

ADR

E-FILE COPY

ORIGINAL FILED

DEC - 6 2012

Richard W. Winking  
Clerk, U.S. District Court  
Northern District of California  
San Jose

BY FAX

1 M. ELIZABETH DAY (SBN 177125)  
 eday@feinday.com  
 2 IAN N. FEINBERG (SBN 88324)  
 ifeinberg@feinday.com  
 3 DAVID ALBERTI (SBN 220625)  
 dalberti@feinday.com  
 4 SAL LIM (SBN 211836)  
 slim@feinday.com  
 5 YAKOV ZOLOTOREV (SBN 224260)  
 yzolotorev@feinday.com  
 6 MARC BELLOLI (SBN 244290)  
 mbelloli@feinday.com  
 7 FEINBERG DAY ALBERTI & THOMPSON LLP  
 401 Florence Street, Suite 200  
 8 Palo Alto, CA 94301  
 Telephone: 650.618.4360  
 9 Facsimile: 650.618.4368

10 Attorneys for Defendant  
 PRAGMATUS TELECOM, LLC

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LB

CV 12-00196

14 PRAGMATUS TELECOM, LLC,  
 15 Plaintiff,  
 16 v.  
 17 BUILD.COM, INC.,  
 18 Defendant.

CASE NO. \_\_\_\_\_  
 COMPLAINT FOR PATENT  
 INFRINGEMENT  
 DEMAND FOR JURY TRIAL

20 Plaintiff Pragmatum Telecom, LLC ("Pragmatum") complains and alleges as follows  
 21 against Defendant Build.com, Inc. ("Build.com"):

22 THE PARTIES

23 1. Pragmatum is a limited liability company organized and existing under the laws of  
 24 the Commonwealth of Virginia with its principal place of business at 601 North King Street,  
 25 Alexandria, Virginia 22314.

26 2. Pragmatum is informed and believes that Build.com is a corporation organized and  
 27 existing under the laws of the State of California with its principal place of business at 900  
 28 Fortress Street, Suite 100, Chico, California, 95973.

1 **JURISDICTION AND VENUE**

2 3. This is an action for patent infringement arising under the patent laws of the  
3 United States, United States Code, 35 U.S.C. § 271 et seq. This Court has subject matter  
4 jurisdiction over this action under Title 28 United States Code, §§ 1331 and 1338.

5 4. Pragmatus is informed and believes that this Court has personal jurisdiction over  
6 Build.com because Build.com is incorporated within California, and because Build.com has  
7 committed, and continues to commit, acts of infringement in this district.

8 5. Venue is proper under 28 U.S.C. §§ 1391 and 1400 because Build.com has  
9 committed acts of infringement in this district and/or is deemed to reside in this district.

10 **INTRADISTRICT ASSIGNMENT**

11 6. Pursuant to Local Rule 3-2(c), this case is subject to district-wide assignment  
12 because it is an Intellectual Property Action.

13 **THE PATENTS-IN-SUIT**

14 7. On October 30, 2001, the United States Patent and Trademark Office (“USPTO”)  
15 duly and legally issued United States Patent No. 6,311,231 (“the ’231 Patent”), entitled “Method  
16 and System for Coordinating Data and Voice Communications Via Customer Contract Channel  
17 Changing System Using Voice Over IP.” Pragmatus holds all right, title, and interest in and to  
18 the ’231 Patent. A true and correct copy of the ’231 Patent is attached as Exhibit A.

19 8. On December 23, 2003, the USPTO duly and legally issued United States Patent  
20 No. 6,668,286 (“the ’286 Patent”), entitled “Method and System for Coordinating Data and Voice  
21 Communications Via Contact Channel Changing System Over IP.” Pragmatus holds all right,  
22 title and interest in and to the ’286 Patent. A true and correct copy of the ’286 Patent is attached  
23 as Exhibit B.

24 9. On January 2, 2007, the USPTO duly and legally issued United States Patent No.  
25 7,159,043 (“the ’043 Patent”), entitled “Method and System for Coordinating Data and Voice  
26 Communications Via Customer Contact Channel Changing System.” Pragmatus holds all right,  
27 title and interest in and to the ’043 Patent. A true and correct copy of the ’043 Patent is attached  
28 as Exhibit C.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**COUNT I**

**(INFRINGEMENT OF THE '231 PATENT)**

10. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 9 above.

11. Build.com has and continues to infringe directly one or more claims of the '231 Patent, including at least by using the system of claim 1 of the '231 Patent to provide live chat service over the Internet.

12. As a result of Build.com's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

**COUNT II**

**(INFRINGEMENT OF THE '286 PATENT)**

13. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 9 above.

14. Build.com has and continues to infringe directly one or more claims of the '286 Patent, including at least by using the system of claim 9 of the '286 Patent to provide live chat service over the Internet.

15. As a result of Build.com's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

**COUNT III**

**(INFRINGEMENT OF THE '043 PATENT)**

16. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 9 above.

17. Build.com has and continues to infringe directly one or more claims of the '043 Patent, including at least by using the system of claim 1 of the '043 Patent to provide live chat service over the Internet.

18. As a result of Build.com's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PRAYER FOR RELIEF**

WHEREFORE, Pragmatius respectfully requests the following relief:

- a) A judgment that Build.com has infringed one or more claims of United States Patent Nos. 6,311,231, 6,668,286, and 7,159,043;
- b) A judgment that United States Patent Nos. 6,311,231, 6,668,286, and 7,159,043 are valid and enforceable;
- c) Pragmatius be awarded damages adequate to compensate Pragmatius for Build.com’s infringement of United States Patent Nos. 6,311,231, 6,668,286, and 7,159,043 up until the date such judgment is entered, including prejudgment and post-judgment interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary adequately to compensate Pragmatius for Build.com’s infringement, an accounting;
- d) A judgment that Pragmatius be awarded attorneys’ fees, costs, and expenses incurred in prosecuting this action; and
- e) A judgment that Pragmatius be awarded such further relief at law or in equity as the Court deems just and proper.

Dated: December 6, 2012

FEINBERG DAY ALBERTI & THOMPSON LLP

By: 

M. Elizabeth Day  
Ian N. Feinberg  
David Alberti  
Sal Lim  
Yakov Zolotorev  
Marc Belloli

Attorneys for Plaintiff  
PRAGMATUS TELECOM, LLC

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DEMAND FOR JURY TRIAL**

Pragmatus Telecom demands trial by jury for all issues so triable pursuant to Fed. R. Civ. Proc. 38(b) and Civil L.R. 3-6(a).

Dated: December 6, 2012

FEINBERG DAY ALBERTI & THOMPSON LLP



By: \_\_\_\_\_

M. Elizabeth Day  
Ian N. Feinberg  
David Alberti  
Sal Lim  
Yakov Zolotorev  
Marc Belloli

Attorneys for Plaintiff  
PRAGMATUS TELECOM, LLC