**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NEXUSCARD, INC.,	
Plaintiff,	Civil Action No. _____
v.	
CVS CAREMARK CORPORATION,	**JURY TRIAL DEMANDED**
Defendant.	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff NexusCard, Inc., ("NexusCard"), by and through its undersigned counsel, files this Original Complaint for patent infringement against Defendant CVS Caremark Corporation as follows:

PARTIES

1.   Plaintiff NexusCard, Inc. is a California corporation with its principal place of business located at 22865 Willard Avenue, Lake Forest, CA 92630.

2.   Upon information and belief, CVS Caremark Corporation ("CVS" or "Defendant"), is a corporation established under the laws of the Delaware, with its principal place of business at 1 CVS Drive, Woonsocket, Rhode Island 02895.

JURISDICTION AND VENUE

3.   This action arises under the patent laws of the United States, 35 U.S.C. §§ 101, including 35 U.S.C. §§ 271, 281-285.

4.   This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

5.   This Court may exercise personal jurisdiction over CVS, for CVS conducts continuous and systematic business in Texas and this District. This patent-infringement case arises directly from CVS's continuous and systematic activity in this District. In short, this Court's exercise of jurisdiction over CVS would be consistent with the Texas long-arm statute and traditional notions of fair play and substantial justice.

6.   Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)(2) and 1400(b).

INFRINGEMENT OF U.S. PATENT NO. 5,924,080

7.   On July 13, 1999, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 5,924,080 (the "'080 patent") (attached hereto as Exhibit A) to the inventor Glen Douglas Johnson assigned all rights, title and interest in and to the '080 patent to NexusCard, Inc. including the right to exclude the Defendant from making, using, selling, offering to sell, advertising or importing the patented invention(s) of the '080 patent, and the right to sublicense the '080 patent, collect damages and initiate lawsuits against the Defendant. The '080 patent is in full force and effect.

8.   CVS is infringing at least one of the claims of the '080 patent through the provision of the ExtraCare Rewards Program (hereinafter, "ExtraCare") in this District and elsewhere in the United States.

9.   For example, and without limiting the claims of the '080 patent that will be asserted in this action, ExtraCare infringes claim 11 of the '080 patent. Claim 11 is a "method of processing and applying merchandise discounts to a consumer's purchases . . . ." (Ex. A , 11:41-42.) CVS performs such a method through the ExtraCare.

10.   The method of claim 11 involves providing a "computer membership system," which includes the following components: (i) a computer at the point of purchase; (ii) a computer with the provider having a database that stores information collected at the time a consumer becomes a member and at the time and point of purchase; and (iii) a means allowing "real time" communication between the provider and the merchant. (Ex. A, 11:48-60.) CVS provides this "computer membership system" when it offers consumers ExtraCare, having computers at the point of purchase, a database that collects a consumer's ExtraCare membership information and purchase information, and a means of communicating all of this information at the time and point of purchase (i.e., in "real time").

11.   The claim 11 method comprises 18 steps, which can be broken down as follows:

a. To perform the method, an infringer like CVS provides the consumer with a membership identification that includes a memory storage means that contains an identification code that can access and is stored on the provider's database. (Ex. A, 11:62-12:6.) When a consumer becomes an ExtraCare member, CVS issues her either an ExtraCare card, a tag that may be attached to a key chain, or both. The ExtraCare card and tag include memory storage means that contain an identification code that can access CVS's provider database.

b. In the claim 11 method, the provider also stores in its database codes identifying merchandise as well as discounts that have been

determined to be applied to certain merchandise. (Ex. A, 12:7-12.) Additionally, at the point of sale, the merchant identifies merchandise that is subject to a discount at the point of sale. (*Id.*, 12:12-14.) CVS uses a database to store codes that identify merchandise and to store discounts that are to be applied to certain merchandise at the point of sale in a CVS store. Additionally, within the CVS store, CVS indicates to consumers what discounts will be applied to certain merchandise at the point of sale for ExtraCare members.

c. The merchandise is then transported to the point of sale, where the merchandise code is scanned. (Ex. A, 12:16-24.) In claim 11, the consumer ID is also scanned at the point of sale. (*Id.*, 12:25.) In CVS stores, CVS sells merchandise to consumers by displaying merchandise throughout the store and providing means by which the consumer transports the desired merchandise to the point of sale. For example, CVS provides consumers with plastic baskets so that the consumer can easily transport the desired merchandise to the point of sale where the merchandise codes and consumer's ExtraCare card or tag are scanned.

d. Once the consumer ID and merchandise codes are scanned in claim 11, the consumer ID is uploaded to the provider database and the consumer is verified as a member. (Ex. A, 12:26-28.) The merchandise ID codes are also uploaded to the merchant computer

and a comparison is performed to determine the merchandise that is discounted. (*Id.*, 12:29-41.) All of these steps are performed when a consumer checks out of a CVS store. The consumer's membership in ExtraCare is verified, and then the merchant computer determines what selected merchandise is discounted.

e.   After the discounted items are determined and calculated, then in claim 11 the merchandise codes subject to a discount are uploaded to the provider and the provider then downloads the discounts to the merchant computer. (Ex. A, 12:42-47.) At the point of sale, the merchant computer then prints a sales slip that includes the discounts. (*Id.*, 12:48-51.) CVS performs these steps during the provision of an ExtraCare transaction, downloading the discount information to the computer at the point of sale where the consumer receives a sales slip reflecting the discounts obtained by being an ExtraCare member.

f.   Finally, in claim 11, the consumer information—what merchandise was purchased and what discounts were applied—is sorted and stored in the provider database and stored on the merchant computer. (Ex. A, 12:52-57.) In this way, discounts to merchandise can be provided to consumers without the merchant having to process the discount or the consumer having to present a coupon. (*Id.*, 12:57-63.) This is what CVS provides through ExtraCare, using the CVS provider database as a clearinghouse for discounts

to be applied to certain merchandise selected by ExtraCare members.

PRAYER FOR RELIEF

WHEREFORE, NexusCard prays for the following relief against CVS:

(a)   Judgment that CVS has directly infringed claims of the '080 patent;

(b)   For a reasonable royalty;

(c)   For pre-judgment interest and post-judgment interest at the maximum rate allowed by law; and

(d)   For such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

NexusCard demands a trial by jury on all matters and issues triable by jury.

Dated: June 5, 2015   Respectfully Submitted,

/s/ Andrew W. Spangler
Andrew Spangler
Texas Bar No. 24041960
Spangler Law P.C.
208 N. Green St., Suite 300
Longview, Texas 75601
Phone: (903) 753-9300
Fax: (903) 553-0403
spangler@spanglerlawpc.com

Matthew M. Wawrzyn (*pro hac vice* pending)
mwawrzyn@siprut.com
Stephen C. Jarvis (*pro hac vice* pending)
sjarvis@siprut.com
SIPRUT PC
17 N. State St., Suite 1600
Chicago, Illinois 60602
312.236.0000
Fax: 312.300.4905
www.siprut.com

Attorneys for Plaintiff
NexusCard, Inc.