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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NATIONAL ASSOCIATION OF REALTORS,
a Not-For-Profit Corporation,

Plaintiff,

v.

DATA DISTRIBUTION TECHNOLOGIES,
LLC,

Defendant.

No.

**COMPLAINT FOR DECLARATORY
JUDGMENT**

JURY DEMAND

Plaintiff National Association of REALTORS® (“NAR”) by and through its attorneys,
alleges as follows:

NATURE OF THE LAWSUIT

1. This is a civil action arising under the Patent Laws of the United States, Title 35 of the United States Code, and under the Declaratory Judgment Act, 28 U.S.C. § 2201, which arises from an actual and existing controversy between NAR and Defendant Data Distribution Technologies, LLC (“DDT”).

2. Plaintiff NAR requests a declaration that United States Patent No. 6,529,908 is invalid and/or unenforceable. A true and correct copy of the ‘908 Patent is attached as Exhibit A.

1 3. The '908 Patent is the subject of pending *inter partes* review No. 2016-01075
2 filed by Plaintiff NAR on May 19, 2016. A true and correct copy of the Notice of Filing Date
3 Accorded to Petition is attached hereto as Exhibit B.

4 4. Pursuant to 35 U.S.C. § 315(a)(2), this action shall be automatically stayed.

5 5. The '908 Patent claims subject matter generally directed towards a remotely
6 updatable database system with a user interface for communication with a subscriber system to
7 receive user input from a user and amend information records in response to user input. It also
8 claims a message server in communication with the database manager for serving a message
9 including a record to the user. *See, e.g.*, Exh. A, Abstract.

10 **THE PARTIES**

11 6. Plaintiff NAR is a not-for-profit Illinois corporation with a principal place of
12 business at 430 N. Michigan Avenue Chicago, IL 60611-4087.

13 7. On information and belief, Defendant DDT is a New York limited liability
14 company with its principal place of business at 75 Montebello Road, Suffern, New York 10901-
15 3746.

16 **JURISDICTION AND VENUE**

17 8. This is an action arising under the Patent Laws of the United States, 35 U.S.C. §
18 1 *et seq.* This Court has jurisdiction under 28 U.S.C. §§ 1331, 1338(a), 1367, 2201 and 2202.

19 9. This Court has personal jurisdiction over DDT because DDT has threatened to
20 assert the '908 Patent against a real estate brokerage in this jurisdiction.

21 10. Venue in this District is proper under 28 U.S.C. § 1391(b) because DDT has
22 threatened to assert the '908 Patent in this District against at least one company whose licensed
23 real estate brokers and agents are members of NAR.

EXISTENCE OF AN ACTUAL CONTROVERSY

11. NAR is America’s largest trade association, representing over 1.1 million members, including NAR’s institutes, societies, and councils, involved in all aspects of the residential and commercial real estate industries.

12. On information and belief, DDT owns the ‘908 Patent. DDT is the current assignee of record according to the United States Patent and Trademark Office assignee database.

13. Since 2010, DDT has initiated at least six lawsuits across the country asserting infringement of the ‘908 Patent. Some of those lawsuits named as a defendant a real estate brokerage firm whose licensed real estate professionals are members of NAR.

14. For those brokerage firms whose licensed real estate brokerage professionals are members of NAR, all licensed real estate brokerage professionals who are principals of the firm must be members of NAR, and most of the non-principal real estate licensees associated with such firms are also members of NAR.

15. NAR members earn income from, or are compensated by, revenues earned by the brokerage firms with which they are associated. Any increase in brokerage expenses directly reduces the revenue available to be distributed to NAR members who own such firms or paid as compensation to other NAR members associated with such brokerage firms.

16. NAR members suffer financial injury when brokerage expenses are increased due to paying license fees for a license to an invalid patent.

17. In the Western District of Washington, DDT threatened to assert the ‘908 Patent against a real estate brokerage whose licensed real estate professionals are members of NAR.

18. That brokerage, and its licensed real estate brokerage professionals who are members of NAR, have a reasonable apprehension that DDT will assert the ‘908 Patent against the brokerage.

1 19. A substantial and continuing controversy exists between NAR and DDT with
2 regard to the right of DDT to threaten or maintain suit for infringement of the '908 Patent against
3 brokerages whose licensed real estate professionals are members of NAR.

4 20. Based on NAR's review of DDT's continuing pattern of suing real estate
5 brokerages for infringement of the '908 Patent, and threatening still further real estate brokerages
6 comprised of NAR members with patent infringement suits, NAR and its members reasonably
7 believe that DDT will continue to sue on the '908 Patent. DDT has affirmatively sought
8 enforcement of its patents against multiple real estate brokerages whose licensed real estate
9 professionals are NAR members. NAR members, and NAR on its members' behalf, have a
10 reasonable apprehension of suit based on DDT's past and ongoing actions.

11 **THE '908 PATENT**

12 21. The '908 Patent describes "[a] remotely updatable database system method and
13 computer readable medium" that "includes a user interface, a database of information records, a
14 database manager, and a message server." '908 Patent, Abstract.

15 22. The user interface of the purported invention communicates with subscriber
16 systems to receive user input, associate records with users, amend records in response to user
17 input, and send messages regarding the records. *Id.*

18 23. The purported invention "addresses the need for immediate access to database
19 records and the need to notify users of changes to database records." '908 Patent col. 1 ll. 46-48.

20 24. The purported invention "provide[s] real estate agents access to real estate
21 information" *Id.* col. 8 ll. 35-36. Subscribers use the system to produce and update building
22 information records, and then the patented system sends messages, which include such records.
23 *Id.* col. 8 ll. 41-44.

24 25. "[T]he invention is applicable whenever a dynamic database is to be
25 disseminated down to a regular user group, on a frequent basis." *Id.* col. 1 ll. 56-58.

1 26. The purported invention asserts it remedies inefficiencies including: “real time
2 limitations associated with the Internet,” “time lag,” “a relatively large amount of time” required
3 for “the transfer of relatively large files to a user’s browser,” and “frustrati[on] especially if the
4 user is attempting to provide information . . . while the customer or client is waiting.” *Id.* col. 1
5 ll. 12- 32.

6 27. The ‘908 Patent describes the use of a simple mail transfer protocol, which
7 purportedly “allows the database system to send a message containing any type of file,” “allows
8 users to receive and accumulate messages at a predefined message server and to retrieve such
9 messages at any time or at their discretion,” and “allows a user to selectively review messages
10 received over a period of time.” *Id.* col. 6 ll. 43-51.

11 28. According to the ‘908 Patent, “the use of the simple mail transfer protocol gives
12 the database system the ability to target all 4 users or as few as a single user, each with a unique
13 message.” *Id.* col. 6 ll. 52-54.

14 29. The ‘908 Patent asserts that its “technology . . . is adaptable to any number of
15 software platforms.” *Id.* col. 23 ll. 49-50.

16 30. The ‘908 Patent does not explain how any software platform would be
17 programmed.

18 31. The ‘908 Patent concludes with 100 claims, including nine independent and 91
19 dependent claims.

20 32. Claim Twenty-Two exemplifies the independent claims.

21 33. Exemplary independent Claim 22 recites “[a] method of maintaining and
22 distributing database information,” which includes “communicating with at least one subscriber
23 system to receive user input . . .”; “maintaining a database of information records”; “maintaining
24 user records in said database and linking said user records with said information records”;
25 “controlling said database such that each information record is associated with at least one user .
26

1 . . .”; “amending said information records in response to user input . . .”; “serving said message . .
2 . to said at least one user associated with said information record.” *Id.* col. 26 ll. 1-19.

3 34. Claim Twenty-Two, like all claims in the ‘908 Patent, claims the idea of
4 maintaining a database and updating users about new information.

5 35. This idea is abstract.

6 36. It is fundamental, particularly in the real estate world, that companies will
7 maintain records and databases to update users about new information.

8 37. The ‘908 Patent does not claim an inventive and unique combination of
9 connecting database parts, user records, user interfaces, and server signals to allow databases to
10 function more efficiently.

11 38. The ‘908 Patent lacks an inventive concept.

12 39. The ‘908 Patent expressly disclaims that its specification evidences meaningful
13 limitations. *See* ‘908 Patent, col. 11. 34-38: “While specific embodiments of the invention have
14 been described and illustrated, such embodiments should be considered illustrative of the
15 invention only and not as limiting the invention as construed in accordance with the
16 accompanying claims.”

17 40. Even without that disclaimer, the ‘908 Patent does not disclose any algorithm or
18 specialized programming to implement its claims on a generic computer.

19 41. The ‘908 Patent does not claim a specific computerized method.

20 42. Independent claims 42 and 88 expressly recite the statutory phrase “means for”
21 in several limitations, thereby invoking 35 U.S.C. § 112(f).

22 43. Independent claims 1, 63, and 100 of the ‘908 Patent include limitations which
23 use “nonce” words; that is, generic placeholder terms having no specific structural meaning, or
24 described in words not understood to have a sufficiently definite meaning as the name for
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1 structure, thereby invoking 35 U.S.C. § 112(f), as further described in the Manual of Patent
2 Examining Procedure (MPEP) 2181.

3 44. Independent claims 22, 62, 77, and 99 include limitations which claim the
4 underlying function without recitation of acts for performing that function, thereby invoking 35
5 U.S.C. § 112(f).

6 45. Claims 1 and 100 include the limitation of “a user interface for communicating
7 with at least one subscriber system to receive user input from a user at said at least one
8 subscriber system.”

9 46. “User interface” is a well-known nonce word that can operate as a substitute for
10 “means” in the context of 35 U.S.C. § 112(f).

11 47. “User interface” does not recite sufficiently definite structure and therefore
12 invokes § 112(f).

13 48. The recited function of “communicating with at least one subscriber system to
14 receive user input from a user at said at least one subscriber system” is computer implemented.

15 49. The specification of the '908 Patent does not disclose an algorithm for
16 performing the claimed function of “communicating with at least one subscriber system to
17 receive user input from a user at said at least one subscriber system.”

18 50. Claims 1 and 100 include the limitation of “a database manager in
19 communication with said user interface, for controlling said database such that each information
20 record is associated with at least one user, and for amending said information records in
21 response to user input received at said user interface from said at least one subscriber system.”

22 51. “Database manager” is a well-known nonce word that can operate as a substitute
23 for “means” in the context of 35 U.S.C. § 112(f).

24 52. “Database manager” does not recite sufficiently definite structure and therefore
25 invokes § 112(f).

1 53. The recited function of “a database manager in communication with said user
2 interface, for controlling said database such that each information record is associated with at
3 least one user, and for amending said information records in response to user input received at
4 said user interface from said at least one subscriber system” is computer implemented.

5 54. The specification of the '908 Patent does not disclose an algorithm for
6 performing the claimed function of “a database manager in communication with said user
7 interface, for controlling said database such that each information record is associated with at
8 least one user, and for amending said information records in response to user input received at
9 said user interface from said at least one subscriber system.”

10 55. Claim 1 and 100 include the limitation of “a message server in communication
11 with said database manager for serving a message including at least one record received from
12 said database manager to said at least one user associated with said information record, said
13 message server including a processor and memory for storing program codes readable by said
14 processor to direct said processor to communicate with said database manager to obtain for
15 inclusion in said message a plurality of information records having at least one common field
16 entry.”

17 56. “Message server” is a well-known nonce word that can operate as a substitute
18 for “means” in the context of 35 U.S.C. § 112(f).

19 57. “Message server” does not recite sufficiently definite structure and therefore
20 invokes § 112(f).

21 58. The recited function of “for serving a message including at least one record
22 received from said database manager to said at least one user associated with said information
23 record” is computer implemented.

24 59. The specification of the '908 Patent does not disclose an algorithm for
25 performing the claimed function of “said message server including a processor and memory for
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1 storing program codes readable by said processor to direct said processor to communicate with
2 said database manager to obtain for inclusion in said message a plurality of information records
3 having at least one common field entry.”

4 60. Claim 63 includes the limitation of “a message receiver for receiving a message
5 from said database.”

6 61. “Message receiver” is a well-known once word that can operate as a substitute
7 for “means” in the context of 35 U.S.C. § 112(f).

8 62. “Message receiver” does not recite sufficiently definite structure and therefore
9 invokes § 112(f).

10 63. The recited function of “receiving a message from said database” is computer
11 implemented.

12 64. The specification of the ‘908 Patent does not disclose an algorithm for
13 performing the claimed function of “receiving a message from said database.”

14 65. Claim 63 includes the limitation of “an output device for presenting information
15 to a user.”

16 66. “Output device” is a well-known once word that can operate as a substitute for
17 “means” in the context of 35 U.S.C. § 112(f).

18 67. “Output device” does not recite sufficiently definite structure and therefore
19 invokes § 112(f).

20 68. The recited function of “presenting information to a user” is computer
21 implemented.

22 69. The specification of the ‘908 Patent does not disclose an algorithm for
23 performing the claimed function of “presenting information to a user.”

24 70. Claim 42 recites the limitation of “means for communicating with at least one
25 subscriber system to receive user input from a user at said at least one subscriber system.”
26

1 71. The recited function of “communicating with at least one subscriber system to
2 receive user input from a user at said at least one subscriber system” is computer implemented.

3 72. The specification of the ’908 Patent does not disclose an algorithm for
4 performing the claimed function of “communicating with at least one subscriber system to
5 receive user input from a user at said at least one subscriber system.”

6 73. Claim 42 recites the limitation of “means for maintaining a database of
7 information records.”

8 74. The recited function of “maintaining a database of information records” is
9 computer implemented.

10 75. The specification of the ’908 Patent does not disclose an algorithm for
11 performing the claimed function of “maintaining a database of information records.”

12 76. Claim 42 recites the limitation of “means for maintaining user records in said
13 database and for linking said user records with information records.”

14 77. The recited function of “maintaining user records in said database and for
15 linking said user records with information records” is computer implemented.

16 78. The specification of the ’908 Patent does not disclose an algorithm for
17 performing the claimed function of “maintaining user records in said database and for linking
18 said user records with information records.”

19 79. Claim 42 recites the limitation of “means for controlling said database such that
20 each information record is associated with at least one user.”

21 80. The recited function of “controlling said database such that each information
22 record is associated with at least one user” is computer implemented.

23 81. The specification of the ’908 Patent does not disclose an algorithm for
24 performing the claimed function of “controlling said database such that each information record
25 is associated with at least one user.”
26

1 82. Claim 42 recites the limitation of “means for obtaining for inclusion in a
2 message a plurality of information records having at least one common field entry.”

3 83. The recited function of “obtaining for inclusion in a message a plurality of
4 information records having at least one common field entry” is computer implemented.

5 84. The specification of the '908 Patent does not disclose an algorithm for
6 performing the claimed function of “obtaining for inclusion in a message a plurality of
7 information records having at least one common field entry.”

8 85. Claim 42 recites the limitation of “means for amending said information records
9 in response to said user input from said at least one subscriber system.”

10 86. The recited function of “amending said information records in response to said
11 user input from said at least one subscriber system” is computer implemented.

12 87. The specification of the '908 Patent does not disclose an algorithm for
13 performing the claimed function of “amending said information records in response to said user
14 input from said at least one subscriber system.”

15 88. Claim 42 recites the limitation of “means for serving said message including
16 said plurality of information records having said at least one common field entry from said
17 database to said at least one user associated with said information record.”

18 89. The recited function of “serving said message including said plurality of
19 information records having said at least one common field entry from said database to said at
20 least one user associated with said information record” is computer implemented.

21 90. The specification of the '908 Patent does not disclose an algorithm for
22 performing the claimed function of “serving said message including said plurality of
23 information records having said at least one common field entry from said database to said at
24 least one user associated with said information record.”

1 91. Claim 88 recites the limitation of “means for receiving an Email message
2 including at least one file, from said database.”

3 92. The recited function of “receiving an Email message including at least one file,
4 from said database” is computer implemented.

5 93. The specification of the ’908 Patent does not disclose an algorithm for
6 performing the claimed function of “receiving an Email message including at least one file,
7 from said database.”

8 94. Claim 88 recites the limitation of “means for replacing existing files in said
9 transfer memory with new files received from said database.”

10 95. The recited function of “replacing existing files in said transfer memory with
11 new files received from said database” is computer implemented.

12 96. The specification of the ’908 Patent does not disclose an algorithm for
13 performing the claimed function of “replacing existing files in said transfer memory with new
14 files received from said database.”

15 97. Claim 88 recites the limitation of “means for presenting to the user a list of files
16 stored in said local memory, the files included in said list having at least one predefined
17 characteristic.”

18 98. The recited function of “presenting to the user a list of files stored in said local
19 memory, the files included in said list having at least one predefined characteristic” is computer
20 implemented.

21 99. The specification of the ’908 Patent does not disclose an algorithm for
22 performing the claimed function of “presenting to the user a list of files stored in said local
23 memory, the files included in said list having at least one predefined characteristic.”

24 100. Claim 88 recites the limitation of “means for presenting to said user the contents
25 of at least one file having said at least one characteristic.”
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1 101. The recited function of “presenting to said user the contents of at least one file
2 having said at least one characteristic” is computer implemented.

3 102. The specification of the ’908 Patent does not disclose an algorithm for
4 performing the claimed function of “presenting to said user the contents of at least one file
5 having said at least one characteristic.”

6 103. Claim 22 of the ’908 Patent recites the functional step of “communicating with
7 at least one subscriber system to receive user input from a user at said at least one subscriber
8 system.”

9 104. The recited function of “communicating with at least one subscriber system to
10 receive user input from a user at said at least one subscriber system” is computer implemented.

11 105. The specification of the ’908 Patent does not disclose an algorithm for
12 performing the claimed function of “communicating with at least one subscriber system to
13 receive user input from a user at said at least one subscriber system.”

14 106. Claim 22 of the ’908 Patent recites the functional step of “maintaining a
15 database of information records.”

16 107. The recited function of “maintaining a database of information records” is
17 computer implemented.

18 108. The specification of the ’908 Patent does not disclose an algorithm for
19 performing the claimed function of “maintaining a database of information records.”

20 109. Claim 22 of the ’908 Patent recites the functional step of “maintaining user
21 records in said database and linking said user records with said information records.”

22 110. The recited function of “maintaining user records in said database and linking
23 said user records with said information records” is computer implemented.

1 111. The specification of the '908 Patent does not disclose an algorithm for
2 performing the claimed function of “maintaining user records in said database and linking said
3 user records with said information records.”

4 112. Claim 22 of the '908 Patent recites the functional step of “controlling said
5 database such that each information record is associated with at least one user.”

6 113. The recited function of “controlling said database such that each information
7 record is associated with at least one user” is computer implemented.

8 114. The specification of the '908 Patent does not disclose an algorithm for
9 performing the claimed function of “controlling said database such that each information record
10 is associated with at least one user.”

11 115. Claim 22 of the '908 Patent recites the functional step of “obtaining for
12 inclusion in a message a plurality of information records having at least one common field
13 entry.”

14 116. The recited function of “obtaining for inclusion a message of plurality of
15 information records having at least one common field entry” is computer implemented.

16 117. The specification of the '908 Patent does not disclose an algorithm for
17 performing the claimed function of “obtaining for inclusion in a message a plurality of
18 information records having at least one common field entry.”

19 118. Claim 22 of the '908 Patent recites the functional step of “amending said
20 information records in response to user input from said at least one subscriber system.”

21 119. The recited function of “amending said information records in response to user
22 input from said at least one subscriber system;” is computer implemented.

23 120. The specification of the '908 Patent does not disclose an algorithm for
24 performing the claimed function of “amending said information records in response to user
25 input from said at least one subscriber system.”
26

1 121. Claim 22 of the '908 Patent recites the functional step of "serving said message
2 including said plurality of information records having at least one common field entry from said
3 database to said at least one user associated with said information record."

4 122. The recited function of "serving said message including said plurality of
5 information records having at least one common field entry from said database to said at least
6 one user associated with said information record" is computer implemented.

7 123. The specification of the '908 Patent does not disclose an algorithm for
8 performing the claimed function of "serving said message including said plurality of
9 information records having at least one common field entry from said database to said at least
10 one user associated with said information record."

11 124. Claim 62 of the '908 Patent recites the functional step of "communicating with
12 at least one subscriber system to receive user input from a user at said at least one subscriber
13 system."

14 125. The recited function of "communicating with at least one subscriber system to
15 receive user input from a user at said at least one subscriber system" is computer implemented.

16 126. The specification of the '908 Patent does not disclose an algorithm for
17 performing the claimed function of "communicating with at least one subscriber system to
18 receive user input from a user at said at least one subscriber system."

19 127. Claim 62 of the '908 Patent recites the functional step of "maintaining a
20 database of information records."

21 128. The recited function of "maintaining a database of information records" is
22 computer implemented.

23 129. The specification of the '908 Patent does not disclose an algorithm for
24 performing the claimed function of "maintaining a database of information records."
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1 130. Claim 62 of the '908 Patent recites the functional step of "maintaining user
2 records in said database and link said user records with information records."

3 131. The recited function of "maintaining user records in said database and link said
4 user records with information records" is computer implemented.

5 132. The specification of the '908 Patent does not disclose an algorithm for
6 performing the claimed function of "maintaining user records in said database and link said user
7 records with information records."

8 133. Claim 62 of the '908 Patent recites the functional step of "controlling said
9 database such that each information record is associated with at least one user."

10 134. The recited function of "controlling said database such that each information
11 record is associated with at least one user" is computer implemented.

12 135. The specification of the '908 Patent does not disclose an algorithm for
13 performing the claimed function of "controlling said database such that each information record
14 is associated with at least one user."

15 136. Claim 62 of the '908 Patent recites the functional step of "obtain for inclusion
16 in a message a plurality of information records having at least one common field entry."

17 137. The recited function of "obtain for inclusion in a message a plurality of
18 information records having at least one common field entry" is computer implemented.

19 138. The specification of the '908 Patent does not disclose an algorithm for
20 performing the claimed function of "obtain for inclusion in a message a plurality of information
21 records having at least one common field entry."

22 139. Claim 62 of the '908 Patent recites the functional step of "amending said
23 information records in response to user input from said at least one subscriber system."

24 140. The recited function of "amending said information records in response to user
25 input from said at least one subscriber system" is computer implemented.
26

1 141. The specification of the '908 Patent does not disclose an algorithm for
2 performing the claimed function of “amending said information records in response to user
3 input from said at least one subscriber system.”

4 142. Claim 62 of the '908 Patent recites the functional step of “serving said message
5 including said plurality of information records having said at least one common field entry from
6 said database to said at least one user associated with said information record.”

7 143. The recited function of “serving said message including said plurality of
8 information records having said at least one common field entry from said database to said at
9 least one user associated with said information record” is computer implemented.

10 144. The specification of the '908 Patent does not disclose an algorithm for
11 performing the claimed function of “serving said message including said plurality of
12 information records having said at least one common field entry from said database to said at
13 least one user associated with said information record.”

14 145. Claim 77 of the '908 Patent recites the functional step of “receiving an Email
15 message including at least one file from said database.”

16 146. The recited function of “receiving an Email message including at least one file
17 from said database” is computer implemented.

18 147. The specification of the '908 Patent does not disclose an algorithm for
19 performing the claimed function of “receiving an Email message including at least one file from
20 said database.”

21 148. Claim 77 of the '908 Patent recites the functional step of “storing said at least
22 one file in a transfer memory.”

23 149. The recited function of “storing said at least one file in a transfer memory” is
24 computer implemented.

1 150. The specification of the '908 Patent does not disclose an algorithm for
2 performing the claimed function of “storing said at least one file in a transfer memory.”

3 151. Claim 77 of the '908 Patent recites the functional step of “replacing existing
4 files in said transfer memory with new files received from said database.”

5 152. The recited function of “replacing existing files in said transfer memory with
6 new files received from said database” is computer implemented.

7 153. The specification of the '908 Patent does not disclose an algorithm for
8 performing the claimed function of “replacing existing files in said transfer memory with new
9 files received from said database.”

10 154. Claim 77 of the '908 Patent recites the functional step of “presenting to a user a
11 list of files stored in said transfer memory, the files included in said list having at least one
12 predefined characteristic.”

13 155. The recited function of “presenting to a user a list of files stored in said transfer
14 memory, the files included in said list having at least one predefined characteristic” is computer
15 implemented.

16 156. The specification of the '908 Patent does not disclose an algorithm for
17 performing the claimed function of “presenting to a user a list of files stored in said transfer
18 memory, the files included in said list having at least one predefined characteristic.”

19 157. Claim 77 of the '908 Patent recites the functional step of “presenting to said
20 user the contents of at least one file having said at least one characteristic.”

21 158. The recited function of “presenting to said user the contents of at least one file
22 having said at least one characteristic” is computer implemented.

23 159. The specification of the '908 Patent does not disclose an algorithm for
24 performing the claimed function of “presenting to said user the contents of at least one file
25 having said at least one characteristic.”
26

1 160. Claim 99 of the '908 Patent recites the functional step of "receiving an Email
2 message including at least one file from said database."

3 161. The recited function of "receiving an Email message including at least one file
4 from said database" is computer implemented.

5 162. The specification of the '908 Patent does not disclose an algorithm for
6 performing the claimed function of "receiving an Email message including at least one file from
7 said database."

8 163. Claim 99 of the '908 Patent recites the functional step of "storing said at least
9 one file in a transfer memory."

10 164. The recited function of "storing said at least one file in a transfer memory" is
11 computer implemented.

12 165. The specification of the '908 Patent does not disclose an algorithm for
13 performing the claimed function of "storing said at least one file in a transfer memory."

14 166. Claim 99 of the '908 Patent recites the functional step of "replacing existing
15 files in said transfer memory with new files received from said database."

16 167. The recited function of "replacing existing files in said transfer memory with
17 new files received from said database" is computer implemented.

18 168. The specification of the '908 Patent does not disclose an algorithm for
19 performing the claimed function of "replacing existing files in said transfer memory with new
20 files received from said database."

21 169. Claim 99 of the '908 Patent recites the functional step of "presenting to a user a
22 list of files stored in said transfer memory, the files included in said list having at least one
23 predefined characteristic."

1 170. The recited function of “presenting to a user a list of files stored in said transfer
2 memory, the files included in said list having at least one predefined characteristic” is computer
3 implemented.

4 171. The specification of the '908 Patent does not disclose an algorithm for
5 performing the claimed function of “presenting to a user a list of files stored in said transfer
6 memory, the files included in said list having at least one predefined characteristic.”

7 172. Claim 99 of the '908 Patent recites the functional step of “presenting to said
8 user the contents of at least one file having said at least one characteristic.”

9 173. The recited function of “presenting to said user the contents of at least one file
10 having said at least one characteristic” is computer implemented.

11 174. The specification of the '908 Patent does not disclose an algorithm for
12 performing the claimed function of “presenting to said user the contents of at least one file
13 having said at least one characteristic.”

14 **COUNT 1 – DECLARATORY JUDGMENT OF INVALIDITY OF**

15 **U.S. PATENT NO. 6,529,908**

16 175. National Association of REALTORS® incorporates and realleges the foregoing
17 allegations as if fully stated herein.

18 176. An actual, present and justiciable controversy exists as to whether the '908
19 Patent is valid.

20 177. The '908 Patent is invalid for failure to comply with the requirements of the
21 Patent Laws of the United States, Title 35 United States Code, including, among others, §§101
22 and 112.

23 178. By way of example and not limitation, the '908 Patent is invalid under 35
24 U.S.C. § 101 because it claims as an abstract idea fundamental concept without an inventive
25 concept or meaningful limitations.
26

1 179. By way of example and not limitation, the '908 Patent is invalid under 35
2 U.S.C. § 112 because it claims functions and the outcomes of functions without claiming
3 structural limitations capable of performing those functions.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, National Association of REALTORS® requests that this Court enter
6 judgment against DDT, and against its affiliates, agents, servants, employees and all persons in
7 active concert or participation with DDT, granting the following relief:

8 1. Adjudging that each claim of the '908 Patent is invalid and unenforceable under
9 one or more of the patent laws of the United States, including 35 U.S.C. §§ 101 and 112; and

10 2. Adjudging and decreeing that:

11 a. Judgment be awarded to National Association of REALTORS® on all
12 counts of the Complaint; and

