

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

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CLERK US DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

COLLEGENET, INC.

Plaintiff,

vs.

MARKETLINX, INC., and RAPATTONI  
CORPORATION

Defendants.

Civil Action No.

A09CA544 SS

JURY DEMANDED

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**COMPLAINT FOR PATENT INFRINGEMENT**

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiff CollegeNET, Inc., ("CollegeNET") by and through the undersigned attorneys, hereby files this Complaint against MarketLinx, Inc. and Rapattoni Corporation requesting damages and other relief based upon its personal knowledge as to its own facts and circumstances, and based upon information and belief as to the facts and circumstances of others.

**INTRODUCTION**

The web-based technologies of CollegeNET are used by over 1300 higher education and non-profit institutions to save money, improve operational efficiency, reduce environmental impacts and enhance communications. CollegeNET technologies are used by institutions that range in size from small non-profit organizations to massive state universities. The United States Patent Office ("USPTO") has awarded CollegeNET seven patents that help protect the company's investment in the technologies it has developed.

Although CollegeNET has already vigorously enforced its patents in litigation against several of its direct competitors, CollegeNET's innovations are being exploited beyond the walls of academia. For example, the Defendants named here are exploiting patented CollegeNET technology for their own commercial benefit in the field of real estate.

### **PARTIES**

1. Plaintiff CollegeNET is a Delaware corporation having its principal place of business at 805 SW Broadway, Suite 1600, Portland, Oregon 97205.

2. Upon information and belief, Defendant MarketLinx, Inc. ("MarketLinx") is a Tennessee corporation having its principal place of business at 4 First American Way, 2nd Floor, Santa Ana, CA, 92707.

3. Upon information and belief, Defendant Rapattoni Corporation ("Rapattoni") is a California corporation having its principal place of business at 98 West Cochran Street, Simi Valley, California, 93065-6218.

### **JURISDICTION AND VENUE**

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. The jurisdiction of this Court is proper under 35 U.S.C. §§ 271, *et seq.*, and 28 U.S.C. §§ 1331, 1332, and 1338. Venue is properly laid in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).

5. CollegeNET is informed and believes, and thereon alleges that MarketLinx has sufficient contacts with this judicial district and the State of Texas to subject it to the jurisdiction of this Court. Upon information and belief, the activities of MarketLinx in this district and in the State of Texas are sufficient to constitute doing business for jurisdictional purposes.

CollegeNET is informed and believes, and thereon alleges that MarketLinx provides substantial services to the Austin Board of Realtors®.

6. CollegeNET is informed and believes, and thereon alleges that Rapattoni has sufficient contacts with this judicial district and the State of Texas to subject it to the jurisdiction of this Court. Upon information and belief, the activities of Rapattoni in this district and in the State of Texas are sufficient to constitute doing business for jurisdictional purposes.

CollegeneNET is informed and believes, and thereon alleges that Rapattoni provides services to a variety of real estate organizations in Texas including in San Antonio, Houston, and the Dallas area.

#### **THE PATENT IN SUIT**

(United States Patent No. 6,910,045)

7. United States Patent 6,910,045 (the "'045 patent"), entitled "Automatic Data Transmission in Response to Content of Electronic Forms Satisfying Criteria" was duly and legally issued on June 21, 2005. CollegeNET is the owner by assignment of all right, title and interest in and to the '045 patent.

8. The '045 patent was reexamined by the USPTO at the request of an earlier defendant in a now-settled previous litigation. Pursuant to that reexamination, all of the original claims 1 – 16 were confirmed to be patentable and new claims 17 – 29 were added to the '045 patent. A Reexamination Certificate for the '045 patent was issued by the USPTO on January 13, 2009. A copy of the '045 patent (including the Reexamination Certificate) is attached as Exhibit A.

**COUNT 1 – PATENT INFRINGEMENT BY MARKETLINX**

9. CollegenET realleges and incorporates by reference paragraphs 1 – 8 as if set out in full.

10. On information and belief, in violation of 35 U.S.C. § 271, MarketLinx has been and is currently infringing the '045 patent by making, using, offering to sell, selling and/or importing without authority or license, infringing systems, and processes that provide multiple listing services (and other tools for realtors) to some of the largest real estate organizations in North America. On information and belief, one example of an infringing MarketLinx system is known as the MLXchange.

11. The infringement of the '045 patent by MarketLinx has damaged CollegenET in an amount yet to be determined.

12. Unless enjoined, MarketLinx will continue to infringe the '045 patent and CollegenET will continue to suffer injury as a direct and proximate result of the conduct of MarketLinx.

**COUNT 2 – PATENT INFRINGEMENT BY RAPATTONI**

13. CollegenET realleges and incorporates by reference paragraphs 1 – 8 as if set out in full.

14. On information and belief, in violation of 35 U.S.C. § 271, Rapattoni has been and is currently infringing the '045 patent by making, using, offering to sell, selling and/or importing without authority or license infringing systems and processes that provide multiple listing services (and other tools for realtors) to over 100 real estate organizations in North America. On information and belief, one example of an infringing Rapattoni system is known as the Rapattoni MLS system.

15. The infringement of the '045 patent by Rapattoni has damaged CollegenET in an amount yet to be determined.

16. Unless enjoined, Rapattoni will continue to infringe the '045 patent and CollegenET will continue to suffer injury as a direct and proximate result of the conduct of Rapattoni.

**JURY DEMAND**

Plaintiff CollegenET hereby demands a trial by jury of all issues that may be so tried.

**PRAYER FOR RELIEF**

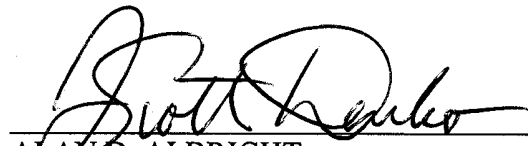
WHEREFORE, Plaintiff CollegenET respectfully requests the following relief and requests that this Court enter judgment:

- A. That the Defendants are infringing and/or have infringed U.S. Patent No. 6,910,045;
- B. Permanently enjoining and restraining Defendants and their agents, servants, employees, affiliates, divisions, branches, subsidiaries, parents, and all others acting in concert or participating with them from further infringement of United States Patent No. 6,910,045;
- C. Awarding to CollegenET actual damages, not less than a reasonable royalty, for Defendants' infringement including costs and pre- and post-judgment interest as allowed by law;
- D. Requiring Defendants to provide to CollegenET an accounting; and
- E. Such other relief as the Court deems just and proper.

Respectfully submitted,

Dated: July 17, 2009

By:



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