

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MASTERCARD INCORPORATED,

Plaintiff,

V.

OPEN NETWORK SOLUTIONS, INC.,

Defendant.

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C.A. No. _____

DEMAND FOR JURY TRIAL

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff MasterCard Incorporated states as follows for its Complaint for Declaratory Judgment against Defendant Open Network Solutions Inc.

Parties

1. Plaintiff MasterCard Incorporated ("MasterCard") is a corporation formed and existing under Delaware law.
2. Defendant Open Network Solutions Inc. ("ONS") is a corporation formed and existing under Delaware law.

Nature of the Action

3. MasterCard brings this action under the Declaratory Judgment Act and the Patent Laws of the United States, seeking a declaratory judgment that it does not infringe and has not infringed any claim of U.S. Patent No. 6,684,269 (“the ‘269 Patent”).

Jurisdiction and Venue

4. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because MasterCard is asserting the claims below pursuant to the Declaratory

Judgment Act, 28 U.S.C. §§ 2201(a) and 2202, and the Patent Laws of the United States, 35 U.S.C. § 100 *et seq.*

5. ONS is subject to personal jurisdiction in Delaware because it is a corporation formed and existing under Delaware law.

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)(1) and 1391(c)(2) because ONS is subject to personal jurisdiction in Delaware.

Substantial Controversy between the Parties

7. ONS asserts that it has the right to enforce the '269 Patent, entitled *System and Method for Enabling Transactions between a Web Server and a Smart Card, Telephone, or Personal Digital Assistant over the Internet*, which issued on January 27, 2004. A copy of the '269 Patent is attached to this Complaint as Exhibit A.

8. On or about May 1, 2014, ONS sent a letter to MasterCard, alleging that MasterCard's Remote Payment and Presentment Service ("RPPS") infringes the '269 Patent. A copy of ONS's letter is attached to this Complaint as Exhibit B.

9. ONS attached to its letter an "analysis" that purports to indicate that MasterCard's RPPS infringes claim 32 of the '269 Patent. ONS stated in its letter that this "analysis equally applies to other claims of the '269 patent."

10. MasterCard has not infringed and does not infringe – directly or indirectly, literally or under the doctrine of equivalents – any claim of the '269 Patent.

11. In light of ONS's allegations of infringement toward MasterCard, there is a controversy between the parties of sufficient immediacy and reality to warrant a declaratory judgment concerning the parties' respective rights as they relate to the '269 Patent.

COUNT I

Declaratory Judgment of Noninfringement of the '269 Patent

12. MasterCard incorporates by reference the allegations set forth in the other sections of this Complaint.

13. ONS alleges that it is entitled to enforce the '269 Patent.

14. Based on ONS's allegations that MasterCard's RPPS infringes the '269 Patent, there is an actual controversy between the parties with respect to infringement of the '269 Patent.

15. In light of the foregoing, a judicial declaration is necessary and appropriate so that MasterCard may ascertain its rights as to whether it infringes the '269 Patent.

16. Accordingly, MasterCard requests that the Court enter a declaratory judgment that Plaintiffs have not and do not infringe any claim of the '269 Patent.

Prayer for Relief

WHEREFORE, Plaintiff MasterCard Incorporated prays that the Court enter judgment:

- A. Declaring that MasterCard has not infringed, induced others to infringe, or contributed to the infringement of any claim of U.S. Patent No. 6,684,269;
- B. Declaring that this case is exceptional under 35 U.S.C. § 285; and
- C. Awarding MasterCard its costs and attorneys' fees, along with such other and further relief as the Court finds just and proper.

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