

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**NEXTCARD, LLC,**

**Plaintiff,**

**Case No.:**

**v.**

**TARGET CORPORATION and  
TD BANK USA, N.A.,**

**Defendants.**

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**COMPLAINT AND DEMAND FOR JURY TRIAL  
(Injunctive Relief Sought)**

Plaintiff, NextCard, LLC (“NextCard”), sues Defendants, Target Corporation (“Target”) and TD Bank USA, N.A. (“TD Bank”), and alleges the following:

**NATURE OF THE ACTION**

1. This is an action for preliminary and permanent injunctive relief, equitable relief, damages, costs, expert fees, and attorneys’ fees resulting from Defendants’ infringement of NextCard’s rights granted under the Patent Laws of the United States, Title 35, United States Code.

**JURISDICTION AND VENUE**

2. This Court possesses subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338 (a).

3. This Court possesses personal jurisdiction over Defendants under Section 48.193, Florida Statutes because Defendants (a) operate, conduct, engage in, or carry on a

business or business venture in Florida or have an office or agency in Florida; (b) have committed tortious acts within Florida, namely, patent infringement; and (c) are engaged in substantial and not isolated activity within Florida. Defendant Target is additionally subject to personal jurisdiction in Florida as it is registered to transact business in Florida.

4. Venue properly lies in this district and in this division under 28 U.S.C. §§ 1391 and 1400. On information and belief, Defendants have committed or induced acts of patent infringement in this division.

#### **THE PARTIES**

5. Plaintiff, NextCard, is a Texas corporation with its principal place of business in Marshall, Harrison County, Texas.

6. Defendant, Target, is a Minnesota corporation, registered to do business in Florida, with its principal place of business in Minneapolis, Hennepin County, Minnesota. Target operates stores throughout the State of Florida, including stores located within the geographic area encompassed by the Middle District of Florida.

7. Defendant, TD Bank, a national banking association, is a wholly-owned subsidiary of TD Bank US Holding Company, a Delaware corporation, and is believed to have its principal offices in New York City, New York County, New York.

#### **GENERAL ALLEGATIONS**

8. NextCard has hired the law firm of Fee & Jeffries, P.A. to vindicate its rights in this action and is obligated to pay Fee & Jeffries, P.A. a reasonable fee for its legal services.

9. All conditions precedent to the maintenance of this action have occurred, been performed, or have been excused or waived.

**COUNT I – INFRINGEMENT OF THE ‘181 PATENT**

10. NextCard realleges and incorporates by reference the allegations in paragraphs 1 through 9 above as if set forth fully herein.

11. On June 11, 2002, the United States Patent and Trademark Office (the “PTO”) issued Patent No. US 6,405,181 B2 (the “‘181 Patent”), entitled “Method and Apparatus for Real Time On Line Credit Approval.” A true and accurate copy of the ‘181 Patent is attached hereto as Exhibit “A”.

12. NextCard is the owner by assignment of all right, title, and interest in and to the ‘181 Patent and possesses all rights of recovery under the ‘181 Patent.

13. Defendants have infringed, and are presently infringing, one or more claims of the ‘181 Patent under 35 U.S.C. § 271 by offering credit to consumers via applications that are transmitted over the internet for real-time approval in accordance with the methods and systems claimed in the ‘181 Patent.

14. The activities constituting Defendants’ infringement of NextCard’s ‘181 Patent have always been, and continue to be, carried out by Defendants without NextCard’s authority or license.

15. NextCard has complied with the notice provisions of 35 U.S.C. § 287 (a) regarding NextCard’s ‘181 Patent.

16. NextCard has been injured by, continues to suffer injury from, and will continue to suffer irreparable injury from the infringing activities of Defendants unless Defendants' infringing actions are enjoined by this Court.

17. NextCard has no adequate remedy at law to prevent injuries it is suffering from Defendants' continuing infringement of NextCard's '181 Patent.

18. Given Defendants' clear and direct infringement of NextCard's intellectual property rights, NextCard is substantially likely to prevail upon the merits of this action.

19. The balance of hardships and the public interest requires that Defendants immediately cease their infringing activities.

WHEREFORE, NextCard respectfully requests this Court to:

- A. Enter judgment in its favor and against Defendants;
- B. Award to NextCard and against Defendants:
  - 1) NextCard's damages; and
  - 2) Prejudgment and postjudgment interest, as well as the expert fees, attorneys' fees, and costs incurred by NextCard as a result of the infringement of NextCard's patent rights;
- C. Preliminarily and permanently enjoin Defendants from engaging in activities that infringe upon NextCard's rights in the '181 Patent; and
- D. Grant NextCard all additional relief that this Court deems just and appropriate.

**COUNT II – INFRINGEMENT OF THE ‘791 PATENT**

20. NextCard realleges and incorporates by reference the allegations in paragraphs 1 through 9 above, as if set forth fully herein.

21. On May 20, 2003, the PTO issued Patent No. US 6,567,791 B2 (the “‘791 Patent”), entitled “Method and Apparatus for a Verifiable On Line Rejection of an Application for Credit.” A true and accurate copy of the ‘791 Patent is attached hereto as Exhibit “B”.

22. NextCard is the owner by assignment of all right, title, and interest in and to the ‘791 Patent and possesses all rights of recovery under the ‘791 Patent.

23. Defendants have infringed, and are presently infringing, one or more claims of the ‘791 Patent under 35 U.S.C. § 271 by presenting credit applicants with reasons for rejection of the credit application in accordance with the methods and systems claimed by the ‘791 Patent.

24. The activities constituting Defendants’ infringement of NextCard’s ‘791 Patent have always been, and continue to be, carried out by Defendants without NextCard’s authority or license.

25. NextCard has complied with the notice provisions of 35 U.S.C. § 287 (a) regarding NextCard’s ‘791 Patent.

26. NextCard has been injured by, continues to suffer injury from, and will continue to suffer irreparable injury from the infringing activities of Defendants unless Defendants’ infringing actions are enjoined by this Court.

27. NextCard has no adequate remedy at law to prevent injuries it is suffering from Defendants' continuing infringement of NextCard's '791 Patent.

28. Given Defendants' clear and direct infringement of NextCard's intellectual property rights, NextCard is substantially likely to prevail upon the merits of this action.

29. The balance of hardships and the public interest requires that Defendants immediately cease their infringing activities.

WHEREFORE, NextCard respectfully requests this Court to:

- A. Enter judgment in its favor and against Defendants;
- B. Award to NextCard and against Defendants:
  - 1) NextCard's damages; and
  - 2) prejudgment and postjudgment interest, as well as the expert fees, attorneys' fees, and costs incurred by NextCard as a result of the infringement of NextCard's patent rights;
- C. Preliminarily and permanently enjoin the Defendants from engaging in activities that infringe upon NextCard's rights in the '791 Patent; and
- D. Grant NextCard all additional relief that this Court deems just and appropriate.

**COUNT III – INFRINGEMENT OF THE '063 PATENT**

30. NextCard realleges and incorporates by reference the allegations in paragraphs 1 through 9 above, as if set forth fully herein.

31. On November 28, 2006, the PTO issued Patent No. US 7,143,063 B2 (the “‘063 Patent”), entitled “Method and Apparatus for a Verifiable On Line Rejection of an Applicant for Credit”. A true and accurate copy of the ‘063 Patent is attached hereto as Exhibit “C”.

32. NextCard is the owner by assignment of all right, title, and interest in and to the ‘063 Patent and possesses all rights of recovery under the ‘063 Patent.

33. Defendants have infringed, and are presently infringing, one or more claims of the ‘063 Patent under 35 U.S.C. § 271 by presenting credit applicants with reasons for rejection of the credit application in accordance with the methods and systems claimed by the ‘063 Patent.

34. The activities constituting Defendants’ infringement of NextCard’s ‘063 Patent have always been, and continue to be, carried out by Defendants without NextCard’s authority or license.

35. NextCard has complied with the notice provisions of 35 U.S.C. § 287 (a) regarding NextCard’s ‘063 Patent.

36. NextCard has been injured by, continues to suffer injury from, and will continue to suffer irreparable injury from the infringing activities of Defendants unless Defendants’ infringing actions are enjoined by this Court.

37. NextCard has no adequate remedy at law to prevent injuries it is suffering from Defendants’ continuing infringement of NextCard’s ‘063 Patent.

38. Given Defendants' clear and direct infringement of NextCard's intellectual property rights, NextCard is substantially likely to prevail upon the merits of this action.

39. The balance of hardships and the public interest requires that Defendants immediately cease their infringing activities.

WHEREFORE, NextCard respectfully requests this Court to:

- A. Enter judgment in its favor and against Defendants;
- B. Award to NextCard and against Defendants:
  - 1) NextCard's damages; and
  - 2) prejudgment and postjudgment interest, as well as the expert fees, attorneys' fees, and costs incurred by NextCard as a result of the infringement of NextCard's patent rights;
- C. Preliminarily and permanently enjoin Defendants from engaging in activities that infringe upon NextCard's rights in the '063 Patent; and
- D. Grant NextCard all additional relief that this Court deems just and appropriate.

**DEMAND FOR JURY TRIAL**

NextCard hereby demands a trial by jury on all issues so triable.



Dated: December 4, 2015

Respectfully submitted,

s/ Richard E. Fee

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