

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

RUBY SANDS LLC,

Plaintiff,

v.

WOODFOREST NATIONAL BANK,

Defendant.

Case No.

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Ruby Sands LLC (“Ruby Sands”) demands a jury trial and complains against Defendant Woodforest National Bank (“Woodforest”).

THE PARTIES

1. Ruby Sands is a limited liability company organized and existing under the laws of the State of Texas, conducting business in this judicial district.

2. Upon information and belief, Woodforest is a company organized and existing under the laws of the State of Texas having its headquarters located at 13301 East Freeway Drive, Houston, Texas 77015, and conducting business in this judicial district.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States of America, Title 35 of the United States Code. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and 1338(a).

4. Ruby Sands is informed and believes, and based thereon alleges, that Woodforest is doing business and committing acts of infringement of the patent identified below in this judicial district, and is subject to personal jurisdiction in this judicial district.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

THE PATENTS

6. On May 10, 2005, U.S. Patent No. 6,891,633 (“the ‘633 Patent”) was duly and legally issued to Xerox Corporation, naming Ken Hayward, Marc J. Krolczyk, Dawn M. Marchionda, Thomas L. Wolf and James S. Laird as the inventors. The ‘633 Patent claims an invention entitled “Image Transfer System”. On November 25, 2015, Xerox assigned all right, title and interest in and to the ‘633 Patent to Ruby Sands. A copy of the ‘633 Patent is attached to this Complaint as Exhibit 1.

7. The ‘633 Patent is directed to a novel image transfer system comprising a transfer device which can be operably connected to a computer. The system includes a reader for reading an image on a first medium, and a display for displaying an image transfer menu for effecting transfer of the image to perform a selected function. For example, the reader can be a mobile electronic device used to take a photograph of a first medium, i.e., check, and then offer on the display of the mobile electronic device a menu of different actions that can be selected to effect a particular task, e.g. deposit the check into a particular bank account.

COUNT I

DIRECT INFRINGEMENT BY WOODFOREST

8. Ruby Sands repeats and incorporates herein the entirety of the allegations contained in paragraphs 1 through 7 above.

9. Ruby Sands is informed and believes, and based thereon alleges, that Woodforest makes, uses, tests, markets and sells or otherwise provides an image transfer system that uses a

reader for reading an image on a first medium, and a display for displaying an image transfer menu to perform a selected function, i.e., the Woodforest Mobile Banking App.

10. Ruby Sands is informed and believes, and based thereon alleges, that the Woodforest Mobile Banking App is designed to read and transfer images using a reader for reading an image on a first medium, and a display for displaying an image transfer menu to effectuate a particular banking task.

11. Ruby Sands is informed and believes, and based thereon alleges, that the Woodforest Mobile Banking App infringes claims of the '633 Patent, including without limitation at least claims 1 and 12, literally and/or under the doctrine of equivalents, in violation of Ruby Sands' rights.

COUNT II

WOODFOREST'S INDIRECT INFRINGEMENT

12. Ruby Sands repeats and incorporates herein the entirety of the allegations contained in paragraphs 1 through 11 above.

13. Ruby Sands is informed and believes, and based thereon alleges, that the Woodforest Mobile Banking App is designed specifically to read and transfer images in a manner that infringes the claims of the '633 Patent, including without limitation at least claims 1 and 12 thereof.

14. Ruby Sands is informed and believes, and based thereon alleges, that the Woodforest Mobile Banking App is material for reading and transferring images in a manner that infringes the claims of the '633 Patent.

15. Ruby Sands is informed and believes, and based thereon alleges, that the Woodforest Mobile Banking App uses an assembly for reading and transferring images that infringes the claims of the ‘633 Patent.

16. Ruby Sands is informed and believes, and based thereon alleges, that the Woodforest Mobile Banking App does not have substantial non-infringing uses.

17. On its website at <https://www.woodforest.com/Personal-Banking/Services/Mobile-Banking>, Woodforest advertises that its customers “can use . . . the Woodforest Mobile [Banking] [A]pp to . . . access to online banking features including account balances, transactions, fund transfers, and bill pay. All you need is a web-enabled mobile device*, iPhone[®], iPod touch[®], iPad[®] or Android[™] device!”

18. On its website at <https://www.woodforest.com/Personal-Banking/Services/Mobile-Banking/Mobile-Deposit/User-Guide>, Woodforest provides “Mobile Deposit User Guides” to instruct its customers how to make mobile deposits using either an iPhone[®] or an Android[™] device.

19. Ruby Sands is informed and believes, and based thereon alleges, that Woodforest has investigated the ‘633 Patent and became aware, or should have become aware, that the Woodforest Mobile Banking App infringes the ‘633 Patent.

20. Ruby Sands is informed and believes, and based thereon alleges, that Woodforest has been advertising and offering for use by its customers the infringing the Woodforest Mobile Banking App after it became aware that it infringed the ‘633 Patent, and will continue with such infringing activities.

21. Ruby Sands is informed and believes, and based thereon alleges, that Woodforest has been selling or otherwise providing the Woodforest Mobile Banking App to its customers

with the specific knowledge of the '633 Patent and the specific knowledge that the Woodforest Mobile Banking App is and will be used to infringe the '633 Patent, and that Woodforest will continue such infringing activities.

22. Woodforest is jointly responsible with each of its customers for the infringement of the '633 Patent, through the use of the Woodforest Mobile Banking App.

23. Woodforest contributes to the infringement and induces infringement of the '633 Patent based on its marketing, sale, distribution and teaching to its customers how to use the Woodforest Mobile Banking App, and Woodforest's own actions in assisting its customers in the operation of the Woodforest Mobile Banking App.

24. Woodforest has been and is actively inducing the infringement of the '633 Patent by encouraging its customers to use the Woodforest Mobile Banking App, that has no substantial non-infringing use and is material for enabling delivery of emergency messages over disparate networks in a manner that constitutes direct infringement of the claims of the '633 Patent. Woodforest has been and continues doing so with knowledge of the '633 Patent and with the specific intent that its customers use the Woodforest Mobile Banking App in a manner that constitutes direct infringement of the claims of the '633 Patent.

25. Woodforest has been and is contributorily infringing the '633 Patent by providing to its customers its Mobile Banking App, which has no substantial non-infringing use and is material for enabling delivery of emergency messages over disparate networks in a manner that constitutes direct infringement of the claims of the '633 Patent. Woodforest has been and continues doing so with knowledge of the '633 Patent and with the specific intent that its customers use the Woodforest Mobile Banking App in a manner that constitutes direct infringement of the claims of the '633 Patent.

26. Woodforest customers have been using the Woodforest Mobile Banking App in a manner that constitutes infringement of the claims of the '633 Patent.

27. Woodforest assists its customers with their infringing uses of the Woodforest Mobile Banking App, including without limitation teaching its customer how to operate the Woodforest Mobile Banking App, supporting its operation and providing testing, support and maintenance for the Woodforest Mobile Banking App.

28. Ruby Sands has been and is being damaged by the foregoing activities of Woodforest and its customers which infringe the '633 Patent, and will be irreparably harmed unless such infringing activities are enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Ruby Sands prays for judgment against Defendant Woodforest on all the counts and for the following relief:

- A. Declaration that the Ruby Sands is the owner of the right to sue and to recover for infringement of the '633 Patent being asserted in this action;
- B. Declaration that Woodforest has directly infringed, actively induced the infringement of, and/or contributorily infringed the '633 Patent;
- C. Declaration that Woodforest and its customers are jointly or severally responsible for the damages from infringement of the '633 Patent through the use of the Woodforest Mobile Banking App;
- D. Declaration that Woodforest is responsible jointly or severally with its customers for the damages caused by the infringement of the '633 Patent through the use of the Woodforest Mobile Banking App, by the Woodforest's customers;
- E. A preliminary and permanent injunction against Woodforest, each of its officers,

agents, servants, employees, and attorneys, all parent and subsidiary corporations, their assigns and successors in interest, and those persons acting in active concert or participation with them, including distributors, enjoining them from continuing acts of direct infringement, active inducement of infringement, and contributory infringement of the '633 Patent;

- F. An accounting for damages under 35 U.S.C. § 284 for infringement of the '633 Patent by Woodforest, and the award of damages so ascertained to Ruby Sands together with interest as provided by law;
- G. Award of Ruby Sands' costs and expenses;
- H. Award of Ruby Sands' attorney fees; and
- I. Such other and further relief as this Court may deem proper, just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff Ruby Sands demands a trial by jury of all issues properly triable by jury in this action.

Dated: November 30, 2015

Respectfully submitted,

By: /s/Jean-Marc Zimmerman
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