

and existing under the laws of the State of New Jersey with a principal place of business at 751 Broad Street Newark, New Jersey 07102.

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 BRER comports with the United States Constitution because BRER is contributing and/or committing the acts of patent infringement alleged in this Complaint in this district.

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

BACKGROUND

5. On March 4, 2003, U.S. 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 Exh. A.)

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

7. On March 6, 2013, DDT sent a Notice of Infringement to counsel for Prudential and BRER. The Notice of Infringement contained a claim chart and attached the '908 Patent.

8. The March 6, 2013 Notice of Infringement put BRER and Prudential on notice of the '908 Patent and how ongoing activities may subject them to liability for direct and indirect patent infringement.

FIRST CLAIM FOR RELIEF

Direct Patent Infringement Of U.S. Patent No. 6,529,908

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

10. Upon information and belief, Prudential operated and BRER operates, having acquired it from Prudential, an online real estate system ("Prudential System") that, among other things, maintains information records about real estate properties. Prudential provided and BRER provides a web interface through BRER's current and Prudential's former website at <http://www.prudential.com/realestate> that allows potential buyers in the United States generally and in the District of New Jersey to communicate with the Prudential System.

11. Upon information and belief, the Prudential System allows potential buyers to create "My Portfolio" accounts or profiles, which are maintained via a database associated with the Prudential System.

12. Upon information and belief, the Prudential System enables potential buyers to create and edit searches associated with their profile via, for example, the

"Home Search" menu, and these searches are stored in a database associated with the Prudential System.

13. Upon information and belief, the Prudential System sends e-mails to potential 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.

14. Upon information and belief, the Prudential System enables users to make notes and save notes regarding real estate listings in their search.

15. Upon information and belief, the Prudential System performs the patented method of maintaining and distributing database information, including, but not limited to, the method of 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.

16. By such acts, Prudential was and BRER was and is in violation of 35 U.S.C. § 271(a), and Prudential has been and BRER has been and is continuing 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, selling, and/or importing the Prudential System for maintaining, updating, and distributing by e-mail real estate information corresponding to potential buyer's profile and/or saved searches.

17. DDT has been damaged by the infringement of Prudential and BRER 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.

18. Prudential and BRER have been on notice of the '908 Patent, and their postfiling acts of infringement will be willful and deliberate. DDT's decision not to seek a preliminary injunction should not be interpreted as condoning any of Prudential's and BRER'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.

SECOND CLAIM FOR RELIEF

Indirect Patent Infringement Of U.S. Patent No. 6,529,908

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

20. Prudential and BRER have been on notice of the 6,529,908 patent at least as early as the receipt of the March 6, 2013 Notice of Infringement or the filing and service of the Complaint in this action (Dkt.1), which informed Prudential and BRER that their system and activities were infringing and also caused their customers to infringe.

21. Upon information and belief, Prudential and BRER, via instructions and advertisements on at least their www.prudential.com/realestate and www.prudentialproperties.com websites, knowingly encouraged and encourage potential buyers to violate various claims of the '908 Patent including, without limitation, claim 22 by their actions that include, without limitation, instructing and encouraging users to create and maintain profiles on the Prudential System, to create and save searches on the Prudential System, to add comments to the real estate listings, and to sign up to receive e-mail alerts from the Prudential System thereby causing the performance of the patented method, including, but not limited to, claim 22 of the '908 Patent, namely 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.

22. Upon information and belief, Prudential and BRER are in violation of 35 U.S.C. § 271(b), and have been and continue 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 Prudential System, and thus induces, or contributes to, others' performance of the patented method, including, but not limited to, claim 22 of the '908 Patent, namely 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.

23. DDT has been damaged by the infringement of Prudential and BRER 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.

24. Prudential and BRER have been on notice of the '908 Patent, and their postfiling acts of infringement will be willful and deliberate. 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 Prudential and BRER to have infringed the '908 Patent;
- B. a permanent injunction enjoining Prudential and BRER and their 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 Prudential and BRER 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,

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Dated: March 25, 2013

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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, plaintiff and plaintiff's attorney are aware of *Data Distribution Technologies LLC v. Weichert Lead Network, Inc.*, Civil Action No. 12-4149-JBS-KMW, filed on July 6, 2012, and of *Data Distribution Technologies LLC v. RE/MAX, LLC*, Civil Action No. 12-4877-JBS-KMW, filed on August 3, 2012, and which involve the same plaintiff and assertion of the same patent against similar technologies and services to ones at issue here.

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Dated: March 25, 2012

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