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FIRST INTERSTATE BANK

**UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA, BILLINGS DIVISION**

FIRST INTERSTATE BANK, a
Montana corporation,

Plaintiff,

v.

CONTENT EXTRACTION AND
TRANSMISSION, LLC, a New
Jersey limited liability company

Defendant.

Case No. _____

**COMPLAINT FOR
DECLARATORY JUDGMENT
AND DEMAND FOR JURY
TRIAL**

Plaintiff, FIRST INTERSTATE BANK, sues defendant, CONTENT
EXTRACTION AND TRANSMISSION, LLC, and alleges:

1. First Interstate Bank is a corporation duly organized and existing
under the laws of Montana with a principal place of business in Billings, Montana.

2. Upon information and belief, Content Extraction and Transmission, LLC (“CET”) is a New Jersey limited liability company with its principal place of business at 38 Loft Drive, Martinsville, New Jersey 08836.

3. These claims are brought under the Patent Laws of the United States, Title 35 of the United States Code, and under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

4. This Court has jurisdiction of the subject matter of these counterclaims under 28 U.S.C. §§ 1331, 1338, 2201, and/or 2202.

5. Venue is proper in this district pursuant to U.S.C. §§ 1391.

6. On or about June 28, 2013 CET sent a letter to First Interstate Bank accusing First Interstate Bank of infringing U.S. Patent Nos. 5,258,855 (the “‘855 patent”), 5,369,508, (the “‘508 patent”), 5,625,465 (the “‘465 patent”), and 5,768,416 (the “‘416 patent”), and seeking to obtain a license fee from First Interstate Bank.

7. CET’s actions have created an actual and existing controversy between the parties as to the validity and scope of the ‘855, ‘508, ‘465, and ‘416 patents and First Interstate Bank’s liability for alleged infringement of the ‘855, ‘508, ‘465, and ‘416 patents.

Count I
Declaratory Judgment (Non-Infringement)

8. First Interstate Bank realleges the preceding paragraphs as if set forth in full herein.

9. First Interstate Bank does not infringe, directly, indirectly or under the doctrine of equivalence, contribute to the infringement, or induce others to infringe any valid claim of the '855 patent, nor has it at any time infringed any valid claim of the '855 patent.

10. Pursuant to 28 U.S.C. §§ 2201 and 2202, First Interstate Bank is entitled to a judgment that it has not and does not infringe the '855 patent.

Count II
Declaratory Judgment (Non-Infringement)

11. First Interstate Bank realleges the preceding paragraphs as if set forth in full herein.

12. First Interstate Bank does not infringe, directly, indirectly or under the doctrine of equivalence, contribute to the infringement, or induce others to infringe any valid claim of the '855 patent, nor has it at any time infringed any valid claim of the '508 patent.

13. Pursuant to 28 U.S.C. §§ 2201 and 2202, First Interstate Bank is entitled to a judgment that it has not and does not infringe the '508 patent.

Count III
Declaratory Judgment (Non-Infringement)

14. First Interstate Bank realleges the preceding paragraphs as if set forth in full herein.

15. First Interstate Bank does not infringe, directly, indirectly or under the doctrine of equivalence, contribute to the infringement, or induce others to infringe any valid claim of the '855 patent, nor has it at any time infringed any valid claim of the '465 patent.

16. Pursuant to 28 U.S.C. §§ 2201 and 2202, First Interstate Bank is entitled to a judgment that it has not and does not infringe the '465 patent.

Count IV
Declaratory Judgment (Non-Infringement)

17. First Interstate Bank realleges the preceding paragraphs as if set forth in full herein.

18. First Interstate Bank does not infringe, directly, indirectly or under the doctrine of equivalence, contribute to the infringement, or induce others to infringe any valid claim of the '855 patent, nor has it at any time infringed any valid claim of the '416 patent.

19. Pursuant to 28 U.S.C. §§ 2201 and 2202, First Interstate Bank is entitled to a judgment that it has not and does not infringe the '416 patent.

Count V
Declaratory Judgment (Invalidity)

20. First Interstate Bank realleges the preceding paragraphs as if set forth in full herein.

21. All claims of the '855 patent are invalid and/or unenforceable for failure to comply with one or more of the statutory requirements for patentability as set forth in 35 U.S.C. § 101.

22. More specifically, all claims of the '855 patent are invalid as abstract ideas not patentable under 35 U.S.C. § 101.

23. By order dated July 31, 2013 (Doc. 65, Case No. 3:12-cv-02501-MAS-TJB), United States District Judge Michael A. Shipp of The United States District Court for the District of New Jersey found all claims of the '855 patent are invalid as abstract ideas not patentable under 35 U.S.C. § 101.

24. In addition, all claims of the '855 patent are invalid and/or unenforceable for failure to comply with one or more of the statutory requirements for patentability as set forth in 35 U.S.C. §§ 102, 103, and/or 112.

25. Pursuant to 28 U.S.C. §§ 2201 and 2202, First Interstate Bank is entitled to a judgment that the '855 patent is invalid.

Count VI
Declaratory Judgment (Invalidity)

26. First Interstate Bank realleges the preceding paragraphs as if set forth in full herein.

27. All claims of the '508 patent are invalid and/or unenforceable for failure to comply with one or more of the statutory requirements for patentability as set forth in 35 U.S.C. § 101.

28. More specifically, all claims of the '508 patent are invalid as abstract ideas not patentable under 35 U.S.C. § 101.

29. By order dated July 31, 2013 (Doc. 65, Case No. 3:12-cv-02501-MAS-TJB), United States District Judge Michael A. Shipp of The United States District Court for the District of New Jersey found all claims of the '508 patent are invalid as abstract ideas not patentable under 35 U.S.C. § 101.

30. In addition, all claims of the '508 patent are invalid and/or unenforceable for failure to comply with one or more of the statutory requirements for patentability as set forth in 35 U.S.C. §§ 102, 103, and/or 112.

31. Pursuant to 28 U.S.C. §§ 2201 and 2202, First Interstate Bank is entitled to a judgment that the '508 patent is invalid.

Count VII
Declaratory Judgment (Invalidity)

32. First Interstate Bank realleges the preceding paragraphs as if set forth in full herein.

33. All claims of the '465 patent are invalid and/or unenforceable for failure to comply with one or more of the statutory requirements for patentability as set forth in 35 U.S.C. § 101.

34. More specifically, all claims of the '465 patent are invalid as abstract ideas not patentable under 35 U.S.C. § 101.

35. By order dated July 31, 2013 (Doc. 65, Case No. 3:12-cv-02501-MAS-TJB), United States District Judge Michael A. Shipp of The United States District Court for the District of New Jersey found all claims of the '465 patent are invalid as abstract ideas not patentable under 35 U.S.C. § 101.

36. In addition, all claims of the '465 patent are invalid and/or unenforceable for failure to comply with one or more of the statutory requirements for patentability as set forth in 35 U.S.C. §§ 102, 103, and/or 112.

37. Pursuant to 28 U.S.C. §§ 2201 and 2202, First Interstate Bank is entitled to a judgment that the '465 patent is invalid.

Count VIII
Declaratory Judgment (Invalidity)

38. First Interstate Bank realleges the preceding paragraphs as if set forth in full herein.

39. All claims of the '416 patent are invalid and/or unenforceable for failure to comply with one or more of the statutory requirements for patentability as set forth in 35 U.S.C. § 101.

40. More specifically, all claims of the '416 patent are invalid as abstract ideas not patentable under 35 U.S.C. § 101.

41. By order dated July 31, 2013 (Doc. 65, Case No. 3:12-cv-02501-MAS-TJB), United States District Judge Michael A. Shipp of The United States District Court for the District of New Jersey found all claims of the '416 patent are invalid as abstract ideas not patentable under 35 U.S.C. § 101.

42. In addition, all claims of the '416 patent are invalid and/or unenforceable for failure to comply with one or more of the statutory requirements for patentability as set forth in 35 U.S.C. §§ 102, 103, and/or 112.

43. Pursuant to 28 U.S.C. §§ 2201 and 2202, First Interstate Bank is entitled to a judgment that the '416 patent is invalid.

WHEREFORE, First Interstate Bank prays for:

- A. A declaratory judgment that First Interstate Bank has not infringed the '855 patent;
- B. A declaratory judgment that First Interstate Bank has not infringed the '508 patent;
- C. A declaratory judgment that First Interstate Bank has not infringed the '465 patent;
- D. A declaratory judgment that First Interstate Bank has not infringed the '416 patent;

- E. A declaratory judgment that the '855 patent is invalid and/or unenforceable;
- F. A declaratory judgment that the '508 patent is invalid and/or unenforceable;
- G. A declaratory judgment that the '465 patent is invalid and/or unenforceable;
- H. A declaratory judgment that the '416 patent is invalid and/or unenforceable;
- I. A judgment awarding First Interstate Bank its costs; and
- J. Such other and further relief as the Court deems just and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff First Interstate Bank requests a jury trial as to all issues triable by jury

Dated this 14th day of August, 2013.

Respectfully submitted,

/s/ Robert C. Griffin
ROBERT C. GRIFFIN
CROWLEY FLECK PLLP
Attorneys for Plaintiff