

JUDGE SCHOFIELD

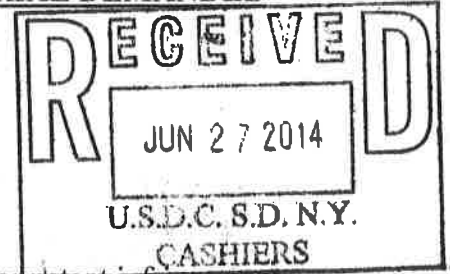
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

14CV4800

_____)
Globalprivateequity.com, Inc.)
)
Plaintiff,)
)
v.)
)
The Debt Exchange, Inc.)
)
Defendant.)
_____)

CIVIL ACTION NO. _____

JURY TRIAL DEMANDED



COMPLAINT

Globalprivateequity.com, Inc. ("GPE") brings this Complaint for patent infringement against The Debt Exchange, Inc. ("DebtX"), and alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C., § 1 *et. seq.*, and seeking damages and injunctive relief under 35 U.S.C. §§ 271, 281, 283-285.

2. DebtX has infringed and continues to infringe, contribute to the infringement of, and/or actively induce others to infringe GPE's U.S. Patent No. 7,526,444 (the '444 patent), U.S. Patent No. 7,877,319 (the '319 patent) and U.S. Patent No. 8,694,418 (the '418 patent),

THE PARTIES

3. Plaintiff GPE is a corporation organized and existing under the laws of the state of Delaware.

4. Upon information and belief, Defendant DebtX is a corporation organized and

existing under the laws of the state of Delaware with its principal place of business located at 133 Federal Street, 10th Floor, Boston, Massachusetts 02110.

JURISDICTION AND VENUE

5. This lawsuit is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338.

6. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1333(a).

7. This Court has personal jurisdiction over DebtX for at least the following reasons: (i) DebtX is licensed to do business in the State of New York and continuously, systematically, and purposefully conducts business within this District; (ii) DebtX has committed acts of patent infringement and/or contributed to or induced acts of patent infringement by others in this District and elsewhere in New York and the United States; (iii) DebtX regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in New York.

8. Venue is proper in this judicial district based upon 28 U.S.C. § 1400(b) and/or 28 U.S.C. §§ 1391(b) and (c) because DebtX does business in the State of New York and has committed acts of infringement in this State and in this District

FACTUAL ALLEGATIONS

9. DebtX provides online electronic trading platforms and evaluation tools for over the counter exempt (“OTC”) securities, specifically for syndicated mortgage loans.

10. On April 28, 2009, the United States Patent and Trademark Office (“USPTO”) issued the ‘444 patent”, entitled Integrated Trading Information Processing and Transmission

System for Exempt Securities. A true copy of the '444 patent is attached as Exhibit A.

11. On January 25, 2011, the USPTO issued the '319 patent", entitled Integrated Trading Information Processing and Transmission System for Exempt Securities. A true copy of the '319 patent is attached as Exhibit B.

12. By letter dated April 16, 2013, DebtX was made aware of the existence of the '444 and '319 patents and in its letter GPE requested information about DebtX's offers of trading methods and systems for exempt securities including, but not limited to DXOpen®, DXParticipate®, DXSyndicate® and DXAgency® (the "DebtX Solutions") and how the DebtX Solutions differ from GPE's '444 and '319 patents.

13. On April 8, 2014 the USPTO issued the '418 patent, entitled Integrated Trading Information Processing and Transmission System for Exempt Securities. A true copy of the '418 patent is attached as Exhibit C.

14. GPE is the owner of all right, title and interest in and to the '444 patent.

15. GPE is the owner of all right, title and interest in and to the '319 patent.

16. GPE is the owner of all right, title and interest in and to the '418 patent.

17. DebtX offers to end-users evaluation, matching and transactional capabilities for evaluation and sale of over-the-counter (OTC) exempt securities on its platforms, including, but not limited, to the DebtX Solutions.

18. GPE has never authorized DebtX to manufacture, sell, offer for sale, or use products and methods that are within the claims of the '444, '319 and '418 patents.

19. GPE has never authorized DebtX to manufacture, sell, offer for sale, or use any if its online platforms for OTC exempt securities, including, but not limited to the DebtX Solutions and related evaluation tools that are within the claims of the '444, '319 and '418 patents.

20. Each claim of the '444, '319 and '418 patents is presumed valid and invalidity must be proven by clear and convincing evidence.

Count I
(Patent Infringement of the '444 patent)

21. GPE repeats the allegations in paragraphs 1-18 of this Complaint as though fully set forth herein.

22. Upon information and belief, in violation of 35 U.S.C. § 271, DebtX is and has been directly infringing, contributing to the infringement of, and/or inducing others to infringe at least claim 21 of the '444 patent by making, using, selling, and/or offering to sell in the United States, or importing into the United States, products or processes that practice the inventions claimed in the '444 patent, including without limitation, the DebtX Solutions and related evaluation tools.

23. Upon information and belief, DebtX's actions have been and are with knowledge of the '444 patent and thus have been and are willful disregard of those patent rights.

24. As a result of DebtX's unlawful infringement of the '444 patent, GPE has suffered and will continue to suffer damage.

25. GPE is entitled to recover from DebtX the damages suffered by GPE as a result of its unlawful acts.

26. On information and belief, DebtX intends to continue its unlawful infringing activity, and GPE continues to and will continue to suffer irreparably harm for which there is no adequate remedy at law from such unlawful infringing activities unless this Court enjoins DebtX from further infringing activities.

Count II
(Patent Infringement of the '319 patent)

27. GPE repeats the allegations in paragraphs 1-24 of this Complaint as though fully set forth herein.

28. Upon information and belief, in violation of 35 U.S.C. § 271, DebtX is and has been directly infringing, contributing to the infringement of, and/or inducing others to infringe at least claim 22 of the '319 patent by making, using, selling, and/or offering to sell in the United States, or importing into the United States, products or processes that practice the inventions claimed in the '319 patent, including without limitation, the DebtX Solutions and related evaluation tools.

29. Upon information and belief, DebtX's actions have been and are with knowledge of the '444 patent and thus have been and are willful disregard of those patent rights.

30. As a result of DebtX's unlawful infringement of the '319 patent, GPE has suffered and will continue to suffer damage.

31. GPE is entitled to recover from DebtX the damages suffered by GPE as a result of its unlawful acts.

32. On information and belief, DebtX intends to continue its unlawful infringing activity, and GPE continues to and will continue to suffer irreparably harm for which there is no adequate remedy at law from such unlawful infringing activities unless this Court enjoins DebtX from further infringing activities.

Count III
(Patent Infringement of the '418 patent)

33. GPE repeats the allegations in paragraphs 1-30 of this Complaint as though fully set forth herein.

34. Upon information and belief, in violation of 35 U.S.C. § 271, DebtX is and has been directly infringing, contributing to the infringement of, and/or inducing others to infringe at least claim 1 of the '418 patent by making, using, selling, and/or offering to sell in the United States, or importing into the United States, products or processes that practice the inventions claimed in the '626 patent, including without limitation, the DebtX Solutions and related evaluation tools.

35. Upon information and belief, DebtX's actions have been and are with knowledge of the '418 patent and thus have been and are willful disregard of those patent rights.

36. As a result of DebtX's unlawful infringement of the '418 patent, GPE has suffered and will continue to suffer damage.

37. GPE is entitled to recover from DebtX the damages suffered by GPE as a result of its unlawful acts.

38. On information and belief, DebtX intends to continue its unlawful infringing activity, and GPE continues to and will continue to suffer irreparably harm for which there is no adequate remedy at law from such unlawful infringing activities unless this Court enjoins DebtX from further infringing activities.

PRAYER FOR RELIEF

WHEREFORE, GPE respectfully requests all legal and equitable relief as may be recoverable for the foregoing offenses, including:

- (a) A judgment that DebtX infringes one or more claims of the '444, '319 and '418 patents;
- (b) A permanent injunction enjoining DebtX, its officers, agents, servants, employees, successors, subsidiaries, affiliates, parent company and all persons acting under, in

concert with, or for it, from directly or indirectly making or causing to be made, using or causing to be used, selling or causing to be sold, offering for sale or causing to be used, selling or causing to be sold, offering for sale or causing to be offered for sale, or importing or causing to be imported products that fall within the scope of one or more claims of the '444 and '319 patents, or otherwise directly or contributorily infringing, or inducing infringement of, the '444, '319 and '418 patents;

- (c) An order requiring DebtX, its officers, agents, servants, and employees to recall and destroy all products infringing, directly or otherwise, one or more claims of the '444, '319 and '418 patents;
- (d) An order directing DebtX to file with this Court and serve on GPE within twenty (20) days after service of an injunction a written report setting forth in detail the manner and form in which DebtX has complied with each injunction to which the Court finds GPE entitled;
- (e) An award of damages adequate to compensate GPE for the infringement of the '444, '319 and '418 patents, together with the prejudgment and post judgment interest thereon at the highest rate allowable at law until prejudgment and post-judgment interest thereon at the highest rate allowable at law until paid in full, and costs fixed by the Court, as provided by 35 U.S.C. § 284;
- (f) A judgment that the infringement of the '444, '319 and '418 patents was and is willful, and an award to GPE of treble damages in accordance with 35 U.S.C. § 284;
- (g) A declaration that this is an exceptional case and that GPE be granted its reasonable attorneys fees pursuant to 35 U.S.C. § 285; and
- (h) A grant to GPE of such further relief as this Court deems just and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38, GPE demands a trial by jury on all issues so triable.

Respectfully submitted,

BY: 
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Dated: June 27, 2014