

Michael P. Adams (admitted *pro hac vice*)
Brian L. King (admitted *pro hac vice*)
Winstead PC
401 Congress Avenue
Austin, TX 78701
(512) 370-2858 / (512) 370-2850 (Fax)
madams@winstead.com
bking@winstead.com

Joseph A. Greco (Cal. Bar No. 104476)
Justin T. Beck (Cal. Bar No. 53138)
Kimberly P. Zapata (Cal. Bar No. 138291)
Beck Ross Bismonte Finley LLP
150 Almaden Boulevard, 10th Floor
San Jose, CA 95113
(408) 938-7900 / (408) 938-0790 (Fax)
jgreco@beckross.com
jbeck@beckross.com
kzapata@beckross.com

L. Eric Loewe (Cal. Bar No. 203490)
Internet Patents Corporation
10850 Gold Center Dr. Suite 250B
Rancho Cordova, CA 95670
(916) 853-1529 / (916) 631-0846 (Fax)
EricLoewe@internetpatentscorporation.net

Attorneys for Plaintiff Internet Patents Corporation

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

INTERNET PATENTS
CORPORATION, f/k/a INSWEB
CORPORATION

Plaintiff,

V.

TREE.COM, INC.,

Defendant.

Case No. 3:12-cv-06505-JSW

**FIRST AMENDED
COMPLAINT FOR
PATENT INFRINGEMENT**

JURY DEMANDED

1 Plaintiff Internet Patents Corporation, f/k/a Insweb Corporation ("Plaintiff" or "IPC"),
2 files this First Amended Complaint for Patent Infringement and damages against Defendant
3 Tree.com Inc. ("Tree.com" or "Defendant"), and would respectfully show the Court as follows:
4

5 **PARTIES**

6 1. Plaintiff Internet Patents Corporation, f/k/a Insweb Corporation, is a Delaware
7 corporation having its principal place of business at 10850 Gold Center Dr., Suite 250B, Rancho
8 Cordova, California 95670.

9 2. On information and belief, Defendant Tree.com is a Delaware corporation having
10 its principal place of business at 11115 Rushmore Drive, Charlotte, North Carolina 28277. Upon
11 information and belief, Tree.com has appointed its agent for service as follows: National
12 Registered Agents, Inc., 160 Green Tree Dr., Suite 101, Dover, DE 19904.
13

14 **JURISDICTION AND VENUE**

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

18 4. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On
19 information and belief, Tree.com has a regular and established place of business in this district,
20 has transacted business in this district, and/or has committed acts of patent infringement in this
21 district.
22

23 **BACKGROUND**

24 5. In 1999, Plaintiff IPC began operating an online insurance marketplace that
25 enabled consumers to shop online for a variety of insurance products, including automobile, term
26 life, homeowners, renters and individual health insurance, and obtain insurance company-
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1 sponsored quotes for actual coverage. During this period, IPC developed several e-commerce
2 technologies.

3 6. More specifically, IPC created the Dynamic Tabs technology. The Dynamic Tabs
4 technology provides website users with an online application consisting of a series of
5 dynamically generated web pages (i.e., a form set). The online application is organized and
6 presented to provide re-entrant editing, error trapping, flagging correction, and easy navigation
7 from page to page without data loss using the website tabs and conventional browser
8 functionality.
9

10 7. On April 27, 2010, the United States Patent and Trademark Office ("PTO") duly
11 and legally issued United States Patent No. 7,707,505 ("the '505 patent"), entitled "Dynamic
12 Tabs For a Graphical User Interface." A true and correct copy of the '505 patent is attached as
13 Exhibit A to IPC's Original Complaint [Dkt. No. 1]. The '505 patent is assigned to IPC. As
14 such, IPC holds all right, title and interest in and to the '505 patent.
15

16 8. Upon information and belief, Tree.com is a technology company that operates the
17 website www.tree.com. Tree.com is the parent of several brands and businesses that provide
18 information, advice, products and services through a series of websites, including
19 LendingTree.com, RealEstate.com, GetSmart.com, HomeLoanCenter.com, RealEstate.com,
20 iNest.com, and Domania.com. Together, these brands allow consumers to perform comparison
21 shopping for loans, home services, education, auto and other services from multiple businesses
22 and professionals who compete for the consumer's business. Upon information and belief,
23 Tree.com's technology platform provides for automated online registrations and applications.
24

25 9. Upon information and belief, Tree.com, directly or indirectly, makes, has made,
26 uses, offers for sale or sells in the State of California, in this judicial district, and elsewhere
27
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1 within the United States, online registration and application technology that infringes the '505
2 patent. Tree.com became aware of its infringement of the '505 patent on or about January 2,
3 2013, when IPC sent Tree.com a letter informing it of its infringement.

4
5 **COUNT I**

6 **TREE.COM'S INFRINGEMENT OF U.S. PATENT NO. 7,707,505**

7 10. IPC incorporates paragraphs 1-9 above as if fully repeated and restated herein.

8 11. Upon information and belief, Defendant Tree.com has been and now is directly
9 infringing the '505 patent in this judicial district, and elsewhere in the United States by, among
10 other things, making, using, selling and/or otherwise providing online registration and
11 application technology covered by one or more claims of the '505 patent. Tree.com is thus liable
12 for infringement of the '505 patent pursuant to 35 U.S.C. § 271.

13 12. As a result of Tree.com's infringement of the '505 patent, IPC has suffered
14 monetary damages in an amount not yet determined, and will continue to suffer damages in the
15 future unless Tree.com's infringing activities are enjoined by this Court.

16 13. Unless a permanent injunction is issued enjoining Tree.com and its agents,
17 servants, employees, attorneys, representatives, affiliates, and all others acting on their behalf
18 from infringing the '505 patent, IPC will be greatly and irreparably harmed.

19 14. After being put on notice of its infringement at least as early as January 2, 2013,
20 Tree.com's acts of infringement have been willful, deliberate, and in reckless disregard of IPC's
21 patent rights.
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PRAYER FOR RELIEF

WHEREFORE, IPC respectfully requests that this Court enter:

1. A judgment in favor of IPC that Tree.com has infringed the '505 patent, and that such infringement was willful;

2. A permanent injunction enjoining Tree.com 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 infringing the '505 patent;

3. A judgment and order requiring Tree.com to pay IPC its damages, costs, expenses, and prejudgment and post-judgment interest for Tree.com's infringement of the '505 patent as provided under 35 U.S.C. § 284;

4. An award to IPC for enhanced damages resulting from the knowing, deliberate, and willful nature of Tree.com's prohibited conduct with notice being made at least as early as January 2, 2013, as provided under 35 U.S.C. § 284;

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

6. Any and all other relief to which IPC may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

1 Dated: June 3, 2013

2 Respectfully submitted,

3 By: /s/ Michael P. Adams

4 Michael P. Adams (admitted *pro hac vice*)

5 Brian L. King (admitted *pro hac vice*)

6 Winstead PC

7 401 Congress Avenue, Suite 2100

8 Austin, TX 78701

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25 Internet Patents Corporation

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**ATTORNEYS FOR PLAINTIFF
INTERNET PATENTS CORPORATION**

CERTIFICATE OF SERVICE

I hereby certify that the counsel of record who have consented to electronic service, are being served this 3rd day of June, 2013, by ECF.

/s/ Michael P. Adams

Michael P. Adams