

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

**PLANO ENCRYPTION TECHNOLOGIES,
LLC,**

Plaintiff,

v.

CITIZENS NATIONAL BANK,

Defendant.

**CIVIL ACTION NO. 2:15-cv-1168-
JRG-RSP**

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

1. This is the first amended complaint for patent infringement in which Plano Encryption Technologies, LLC makes the following allegations against Citizens National Bank.

PARTIES

2. Plaintiff Plano Encryption Technologies, LLC (“Plaintiff” or “PET”) is a Texas limited liability company with its principal place of business at 903 18th Street, Suite 224, Plano, Texas 75074.

3. On information and belief, Citizens National Bank (“Defendant” or “Citizens National Bank”) is a subsidiary of Henderson Citizens Bancshares, Inc. and is a bank organized and existing under the laws of the State of Texas, with its principal place of business at 201 W. Main St., Henderson, TX 75652. Defendant can be served with process through its registered agent Kenneth Black, 201 W. Main St., Henderson, TX 75652.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendant is located in this district, has transacted business in this district, and has committed and/or induced acts of patent infringement in this district.

6. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 5,991,399

7. Plaintiff is the owner of United States Patent No. 5,991,399 ("the '399 patent") entitled "Method for Securely Distributing a Conditional Use Private Key to a Trusted Entity on a Remote System." The '399 Patent issued on November 23, 1999. A true and correct copy of the '399 Patent is attached as Exhibit A.

8. Upon information and belief, the '399 patent has been cited more than 450 times by other patents and patent applications. Upon information and belief, nearly every computer company of any prominence has cited the patent more than once during prosecution of their own patents, including leaders in the field of software and computing including Microsoft (more than 75 citations), Google (more than 40 citations), and IBM (more than 20 citations). Upon information and belief, the '399 patent has also been cited as prior art by U.S. Patent Examiners more than 150 times during the prosecution of other patents.

9. On or about May 18, 2015 and June 3, 2015, Plaintiff gave notice to Citizens National Bank of its rights in the '399 patent via letters to Messrs. Brad Tidwell (CEO and President of Citizens National Bank) and Woodie Tipps (Senior Vice President of Citizens National Bank). To date, Citizens National Bank has offered no explanation, theory or legal defense to the '399 patent.

10. The '399 patent is directed to a method of securely distributing data. Upon information and belief, Defendant Citizens National Bank has been and now is directly infringing in the State of Texas within this judicial district, and elsewhere in the United States,

by, among other things, at least using and/or inducing third parties (such as their customers and/or other third parties) to use the claimed method for securely distributing data that infringes one or more claims of the '399 patent, including Claims 1 and 9. Defendant Citizens National Bank is thus liable for infringement of the '399 Patent pursuant to 35 U.S.C. § 271.

11. Upon information and belief, Citizens National Bank uses computers and/or servers and/or mobile app software that generates asymmetric key pairs having a public key and a private key for use in secured communications between Citizens National Bank's servers and mobile apps. In the alternative, because the manner of use by Citizens National Bank differs in no substantial way from language of the claims, if Citizens National Bank is not found to literally infringe, Citizens National Bank infringes under the doctrine of equivalents. Upon information and belief, Citizens National Bank acts through an agent and/or contracts with another to perform one or more steps of the claimed methods, and/or otherwise uses third parties to infringe claims of the patent. Alternatively, Citizens National Bank conditions participation in an activity or receipt of a benefit upon performance of a step or steps of a patented method and establishes the manner or timing of that performance.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 5,974,550

12. Plaintiff is the owner of United States Patent No. 5,974,550 ("the '550 patent") entitled "Method for Securely Authenticating Another Process in a Different Address Space." The '550 Patent issued on October 26, 1999. A true and correct copy of the '550 Patent is attached as Exhibit B.

13. On or about May 18, 2015 and June 3, 2015, Plaintiff gave notice to Citizens National Bank of its rights in the '550 patent via letters to Messrs. Brad Tidwell (CEO and President of Citizens National Bank) and Woodie Tipps (Senior Vice President of Citizens National Bank). To date, Citizens National Bank has offered no explanation, theory or legal defense to the '550 patent.

14. The '550 Patent is directed to authenticating a first process which operates in an address space different from that of the second process. Upon information and belief, Defendant Citizens National Bank (and/or its customers and/or its agents and/or contractors) have been and now is directly infringing in the State of Texas within this judicial district, and elsewhere in the

United States, by, among other things, at least making and/or using an apparatus for authenticating a first process operating in an address space different than that of a second process that infringes one or more claims of the '550 patent, including Claim 14. Defendant Citizens National Bank is thus liable for infringement of the '550 Patent pursuant to 35 U.S.C. § 271.

15. Upon information and belief, Citizens National Bank makes and/or uses an apparatus which comprises a server with software and a mobile app of Citizens National Bank running on a mobile device. The apparatus authenticates a first process (Citizens National Bank's mobile app) which operates in an address space different from that of the second process (running on Citizens National Bank's server). In the alternative, because the manner of use by Citizens National Bank differs in no substantial way from language of the claims, if Citizens National Bank is not found to literally infringe, Citizens National Bank infringes under the doctrine of equivalents. In the alternative, because the manner of use by Citizens National Bank differs in no substantial way from language of the claims, if Citizens National Bank is not found to literally infringe, Citizens National Bank infringes under the doctrine of equivalents.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

1. A judgment in favor of Plaintiff that Defendant has infringed the '399 and '550 Patents;
2. A judgement in favor of Plaintiff that Defendant has induced infringement of the '399 and '550 Patents;
3. A judgment and order requiring Defendant to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's infringement of the '399 and '550 Patents as provided under 35 U.S.C. § 284;
4. An award to Plaintiff for enhanced damages resulting from the knowing, deliberate, and willful nature of Defendant's prohibited conduct with notice being made at least as early as the date of the filing of this Complaint, as provided under 35 U.S.C. § 284;
5. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees; and
6. Any and all other relief to which Plaintiff may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Respectfully Submitted,

**PLANO ENCRYPTION TECHNOLOGIES,
LLC**

/s/ Papool S. Chaudhari

Dated: September 3, 2015

By: _____

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**ATTORNEYS FOR PLAINTIFF
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, the foregoing was served on all counsel of record who have consented to electronic service. Local Rule CV-5. Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5, all others not deemed to have consented to electronic service will be served with a true and correct copy of the foregoing via US Mail via 3rd day of September, 2015.

/s/ Papool S. Chaudhari

Papool S. Chaudhari