRD
AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

Hon. R. Gary Klausner

1 Plaintiff, Ronald A. Katz Technology Licensing, L.P. (“Katz Technology
2 Licensing”), by counsel, alleges as follows:
3

4 **THE PARTIES**

5 1. Plaintiff Katz Technology Licensing is a limited partnership organized
6 under the laws of the State of California, and having a principal place of business at
7 9220 Sunset Blvd. #315, Los Angeles, California 90069.
8

9 2. On information and belief, Defendant Tracfone Wireless, Inc. is a
10 corporation organized under the laws of the State of Florida, and having a principal
11 place of business at 8390 NW 25th Street, Miami, FL 33122.
12

13 **JURISDICTION AND VENUE**

14 3. This is a civil action for patent infringement arising under the United
15 States patent statutes, 35 U.S.C. § 1 *et seq.*
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17 4. The United States District Court for the Eastern District of Texas (the
18 “Texas Court”) has jurisdiction over the subject matter of this action under 28
19 U.S.C. §§ 1331 and 1338(a).
20

21 5. On information and belief, Defendant Tracfone Wireless, Inc.
22 (“Tracfone”) is subject to the personal jurisdiction of the Eastern District of Texas
23 because it does and has done substantial business in the Eastern District of Texas,
24 including: (i) selling mobile telephone equipment and accessories at retail locations
25 within the Eastern District of Texas, including several retail locations known as K-
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1 Mart and Family Dollar in Lufkin and Texarkana; (ii) operating infringing
2 automated telephone systems, including without limitation the Tracfone direct
3 sales, long distance service, international long distance service, activation and
4 customer service systems, that allow its customers, including customers within the
5 State of Texas and in the Eastern District of Texas, to perform purchasing,
6 activation, service and other functions over the telephone; and (iii) regularly doing
7 or soliciting business, engaging in other persistent courses of conduct, and/or
8 deriving substantial revenue from goods used or consumed by, and services
9 provided to, individuals in the State of Texas and in the Eastern District of Texas.
10 In addition, Tracfone has designated an agent for service of process in the State of
11 Texas.

12 6. Venue is proper in the Eastern District of Texas under 28 U.S.C. §§
13 1391(b)-(c) and 1400(b). This case is before this Court pursuant to the Transfer
14 Order dated March 20, 2007, *In re Katz Interactive Call Processing Patent Litig.*,
15 Docket No. 1816.

21 **BACKGROUND FACTS**

22 7. Ronald A. Katz ("Mr. Katz"), founder of Katz Technology Licensing,
23 is the sole inventor of each of the patents in suit. Mr. Katz has been widely
24 recognized as one of the most prolific and successful inventors of our time, and his
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1 inventions over the last forty-plus years have been utilized by literally millions of
2 people.

3
4 8. In 1961, Mr. Katz co-founded Telecredit Inc. (“Telecredit”), the first
5 company to provide online, real-time credit authorization, allowing merchants to
6 verify checks over the telephone. Further innovations from Telecredit include the
7 first online, real-time, point-of-sale credit verification terminal, which enabled
8 merchants to verify checks without requiring the assistance of a live operator, and
9 the first device that used and updated magnetically-encoded cards in automated
10 teller machines. Multiple patents issued from these innovations, including patents
11 co-invented by Mr. Katz.
12

13
14 9. Telecredit was eventually acquired by Equifax, and has now been spun
15 off as Certegy, a public company traded on the New York Stock Exchange.
16 Certegy continues to provide services in the credit and check verification field
17 established by Mr. Katz and Telecredit.
18

19
20 10. Mr. Katz’s inventions have not been limited to telephonic check
21 verification. Indeed, Mr. Katz is responsible for advancements in many fields of
22 technology. Among his most prominent and well-known innovations are those in
23 the field of interactive call processing. Mr. Katz’s inventions in that field are
24 directed to the integration of telephonic systems with computer databases and live
25 operator call centers to provide interactive call processing services.
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1 11. The first of Mr. Katz's interactive call processing patents issued on
2 December 20, 1988. More than fifty U.S. patents have issued to Mr. Katz for his
3 inventions in the interactive call processing field, including each of the patents-in-
4 suit.
5

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

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

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

20 15. 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
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1 Interactive, now known as First Data Voice Services, continues to provide call
2 processing solutions today.

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4 16. In 1994, Mr. Katz formed Katz Technology Licensing, which acquired
5 the rights to the entire interactive call processing patent portfolio, including the
6 rights to each of the patents-in-suit, from First Data, the owner of all of the Katz
7 interactive call processing patents at that time.

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

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22 18. Tracfone employs the inventions of the patents-in-suit. Katz
23 Technology Licensing, through its licensing arm A2D, L.P., has repeatedly
24 attempted to engage Tracfone in licensing negotiations, but to date, Tracfone has
25 not agreed to take a license to any of the patents-in-suit.
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THE PATENTS-IN-SUIT

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

20. 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.

21. 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.

22. 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.

23. 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”),

1 entitled "Telephonic-Interface Statistical Analysis System," to Ronald A. Katz, sole
2 inventor. The '707 Patent expired on December 20, 2005.

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

8
9 25. On July 28, 1998, the United States Patent and Trademark Office duly
10 and legally issued United States Patent No. 5,787,156 ("the '156 patent"), entitled
11 "Telephonic-Interface Lottery System," to Ronald A. Katz, sole inventor. The '156
12 Patent expired on December 20, 2005.

13
14 26. On September 29, 1998, the United States Patent and Trademark
15 Office duly and legally issued United States Patent No. 5,815,551 ("the '551
16 Patent"), entitled "Telephonic-Interface Statistical Analysis System," to Ronald A.
17 Katz, sole inventor. The '551 Patent expired on December 20, 2005.

18
19 27. On October 27, 1998, the United States Patent and Trademark Office
20 duly and legally issued United States Patent No. 5,828,734 ("the '734 Patent"),
21 entitled "Telephone Interface Call Processing System With Call Selectivity," to
22 Ronald A. Katz, sole inventor.

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

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

8
9 30. On October 26, 1999, the United States Patent and Trademark Office
10 duly and legally issued United States Patent No. 5,974,120 ("the '120 Patent"),
11 entitled "Telephone Interface Call Processing System With Call Selectivity," to
12 Ronald A. Katz, sole inventor.

13
14 31. On March 28, 2000, the United States Patent and Trademark Office
15 duly and legally issued United States Patent No. 6,044,135 ("the '135 Patent"),
16 entitled "Telephone-Interface Lottery System," to Ronald A. Katz, sole inventor.
17 The '135 Patent expired on July 10, 2005.

18
19 32. On November 14, 2000, the United States Patent and Trademark
20 Office duly and legally issued United States Patent No. 6,148,065 ("the '065
21 Patent"), entitled "Telephonic-Interface Statistical Analysis System," to Ronald A.
22 Katz, sole inventor. The '065 Patent expired on July 10, 2005.

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

3
4 34. On February 19, 2002, the United States Patent and Trademark Office
5 duly and legally issued United States Patent No. 6,349,134 ("the '134 Patent"),
6 entitled "Telephonic-Interface Statistical Analysis System," to Ronald A. Katz, sole
7 inventor. The '134 Patent expired on December 20, 2005.

8
9 35. On July 23, 2002, the United States Patent and Trademark Office duly
10 and legally issued United States Patent No. 6,424,703 ("the '703 Patent"), entitled
11 "Telephonic-Interface Lottery System," to Ronald A. Katz, sole inventor. The '703
12 Patent expired on July 10, 2005.

13
14 36. On August 13, 2002, the United States Patent and Trademark Office
15 duly and legally issued United States Patent No. 6,434,223 ("the '223 Patent"),
16 entitled "Telephone Interface Call Processing System With Call Selectivity," to
17 Ronald A. Katz, sole inventor. The '223 Patent expired on July 10, 2005.

18
19 37. On January 28, 2003, the United States Patent and Trademark Office
20 duly and legally issued United States Patent No. 6,512,415 ("the '415 Patent"),
21 entitled "Telephonic-Interface Game Control System," to Ronald A. Katz, sole
22 inventor. The '415 Patent expired on July 10, 2005.

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24 38. On January 13, 2004, the United States Patent and Trademark Office
25 duly and legally issued United States Patent No. 6,678,360 ("the '360 Patent"),
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1 entitled "Telephonic-Interface Statistical Analysis System," to Ronald A. Katz, sole
2 inventor. The '360 Patent expired on July 10, 2005.

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4 39. On November 10, 1998, the United States Patent and Trademark
5 Office duly and legally issued United States Patent No. 5,835,576 ("the '576
6 Patent"), entitled "Telephonic-Interface Lottery Device," to Ronald A. Katz, sole
7 inventor. The '576 Patent expired on July 10, 2005

8
9 40. On September 18, 2001, the United States Patent and Trademark
10 Office duly and legally issued United States Patent No. 6,292,547 ("the '547
11 Patent"), entitled "Telephonic-Interface Statistical Analysis System," to Ronald A.
12 Katz, sole inventor. The '547 Patent expired on July 10, 2005.

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14
15 **COUNT I**
16 **(PATENT INFRINGEMENT BY TRACFONE WIRELESS, INC.)**

17 41. Katz Technology Licensing realleges and incorporates by reference
18 paragraphs 1-40 of this Complaint as if fully set forth herein.

19 42. Katz Technology Licensing is the sole holder of the entire right, title,
20 and interest in the '551, '065, '360, '762, '863, '134, '150, '893, '734, '120, '223,
21 '965, '135, '156, '415, '968, '309, '285, '707, '703, '576 and '547 Patents.

22
23 43. On information and belief, Tracfone operates automated telephone
24 systems, including without limitation the Tracfone direct sales, long distance
25 service, international long distance service, activation and customer service systems
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1 that allow its customers to perform purchasing, activation, service and other
2 functions over the telephone.

3
4 44. Tracfone has directly and contributorily infringed, and induced others
5 to infringe, one or more claims of each of the patents identified in paragraph 42 of
6 this Complaint by making, using, offering to sell, and/or selling within the United
7 States automated telephone systems, including without limitation the Tracfone
8 direct sales, long distance service, activation and customer service systems.

9
10 45. Tracfone continues to infringe, contributorily infringe, and induce
11 others to infringe the '734 and '120 Patents.

12
13 46. Tracfone's infringement of the patents identified in paragraph 42 of
14 this Complaint has been willful.

15
16 47. Katz Technology Licensing has been, and continues to be, damaged
17 and irreparably harmed by Tracfone's infringement, which will continue unless
18 Tracfone is enjoined by this Court and/or the Texas Court.

19
20 **REQUEST FOR RELIEF**

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

23
24 A. A judgment holding Tracfone liable for infringement of the patents
25 identified in paragraph 42 of this Complaint;

1 B. A permanent injunction against Tracfone, its officers, agents,
2 servants, employees, attorneys, parent and subsidiary corporations, assigns and
3 successors in interest, and those persons in active concert or participation with
4 them, enjoining them from continued acts of infringement of the '734 and '120
5 Patents;
6

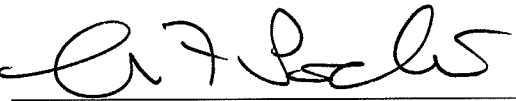
7
8 C. An accounting for damages resulting from Tracfone's infringement
9 of the patents identified in paragraph 42 of this Complaint, together with pre-
10 judgment and post-judgment interest;
11

12 D. A judgment holding that Tracfone's infringement of the patents
13 identified in paragraph 42 of this Complaint is willful, and a trebling of damages
14 pursuant to 35 U.S.C. § 284;
15

16 E. A judgment holding this Action an exceptional case, and an award
17 to Plaintiff Katz Technology Licensing for its attorneys' fees and costs pursuant to
18 35 U.S.C. § 285; and
19

20 F. Such other relief as this Court and/or the Texas Court deem just and
21 equitable.
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1 Dated: October 24, 2007

By: 

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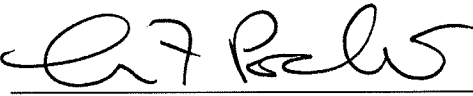
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28 Attorneys for Plaintiff *Ronald A. Katz*
Technology Licensing, L.P.

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: October 24, 2007

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