

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

**CONSTELLATION IP, LLC,
A Texas Limited Liability Corporation
Plaintiff,**

v.

- 1. MARRIOTT INTERNATIONAL, INC.,
a Delaware Corporation**
- 2. RITZ-CARLTON HOTEL COMPANY,
LLC,
a Delaware Corporation**
- 3. THE PROGRESSIVE CORPORATION,
an Ohio Corporation**
- 4. PROGRESSIVE CASUALTY
INSURANCE COMPANY,
an Ohio Corporation**
- 5. DRIVE INSURANCE HOLDINGS, INC.,
a Delaware Corporation**
- 6. BANK OF AMERICA CORPORATION,
a Delaware Corporation**
- 7. MBNA CORPORATION,
a Maryland Corporation**
- 8. SABRE HOLDINGS CORPORATION,
a Delaware Corporation**
- 9. TRAVELOCITY HOLDINGS, INC.,
a Delaware Corporation**
- 10. TRAVELOCITY.COM, INC.,
a Delaware Corporation,**
- 11. TRAVELOCITY.COM, LP,
a Delaware Corporation,**
- 12. PROGRESSIVE DIRECT INSURANCE
CORPORATION,
an Ohio Corporation,**

Defendants.

Civil Action No. 9:06CV162

JURY DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Constellation IP, LLC makes the following allegations against Marriott International, Inc., The Ritz-Carlton Hotel Company,

LLC, The Progressive Corporation, Progressive Casualty Insurance Company, Drive Insurance Holdings, Inc., Bank of America Corporation, MBNA Corporation, Sabre Holdings Corporation, Travelocity Holdings, Inc., Travelocity.com, Inc., Travelocity.com LP and Progressive Direct Insurance Corporation.

PARTIES

1. Plaintiff Constellation IP, LLC (“Constellation IP, LLC (“Constellation”) is a Texas limited liability company with its principal place of business at 207 C North Washington Avenue, Marshall, Texas 75670.

2. On information and belief, Defendant Marriott International, Inc. (“Marriott”) is a Delaware corporation with its corporate headquarters and principal place of business at 10400 Fernwood Road, Bethesda, Maryland 20817.

3. On information and belief, Defendant The Ritz-Carlton Hotel Company, LLC (“Ritz-Carlton”) is a Delaware corporation with its corporate headquarters and principal place of business at 4445 Willard Avenue, Suite 800 Chevy Chase, Maryland 20815

4. On information and belief, Defendant The Progressive Corporation (“Progressive Corporation”) is an Ohio corporation with its corporate headquarters and principal place of business at 6300 Wilson Mills Road, Mayfield Village, Ohio 44143.

5. On information and belief, Defendant Progressive Casualty Insurance Company (“Progressive Casualty”) is an Ohio corporation with its corporate headquarters and principal place of business at 6300 Wilson Mills Road, Mayfield Village, Ohio 44143.

6. On information and belief, Defendant Drive Insurance Holdings, Inc. (“Drive”) is a Delaware corporation with its corporate headquarters and principal place of business at 6300 Wilson Mills Road, Mayfield Village, Ohio 44143.

7. On information and belief, Defendant Bank of America Corporation (“Bank of America”) is a Delaware corporation with its corporate headquarters and principal place of business at 100 N. Tryon Street, Charlotte, North Carolina 28202.

8. On information and belief, Defendant MBNA Corporation (“MBNA”) is a Maryland corporation with its corporate headquarters and principal place of business at 1100 North King Street, Wilmington, Delaware 19884.

9. On information and belief, Defendant Sabre Holdings Corporation (“Sabre”) is a Delaware corporation with its corporate headquarters and principal place of business at 3150 Sabre Drive, Southlake, Texas 76092.

10. On information and belief, Defendant Travelocity Holdings, Inc. (“Travelocity Holdings”) is a Delaware corporation with its corporate headquarters and principal place of business at 3150 Sabre Drive, Southlake, Texas 76092.

11. On information and belief, Defendant Travelocity.com, Inc. (“Travelocity”) is a Delaware corporation with its corporate headquarters and principal place of business at 3150 Sabre Drive, Southlake, Texas 76092.

12. On information and belief, Defendant Travelocity.com, LP (“Travelocity.com”) is a Delaware corporation with its corporate headquarters and principal place of business at 3150 Sabre Drive, Southlake, Texas 76092.

13. On information and belief, Defendant Progressive Direct Insurance Corporation (“Progressive Direct”) is an Ohio corporation with its corporate headquarters and principal place of business at 6300 Wilson Mills Road, Mayfield Village, Ohio 44143.

JURISDICTION AND VENUE

14. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

15. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). Defendants each have a regular and established place of business in this district, have transacted business in this district and, on information and belief, have committed acts of patent infringement in this district.

INFRINGEMENT OF U.S. PATENT NO. 6,453,302

16. Constellation is the owner by assignment of United States Patent No. 6,453,302 (“the ‘302 patent”) entitled “Computer Generated Presentation System,” a true copy of which is attached as Exhibit A. The ‘302 patent was duly issued on September 17, 2002.

17. Jerome D. Johnson and Dale A. Mehr are named inventors on the ‘302 patent.

18. Defendant Marriott has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the ‘302 patent in the state of Texas, in this judicial district, and elsewhere in the United States by, among other things, methods practiced on its various websites (including but not limited to www.marriott.com) that are covered by one or more claims of the ‘302 patent to the injury of Constellation.

19. Defendant Ritz-Carlton has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the ‘302 patent in the state of Texas, in this judicial district, and elsewhere in the United States by, among other things, methods practiced on its various websites (including but not limited to

www.ritzcarlton.com) that are covered by one or more claims of the '302 patent to the injury of Constellation.

20. Defendant Progressive Corporation has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '302 patent in the state of Texas, in this judicial district, and elsewhere in the United States by, among other things, methods practiced on its various websites (including but not limited to www.progressive.com and www.progressivedirect.com) that are covered by one or more claims of the '302 patent to the injury of Constellation.

21. Defendant Progressive Casualty has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '302 patent in the state of Texas, in this judicial district, and elsewhere in the United States by, among other things, methods practiced on its various websites (including but not limited to www.progressive.com and www.progressivedirect.com) that are covered by one or more claims of the '302 patent to the injury of Constellation.

22. Defendant Drive has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '302 patent in the state of Texas, in this judicial district, and elsewhere in the United States by, among other things, methods practiced on its various websites (including but not limited to www.driveinsurance.com) that are covered by one or more claims of the '302 patent to the injury of Constellation.

23. Defendant Bank of America has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '302 patent in the state of Texas, in this judicial district, and elsewhere in the United States by, among other things, methods practiced on its various websites (including but not limited to

www.bankofamerica.com) that are covered by one or more claims of the '302 patent to the injury of Constellation.

24. Defendant MBNA has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '302 patent in the state of Texas, in this judicial district, and elsewhere in the United States by, among other things, methods practiced on its various websites (including but not limited to www.mbna.com) that are covered by one or more claims of the '302 patent to the injury of Constellation.

25. Defendant Sabre has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '302 patent in the state of Texas, in this judicial district, and elsewhere in the United States by, among other things, methods practiced on its various websites (including but not limited to www.travelocity.com) that are covered by one or more claims of the '302 patent to the injury of Constellation.

26. Defendant Travelocity Holdings has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '302 patent in the state of Texas, in this judicial district, and elsewhere in the United States by, among other things, methods practiced on its various websites (including but not limited to www.travelocity.com) that are covered by one or more claims of the '302 patent to the injury of Constellation.

27. Defendant Travelocity has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '302 patent in the state of Texas, in this judicial district, and elsewhere in the United States by, among other things, methods practiced on its various websites (including but not limited to

www.travelocity.com) that are covered by one or more claims of the '302 patent to the injury of Constellation.

28. Defendant Travelocity.com has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '302 patent in the state of Texas, in this judicial district, and elsewhere in the United States by, among other things, methods practiced on its various websites (including but not limited to www.travelocity.com) that are covered by one or more claims of the '302 patent to the injury of Constellation.

29. Defendant Progressive Direct has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '302 patent in the state of Texas, in this judicial district, and elsewhere in the United States by, among other things, methods practiced on its various websites (including but not limited to www.progressive.com and www.progressivedirect.com) that are covered by one or more claims of the '302 patent to the injury of Constellation.

30. These Defendants have actively induced and are actively inducing infringement of the '302 patent.

31. On information and belief, to the extent any marking was required by 35 U.S.C. §287, all predecessors in interest to the '302 Patent complied with such requirements and Constellation is entitled to collect damages for acts of infringement of the '302 patent occurring prior to the filing of the present case.

32. As a result of these Defendants' infringement of the '302 patent, Constellation has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

33. Unless a permanent injunction is issued enjoining these Defendants and their agents, servants, employees, attorneys, representatives, affiliates and all others acting on their behalf from infringing the '302 patent, Constellation will be greatly and irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Constellation requests that this Court enter:

1. A judgment in favor of Constellation that Defendants Marriott, Ritz-Carlton, Progressive Corporation, Progressive Casualty, Drive, Bank of America, MBNA, Sabre, Travelocity Holdings, Travelocity, Travelocity.com and Progressive Direct have infringed, directly and indirectly by way of inducing and/or contributing to the infringement of the '302 patent;

2. A permanent injunction, enjoining Defendants Marriott, Ritz-Carlton, Progressive Corporation, Progressive Casualty, Drive, Bank of America, MBNA, Sabre, Travelocity Holdings, Travelocity, Travelocity.com and Progressive Direct and their officers, directors, agents, servants affiliates, employees, divisions, branches subsidiaries, parents and all others acting in concert or privity with any of them from infringement, inducing the infringement of, or contributing to the infringement of the '302 patent;

3. A judgment and order requiring Defendants Marriott, Ritz-Carlton, Progressive Corporation, Progressive Casualty, Drive, Bank of America, MBNA, Sabre, Travelocity Holdings, Travelocity, Travelocity.com and Progressive Direct to pay Constellation damages for Defendants' infringement of the '302 patent, together with interest (both pre- and post-judgment), costs and disbursements as fixed by this Court under 35 U.S.C. §284;

4. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. §285 and awarding to Constellation its reasonable attorneys' fees; and

5. Any and all other relief to which Constellation may show itself to be entitled.

CONSTELLATION DEMANDS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

Dated: October 20, 2006

Respectfully submitted,

CONSTELLATION IP, LLC

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ATTORNEYS FOR PLAINTIFF
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CERTIFICATE OF SERVICE

I hereby certify that the following counsel of record who are deemed to have consented to electronic service are being served this 20th day of October, 2006, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by, electronic mail, facsimile transmission and/or first class mail on this same date.

Dated: October 20, 2006

/s/ Terry D. Morgan
Terry D. Morgan