

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

SMARTER AGENT, LLC, a )  
Delaware limited liability company, )

Plaintiff, )

v. )

MOBILEREALTYAPPS.COM, LLC, )  
NMD INTERACTIVE, INC. d/b/a )  
STREETEASY, GOOMZEE )  
CORPORATION, MOST HOME REAL )  
ESTATE SERVICES, INC. d/b/a KURIO, )  
DIVERSE SOLUTIONS, INC., )  
HILLSIDE SOFTWARE, INC., )  
MARKET LEADER, INC., )  
TRIBUNE INTERACTIVE, INC. )  
D/B/A FORSALEBYOWNER.COM, )  
TERROSTAR TECHNOLOGY )  
SOLUTIONS, LLC, )

Defendants. )

C.A. No.

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Smarter Agent, LLC (“Plaintiff” or “Smarter Agent”), by and through its undersigned counsel, files this Complaint against Mobilerealtyapps.com, LLC, NMD Interactive, Inc. d/b/a Streeteasy, Goomzee Corporation, Most Home Real Estate Services, Inc. d/b/a/ Kurio, Diverse Solutions, Inc., Hillside Software, Inc., Market Leader Inc., Tribune Interactive, Inc. d/b/a ForSaleByOwner.com, and Terrostar Technology Solutions, LLC (collectively “Defendants”) alleges as follows:

### **NATURE OF THE ACTION**

1. This is a patent infringement action to stop each Defendant's infringement of United States Patent Nos. 6,385,541 entitled "Global positioning-based real estate database access device and method" ("the '541 patent"; a copy of which is attached hereto as Exhibit A), United States Patent No. 6,496,776 entitled "Position-based information access device and method" ("the '776 patent"; a copy of which is attached hereto as Exhibit B) and United States Patent No. 7,072,665 entitled "Position-based information access device and method of searching" ("the '665 patent"; a copy of which is attached hereto as Exhibit C). The '541, '776 and '665 patents may be collectively referred to as the "patents-in-suit." Smarter Agent is the legal owner of the patents-in-suit. Smarter Agent seeks injunctive relief and monetary damages.

### **THE PARTIES**

2. Plaintiff Smarter Agent is a limited liability company organized and existing under the laws of the State of Delaware. Smarter Agent maintains its principal place of business at Waterfront Technology Center, 200 Federal Street, Suite 300, Camden, New Jersey 08103. Smarter Agent is the legal owner of the patents-in-suit, including the right to sue for infringement and recover past damages.

3. Upon information and belief, Mobilerealtyapps.com LLC ("Mobilerealtyapps.com") is a limited liability company organized and existing under the laws of the State of Minnesota, with its principal place of business located at 401 – 409 Grain Exchange Building, 400 South 4th Street, Minneapolis, Minnesota 55415.

4. Upon information and belief, NMD Interactive, Inc. d/b/a Streeteasy ("Streeteasy") is a corporation organized and existing under the laws of the

State of Delaware, with its principal place of business located at 895 Broadway, 5th Floor, New York, New York 10003.

5. Upon information and belief, Goomzee Corporation (“Goomzee”) is a corporation organized and existing under the laws of the State of Montana, with its principal place of business located at 4852 Kendrick Place, Suite 101, Missoula, Montana 59808.

6. Upon information and belief, Most Home Real Estate Services, Inc. d/b/a Kurio (“Kurio”), is a corporation organized and existing under the laws of the Country of Canada, with its principal place of business located at Unit 1 - 11491 Kingston Street, Maple Ridge, BC Canada, V2X 0Y6.

7. Upon information and belief, Diverse Solutions, Inc. (“Diverse Solutions”) is a corporation organized and existing under the laws of the State of California, with its principal place of business located at 370 Goddard, Irvine, California 92618.

8. Upon information and belief, Hillside Software, Inc. (“Hillside”) is a corporation organized and existing under the laws of the State of Colorado, with its principal place of business located at 7951 E. Maplewood Ave., Suite 326, Greenwood Village, Colorado 80111.

9. Upon information and belief, Market Leader, Inc. (“Market Leader”) is a corporation organized and existing under the laws of the State of Washington, with its principal place of business located at 11332 NE 122nd Way, Suite 200, Kirkland, Washington 98034.

10. Upon information and belief, Tribune Interactive d/b/a ForSaleByOwner.com (“Tribune”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 435 North Michigan Avenue, Chicago, Illinois 60611.

11. Upon information and belief, Terrostar Technology Solutions LLC (“Terrostar”) is a corporation organized and existing under the laws of the State of Iowa, with its principal place of business located at 3565 Utica Ridge Road, Bettendorf, Iowa 52722.

### **JURISDICTION AND VENUE**

12. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. § 271, 281-285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

13. Upon information and belief, Defendants have transacted business and committed acts of infringement within the State of Delaware and the District of Delaware and are subject to the personal jurisdiction of this Court.

14. Upon information and belief, each Defendant has offered for sale, sold or made available software for use with a mobile device that, *inter alia*, enables a user to access information relating to real estate.

15. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b).

16. Defendants reside in this District for the purposes of venue, insofar as they are subject to the personal jurisdiction of this District, have committed acts of infringement in this District, solicit business in this District, provide services in this

District, encourage others to practice infringing methods in this District and conduct other business in this District.

### **BACKGROUND**

17. On May 7, 2002, the United States Patent and Trademark Office duly and legally issued the '541 patent. The '541 patent is in full force and effect. Smarter Agent is the legal owner of the '541 patent and possesses all rights of recovery under the '541 patent.

18. On December 17, 2002, the United States Patent and Trademark Office duly and legally issued the '776 patent. The '776 patent is in full force and effect. Smarter Agent is the legal owner of the '776 patent and possesses all rights of recovery under the '776 patent.

19. On July 4, 2006, the United States Patent and Trademark Office duly and legally issued the '665 patent. The '665 patent is in full force and effect. Smarter Agent is the legal owner of the '665 patent and possesses all rights of recovery under the '665 patent.

20. Smarter Agent was founded by two brothers that developed and perfected the core technologies of the patents-in-suit.

21. Those technologies covered by the patents-in-suit enable users to access information relating to real estate via a mobile device.

22. Smarter Agent creates and offers mobile real estate applications incorporating the technology of the patents-in-suit.

23. The marketplace has long recognized the value of Smarter Agent's inventions, including the patents-in-suit.

24. Upon information and belief, Mobilerealtyapps.com has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Mobilerealtyapps.com has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, Mobilerealtyapps.com distributes and supports custom developed applications for mobile telephones which provides real estate information to a user. The application may be operated on, for example, a Research In Motion (RIM) Blackberry, an Apple iPhone, or an Android cellular phone.

25. Upon information and belief, Streeteasy has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Streeteasy has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, Streeteasy distributes and supports an application for mobile telephones entitled "StreetEasy Real Estate" which provides real estate information to a user. The "StreetEasy Real Estate" application may be operated on, for example, an Apple iPhone.

26. Upon information and belief, Goomzee has infringed and continues to infringe one or more claims of the patents-in-suit by making, using,

importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Goomzee has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, Goomzee distributes and supports customer applications for mobile telephones which provide real estate information to a user. These applications may be operated on, for example, an Apple iPhone.

27. Upon information and belief, Kurio has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Kurio has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, Kurio distributes and supports an application for mobile telephones entitled “Kurio Real Estate Search” which provides real estate information to a user. The “Kurio Real Estate Search” application may be operated on, for example, an Apple iPhone.

28. Upon information and belief, Diverse Solutions has infringed and continue to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Diverse Solutions has also contributed to the infringement of one or more claims of the

patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, Diverse Solutions distributes and supports an application for mobile telephones entitled “dsSearchAgent Mobile” which provides real estate information to a user. The “dsSearchAgent Mobile” application may be operated on, for example, an Apple iPhone.

29. Upon information and belief, Hillside has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Hillside has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, Hillside distributes and supports an application for mobile telephones entitled “BestHome4Me” which provides real estate information to a user. The application may be operated on, for example, an Apple iPhone.

30. Upon information and belief, Market Leader has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Market Leader has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example

and not limitation, Market Leader distributes and supports an application for mobile telephones entitled “kwkly Mobile RE” which provides real estate information to a user. The “kwkly Mobile RE” application may be operated on, for example, an Apple iPhone.

31. Upon information and belief, Tribune has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Tribune has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, Tribune provides the “forsalebyowner.com” iPhone app accessible by and for use with mobile telephones which app provides real estate information to a user. The application may be accessed by, for example, an Apple iPhone.

32. Upon information and belief, Terrostar has infringed and continues to infringe one or more claims of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services, in this District and elsewhere in the United States. Terrostar has also contributed to the infringement of one or more claims of the patents-in-suit, and/or actively induced others to infringe one or more claims of the patents-in-suit, in this District and elsewhere in the United States. By way of example and not limitation, Terrostar developed and supports an application for mobile telephones entitled “Mel Foster Mobile App” which provides real estate information to a user. The application may be operated on, for example, an Apple iPhone.

33. Upon information and belief, the Defendants derive revenue from their infringing products and services by, for example, selling advertisements displayed via their infringing products and services and/or receiving compensation for lead generation from their infringing products and services and/or selling or licensing the use of their infringing products and services.

**FIRST CLAIM FOR RELIEF**  
**INFRINGEMENT OF THE '541 PATENT**

34. Smarter Agent repeats and incorporates by reference each of the allegations set forth in Paragraphs 1-33 above as if fully set forth herein.

35. The Defendants have infringed and continue to infringe, directly, contributorily and/or by inducement, one or more claims of the '541 patent, including at least Claim 1 of the '541 patent, by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services that incorporate the inventions claimed in the '541 patent.

36. Each Defendant's aforesaid activities have been without authority and/or license from Smarter Agent.

37. Smarter Agent is entitled to recover from the Defendants the damages sustained by Smarter Agent as a result of the Defendants' wrongful acts in an amount subject to proof at trial.

38. Smarter Agent is entitled to temporary and permanent injunctions enjoining each of the Defendants from infringing the '541 patent directly, contributorily and/or by inducement.

39. Defendants' infringement of Smarter Agent's exclusive rights under one or more of the patents-in-suit will continue to damage Smarter Agent, causing

irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

**SECOND CLAIM FOR RELIEF**  
**INFRINGEMENT OF THE '776 PATENT**

40. Smarter Agent repeats and incorporates by reference each of the allegations set forth in Paragraphs 1-39 above as if fully set forth herein.

41. The Defendants have infringed and continue to infringe, directly, contributorily and/or by inducement, one or more claims of the '776 patent, including at least Claim 1 of the '776 patent, by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services that incorporate the inventions claimed in the '776 patent.

42. Each Defendant's aforesaid activities have been without authority and/or license from Smarter Agent.

43. Smarter Agent is entitled to recover from the Defendants the damages sustained by Smarter Agent as a result of the Defendants' wrongful acts in an amount subject to proof at trial.

44. Smarter Agent is entitled to temporary and permanent injunctions enjoining each of the Defendants from infringing the '776 patent directly, contributorily and/or by inducement.

45. Defendants' infringement of Smarter Agent's exclusive rights under one or more of the patents-in-suit will continue to damage Smarter Agent, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

**THIRD CLAIM FOR RELIEF**  
**INFRINGEMENT OF THE '665 PATENT**

46. Smarter Agent repeats and incorporates by reference each of the allegations set forth in Paragraphs 1-45 above as if fully set forth herein.

47. The Defendants have infringed and continue to infringe, directly, contributorily and/or by inducement, one or more claims of the '665, including at least Claim 1 of the '665 patent, patent by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries), infringing products and/or services that incorporate the inventions claimed in the '665 patent.

48. Each Defendant's aforesaid activities have been without authority and/or license from Smarter Agent.

49. Smarter Agent is entitled to recover from the Defendants the damages sustained by Smarter Agent as a result of the Defendants' wrongful acts in an amount subject to proof at trial.

50. Smarter Agent is entitled to temporary and permanent injunctions enjoining each of the Defendants from infringing the '665 patent directly, contributorily and/or by inducement.

51. Defendants' infringement of Smarter Agent's exclusive rights under one or more of the patents-in-suit will continue to damage Smarter Agent, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the following relief:

A. A declaration that each of the Defendants has infringed the '541, '776 and '665 patents;

B. An award of temporary and permanent injunctions enjoining each of the Defendants, and its agents, servants, officers, directors, employees and persons or entities acting in concert with Defendants, from infringing directly or indirectly, inducing others to infringe and/or contributing to the infringement of the '541, '776 and '665 patents;

C. That Defendants account for and pay Smarter Agent the damages necessary to compensate it for Defendants' infringement of the '541, '776 and '665 patents pursuant to 35 U.S.C. § 284;

D. An award to Smarter Agent of its attorney fees, costs, expert witness fees and expenses incurred by Smarter Agent in connection with this action pursuant to 35 U.S.C. § 285;

E. Pre-judgment and post-judgment interest; and

F. Any other and further relief that the Court deems equitable and appropriate.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial on all issues triable of right by a jury.

**BOUCHARD MARGULES &  
FRIEDLANDER, P.A.**

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**ATTORNEYS FOR PLAINTIFF  
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Dated: October 6, 2011