

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

CLICK-TO-CALL TECHNOLOGIES LP,

Plaintiff,

vs.

ORACLE CORPORATION; ART
TECHNOLOGY GROUP, INC.; ESTARA,
INC.; DELL, INC.; CARNIVAL CRUISE
LINES; THE HARTFORD FINANCIAL
SERVICES GROUP, INC.; BMO HARRIS
BANK N.A.; THE ALLSTATE
CORPORATION; ESURANCE; HSBC
FINANCE CORPORATION; AND MACY'S
INC.,

Defendants.

Civil Action No. 1:12-cv-00468

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Click-to-Call Technologies LP (“CTC” or “Plaintiff”) files this Complaint for patent infringement against Defendant Oracle Corporation, Art Technology Group, Inc., eStara, Inc., and the following “Oracle Customer Defendants”: Dell, Inc.; Carnival Cruise Lines; The Hartford Financial Services Group, Inc.; BMO Harris Bank N.A.; The Allstate Corporation; Esurance; HSBC Finance Corporation; and Macy’s Inc. (all collectively, “Defendants”). Plaintiff alleges:

THE PARTIES

1. Plaintiff CTC is a Texas Limited Partnership, with its principal place of business in Austin, Texas.
2. Defendant Oracle Corporation (“Oracle”) is a Delaware corporation with its principal place of business at 500 Oracle Parkway, Redwood City, California 94065.

3. Defendant Art Technology Group, Inc. (“ATG”) is a wholly owned subsidiary of Oracle with its principal place of business at 500 Oracle Parkway, Redwood City, California 94065.

4. Defendant eStara, Inc. (“eStara”) is an ATG company and wholly owned subsidiary of Oracle with its principal place of business at 500 Oracle Parkway, Redwood City, California 94065.

5. Defendant Dell Inc. (“Dell”) is a Delaware corporation with its principal place of business at One Dell Way, Round Rock, Texas 78682.

6. Defendant Carnival Cruise Lines (“Carnival”) is a wholly owned subsidiary of Carnival Corporation & PLC. Carnival is a Florida company with its principal place of business at 3655 N.W. 87th Avenue Miami, Florida 33178-2428. Carnival Corporation is duly organized and existing under the laws of the Republic of Panama with its principal place of business at 3655 N.W. 87th Avenue Miami, Florida 33178-2428, and Carnival PLC is duly organized and existing under the laws of England and Wales with its principal place of business at 5 Gainsford Street, London SE1 2NE, United Kingdom.

7. Defendant The Hartford Financial Services Group, Inc. (“Hartford”) is a Delaware corporation with its principal place of business at One Hartford Plaza, Hartford, Connecticut 06155.

8. Defendant BMO Harris Bank N.A. (“Harris Bank”), a wholly owned subsidiary of Bank of Montreal, a Canadian corporation, is an Illinois company with its principal place of business at 111 W. Monroe St., Chicago, Illinois 60603.

9. Defendant The Allstate Corporation (“Allstate”) is a Delaware corporation with its principal place of business at 2775 Sanders Road, Northbrook, Illinois 60062.

10. Defendant Esurance, a wholly owned subsidiary of Allstate, is a California company with its principal place of business at 650 Davis Street, San Francisco, California 94111.

11. Defendant HSBC Finance Corporation (“HSBC”) is a Delaware corporation with its principal place of business at 26525 North Riverwoods Boulevard, Suite 100, Mettawa, Illinois 60045.

12. Defendant Macy’s, Inc. (“Macy’s”) is a Delaware corporation with its principal places of business at 7 West Seventh Street, Cincinnati, Ohio 45202 and 151 West 34th Street, New York, New York 10001.

JURISDICTION AND VENUE

13. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

14. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)–(c) and 1400(b) because this Court has personal jurisdiction over Defendants, and CTC has its principal place of business in this District.

15. Defendants have done business in this District, have committed acts of infringement in this District, and continue to commit acts of infringement in this District, entitling Plaintiff to relief.

16. Defendants are properly joined in this action because (1) certain infringing acts of Defendants arise out of the same transaction, occurrence or series of transactions or occurrences relating to the making, using, offering for sale, and selling of the same accused products and providing the same accused services in this action and (2) questions of fact common to all Defendants will arise in the action. Specifically, ATG and eStara are wholly owned subsidiaries of Oracle and the Oracle Customer Defendants use Oracle’s infringing software on their

websites.

BACKGROUND

17. CTC is the owner of United States Patent 5,818,836 (the "'836 patent").

18. The '836 patent was issued on October 6, 1998, and the PTO issued a reexamination certificate for the '836 patent on December 30, 2008. A true and correct copy of the '836 patent is attached hereto as Exhibit A.

INFRINGEMENT OF U.S. PATENT 5,818,836

19. Oracle has infringed and continues to infringe one or more claims of the '836 patent by its manufacture, use, sale, importation, licensing and/or offer for sale of its Oracle Commerce solutions and its e-commerce software and services, including Oracle Live Help On Demand, and including any predecessor products and any products which include a telephony call initiated on a website or Internet Protocol interface. Oracle also has infringed and continues to infringe one of more claims of the '836 patent by contributing to and actively inducing others to use, sell, import, and/or offer for sale infringing products and/or services. Oracle is liable for its infringement of the '836 patent pursuant to 35 U.S.C. § 271.

20. ATG has infringed and continues to infringe one or more claims of the '836 patent by its manufacture, use, sale, importation, licensing and/or offer for sale of Oracle Commerce solutions and Oracle's e-commerce software and services, including Oracle Live Help On Demand, and including any predecessor products and any products which include a telephony call initiated on a website or Internet Protocol interface. ATG also has infringed and continues to infringe one of more claims of the '836 patent by contributing to and actively inducing others to use, sell, import, and/or offer for sale infringing products and/or services. ATG is liable for its infringement of the '836 patent pursuant to 35 U.S.C. § 271.

21. eStara has infringed and continues to infringe one or more claims of the '836 patent by its manufacture, use, sale, importation, licensing and/or offer for sale of Oracle Commerce solutions and Oracle's e-commerce software and services, including Oracle Live Help On Demand, and including any predecessor products and any products which include a

telephony call initiated on a website or Internet Protocol interface. eStara also has infringed and continues to infringe one of more claims of the '836 patent by contributing to and actively inducing others to use, sell, import, and/or offer for sale infringing products and/or services. eStara is liable for its infringement of the '836 patent pursuant to 35 U.S.C. § 271.

22. Dell has infringed and continues to infringe one or more claims of the '836 patent by its manufacture, use, sale, importation, licensing and/or offer for sale of Oracle Commerce solutions and Oracle's e-commerce software and services, including Oracle Live Help On Demand, and including any predecessor products and any products which include a telephony call initiated on a website or Internet Protocol interface. Dell also has infringed and continues to infringe one of more claims of the '836 patent by contributing to and actively inducing others to use, sell, import, and/or offer for sale infringing products and/or services through the dell.com website. Dell is liable for its infringement of the '836 patent pursuant to 35 U.S.C. § 271.

23. Carnival has infringed and continues to infringe one or more claims of the '836 patent by its manufacture, use, sale, importation, licensing and/or offer for sale of Oracle Commerce solutions and Oracle's e-commerce software and services, including Oracle Live Help On Demand, and including any predecessor products and any products which include a telephony call initiated on a website or Internet Protocol interface. Carnival also has infringed and continues to infringe one of more claims of the '836 patent by contributing to and actively inducing others to use, sell, import, and/or offer for sale infringing products and/or services through the carnival.com website. Carnival is liable for its infringement of the '836 patent pursuant to 35 U.S.C. § 271.

24. Hartford has infringed and continues to infringe one or more claims of the '836 patent by its manufacture, use, sale, importation, licensing and/or offer for sale of Oracle Commerce solutions and Oracle's e-commerce software and services, including Oracle Live Help On Demand, and including any predecessor products and any products which include a telephony call initiated on a website or Internet Protocol interface. Hartford also has infringed and continues to infringe one of more claims of the '836 patent by contributing to and actively

inducing others to use, sell, import, and/or offer for sale infringing products and/or services through the thehartford.com website. Hartford is liable for its infringement of the '836 patent pursuant to 35 U.S.C. § 271.

25. Harris Bank has infringed and continues to infringe one or more claims of the '836 patent by its manufacture, use, sale, importation, licensing and/or offer for sale of Oracle Commerce solutions and Oracle's e-commerce software and services, including Oracle Live Help On Demand, and including any predecessor products and any products which include a telephony call initiated on a website or Internet Protocol interface. Harris Bank also has infringed and continues to infringe one of more claims of the '836 patent by contributing to and actively inducing others to use, sell, import, and/or offer for sale infringing products and/or services through the harrisbank.com website. Harris Bank is liable for its infringement of the '836 patent pursuant to 35 U.S.C. § 271.

26. Allstate has infringed and continues to infringe one or more claims of the '836 patent by its manufacture, use, sale, importation, licensing and/or offer for sale of Oracle Commerce solutions and Oracle's e-commerce software and services, including Oracle Live Help On Demand, and including any predecessor products and any products which include a telephony call initiated on a website or Internet Protocol interface. Allstate also has infringed and continues to infringe one of more claims of the '836 patent by contributing to and actively inducing others to use, sell, import, and/or offer for sale infringing products and/or services through the allstate.com website. Allstate is liable for its infringement of the '836 patent pursuant to 35 U.S.C. § 271.

27. Esurance has infringed and continues to infringe one or more claims of the '836 patent by its manufacture, use, sale, importation, licensing and/or offer for sale of Oracle Commerce solutions and Oracle's e-commerce software and services, including Oracle Live Help On Demand, and including any predecessor products and any products which include a telephony call initiated on a website or Internet Protocol interface. Esurance also has infringed and continues to infringe one of more claims of the '836 patent by contributing to and actively

inducing others to use, sell, import, and/or offer for sale infringing products and/or services through the esurance.com website. Esurance is liable for its infringement of the '836 patent pursuant to 35 U.S.C. § 271.

28. HSBC has infringed and continues to infringe one or more claims of the '836 patent by its manufacture, use, sale, importation, licensing and/or offer for sale of Oracle Commerce solutions and Oracle's e-commerce software and services, including Oracle Live Help On Demand, and including any predecessor products and any products which include a telephony call initiated on a website or Internet Protocol interface. HSBC also has infringed and continues to infringe one of more claims of the '836 patent by contributing to and actively inducing others to use, sell, import, and/or offer for sale infringing products and/or services through the hsbc.com website. HSBC is liable for its infringement of the '836 patent pursuant to 35 U.S.C. § 271.

29. Macy's has infringed and continues to infringe one or more claims of the '836 patent by its manufacture, use, sale, importation, licensing and/or offer for sale of Oracle Commerce solutions and Oracle's e-commerce software and services, including Oracle Live Help On Demand, and including any predecessor products and any products which include a telephony call initiated on a website or Internet Protocol interface. Macy's also has infringed and continues to infringe one of more claims of the '836 patent by contributing to and actively inducing others to use, sell, import, and/or offer for sale infringing products and/or services through the macys.com website. Macy's is liable for its infringement of the '836 patent pursuant to 35 U.S.C. § 271.

30. Defendants' acts of infringement have caused damage to CTC, and CTC is entitled to recover from Defendants the damages it has sustained as a result of Defendants' wrongful acts in an amount subject to proof at trial.

WILLFUL INFRINGEMENT

31. Oracle's, ATG's, and eStara's infringement of the '836 patent is willful and deliberate, entitling Plaintiff to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

32. In November 2009, after the reexamination certificate was issued, Steven DuVal, the '836 patent's inventor, and ATG entered into discussions concerning strategic opportunities with the CTC patent (ATG had acquired eStara in September, 2006). At the time of these discussions Steven DuVal, owned the '836 patent, but has since assigned it to CTC.

33. In January 2010, ATG offered to buy the CTC patent from DuVal. The negotiations did not result in a sale of the patent.

34. In November 2010, Oracle announced its agreement to acquire ATG. This transaction closed in early 2011.

JURY DEMAND

35. Plaintiff demands a trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests entry of judgment in their favor and against Defendants as follows:

a) Declaring that each Defendant has infringed directly, and/or indirectly, U.S. Patent 5,818,836;

b) Permanently enjoining each Defendant, and its respective officers, agents, employees, and those acting in privity with each Defendant, from further infringement, contributory infringement, and/or inducing infringement of U.S. Patent 5,818,836;

c) Awarding damages arising out of each Defendant's infringement of U.S. Patent 5,818,836, including enhanced damages, if applicable, pursuant to 35 U.S.C. § 284 together with prejudgment and post-judgment interest, in an amount according to proof;

d) An award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law; and

e) For such other costs and further relief as the Court may deem just and proper.

DATED: May 29, 2012

Respectfully submitted,

By: /s/Brian D. Melton

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