

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

NOBELBIZ, INC.

Plaintiff,

v.

INTELLIGENT CONTACTS, INC.,

Defendant.

Civil Action No. _____

COMPLAINT

Plaintiff, NobelBiz, Inc. (“NobelBiz”), by and through its counsel, Capshaw DeRieux, L.L.P. and Gibbons P.C., as for its Complaint against Defendant, Intelligent Contacts, Inc. (hereafter referred to as “Defendant”), states as follows:

THE PARTIES

1. Plaintiff NobelBiz is a privately held company incorporated under the laws of the State of Delaware, and having its principal place of business at 5973 Avenida Encinas, Suite 202, Carlsbad, California 92008. NobelBiz also has an office in Plano, Texas, within this District.
2. NobelBiz is a provider of innovative telecommunications solutions to call centers and collection agencies, among other clientele, worldwide, including within this District.
3. Defendant is a corporation organized and existing under the laws of the State of Nevada, having its principal place of business in this District at 6860 Dallas Parkway, Suite 200, Plano, Texas 75024.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code § 1, *et seq.*

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendant because of Defendant's continuous and systematic business contacts with the State of Texas, including operating from a principal place of business in this District.

7. Venue is appropriate in this district pursuant to 28 U.S.C. §§ 1391(b) and (c), and/or 28 U.S.C. § 1400(b).

NOBELBIZ'S PATENT

8. On March 13, 2012, the USPTO issued United States Patent No. 8,135,122 ("the '122 patent"), entitled "SYSTEM AND METHOD FOR MODIFYING COMMUNICATION INFORMATION (MCI)." A copy of the '122 patent is attached hereto as Exhibit A.

9. NobelBiz is the assignee of the '122 patent.

10. By way of a general description, the '122 patent discloses a system for processing a telephone call from a call originator (also referred to as a calling party) to a call target (also referred to as a receiving party), where the system accesses a database storing outgoing telephone numbers, selects a replacement telephone number from the outgoing telephone numbers based on the telephone number of the call target, and originates an outbound call to the call target with a modified outgoing caller identification ("caller ID"). *See, e.g.*, '122 patent, Abstract.

11. In practice, the invention of the '122 patent allows a calling party in one geographical region to originate a call to a receiving party in another geographical region, and for the caller ID or calling party number ("CPN") ("caller ID" and "CPN," collectively hereafter, "caller ID" or "CID") of that call to appear to the receiving party as a telephone number from the receiving party's local geographical region (e.g., area code) instead of the calling party's actual telephone number that would have a caller ID from the calling party's geographical region.

NOBELBIZ'S AWARD WINNING LOCALTOUCH™ SERVICE

12. NobelBiz has embodied features of the '122 patent in its LocalTouch™ service.

13. LocalTouch™ is designed to enhance the effectiveness of outbound teleservice call centers and for example, collection agencies, by increasing contact rates between calling parties and receiving parties.

14. For example, by implementing the novel process of the '122 patent, LocalTouch™ has been shown to increase contact rates between calling parties and receiving parties by over thirty percent (30%).

15. LocalTouch™ has been recognized by the industry as a pioneering service on multiple occasions. For example, in 2008, LocalTouch™ received the prestigious Technovation Award from the American Teleservices Association "[f]or its unique approach to delivering calls to many locations through many levels of redundancy and for its ability to allow a customer to choose their telephony infrastructure."

THE INFRINGING INTELLIGENT CONTACTS SERVICE

16. Defendant is a provider of, *inter alia*, contact or call center software and services.

17. Defendant offers a local caller ID management service as part of its Virtual Call Center, Predictive Dialer, and other platforms. Hereinafter, Defendant's local caller ID management service is referred to as the "Intelligent Contacts Service."

18. The Intelligent Contacts Service is a caller ID modifying service which, like NobelBiz's LocalTouch™ Service, is provided to call centers, commercial dialing operations, and businesses that conduct outbound dialing.

19. The Intelligent Contacts Service claims to improve answer rates (e.g., right party contacts) because people are more likely to answer a call from a local area.

20. The Intelligent Contacts Service modifies the caller ID for an outgoing telephone call to appear as a local number (e.g., a number having the same area code and/or local area code) to the recipient of that call.

21. The Intelligent Contacts Service, based on the area code dialed (e.g., by a call originator), specifies the caller ID seen by the recipient of that call (i.e., the receiving party).

22. The Intelligent Contacts Service can outpulse a local number to reflect the local area code; use a standard CID number; or randomize the displayed number so that the caller ID rotates through user numbers at random.

23. Defendant can supply its clients with local and toll-free numbers to transmit when placing outbound calls.

24. If an Intelligent Contacts Service user (e.g., a client of the Defendant) has multiple numbers in each area code, the Intelligent Contacts Service can mix and match the numbers.

25. Upon information and belief, Defendant's Intelligent Contacts Service practices each and every limitation of the claims of the '122 patent.

26. Upon information and belief, Defendant is knowingly and willfully, directly and indirectly infringing the '122 patent by offering to sell and selling its Intelligent Contacts Service in the United States, including within this judicial district.

27. Upon information and belief, Defendant knew or should have known of the '122 patent upon its issuance.

28. Upon information and belief, Defendant's infringement of the '122 patent has been and continues to be willful.

29. Defendant has disregarded and continues to disregard an objectively high likelihood that its actions constitute infringement of the '122 patent. This objectively-defined risk has been known or is so obvious that it should have been known to Defendant.

COUNT I – PATENT INFRINGEMENT OF THE '122 PATENT

30. NobelBiz restates and incorporates by reference paragraphs 1 through 29 as if stated fully herein.

31. In violation of 35 U.S.C. § 271(a), Defendant has, literally and under the doctrine of equivalents, infringed the '122 patent and still is, literally and under the doctrine of equivalents, infringing the '122 patent, by, among other things, making, using, offering for sale, and/or selling its Intelligent Contacts Service in the United States, and will continue to do so unless such infringing activities are enjoined by this Court.

32. Upon information and belief, prior to this lawsuit, Defendant had knowledge or should have known of the '122 patent upon its issuance.

33. Nonetheless, in violation of 35 U.S.C. § 271(b), Defendant knowingly induced infringement and possessed specific intent to encourage another's infringement of one or more claims of the '122 patent by, among other things, offering for sale, selling and/or by soliciting end users to purchase and use its Intelligent Contacts Service in the United States, and will continue to do so unless such infringing activities are enjoined by this Court.

34. Upon information and belief, in violation of 35 U.S.C. § 271(c), Defendant has contributorily infringed and continues to contributorily infringe, by selling and/or offering to sell within the United States the Intelligent Contacts Service, which:

- (a) constitutes a material part of the invention of the '122 patent;
- (b) is known by Defendant to be especially adapted for use in infringing the '122 patent; and
- (c) is not suitable for substantial noninfringing use with respect to the '122 patent.

35. NobelBiz will be substantially and irreparably harmed if Defendant's infringement of the '122 patent is not enjoined. Plaintiffs do not have an adequate remedy at law.

36. NobelBiz is entitled to recover from Defendant the damages sustained as a result of Defendant's infringing acts.

37. Plaintiff demands trial by jury of all issues so triable.

PRAYER FOR RELIEF

Plaintiffs request that:

- (a) Judgment be entered that Defendant has directly infringed, indirectly infringed, and actively induced others to infringe the '122 patent;
- (b) Judgment be entered that Defendant's infringement of the '122 patent was willful;
- (c) An accounting be had for the damages resulting from Defendant's infringement of the '122 patent, including, without limitation, lost profits caused by the infringing activities of Defendant, and that the damages so ascertained be trebled and awarded together with interest and costs plus expenses, and pre- and post-judgment interest;
- (d) Judgment be entered that this is an exceptional case, and that NobelBiz is entitled to its reasonable attorney fees pursuant to 35 U.S.C. § 285;
- (e) A permanent injunction be issued, restraining and enjoining Defendant, its officers, agents, attorneys, and employees, and those acting in privity or concert with them, from engaging in the commercial manufacture, use, offer for sale, or sale within the United States, or importation into the United States, of systems claimed in the '122 patent; and
- (f) The Court award such other and further relief as the Court may deem just and proper under the circumstances.

DATED: October 30, 2012

By: /s/ Elizabeth L. DeRieux

S. Calvin Capshaw
Texas Bar No. 03783900
Elizabeth L. DeRieux
Texas Bar No. 05770585
D. Jeffrey Rambin
Texas Bar No. 00791478
Capshaw DeRieux LLP
114 E Commerce Avenue
Gladewater, TX 75647
Telephone: (903) 233-4816
Facsimile: (903) 236-8787
Email: ccapshaw@capshawlaw.com
Email: ederieux@capshawlaw.com
Email: jrambin@capshawlaw.com

Of Counsel:

Ralph A. Dengler
Charles H. Chevalier
William A. Hector
GIBBONS, P.C.
One Gateway Center
Newark, NJ 07102
Telephone: (973) 596-4825
Facsimile: (973) 639-6381
Email: rdengler@gibbonslaw.com
Email: cchevalier@gibbonslaw.com
Email: whector@gibbonslaw.com

*Attorneys for Plaintiff
NobelBiz, Inc.*