

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

TELINIT TECHNOLOGIES, LLC	§	
	§	
Plaintiff,	§	CIVIL ACTION NO. 2:12-cv-663
	§	
v.	§	JURY TRIAL DEMANDED
	§	
TWILIO INC.;	§	
TRULIA, INC.; and	§	
MATCH.COM L.L.C.	§	
	§	
Defendants.	§	

COMPLAINT FOR PATENT INFRINGEMENT

COMES NOW, Plaintiff Telinit Technologies, LLC (“Telinit”), through the undersigned attorneys, and respectfully alleges, states, and prays as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under the Patent Laws of the United States, Title 35 of the United States Code (“U.S.C.”), involving U.S. Patent 6,192,123 (hereinafter the “‘123 Patent”, attached hereto as Exhibit “A”) in which Plaintiff Telinit Technologies, LLC (hereinafter “Telinit”) makes the following allegations against defendants Twilio Inc. (hereinafter “Twilio”); Trulia, Inc. (hereinafter “Trulia”); and Match.com L.L.C. (hereinafter “Match.com”); (collectively “Defendants”) to prevent and enjoin Defendants from infringing and profiting, in an illegal and unauthorized manner and without authorization or consent from the ‘123 Patent pursuant to 35 U.S.C. § 271, and to recover damages, attorneys fees, and costs.

THE PARTIES

2. Plaintiff Telinit is a Texas corporation with its principal place of business at 2500 Dallas Parkway, Suite 260, Plano, Texas 75093-4871.

3. Defendant Twilio is a Delaware corporation with a principal place of business at 548 Market Street, #14510, San Francisco, California, 94114. Twilio maintains a registered agent at National Corporate Research, Ltd., 614 South Dupont Highway, Dover, Delaware, 19901.

4. Defendant Trulia is a Delaware corporation with a principal place of business at 116 New Montgomery Street, Suite 300, San Francisco, California, 94105. Trulia maintains a registered agent within this state at C T Corporation System, 350 North St. Paul Street, Suite 2900, Dallas, Texas, 75201.

5. Match.com is a Delaware corporation with a principal place of business and international corporate headquarters at 8300 Douglas Avenue, Dallas, Texas, 75225. Match.com maintains a registered agent within this state at National Registered Agents, Inc., 1021 Main Street, Suite 1150, Houston, TX 77002.

6. Defendants are in the business of manufacturing, distributing and/or selling network-based telephony initiation systems and/or services throughout the United States, including in this judicial jurisdiction.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338(a) because the action arises under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.*

8. This Court has personal jurisdiction over Defendants by virtue of their systematic and continuous contacts with this jurisdiction, as alleged herein, as well as because of the injury to Telinit, and the cause of action Telinit has risen, as alleged herein.

9. Each of the Defendants is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

10. Defendants have conducted and do conduct business within the state of Texas, including the geographic region within the Eastern District of Texas, directly or through intermediaries, resellers or agents, or offer for sale, sell, advertise (including the use of interactive web pages with promotional material) products or services, or use or induce others to use services or products in Texas that infringe the '123 Patent, knowingly induce others to infringe and/or contribute to infringement of the '123 Patent occurring within Texas and elsewhere.

11. In addition to the Defendants' continuously and systematically conducting business in Texas, the causes of action against Defendants are connected (but not limited) to Defendants' purposeful acts committed in the state of Texas, including the geographic region within the Eastern District of Texas, including Defendants' making, using, offering for sale, or selling network-based telephony initiation systems which include features that fall within the scope of at least one claim of the '123 Patent.

12. Venue lies in this judicial district pursuant to 28 U.S.C. §§1391 and 1400(b).

JOINDER

13. Defendants are properly joined under 35 U.S.C. § 299(a)(1) because a right to relief is asserted against the parties jointly, severally, and in the alternative with respect to the same transactions, occurrences, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, and/or selling the same accused products. Specifically, as alleged in detail below, Defendants are alleged to infringe the ‘123 Patent with respect to a number of user-initiated web-based telephony products.

14. Defendants are properly joined under 35 U.S.C. § 299(a)(2). Questions of fact will arise that are common to all defendants, including for example, whether the overlapping user-initiated web-based telephony products alleged to infringe have features that meet the features of one or more claims of the ‘123 Patent, and what reasonable royalty will be adequate to compensate the owner of the ‘123 Patent for its infringement.

15. Defendant Twilio and Defendants Trulia and Match.com (hereafter “Twilio Customers”) offer the same telephony services that infringe on the ‘123 Patent. For example, Twilio offers Twilio Voice, a web-based telephony-initiation service, and Twilio Customers offer their respective users the ability to initiate telephone calls using Twilio Voice.

16. Defendant Trulia offers its users a web-based telephony initiation service under the name Instant Leads. According to publicly available information, the application responsible for providing Instant Leads is “powered” by Twilio. (*See* Exhibit “B”).

17. Defendant Match.com offers its users a web-based telephony initiation service under the name matchPhone. According to publicly available information, one of the applications responsible for providing matchPhone is “powered” by Twilio. (*See* Exhibit “C”).

18. At least one right to relief is asserted against these parties jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused product or process.

19. Each one of the Defendants' products and services use, among other shared features: a platform, a web-based interface, a data network, a switch and a monitoring system.

20. Each Defendant has either directly or indirectly infringed on the '123 Patent by making, using, selling or offering to sell one or more of the abovementioned products or services. Consequently, questions of fact common to all defendants will arise in the action.

FACTUAL ALLEGATIONS

BACKGROUND

21. On February 20, 2001, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '123 Patent, entitled "Method and apparatus for initiating telephone calls using a data network" after a full and fair examination. A true and correct copy of the '123 Patent is attached hereto as Exhibit "A".

22. Telinit is presently the owner by assignment of the '123 Patent, having received all right, title and interest in and to the '123 Patent from the previous assignee of record. Telinit possesses all rights of recovery under the '123 Patent, including the exclusive right to recover for past infringement.

23. The '123 Patent contains two independent claims and six dependent claims.

24. The inventions described in the '123 Patent include a system and process for initiating a telephone call using a data network request, signaling a switch, and monitoring and providing status updates to a user of the telephone system.

25. The invention described in Independent Claim 1 of the '123 Patent includes a process for receiving a data network request to initiate a telephone call, the request including a user telephone number. The inventive process identifies a stored telephone number corresponding to the request, signals a switch to make a call on a voice network to an instrument identified by the stored telephone number. Finally, the process also monitors call status and provides a user with an indication if the status changes.

26. The invention described in Independent Claim 5 includes a system having an input component to receive a data request to initiate a telephone call, the request including a user telephone number. The system also includes a processing component that identifies a stored telephone number corresponding to the request, a signaling component that signals a switch to make a call on the voice network to an instrument identified by the stored telephone number. Finally, a monitoring component monitors call status, and a status component provides a user with an indication if the status changes.

THE TWILIO PLATFORM

TWILIO'S PRODUCTS AND SERVICES

27. The Twilio telephony products, including Twilio Voice, provide Twilio Customers with access to functionality (for example, via a web-based API) that Twilio Customers use to provide web-based services to third parties (hereinafter "Twilio Users").

28. Twilio provides access to functionality to Twilio Customers designed specifically to communicate with servers believed to be owned and/or controlled by Twilio (hereinafter "Twilio Servers").

29. The Twilio Servers are accessible over a data network, and perform functions such as receiving data requests over the network enabling Twilio Users to initiate telephony

communications with each other. The requests include a user telephone number, such as telephone numbers identifying the Twilio Users and/or third parties.

30. The Twilio Servers also identify stored telephone numbers, such as by handling requests to initiate telephone calls with Twilio Users at a pre-designated Twilio User telephone number and/or with third parties.

31. The Twilio Servers signal a switch to call a voice network, such as a public switched telephone network (“PSTN”), to other telephone devices identified by stored telephone numbers, such as by initiating telephone calls with a pre-designated Twilio User telephone number and/or third parties.

32. The Twilio Servers monitor call status and indications of status changes, including providing status indications to Twilio Customers, Twilio Users and/or third parties, for example, but not limited to, through use of the “Status Callback” parameter of the API.

33. The Twilio Servers also include input components designed to receive data requests over the network enabling Twilio Users and third parties to initiate telephony communications with each other. Those requests include a user telephone number, such as telephone numbers identifying the User and/or third party.

34. The Twilio Servers include processing components designed to identify stored telephone numbers, such as by handling requests to initiate telephone calls with Twilio Users at a pre-designated Twilio User telephone number and/or with third parties.

35. The Twilio Servers include a signaling component for signaling a switch to call a voice network, such as a PSTN, to other telephone devices identified by stored telephone numbers, such as by initiating telephone calls with a pre-designated Twilio User telephone number and/or third parties.

36. The Twilio Servers include monitoring and status components to monitor call status and provide indications of status changes, including providing status indications to Twilio Customers, Twilio Users and/or third parties.

TWILIO'S CUSTOMERS

37. Twilio's customers include Defendants Trulia and Match.com.

TRULIA

38. Trulia offers telephony initiation services (including via a Twilio-provided web-based API) to allow users ("Trulia Users") to be contacted directly from third parties via Trulia's website.

39. Trulia provides access to functionality to Trulia Users designed specifically to communicate with servers believed to be owned and/or controlled by Trulia (hereinafter "Trulia Servers").

40. The Trulia Servers are accessible over a data network, and perform functions such as receiving data requests over the network enabling Trulia Users and third parties to initiate telephony communications with each other. The requests include a user telephone number, such as telephone numbers identifying the third parties.

41. The Trulia Servers also identify stored telephone numbers, such as by handling requests to initiate telephone calls with Trulia Users at a pre-designated Trulia User telephone number and/or with third parties.

42. The Trulia Servers signal a switch to call a voice network, such as signaling certain Twilio Servers known for providing access to a PSTN, to other telephone devices identified by stored telephone numbers, such as by initiating telephone calls with a pre-designated Trulia User telephone number and/or third parties.

43. The Trulia Servers monitor call status and indications of status changes, including providing status indications to Trulia Users and/or third parties.

44. The Trulia Servers also include input components designed to receive data requests over the network enabling Trulia Users and third parties to initiate telephony communications with each other. Those requests include a user telephone number, such as telephone numbers identifying the third party.

45. The Trulia Servers include processing components designed to identify stored telephone numbers, such as by handling requests to initiate telephone calls with Trulia Users at a pre-designated Trulia User telephone number and/or with third parties.

46. The Trulia Servers include a signaling component for signaling a switch to call a voice network, such as signaling certain Twilio Servers known for providing access to a PSTN, to other telephone devices identified by stored telephone numbers, such as by initiating telephone calls with a pre-designated Trulia User telephone number and/or third parties.

47. The Trulia Servers include monitoring and status components to monitor call status and provide indications of status changes, including providing status indications to Trulia Users and/or third parties.

MATCH.COM

48. The Match.com offers telephony initiation services (including via a Twilio-provided web-based API) to allow users (“Match.com Users”) to be contacted directly from other Match.com Users via Match.com’s website, for example, but not limited to, through use of matchPhone.

49. Match.com provides access to functionality to Match.com Users designed specifically to communicate with servers believed to be owned and/or controlled by Match.com

(hereinafter “Match.com Servers”).

50. The Match.com Servers are accessible over a data network, and perform functions such as receiving data requests over the network enabling Match.com Users to initiate telephony communications with other Match.com Users, for example, but not limited to, through use of the “Talk and Text” button.

51. The requests include a user telephone number, such as telephone numbers identifying the Match.com Users.

52. The Match.com Servers also identify stored telephone numbers, such as by handling requests to initiate telephone calls with Match.com Users at a pre-designated Match.com User telephone number and/or numbers identifying the Match.com Users

53. The Match.com Servers signal a switch to call a voice network, such as signaling certain Twilio Servers known for providing access to a PSTN, to other telephone devices identified by stored telephone numbers, such as by initiating telephone calls with a pre-designated Match.com User telephone number and/or numbers identifying the Match.com Users.

54. The Match.com Servers monitor call status and indications of status changes, including providing status indications to Match.com users, for example, but not limited to, through use of an automated system response.

55. The Match.com Servers also include input components designed to receive data requests over the network enabling Match.com Users and third parties to initiate telephony communications with other Match.com Users. Those requests include a user telephone number, such as telephone numbers identifying the Match.com Users.

56. The Match.com Servers include processing components designed to identify stored telephone numbers, such as by handling requests to initiate telephone calls with

Match.com Users at a pre-designated Match.com User telephone number and/or numbers identifying the Match.com Users.

57. The Match.com Servers include a signaling component for signaling a switch to call a voice network, such as signaling certain Twilio Servers known for providing access to a PSTN, to other telephone devices identified by stored telephone numbers, such as by initiating telephone calls with a pre-designated Match.com User telephone number and/or numbers identifying the Match.com Users.

58. The Match.com Servers include monitoring and status components to monitor call status and provide indications of status changes, including providing status indications to Match.com Users.

DIRECT INFRINGEMENT

59. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-58.

60. Taken together, either partially or entirely, the features included in Twilio's services for initiating telephony communications, including but not limited to, services branded under the name "Twilio Voice" perform the process recited in one or more of Claims 1-4 of the '123 Patent.

61. Taken together, either partially or entirely, the features included in Twilio's services for initiating telephony communications, including but not limited to, services branded under the name "Twilio Voice" use the system described in one or more of Claims 5-8 of the '123 Patent.

62. Twilio directly infringes one or more of claims 1-8 of the '123 Patent by making, using, selling, offering to sell and/or importing the process and the system for services for

initiating telephony communications in violation of 35 USC § 271(a). For example, Twilio offers and allows users to purchase its products and go live through its website.

63. Taken together, either partially or entirely, the features included in Trulia's services for initiating telephony communications, including but not limited to, services branded under the name "Instant Leads" perform the process recited in one or more of Claims 1-4 of the '123 Patent.

64. Taken together, either partially or entirely, the features included in Trulia's services for initiating telephony communications, including but not limited to, services branded under the name "Instant Leads" use the system described in one or more of Claims 5-8 of the '123 Patent.

65. Upon information and belief Trulia directly infringes one or more of claims 1-8 of the '123 Patent by using, selling, offering to sell and/or importing the process and the system for services for initiating telephony communications in violation of 35 USC § 271(a). For example Trulia uses Instant Leads to connect its agents to a prospect on a live call.

66. Taken together, either partially or entirely, the features included in Match.com's services for initiating telephony communications, including but not limited to, services branded under the name "matchPhone" perform the process recited in one or more of Claims 1-4 of the '123 Patent.

67. Taken together, either partially or entirely, the features included in Match.com's services for initiating telephony communications, including but not limited to, services branded under the name "matchPhone" use the system described in one or more of Claims 5-8 of the '123 Patent.

68. Upon information and belief Match.com directly infringes one or more of claims 1-8 of the '123 Patent by using, selling, offering to sell and/or importing the process and the system for services for initiating telephony communications in violation of 35 USC § 271(a). For example, Match.com offers its product on its website for U.S.A. subscribers.

INDIRECT INFRINGEMENT

INDUCING INFRINGEMENT

69. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-68.

70. Furthermore, all Defendants have had knowledge of the '123 Patent since public records show that the '123 Patent has been cited as "Prior Art" by at least thirty-eight patents issued by the United States Patent and Trademark Office in the past eleven years.

71. Defendant Twilio indirectly infringes one or more claims of the '123 Patent by actively inducing the infringement of their respective customers, users, subscribers and licensees who directly infringe by performing the patented process in violation of 35 USC § 271(b).

72. Twilio actively induces others, such as their customers, users, subscribers, and licensees, including Defendants Trulia and Match.com, to provide access to features, including, without limitation, services branded as "Twilio Voice".

73. Such use of services, including, without limitation, the services branded as "Twilio Voice", perform the process identified in one or more of claims 1-4 of the '123 Patent. For example, Twilio's website instructs, among others, its customers, users, subscribers, and/or licensees to perform certain acts with Twilio's "click to call" and "conference call" functionalities; and Twilio's customers, users, subscribers, and licensees perform those acts for certain uses of the mentioned functionalities.

74. Creation of software applications by others, such as Defendants Trulia and Match.com, including, without limitation, the function to make use of the services branded as “Twilio Voice”, make and use the system identified in one or more of claims 5-8 of the ‘123 Patent.

CONTRIBUTORY INFRINGEMENT

75. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-75.

76. With knowledge of the patent in suit, the Defendants indirectly infringe the ‘123 Patent by contributing to the direct infringement of a class of actors which includes the end-users of the software products, as well as customers, users, subscribers and licensees, by encouraging the class of actors to download, install, and operate products, aware of the fact that such acts amount to infringement of one or more claims of the ‘123 Patent.

77. Twilio offers to sell and sells services, including, without limitation, the services branded as “Twilio Voice” that constitute components of a patented system covered by one or more of claims 5-8 of the ‘123 Patent, constitute a material part of the invention and are not a staple article or commodity of commerce suitable for substantial noninfringing use.

78. Twilio has known such services, including, without limitation, the services branded as “Twilio Voice” were especially made or especially adapted for use in infringement of the ‘123 Patent at least as of the service of the present complaint.

79. Match.com offers to sell and sells features, including, without limitation, the services branded as “MatchPhone” that constitute components of a patented system covered by one or more of claims 5-8 of the ‘123 Patent, constitute a material part of the invention and are not a staple article or commodity of commerce suitable for substantial noninfringing use.

80. Match.com has known such services, including, without limitation, the services branded as “MatchPhone” were especially made or especially adapted for use in infringement of the ‘123 Patent at least as of the service of the present complaint.

81. Trulia offers to sell and sells features, including, without limitation, the services branded as “Instant Leads” that constitute components of a patented system covered by one or more of claims 5-8 of the ‘123 Patent, constitute a material part of the invention and are not a staple article or commodity of commerce suitable for substantial noninfringing use.

82. Trulia has known such services, including, without limitation, the services branded as “Instant Leads” were especially made or especially adapted for use in infringement of the ‘123 Patent at least as of the service of the present complaint.

83. In sum, all Defendants indirectly infringe the ‘123 Patent by contributing to the direct infringement of one or more of claims 5-8 of the ‘123 Patent in violation of 35 USC § 271(c).

DEMAND FOR JURY TRIAL

84. Telinit demands a trial by jury of any and all causes of action.

PRAYER FOR RELIEF

WHEREFORE, Telinit prays for the following relief:

1. That Defendants be adjudged to have infringed the ‘123 Patent, directly and/or indirectly, by way of inducement and/or contributory infringement, literally and/or under the doctrine of equivalents;

2. That Defendants, their officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with any of them, be preliminarily and permanently restrained and enjoined from directly and/or indirectly infringing the ‘123 Patent;

3. An award of damages pursuant to 35 U.S.C. §284 sufficient to compensate Telinit for the Defendants’ past infringement and any continuing or future infringement up until the date that Defendants are finally and permanently enjoined from further infringement, including compensatory damages;

4. An assessment of pre-judgment and post-judgment interest and costs against Defendants, together with an award of such interest and costs, in accordance with 35 U.S.C. §284;

5. That Defendants be directed to pay enhanced damages, including Telinit’s attorneys’ fees incurred in connection with this lawsuit pursuant to 35 U.S.C. §285; and

6. That Telinit have such other and further relief as this Court may deem just and proper.

Dated: October 12, 2012

Respectfully Submitted,

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