IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TRUSTID, INC.	)	
	)	
Plaintiff,	)	Civil Action No. 18-172-LPS
	)	
v.	)	REDACTED -- PUBLIC VERSION
	)	**JURY TRIAL DEMANDED**
NEXT CALLER INC.	)	
	)	
Defendant.	)	
	)	

PLAINTIFF'S SECOND AMENDED COMPLAINT

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Dated: June 5, 2019

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Plaintiff,	)	Civil Action No. 1:18-00172-LPS
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Defendant.	)	
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PLAINTIFF'S SECOND AMENDED COMPLAINT

Pursuant to Federal Rule of Civil Procedure 15(a)(2), the parties' stipulation regarding the deadline to amend or supplement the pleadings (D.I. 57), the associated Order dated January 14, 2019, and the oral order during the hearing on June 3, 2019, Plaintiff TRUSTID, Inc. ("TRUSTID" or "Plaintiff") files this Second Amended Complaint against Next Caller Inc. ("Next Caller" or "Defendant") and alleges as follows:

NATURE OF ACTION

1.   This is a civil action arising out of Next Caller's patent infringement in violation of the Patent Laws of the United States, 35 U.S.C. §§ 271 and 281-285; Next Caller's violations of Delaware's Uniform Deceptive Trade Practices Act; and Next Caller's false advertising in violation of the Lanham Act (15 U.S.C. § 1125(a)).

THE PARTIES

2.   TRUSTID is a corporation organized and existing under the laws of Delaware, having a principal place of business at 4500 Kruse Way, #350, Lake Oswego, OR 97035.

3.   Next Caller is a corporation organized and existing under the laws of Delaware, having a principal place of business at 46 Lispenard Street, New York, NY 10013.

JURISDICTION AND VENUE

4.   This Court has subject-matter jurisdiction over TRUSTID's patent-infringement claims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5.   This Court has subject-matter jurisdiction over TRUSTID's claim arising under the Lanham Act, 15 U.S.C. § 1125, pursuant to 28 U.S.C. §§ 1331 and 1338(b).

6.   This Court has supplemental jurisdiction over TRUSTID's claim arising under the laws of Delaware, pursuant to 28 U.S.C. § 1367(a), because the state law claim is so related to TRUSTID's federal law claims that it forms part of the same case or controversy and derives from a common nucleus of operative facts.

7.   This Court has personal jurisdiction over Next Caller at least because Next Caller is incorporated in this District.

8.   Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b) at least because Next Caller is a resident and corporate citizen of this District.

BACKGROUND

A.   TRUSTID developed innovative, proven anti-spoofing and caller-authentication technologies.

9.   TRUSTID is the leading provider of anti-spoofing and caller-authentication technologies. "Spoofing" occurs when a caller falsifies information transmitted with a telephone call to disguise the caller's true identity. Before TRUSTID, most anti-spoofing techniques relied on so-called knowledge-based authentication to confirm the caller's identity. In these conventional knowledge-based techniques, a caller's identity is verified based on certain personal information, such as, date of birth, last four digits of social security number, or mother's

maiden name. Unfortunately, this type of personal information is rarely private nowadays. It can be purchased illegally online or obtained through other illegitimate means. Armed with this personal information, criminals can easily circumvent conventional knowledge-based techniques by impersonating a legitimate customer to commit various types of fraudulent activities.

10.   TRUSTID's patented anti-spoofing technology works differently. This technology performs a real-time telephone forensic analysis before a call is answered. In this way, TRUSTID's technology allows call centers to quickly identify callers that should enter trusted work flows for better, faster service. TRUSTID's approach is more robust and reliable than conventional knowledge-based techniques and saves clients time and money.

11.   TRUSTID began developing its patented call-trustworthiness solutions and anti-spoofing technology 10 years ago. It filed its first patent application in this space in May 2009, and has built a patent portfolio that protects various aspects of its technology, including the patents-in-suit. TRUSTID's patents cover a broad range of call-trustworthiness, caller-authentication, and anti-spoofing technologies, including methods of evaluating incoming telephone calls.

12.   To ensure, and later to demonstrate, its solutions were of the highest quality, TRUSTID undertook a rigorous process to test and validate its technologies. This process was critical to TRUSTID's ability to win the business of potential customers, especially in the financial industry. The vast majority of financial institutions rely on interactive voice response ("IVR") systems as well as live agents to handle customers' calls in a timely, cost-effective fashion. Given the sensitive nature of their business, banks require call-trustworthiness, caller-authentication, and anti-spoofing solutions with objectively demonstrated capabilities to work

with their telephone systems. Financial institutions are generally unwilling to purchase systems that have not been adequately tested and validated.

13.   TRUSTID invested significant time and millions of dollars to test, measure, and validate the performance of its technologies. And, unlike other technologies, the effectiveness of caller-authentication and anti-spoofing technologies can be reliably tested only in real-world situations involving actual callers interacting with a live call-processing system.

14.   TRUSTID vigorously protects its proprietary technologies, its customer lists, its pricing, and other confidential proprietary information. TRUSTID protects its proprietary trade-secret technology and processes, in part, by entering into confidentiality agreements with its employees and by using and enforcing policies and procedures.

15.   TRUSTID also protects the integrity and confidentiality of its trade secrets by maintaining physical security of its premises and the physical and electronic security of its information-technology and computer systems.

16.   Starting in 2011, TRUSTID conducted a number of pilot-program tests of its systems with several financial institutions. Over the course of 7 years, TRUSTID gradually expanded its testing efforts, deploying its technologies across more financial institutions. Ultimately, these efforts generated objective data showing that TRUSTID's technologies not only worked, but achieved the level of sophistication that financial, regulatory, and security companies required.

17.   Eventually, TRUSTID began to publish the results of its testing and validation efforts on its website and in a series of white papers. Among other metrics, TRUSTID accurately stated that its solutions (i) saved customers $0.50 per call, (ii) achieved a 10% increase in IVR containment, and (iii) saved 30 seconds per call.

18.   These metrics matter to purchasers of call-trustworthiness, anti-spoofing, and caller-authentication services because they show that the effectiveness of TRUSTID's technologies will not only enhance security, but will save money in the process.

19.   The average agent-assisted call costs $1.00 per minute, while the average IVR call costs only $0.10 per minute. By improving the security and efficiency of IVR systems, TRUSTID's customers can rely more heavily on IVR, rather than human agents, to handle incoming calls. By way of example, if a contact center processed 12,000 calls per day with agents, the average call requires four agent-minutes to complete, and the customer spent $1.00 per agent-minute, reducing each call by 30 seconds by using IVR would represent daily savings of $6,000. This represents more than $2.1 million dollars annually.

B.   Next Caller steals TRUSTID's trade secrets, infringes TRUSTID's patents, and misstates the capabilities of Next Caller's infringing system.

20.   In January 2014, TRUSTID representatives met Next Caller representatives at a tradeshow, where the two companies' booths were next to one another. At that tradeshow, TRUSTID learned that Next Caller provided enhanced Caller ID telecommunication services but did not provide caller-authentication solutions like those provided by TRUSTID.

21.   A few years after the tradeshow, in September 2016, TRUSTID and Next Caller met in Portland, Oregon to discuss the possibility of combining their respective services. During those discussions, Next Caller's CEO represented to TRUSTID's CEO that Next Caller did not have any authentication technologies and that it could not determine if a call was a valid call. Next Caller's CEO also stated that Next Caller had only a limited ability to detect certain forms of spoofing. Based on the representations by Next Caller's CEO, TRUSTID believed that the companies' services did not compete and could be complementary.

22.   The parties talked on several occasions and, in December 2016, ████████

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23.   In particular, Next Caller agreed that ████████████████████

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24.   In reliance on that ████████████████, TRUSTID shared its confidential

information with Next Caller, including customer lists, pricing information, technical

information, and sales and marketing materials.

25.   After sharing this confidential information, TRUSTID learned that Next Caller

began selling solutions that attempt to mirror TRUSTID's patented technology. In particular,

after receiving TRUSTID's confidential information, Next Caller began advertising on its

website certain caller-authentication services, including VeriCall™, that infringe one or more

patents in TRUSTID's patent portfolio.

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26.   Based on information and belief, Next Caller's efforts to sell its infringing services improperly rely on TRUSTID's confidential trade-secret information, such as TRUSTID's customer lists, value and return-on-investment analysis, and pricing information. In particular, based on information and belief, Next Caller has represented to current TRUSTID customers, partners, and prospects that "Next Caller does exactly what TRUSTID does and more."

27.   For example, in late 2016, a large financial institution (the "Bank") issued a request for proposal (RFP) that sought proposals for call-authentication and anti-spoofing services. TRUSTID had already entered into an agreement with the Bank to demonstrate its technologies, so, naturally, TRUSTID submitted a proposal in response to the RFP. TRUSTID's proposal, if accepted, would have generated revenues of roughly ▮▮▮▮▮ per year.

28.   In April 2017, TRUSTID learned that it had not won the bid—only the second time in the company's history that it was not awarded a contract after submitting a proposal in response to an RFP. TRUSTID later learned that Next Caller was the winning bidder.

29.   Based on information and belief, Next Caller attempted to contact TRUSTID's customers and used TRUSTID's confidential information to solicit TRUSTID's customers. This includes utilizing TRUSTID's pricing information to TRUSTID's then-current customers.

30.   Remarkably, Next Caller's website makes identical claims about the objective capabilities of the Next Caller system as those that appear on TRUSTID's website and in its white papers. For example, Next Caller claims an identical "10% higher IVR Containment," "50 cents per call savings," and "Save 30 secs Handle Time" for its services. *See* Exhibit 2.

31.   On information and belief, these and other of Next Caller's objective claims about its services are false. Instead of testing and validating the effectiveness of its services, Next Caller simply copied TRUSTID's performance capabilities, parroting them on its own website.

THE PATENTS-IN-SUIT

32.   On April 7, 2015, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 9,001,985 ("the '985 patent"), entitled "Method Of and System for Discovering and Reporting Trustworthiness and Credibility of Calling Party Number Identification."

33.   The '985 patent was duly assigned to TRUSTID, which is the assignee of all right, title, and interest in and to the '985 patent, and possesses the exclusive right of recovery for past, present, and future infringement. Each and every claim of the '985 patent is valid and enforceable. A true and correct copy of the '985 patent is attached hereto as Exhibit 3.

34.   On August 7, 2012, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 8,238,532 ("the '532 patent"), entitled "Method and System for Discovering and Reporting Trustworthiness and Credibility of Calling Party Number Information."

35.   The '532 patent was duly assigned to TRUSTID, which is the assignee of all right, title, and interest in and to the '532 patent, and possesses the exclusive right of recovery for past, present, and future infringement. Each and every claim of the '532 patent is valid and enforceable. A true and correct copy of the '532 patent is attached hereto as Exhibit 7.

36.   On January 5, 2018, TRUSTID sent, via FedEx, a letter to Next Caller and to Next Caller's registered agent ("notice letter") identifying the '985 and '532 patents, as well as other patents in TRUSTID's patent portfolio. The letter also outlined how Next Caller infringed

the '985 patent. A true and correct copy of the January 5, 2018 notice letter is attached hereto as Exhibit 4.

37.   Based on FedEx tracking information, Next Caller and Next Caller's registered agent received the notice letter on January 8, 2018. On January 19, 2018, counsel for Next Caller confirmed receipt of the notice letter.

38.   On January 16, 2018, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 9,871,913 ("the '913 patent"), entitled "Systems and Methods to Identify ANI and Caller ID Manipulation for Determining Trustworthiness of Incoming Calling Party and Billing Number Information."

39.   The '913 patent was duly assigned to TRUSTID, which is the assignee of all right, title, and interest in and to the '913 patent, and possesses the exclusive right of recovery for past, present, and future infringement. Each and every claim of the '913 patent is valid and enforceable. A true and correct copy of the '913 patent is attached hereto as Exhibit 13.

COUNT I:
DIRECT INFRINGEMENT OF U.S. PATENT NO. 9,001,985

40.   TRUSTID re-alleges and incorporates by reference Paragraphs 1-39 above, as if fully set forth herein.

41.   The '985 patent covers methods for determining a source origin confidence metric of a calling party number or billing number associated with an incoming call and for authenticating a calling party.

42.   For example, claim 1 of the patent recites:

A method of determining a source origin confidence metric of a calling party

number or billing number associated with an incoming call to a called

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party telephonic device from a calling party telephonic device,

comprising:

receiving by an electronic system associated with the called party telephonic

device the calling party number or billing number, wherein the electronic

system receives the calling party number or billing number from the called

party telephonic device;

after receiving the calling party number or billing number and before the

incoming call is answered, gathering by the electronic system associated

with the called party telephonic device operational status information

associated with the calling party number or billing number; and

determining by the electronic system associated with the called party telephonic

device the source origin confidence metric for the calling party number or

billing number.

43.   Next Caller has infringed and will continue to infringe at least one claim of the

'985 patent by developing, testing, using, distributing, and selling VeriCall. Next Caller is liable

for direct infringement, either literally or under the doctrine of equivalents, of the '985 patent

pursuant to 35 U.S.C. § 271(a).

44.   For example, Next Caller describes its services as "[i]dentify inbound phone

numbers and increase sales conversion with accurate real-time caller data. Accurately detect

phone spoofing fraud before you pickup [sic] the phone and route your inbound calls

intelligently." Exhibit 5. Next Caller has promoted its service offering via Youtube in which it

specifically indicates that it "detects spoofing, and alerts the business the second the phone

rings," that is prior to the call being answered. Exhibit 8, Youtube.com Screenshot. Furthermore,

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as seen in the following screenshot captured on December 8, 2017 from Next Caller's public

website, Next Caller's VeriCall service (i) uses an API to collect "call data" associated with

incoming phone calls "pre-answer"; (ii) uses an algorithm to analyze the collected call data

associated with the incoming call; and (iii) generates and transmits a "fraud threat level" to the

user, who then may take action based on the information:

45.   According to Ian Roncoroni, Next Caller CEO, Next Caller has built "a

sophisticated algorithm to analyze information that is coming over the phone including the call

meta data." Exhibit 9, Forbes Article; Jun 27, 2016; Next Caller Delivers Detailed Information

on Inbound Calls. He further indicates that "[o]ur database is unique in that is uses a phone

number, email address, or name and address combination as the identifier" to access data from

dozens of different data sources. Next Caller matches received telephone numbers to stored

telephone numbers to generate a caller profile. *Id.* The caller profile includes a fraud threat level.

Moreover, as part of their solution, Next Caller contends that they "[stabilize] ANI [automatic

number identification] matches to optimize security resources." Exhibit 10, Next Caller Website

Excerpt. Such matching is further indicative of Next Caller's use of stored ANI numbers to

match or compare to ANI information received with an incoming call. Next Caller further

elaborates on its services noting that it "detect[s] over 15 types of ANI spoofing, with high

accuracy. [They] flag calls from common fraud sources, e.g., pre-paid phones and Google

voice," suggesting further that they compare stored data patterns with received data patterns to

assist in their determination of a fraud level. Exhibit 11, Advanced Caller ID brochure. With

respect to fraud levels, Next Caller indicates that "[o]ur fraud detection platform flags suspicious

callers with 3 easy-to-read fraud levels (Low, Medium, and High). We detect all forms of call

spoofing, and provide an accurate analysis within a few milliseconds of an inbound call. Our

warnings allow agents to handle all callers appropriately, based on their fraud threat." This

service is provided through a "Fraud API" that is a component of Next Caller's system. Exhibit

12, Next Caller Documentation Developer's Guide.

46.   Next Caller's VeriCall service provides a method that determines a "fraud threat

level" of a calling party number associated with an incoming call and therefore provides "[a]

method of determining a source origin confidence metric of a calling party number or billing

number associated with an incoming call to a called party telephonic device from a calling party

telephonic device" as stated in the preamble of claim 1 of the '985 patent.

47.   Next Caller's VeriCall service includes an API that collects incoming call data

and telephone network data to identify inbound phone numbers presented either as a calling party

number or a billing number as recited in the receiving step of claim 1: "receiving by an

electronic system associated with the called party telephonic device the calling party number or

billing number, wherein the electronic system receives the calling party number or billing number from the called party telephonic device."

48.   Next Caller's VeriCall service gathers and analyzes information associated with the inbound phone number presented as either a billing number or a calling party number. In particular, Next Caller's VeriCall claims to provide "ANI spoof detection." *See* Exhibit 6 at p. 7. It is well known in the industry that "ANI" includes: (i) information digits that identify the class of service; and (ii) the call party billing telephone number or billing number. Next Caller also contends that it receives and uses "information that is coming over the phone including the call meta data" in its anti-spoofing solutions. It is also expected that discovery will likely reveal additional evidentiary support that this information includes further operational status information as recited in the gathering step of claim 1: "after receiving the calling party number or billing number and before the incoming call is answered, gathering by the electronic system associated with the called party telephonic device operational status information associated with the calling party number or billing number."

49.   Next Caller's VeriCall service "analyzes the call data in less than 1 second" and "transmit[s] our Fraud threat level back to your business" as recited in claim 1's determining step: "determining by the electronic system associated with the called party telephonic device the source origin confidence metric for the calling party number or billing number."

50.   On information and belief, Next Caller has known or should have known—no later than January 8, 2018, the date which Next Caller and Next Caller's registered agent received TRUSTID's January 5, 2018 notice letter—(i) about the '985 patent, (ii) that Next Caller's actions constituted and continue to constitute infringement of the '985 patent, and (iii) that the '985 patent is valid.

51.   Next Caller could not have reasonably or subjectively believed that its actions do not constitute infringement of the '985 patent. Nor could Next Caller reasonably or subjectively believe that the '985 patent is invalid. Despite that knowledge and subjective belief, Next Caller's actions are egregious and beyond typical infringement. Indeed, Next Caller not only infringes TRUSTID's patent, but also promotes these infringing activities by using confidential information misappropriated from TRUSTID, as outlined above. Next Caller thus willfully infringes the '985 patent.

52.   By its actions, Next Caller's infringement of the '985 patent has irreparably harmed TRUSTID. Unless Next Caller's infringing acts are enjoined by this Court, TRUSTID will continue to suffer additional irreparable injury. TRUSTID has no adequate remedy at law.

53.   By its actions, Next Caller's infringement of the '985 patent has damaged, and continues to damage, TRUSTID in an amount yet to be determined, of at least a reasonable royalty and/or lost profits that TRUSTID would have made but for Next Caller's infringing acts.

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COUNT II:
INDUCED INFRINGEMENT OF U.S. PATENT NO. 9,001,985

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54.   TRUSTID re-alleges and incorporates by reference Paragraphs 1-53 above, as if fully set forth herein.

55.   Next Caller is liable for indirect infringement by actively inducing infringement of the '985 patent pursuant to 35 U.S.C. § 271(b).

56.   At least one financial institution that is a Next Caller customer directly infringes the '985 patent by using Next Caller's VeriCall system in the manner alleged above.

57.   Next Caller's customers' systems (e.g. IVR systems, network devices, and/or any other software and hardware) connect with VeriCall's API to assess data obtained from an incoming call. VeriCall then generates a risk score that signals potential fraud risk. By

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processing incoming calls with VeriCall's risk scores, Next Caller's customers directly infringe the '985 patent.

58.   Next Caller specifically intends that its customers infringe the '985 patent. Next Caller markets its VeriCall system knowing that use of the system will inevitably lead its customers to process caller data through Next Caller's API. For example, in explaining how VeriCall works, Next Caller states that it offers "a simple, cloud-based API [which] integrates effortlessly into existing systems." *See* Exhibit 11. Next Caller encourages customers to "us[e] [Next Caller's] data" to "gather data on unknown inbound callers," "make intelligent, cost-saving call routing decisions," and to "improve, append, or refresh existing CRM data." *Id*. Next Caller promotes VeriCall by promising its customers that the technology will save them 30 seconds of handle time, 50 cents per call, and will increase their IVR containment rate by 10%—abilities which are feasible through the use of TRUSTID's patented method. *See* Exhibit 2; *see also* Exhibit 10 (promising its technology will fully authenticate in the IVR and reduce agent handle time and average call cost).

59.   Next Caller has had actual knowledge of the '985 patent since at least January 8, 2018, the date which Next Caller and Next Caller's registered agent received TRUSTID's January 5, 2018 notice letter identifying (i) the '985 patent, (ii) that Next Caller's actions constituted and continue to constitute infringement of the '985 patent, and (iii) that the '985 patent is valid. *See* Exhibit 4.

60.   The infringing actions of Next Caller's customers have irreparably harmed TRUSTID. Unless these actions are enjoined by this Court, TRUSTID will continue to suffer additional irreparable injury. TRUSTID has no adequate remedy at law.

61.   The infringing actions of Next Caller's customers has damaged, and continues to damage, TRUSTID in an amount yet to be determined, of at least a reasonable royalty and/or lost profits that TRUSTID would have made but for Next Caller's customer's infringing acts.

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COUNT III:
CONTRIBUTORY INFRINGEMENT OF U.S. PATENT NO. 9,001,985

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62.   TRUSTID re-alleges and incorporates by reference Paragraphs 1-61 above, as if fully set forth herein.

63.   Next Caller is liable for indirect infringement by way of contributory infringement of the '985 patent pursuant to 35 U.S.C. § 271(c). Next Caller has sold and continues to sell, offer to sell, or import into the United States products and services knowing that they are especially made or adapted to operate in a way that infringes the '985 patent and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

64.   Next Caller has had actual knowledge of the '985 patent since at least January 8, 2018, the date which Next Caller and Next Caller's registered agent received TRUSTID's January 5, 2018 notice letter identifying (i) the '985 patent, (ii) that Next Caller's actions constituted and continue to constitute infringement of the '985 patent, and (iii) that the '985 patent is valid. *See* Exhibit 4.

65.   Next Caller markets VeriCall for the sole purpose of real-time call verification to combat the problem of fraud ANI match authentication. *See* Exhibit 2; Exhibit 6. On information and belief, VeriCall has no substantial non-infringing uses.

66.   The infringing actions have irreparably harmed TRUSTID. Unless the Court issues an injunction, TRUSTID will continue to suffer additional irreparable injury. TRUSTID has no adequate remedy at law.

67.   The infringing actions have damaged, and continue to damage, TRUSTID in an amount yet to be determined, of at least a reasonable royalty and/or lost profits that TRUSTID would have made but for Next Caller's customer's infringing acts.

COUNT IV:
DIRECT INFRINGEMENT OF U.S. PATENT NO. 8,238,532

68.   TRUSTID re-alleges and incorporates by reference Paragraphs 1-67 above, as if fully set forth herein.

69.   The '532 patent covers methods for discovering and reporting the trustworthiness and credibility of calling party number information.

70.   For example, claim 32 of the patent recites:

A system for performing forensic analysis on calling party number information

associated with an incoming call from a telephonic device, before the

incoming call is answered, comprising:

an interface for receiving calling party number information associated with the

incoming call;

a memory configured to store a plurality of expected call patterns; and one or

more processors configured to:

gather operational status information associated with the calling party

number information, and

assign a source origin confidence metric to the calling party number using

the operational status information and an expected call pattern in

the plurality of expected call patterns.

71.   Next Caller has infringed and will continue to infringe at least one claim of the '532 patent by developing, testing, using, distributing, and selling VeriCall. Next Caller is liable

for direct infringement, either literally or under the doctrine of equivalents, of the '532 patent

pursuant to 35 U.S.C. § 271(a).

72.   Next Caller's VeriCall service employs a system that determines a "fraud threat

level" of a calling party number associated with an incoming call. Additionally, Next Caller's

VeriCall service provides its service "pre-answer," the "second the phone rings," and therefore

provides "[a] system for performing forensic analysis on calling party number information

associated with an incoming call from a telephonic device, before the incoming call is answered"

as stated in the preamble of claim 32 of the '532 patent.

73.   Next Caller's VeriCall service includes an API that collects incoming call data

and telephone network data to identify inbound phone numbers presented either as a calling party

number or a billing number as recited in the interface element of claim 32: "an interface for

receiving calling party number information associated with the incoming call."

74.   Next Caller's VeriCall system includes a "proprietary algorithm" that "analyzes

call data in less than 1 second." Such analysis likely includes comparing expected call patterns

with actual call patterns associated with status information of a current call, which would require

the storage of expected call patterns in a memory to facilitate analysis that occurs within

milliseconds, as specified in VeriCall marketing literature. Moreover, Next Caller acknowledges

that it uses meta data associated with an incoming call that likely is compared against stored

information and patterns to assess a threat level. It is also expected that discovery will likely

reveal additional evidentiary support that the "proprietary algorithm" of the VeriCall system

relies upon and includes, as recited in the memory element of claim 32: "a memory configured to

store a plurality of expected call patterns."

75.   Next Caller's VeriCall system includes processors that gather and analyze information associated with the inbound phone number. In particular, Next Caller's VeriCall claims to provide "ANI spoof detection." *See* Exhibit 6 at p. 7. It is well known in the industry that "ANI" includes: (i) information digits that identify the class of service; and (ii) the call party billing telephone number or billing number. Next Caller further promotes that it receives and uses information associated with an incoming call, including meta data. It is also expected that discovery will likely reveal additional evidentiary support that this information includes further operational status information as recited in the gather element of claim 32: "gather operational status information associated with the calling party number information."

76.   Next Caller's VeriCall service "analyzes the call data in less than 1 second" and "transmit[s] our Fraud threat level back to your business." This Fraud threat level is determined by the application of VeriCall's "proprietary algorithm," which is based on operational status information of the incoming call and expected call pattern information, as discussed above. It is also expected that discovery will likely reveal additional evidentiary support that the "proprietary algorithm" of the VeriCall system provides, as recited in the assign element of claim 32: "assign a source origin confidence metric to the calling party number using the operational status information and an expected call pattern in the plurality of expected call patterns."

77.   Next Caller could not have reasonably or subjectively believed that its actions do not constitute infringement of the '532 patent. Nor could Next Caller reasonably or subjectively believe that the '532 patent is invalid. Despite that knowledge and subjective belief, Next Caller's actions are egregious and beyond typical infringement. Indeed, Next Caller not only infringes TRUSTID's patent, but also promotes these infringing activities by using confidential

information misappropriated from TRUSTID, as outlined above. Next Caller thus willfully infringes the '532 patent.

78.   By its actions, Next Caller's infringement of the '532 patent has irreparably harmed TRUSTID. Unless Next Caller's infringing acts are enjoined by this Court, TRUSTID will continue to suffer additional irreparable injury. TRUSTID has no adequate remedy at law.

79.   By its actions, Next Caller's infringement of the '532 patent has damaged, and continues to damage, TRUSTID in an amount yet to be determined, of at least a reasonable royalty and/or lost profits that TRUSTID would have made but for Next Caller's infringing acts.

COUNT V:
INDUCED INFRINGEMENT OF U.S. PATENT NO. 8,238,532

80.   TRUSTID re-alleges and incorporates by reference Paragraphs 1-79 above, as if fully set forth herein.

81.   Next Caller is liable for indirect infringement by actively inducing infringement of the '532 patent pursuant to 35 U.S.C. § 271(b).

82.   At least one financial institution that is a Next Caller customer directly infringes the '532 patent by using Next Caller's VeriCall system in the manner alleged above.

83.   Next Caller's customers' systems (e.g. IVR systems, network devices, and/or any other software and hardware) connect with VeriCall's API to assess data obtained from an incoming call. VeriCall then generates a risk score that signals potential fraud risk. By processing incoming calls with VeriCall's risk scores, Next Caller's customers directly infringe the '532 patent.

84.   Next Caller specifically intends that its customers infringe the '532 patent. Next Caller markets its VeriCall system knowing that use of the system will inevitably lead its customers to process caller data through Next Caller's API. For example, in explaining how

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VeriCall works, Next Caller states that it offers "a simple, cloud-based API [which] integrates effortlessly into existing systems." *See* Exhibit 11. Next Caller encourages customers to "us[e] [Next Caller's] data" to "gather data on unknown inbound callers," "make intelligent, cost-saving call routing decisions," and to "improve, append, or refresh existing CRM data." *Id*. Next Caller promotes VeriCall by promising its customers that the technology will save them 30 seconds of handle time, 50 cents per call, and will increase their IVR containment rate by 10%—abilities which are feasible through the use of TRUSTID's patented method. *See* Exhibit 2; *see also* Exhibit 10 (promising its technology will fully authenticate in the IVR and reduce agent handle time and average call cost).

85.   Next Caller has had actual knowledge of the '532 patent since at least January 8, 2018, the date which Next Caller and Next Caller's registered agent received TRUSTID's January 5, 2018 notice letter identifying (i) the '532 patent, (ii) that Next Caller's actions constituted and continue to constitute infringement of the '532 patent, and (iii) that the '532 patent is valid. *See* Exhibit 4.

86.   The infringing actions of Next Caller's customers have irreparably harmed TRUSTID. Unless these actions are enjoined by this Court, TRUSTID will continue to suffer additional irreparable injury. TRUSTID has no adequate remedy at law.

87.   The infringing actions of Next Caller's customers has damaged, and continues to damage, TRUSTID in an amount yet to be determined, of at least a reasonable royalty and/or lost profits that TRUSTID would have made but for Next Caller's customer's infringing acts.

COUNT VI:
CONTRIBUTORY INFRINGEMENT OF U.S. PATENT NO. 8,238,532

88.   TRUSTID re-alleges and incorporates by reference Paragraphs 1-87 above, as if fully set forth herein.

89.   Next Caller is liable for indirect infringement by way of contributory infringement of the '532 patent pursuant to 35 U.S.C. § 271(c). Next Caller has sold and continues to sell, offer to sell, or import into the United States products and services knowing that they are especially made or adapted to operate in a way that infringes the '532 patent and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

90.   Next Caller has had actual knowledge of the '532 patent since at least January 8, 2018, the date which Next Caller and Next Caller's registered agent received TRUSTID's January 5, 2018 notice letter identifying (i) the '532 patent, (ii) that Next Caller's actions constituted and continue to constitute infringement of the '532 patent, and (iii) that the '532 patent is valid. *See* Exhibit 4.

91.   Next Caller markets VeriCall for the sole purpose of real-time call verification to combat the problem of fraud ANI match authentication. *See* Exhibit 2; Exhibit 6. On information and belief, VeriCall has no substantial non-infringing uses.

92.   The infringing actions have irreparably harmed TRUSTID. Unless the Court issues an injunction, TRUSTID will continue to suffer additional irreparable injury. TRUSTID has no adequate remedy at law.

93.   The infringing actions have damaged, and continue to damage, TRUSTID in an amount yet to be determined, of at least a reasonable royalty and/or lost profits that TRUSTID would have made but for Next Caller's customer's infringing acts.

COUNT VII:
DIRECT INFRINGEMENT OF U.S. PATENT NO. 9,871,913

94.   TRUSTID re-alleges and incorporates by reference Paragraphs 1-93 above, as if fully set forth herein.

95.   The '913 patent covers systems and methods for identifying ANI and caller ID

manipulation for determining trustworthiness of incoming calling party and billing number

information.

96.   For example, claim 15 of the patent recites:

A computer-implemented method, comprising:

receiving from a calling party by a discrepancy detector a call request having a

      called telephone number, wherein the call request includes calling party

      information, wherein the discrepancy detector determines discrepancies in

      calling party information and is ancillary to an originating service provider

      network element that provides a telephone line for the calling party

      placing the call request;

accessing a monitored called party number database, wherein accessing the

      monitored called party number database includes determining whether the

      call request to the called telephone number is to be verified, wherein the

      monitored called party number database includes telephone numbers;

      wherein the telephone numbers include only telephone numbers and

      related information for called party numbers for which call request validity

      is to be assessed;

when the call request is to be verified, determining by the discrepancy detector

      whether a discrepancy exists between the calling party information

      contained within the call request and stored calling party information.

97.   Next Caller has infringed and will continue to infringe at least one claim of the

'913 patent by developing, testing, using, distributing, and selling VeriCall. Next Caller is liable

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for direct infringement, either literally or under the doctrine of equivalents, of the '913 patent pursuant to 35 U.S.C. § 271(a).

98.   Next Caller's VeriCall service provides a proprietary algorithm that operates on a computing device, as depicted in the screenshot above from Next Caller's website. As such, Next Caller provides [a] computer-implemented method, as stated in the preamble of claim 15 of the '913 patent.

99.   Next Caller's VeriCall system includes an API that collects incoming call data and telephone network data to identify inbound phone numbers, such as ANI. The VeriCall service detects discrepancies in the incoming calling party information, and thus includes a discrepancy detector that determines discrepancies associated with the incoming calling party information and assigns a threat level based on analysis of those discrepancies. As depicted in the screenshot above, the Vericall platform is distinct and ancillary to an originating service provider network element that provides a telephone line for the calling party placing the call request. As such, the VeriCall system provides the receiving element of claim 15.

100.   Next Caller indicates that its "database is unique in that it uses a phone number, email address, or name and address combination as the identifier to access" different data sources. Exhibit 9. Moreover, Next Caller indicates that it conducts ANI matches, which would require accessing a database of stored ANI for comparison. Next Caller offers carrier-based solutions that screen called party numbers to determine whether to perform a threat analysis. In such a scenario, the database includes ANI or telephone numbers for which the threat levels of the call is to be requested. Thus, the VeriCall system provides the accessing element of claim 15. It is also expected that discovery will likely reveal additional evidentiary support that the VeriCall system provides the accessing element of claim 15.

101.   The VeriCall system generates a threat level indicative of a discrepancy between the received calling party information and the stored calling party information. Specifically, Next Caller's VeriCall service "analyzes the call data in less than 1 second" and "transmit[s] our Fraud threat level back to your business." As such, the Vericall system provides the determining element of claim 15. It is also expected that discovery will likely reveal additional evidentiary support that the VeriCall system provides the determining element of claim 15.

102.   Next Caller could not have reasonably or subjectively believed that its actions do not constitute infringement of the '913 patent. Nor could Next Caller reasonably or subjectively believe that the '913 patent is invalid. Despite that knowledge and subjective belief, Next Caller's actions are egregious and beyond typical infringement. Indeed, Next Caller not only infringes TRUSTID's patent, but also promotes these infringing activities by using confidential information misappropriated from TRUSTID, as outlined above. Next Caller thus willfully infringes the '913 patent.

103.   By its actions, Next Caller's infringement of the '913 patent has irreparably harmed TRUSTID. Unless Next Caller's infringing acts are enjoined by this Court, TRUSTID will continue to suffer additional irreparable injury. TRUSTID has no adequate remedy at law.

104.   By its actions, Next Caller's infringement of the '913 patent has damaged, and continues to damage, TRUSTID in an amount yet to be determined, of at least a reasonable royalty and/or lost profits that TRUSTID would have made but for Next Caller's infringing acts.

COUNT VIII:
INDUCED INFRINGEMENT OF U.S. PATENT NO. 9,871,913

105.   TRUSTID re-alleges and incorporates by reference Paragraphs 1-104 above, as if fully set forth herein.

106.   Next Caller is liable for indirect infringement by actively inducing infringement

of the '913 patent pursuant to 35 U.S.C. § 271(b).

107.   At least one financial institution that is a Next Caller customer directly infringes

the '913 patent by using Next Caller's VeriCall system in the manner alleged above.

108.   Next Caller's customers' systems (e.g. IVR systems, network devices, and/or any

other software and hardware) connect with VeriCall's API to assess data obtained from an

incoming call. VeriCall then generates a risk score that signals potential fraud risk. By

processing incoming calls with VeriCall's risk scores, Next Caller's customers directly infringe

the'913 patent.

109.   Next Caller specifically intends that its customers infringe the '913 patent. Next

Caller markets its VeriCall system knowing that use of the system will inevitably lead its

customers to process caller data through Next Caller's API in order to receive a risk score. For

example, in explaining how VeriCall works, Next Caller states that it offers "a simple, cloud-

based API [which] integrates effortlessly into existing systems." *See* Exhibit 11. Next Caller

encourages customers to "us[e] [Next Caller's] data" to "gather data on unknown inbound

callers," "make intelligent, cost-saving call routing decisions," and to "improve, append, or

refresh existing CRM data." *Id*. Next Caller promotes VeriCall by promising its customers that

the technology will save them 30 seconds of handle time, 50 cents per call, and will increase

their IVR containment rate by 10%—abilities which are feasible through the use of TRUSTID's

patented method. *See* Exhibit 2; *see also* Exhibit 10 (promising its technology will fully

authenticate in the IVR and reduce agent handle time and average call cost).

110.   At least as early as January 8, 2018, Next Caller knew or should have known

about the '913 patent, or has been knowingly and willfully blind both of the existence and

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validity of the '913 patent, and that its actions constituted and continue to constitute infringement of the '913 patent. A reasonable business person would have been prompted to review any related patents to the ones identified in TRUSTID's January 5, 2018 notice letter and would have subsequently discovered the '913 patent. If not sooner, Next Caller had knowledge of the '913 patent at least as of the service of the first Complaint in this suit or shortly thereafter.

111.   The infringing actions of Next Caller's customers have irreparably harmed TRUSTID. Unless these actions are enjoined by this Court, TRUSTID will continue to suffer additional irreparable injury. TRUSTID has no adequate remedy at law.

112.   The infringing actions of Next Caller's customers has damaged, and continues to damage, TRUSTID in an amount yet to be determined, of at least a reasonable royalty and/or lost profits that TRUSTID would have made but for Next Caller's customer's infringing acts.

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COUNT IX:
CONTRIBUTORY INFRINGEMENT OF U.S. PATENT NO. 9,871,913

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113.   TRUSTID re-alleges and incorporates by reference Paragraphs 1-112 above, as if fully set forth herein.

114.   Next Caller is liable for indirect infringement by way of contributory infringement of the '913 patent pursuant to 35 U.S.C. § 271(c). Next Caller has sold and continues to sell, offer to sell, or import into the United States products and services knowing, or being willfully blind to the fact, that they are especially made or adapted to operate in a way that infringes the '913 patent and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

115.   At least as early as January 8, 2018, Next Caller knew or should have known about the '913 patent, or has been knowingly and willfully blind both of the existence and validity of the '913 patent, and that its actions constituted and continue to constitute infringement

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of the '913 patent. A reasonable business person would have been prompted to review any related patents to the ones identified in TRUSTID's January 5, 2018 notice letter and would have subsequently discovered the '913 patent. If not sooner, Next Caller had knowledge of the '913 patent at least as of the service of the first Complaint in this suit or shortly thereafter.

116.   Next Caller markets VeriCall for the sole purpose of real-time call verification to combat the problem of fraud ANI match authentication. *See* Exhibit 2; Exhibit 6. On information and belief, VeriCall has no substantial non-infringing uses.

117.   The infringing actions have irreparably harmed TRUSTID. Unless the Court issues an injunction, TRUSTID will continue to suffer additional irreparable injury. TRUSTID has no adequate remedy at law.

118.   The infringing actions have damaged, and continue to damage, TRUSTID in an amount yet to be determined, of at least a reasonable royalty and/or lost profits that TRUSTID would have made but for Next Caller's customer's infringing acts

COUNT X:
FALSE ADVERTISING
IN VIOLATION OF THE LANHAM ACT (15 U.S.C. § 1125)

119.   TRUSTID re-alleges and incorporates by reference Paragraphs 1-118 above, as if fully set forth herein.

120.   On information and belief, Next Caller advertises, among other things, that its caller-authentication system has the capabilities to "increase 10% IVR Containment Rate," "Save $0.50 per call," and "save 30 secs handle time."

121.   On information and belief, Next Caller's system does not produce these results, Next Caller does not have the statistical evidence to substantiate its claims, or Next Caller's claims have a tendency to deceive a substantial portion of the intended customers.

122.   Next Caller's statements on its website concerning the objective performance of its system are false or likely to mislead customers.

123.   Next Caller's statements are likely to influence customer-purchasing decisions.

124.   Next Caller has sold its caller-authentication products and services throughout the United States.

125.   Next Caller's actions are likely to harm TRUSTID's sales or goodwill. Next Caller's false equivalency claims have harmed and will continue to harm TRUSTID.

126.   As a result of Next Caller's actions, TRUSTID has suffered direct and consequential damages, and is entitled to recover compensatory damages, including opportunity costs and enhanced damages in an amount to be proven at trial.

COUNT XI:
FALSE ADVERTISING AND DISPARAGING STATEMENTS
IN VIOLATION OF DELAWARE'S UNIFORM DECEPTIVE TRADE PRACTICES ACT

127.   TRUSTID re-alleges and incorporates by reference Paragraphs 1-126 above, as if fully set forth herein.

128.   Next Caller advertises, among other things, that its caller-authentication system has the capabilities to "increase 10% IVR Containment Rate," "Save $0.50 per call," and "save 30 secs handle time."

129.   On information and belief, Next Caller's system does not produce these results, Next Caller does not have the statistical evidence to substantiate its claims, and Next Caller's claims have a tendency to deceive a substantial portion of the intended customers.

130.   Further, based on information and belief, Next Caller has represented to potential and current TRUSTID customers, among others, that "Next Caller does exactly what TRUSTID

does and more," despite having knowledge that Next Caller does not perform many of the functions TRUSTID performs.

131.   Next Caller's statements on its website concerning the objective performance of its system are false or likely to mislead customers.

132.   Next Caller's statements regarding TRUSTID's services are false or likely to mislead customers or investors.

133.   Next Caller's statements are likely to influence customer-purchasing decisions.

134.   Next Caller has sold its caller-authentication products and services throughout the United States.

135.   Next Caller's actions are likely to harm TRUSTID's sales or goodwill. Next Caller's false equivalency claims have harmed and will continue to harm TRUSTID.

136.   As a result of Next Caller's actions, TRUSTID has suffered direct and consequential damages, and is entitled to recover compensatory damages, including opportunity costs and enhanced damages in an amount to be proven at trial.

DEMAND FOR JURY TRIAL

137.   TRUSTID demands trial by jury on all claims and issues so triable.

PRAYER FOR RELIEF

138.   Wherefore, TRUSTID respectfully requests that this Court enter judgment against Next Caller as follows:

  A. That one or more claims of the '985 patent have been infringed by Next Caller;

  B. That Next Caller's infringement of the '985 patent has been willful;

  C. That one or more claims of the '532 patent have been infringed by Next

Caller;

D. That Next Caller's infringement of the '532 patent has been willful;

E. That one or more claims of the '913 patent have been infringed by Next Caller;

F. That Next Caller's infringement of the '913 patent has been willful;

G. An award of damages adequate to compensate TRUSTID for the patent infringements that have occurred, together with pre-judgment interest and costs;

H. An accounting for acts of infringement not presented at trial and/or up to the judgment and an award by the Court of additional damage for any such acts of infringement;

I. A preliminary and permanent injunction against Next Caller from further infringement, or alternatively, award an ongoing royalty for Next Caller's post-verdict infringement, payable on each product or service offered by Next Caller that is found to infringe one or more of the patents asserted herein, and on all future products and services that are not colorably different from those found to infringe;

J. An award of all other damages permitted by 35 U.S.C. § 284, including increased damages up to three times the amount of compensatory damages found;

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K. A finding that this is an exceptional case and an award to TRUSTID of its costs and reasonable attorneys' fees incurred in this action as provided by 35 U.S.C. § 285;

L. That Next Caller has violated the Lanham Act, 15 U.S.C. § 1125(a), by committing acts of false advertisement;

M. An award of damages against Next Caller as a result of its wrongful acts against TRUSTID in an amount to be proved at trial;

N. A finding that TRUSTID is entitled to attorneys' fees, its costs, and pre-judgment and post-judgment interest;

O. A finding that TRUSTID is entitled to punitive and enhanced damages;

P. A finding that TRUSTID is entitled to injunctive relief; and

Q. Such other relief, including other monetary and equitable relief, as this Court deems just and proper.

Respectfully submitted,

YOUNG CONAWAY STARGATT & TAYLOR, LLP

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Dated: June 5, 2019

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