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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

DATA DISTRIBUTION TECHNOLOGIES LLC,	:	
a New York Limited Liability Company,	:	
	:	
Plaintiff,	:	Civil Action No. 12-4149-JBS-KMW
v.	:	
	:	Chief Judge Jerome B. Simandle
WEICHERT LEAD NETWORK, INC., a	:	Magistrate Judge Karen M. Williams
corporation of the State of New Jersey,	:	
	:	
Defendant.	:	
	:	
	:	
	:	x

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**FIRST AMENDED COMPLAINT AND DEMAND FOR TRIAL BY JURY**

Plaintiff Data Distribution Technologies LLC ("DDT") is a limited liability company organized and existing under the laws of the State of New York, having its principal place of business at 75 Montebello Road, Suffern, New York 10901-3746, allege the following for their complaint against defendant Weichert Lead Network, Inc., a corporation organized and existing under the laws of the State of New Jersey and headquartered at 1625 Route 10 East, Morris Plains, New Jersey 07950 ("Weichert"):

### **JURISDICTION AND VENUE**

1. This action is for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* Subject matter jurisdiction is conferred upon this Court under 28 U.S.C. § 1338(a).

2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

3. Personal jurisdiction over Weichert comports with the United States Constitution because Weichert is contributing and/or committing the acts of patent infringement alleged in this Complaint in this district.

### **BACKGROUND**

4. On March 4, 2003, United States Patent No. 6,529,908 ("the '908 Patent"), entitled "Web-Updated Database With Record Distribution By Email," was duly and lawfully issued based upon an application filed by the inventors, Derrick Ronald Piett, Anthony James McAleer, and Peter Cellik. (A true and correct copy of the '908 Patent is attached as Exhibit A.)

5. DDT is the owner by assignment of the '908 Patent and has the right to sue and recover damages for infringement thereof.

6. This amendment is made to correctly identify the defendant, which counsel for the defendant indicated is Weichert Lead Network, Inc. as opposed to Weichert Real Estate Affiliates, Inc. To the extent the latter entity is liable for any of the conduct complained of herein, or another Weichert entity is similarly liable, DDT reserves the right to amend this complaint to add that party.

## **CLAIM FOR RELIEF**

### **Patent Infringement Of United States Patent No. 6,529,908**

7. All of the foregoing allegations are restated and incorporated by reference as though fully set forth herein.

8. Upon information and belief, Weichert operates an online real estate system ("myWeichert System") that, among other things, maintains information records about real estate properties. Weichert provides a web interface through its Weichert.com website at [www.weichert.com/myweichert](http://www.weichert.com/myweichert) that allows potential buyers in the United States generally and in the District of New Jersey to communicate with the myWeichert System.

9. Upon information and belief, myWeichert System allows potential buyers to create profiles, which are maintained via a database associated with the myWeichert System.

10. Upon information and belief, myWeichert System enables potential buyers to create and edit searches associated with their profile, and these searches are stored in a database associated with the myWeichert System.

11. Upon information and belief, myWeichert System sends e-mails to potentials buyers based upon their profiles and searches; for example, if a new real estate listing matches the potential buyer's saved search that is associated with that buyer's profile.

12. Upon information and belief, myWeichert system performs the method of maintaining and distributing database information, the method comprising:

communicating with at least one subscriber system to receive user input from a user at said at least one subscriber system; maintaining a database of information records; maintaining user records in said database and linking said user records with said information records; controlling said database such that each information record is associated with at least one user, wherein controlling said database includes obtaining for inclusion in a message a plurality of information records having at least one common field entry; amending said information records in response to user input from said at least one subscriber system; and serving said message including said plurality of information records having at least one common field entry from said database to said at least one user associated with said information record.

13. By such acts, Weichert is in violation of 35 U.S.C. § 271(a) and has been and continues to infringe literally or under the doctrine of equivalents at least one or more claims of the '908 Patent directly by at least making, using, offering for sale, and/or selling, and/or importing the myWeichert system for maintaining, updating, and distributing by e-mail real estate information corresponding to potential buyer's profile and/or saved searches.

14. Upon information and belief, Weichert encourages potential buyers to create and maintain profiles on myWeichert System, to create and save searches on the myWeichert system, and to sign up to receive e-mail alerts from the myWeichert System.

15. Upon information and belief, Weichert is in violation of 35 U.S.C. § 271(b), and has been and continues to infringe indirectly at least one or more claims of the '908 Patent by knowingly and specifically intending to contribute or induce

infringement by others (*e.g.*, including but not limited to potential buyers) via at least the acts of advertisement and instructions to use the above-referenced myWeichert System.

16. DDT has been damaged by the infringement of Weichert and is suffering and will continue to suffer irreparable harm and damage as a result of this infringement unless such infringement is enjoined by this Court.

17. Weichert is on notice of the '908 Patent and Weichert's postfiling acts of infringement are willful and deliberate. DDT's decision not to seek a preliminary injunction should not be interpreted as condoning any of Weichert's postfiling infringement or conceding enhanced damages. Rather, DDT's decision not to seek a preliminary injunction is based on DDT's interest in conserving judicial resources. This action, therefore, is "exceptional" within the meaning of 35 U.S.C. § 285.

### **PRAYER FOR RELIEF**

WHEREFORE, DDT demands judgment as follows:

- A. an order adjudging Weichert to have infringed the '908 Patent;
- B. a permanent injunction enjoining Weichert with its respective officers, agents, servants, employees, and attorneys, and all persons in active concert or participation with any of them who receive actual notice of the order by personal service or otherwise, from infringing the '908 Patent;
- C. an award of damages adequate to compensate DDT for the infringement by Weichert along with prejudgment and postjudgment interest, but in no event less than a reasonable royalty, such damages to be trebled pursuant to the provisions of 35 U.S.C. § 284, at least with respect to postfiling infringement;

D. an award of DDT's reasonable attorney fees and expenses pursuant to the provisions of 35 U.S.C. § 285;

E. an award of DDT's costs; and

F. such other and further relief as this Court may deem just and proper.

**JURY DEMAND**

Pursuant to Fed. R. Civ. P. 38(b), plaintiffs hereby demand a trial by a jury on all issues so triable.

Respectfully submitted,

LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
*Attorneys for Plaintiff Data Distribution  
Technologies, LLC.*

Dated: September 7, 2012 By: s/ Stephen F. Roth  
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**AMENDED CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2**

The undersigned hereby certifies, pursuant to Local Civil Rule 11.2, that with respect to the matter in controversy herein, the following other actions are pending in this Court, involving the same patent which this matter is subject.

- DATA DISTRIBUTION TECHNOLOGIES LLC v. RE/MAX LLC, Civil Action No. 12-4877-JBS-KMW
- DATA DISTRIBUTION TECHNOLOGIES LLC v. BRER AFFILIATES INC., AND PRUDENTIAL FINANCIAL, INC., Civil Action No. 12-4878-JBS-KMW

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Dated: September 7, 2012

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