UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WILLIAM GRECIA,

      Plaintiff,

          v.

BESTBUY.COM, LLC,

      Defendant.

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1:16-cv-07024-RJS

AMENDED COMPLAINT

JURY TRIAL DEMANDED

William Grecia brings this patent-infringement action against BestBuy.com, LLC ("BestBuy"). The complaint is amended to more particularly allege how the on-line and in-store retailer infringes Grecia's patents when the retailer uses the credit card companies' tokenization systems and methods.

Parties

1.   William Grecia is an individual. He maintains a residence in Downingtown, Pennsylvania.

2.   BestBuy is a Virginia company, having its principal place of business in Richfield, Minnesota.

Jurisdiction and Venue

3.   This action arises under the patent laws of the United States, 35 U.S.C. §§ 101 *et seq*.

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 BestBuy. BestBuy conducts continuous and systematic business in New York and in this District. BestBuy maintains corporate offices in this District. This patent-infringement case arises directly from BestBuy's continuous and systematic activity in this District. In short, this Court's exercise of jurisdiction over BestBuy would be consistent with 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. 8,533,860

7.   William Grecia hereby realleges and incorporates by reference, as if fully set forth herein, the allegations of paragraphs 1-6 above.

8.   William Grecia is the exclusive owner of the '860 patent, which is attached as Exhibit 1.

9.   The '860 patent is valid and enforceable.

10.   BestBuy is infringing at least one of the 30 methods, systems, and apparatuses claimed in the '860 patent by its use of the Visa Checkout service.

11.   For example, and for illustration of at least one of the 30 claims of the '860 patent that Grecia alleges that BestBuy infringes, BestBuy directly infringes claim 11 of the '860 patent as follows:

        a.   Claim 11 is, "A non-transitory computer medium comprising *a program code*, the program code being a part of an operating system software or downloaded in sections from a web server, the operating system software program coupled with a user executing a method for authorizing access to digital content wherein the program code,

when executed in a processor for facilitating access rights between a plurality of data processing devices, performs the following steps . . . ." (Ex. 1, 16:41-48 (emphasis added).) BestBuy uses Visa Checkout on its website to sell merchandise to customers. BestBuy installs program code—specifically, Javascript Library—on the BestBuy website. Through such installation, the BestBuy website displays the Visa Checkout Button and, therefore, causes the installed program code to perform the elements listed in claim 11.

       b.   Claim 11's program code initiates "**receiving** a digital content request from at least one communications console of the plurality of data processing devices, the access request being a read or write request of metadata of the digital content, wherein the read or write request of metadata is **performed in connection with a combination of the operating system software program and a cloud system**, the request comprising **a verification token provided by the user corresponding to the digital content**, wherein the verification token is one or more of a password, e-mail address, payment system, **credit card**, authorize ready device, rights token, key, file, or one or more redeemable instruments of trade . . . ." (Ex. 1, 16:49-60 (emphasis added).) When a customer purchases a television from the BestBuy website, for example, the program code BestBuy has installed allows the customer to enter her credit card personal account number ("PAN") through the BestBuy website. The PAN is received as a request to write a token that will be associated with the PAN; the token and not the PAN to be used to purchase the television from the BestBuy website.

       c.   Claim 11 "authenticat[es] the verification token . . . ." (Ex. 1, 16:61.)

The BestBuy customer's PAN is authenticated.

d. Claim 11 includes "establishing a connection with the at least one communications console, wherein the communications console is a combination of a graphic user interface (GUI) and an Applications Programmable Interface (API) wherein the ***API is related to a verified web service***, the web service capable of facilitating a two way data exchange to complete a verification process wherein the data exchange session comprises at least one identification reference" (Ex. 1, 16:62-17:3 (emphasis added).) The program code BestBuy installed on its website facilitates a connection with Visa Token Services ("Visa Web Service"). The connection with the Visa Web Service is possible because of an API key exchanged between BestBuy and Visa Web Service.

e. Claim 11 includes "***requesting*** the at least one identification reference from the at least one communications console, wherein the identification reference is one or more of a ***verified web service account identifier***, letter, number, rights token, e-mail, password, access time, serial number, address, manufacturer identification, checksum, operating system version, browser version, credential, cookie, or key . . . [and] ***receiving*** the at least one identification reference from the at least one communications console . . . ." (Ex. 1, 17:4-12 (emphasis added).) The program code that BestBuy installed on its website allows the connection with the Visa Web Service and, in turn, allows for the request and the receipt of a token that will be used for the customer's purchase of the television instead of the PAN.

f. Claim 11 includes "***writing*** at least one of the verification token or the identification reference into the metadata." (Ex. 1, 17:13-15 (emphasis added).) The

program code BestBuy installed on its website allows for the token to be written to the

metadata of the customer's digital content. This is illustrated when the customer has

completed the purchase of the television on the website. The order confirmation lists only

the last four digits of the customer's PAN so that BestBuy may match the last four digits

of the PAN with the token used to purchase the television in BestBuy's records.

12.   BestBuy is also infringing claim 21 of the '860 patent. This description of this

infringement is of course not limiting but serves as notice to BestBuy of one of the other of its

infringements of the '860 patent. BestBuy's use of EMV Token reading Point-of-Sale computer

products (hereinafter, a "EMV-PoS") infringes claim 21.

a.   Claim 21 is "A computer product comprising a memory, a CPU, a

communications console and a non-transitory computer usable medium, the computer

usable medium having an operating system stored therein, the computer product further

comprising a customization module, the computer product authorizing access to digital

content, wherein the digital content is at least one of an application, a video, or a video

game, wherein the digital content is at least one of encrypted or not encrypted, the

computer product configured to perform the steps of . . . ." (Ex. 1, 17:52-61.) BestBuy

uses an EMV-PoS that authorizes access to users' digital financial content to complete

purchases using a verification token (e.g., EMV Token) that is used as a substitute to the

user's real card PAN (Primary Account Number) in EMV-PoS transaction requests. A

BestBuy EMV-PoS comprises a customization module that adds the capability to accept

EMV Tokenized devices (e.g., Samsung Pay, EMV Chip cards). The digital financial

content is the EMV card network payment application. (Claim chart attached hereto as

"Exhibit 2.")

      b.   Claim 21's computer is configured for "receiving the digital content access request from the communications console, the access request being a read or write request of metadata of the digital content, the metadata of the digital content being one or more of a database or storage in connection to the computer product, the request comprising a verification token corresponding to the digital content, the verification token is handled by the user as a redeemable instrument, wherein the verification token comprises at least one of a purchase permission, a rental permission, or a membership permission, wherein the at least one of purchase permission, rental permission, or membership permission being represented by one or more of a tag, a letter, a number, a combination of letters and numbers, a successful payment, a rights token, a phrase, a name, a membership credential, an image, a logo, a service name, an authorization, a list, an interface button, a downloadable program, or the redeemable instrument . . . ." (Ex. 1, col 17:62-18:13.) A BestBuy EMV-PoS receives an access request to the user's digital financial content that is processed as a "read" request of the connected EMV card network Token Vault database (metadata) required to determine an access permission. The verification token (e.g., EMV Token) is handled by the user as a redeemable instrument (e.g., EMV Tokenized Mobile Device or Chip Card). The EMV Token (verification token) comprises a "purchase permission." The EMV Token is represented by: (i) Numbers – resembling a PAN; (ii) Rights Token – a right to purchase in place of a PAN; (iii) Service Name – Visa, MasterCard, Discover, American Express; (iv) Authorization – the EMV Token is authorized in the EMV Token Vault. (*See* Ex. 2 at 2.)

c.   Claim 21's computer authenticates the verification token. (Ex. 1, col. 18:14.) The EMV-PoS authenticates the EMV Token (e.g., verification token) by using the Luhn Formula for Computing Modulus 10 Check Digit. (*See* Ex. 2 at 2-3.)

d.   The computer of Claim 21 is built for "establishing a connection with the communications console, wherein the communications console is a combination of a graphic user interface (GUI) and an Applications Programmable Interface (API) wherein the API is related to a verified web service, the web service capable of facilitating a two way data exchange to complete a verification process wherein the data exchange session comprises at least one identification reference . . . ." (Ex. 1, col. 18:15-22.) The BestBuy EMV-PoS establishes a connection with the EMV Token Service Provider using an API related to the EMV Token Service Provider. (*See* Ex. 2 at 3.)

e.   Claim 21 performs the steps of requesting and receiving: requesting the at least one identification reference from the at least one communications console, wherein the identification reference comprises one or more of a verified web service account identifier, letter, number, rights token, e-mail, password, access time, serial number, address, manufacturer identification, checksum, operating system version, browser version, credential, cookie, or key, or ID; receiving the at least one identification reference from the communications console . . . ." (Ex. 1, col. 18:23-32.) The BestBuy EMV-PoS requests and receives an identification reference from the EMV Token Service comprising letters and numbers (e.g., Visa exchanges the PAN for its token and sends the token and "approved" or "declined" message response with the token back to the merchant. (*See* Ex. 2 at 4.)

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f.   Claim 21 involves a computer configured for "writing at least one of the verification token or the identification reference into the said metadata." (Ex. 1, col. 18:33-34.) The BestBuy EMV-PoS writes the verification token to its connected storage for receipt printing and reference for refunds. (*See* Ex. 2 at 5-6.)

Prayer for Relief

WHEREFORE, William Grecia prays for the following relief against BestBuy:

(a)   Judgment that BestBuy has directly infringed claims of the '860 patent;

(b)   A reasonable royalty;

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

(d)   Post-judgment injunction; and

(e)   Such other and further relief as the Court may deem just and proper.

Demand for Jury Trial

William Grecia demands a trial by jury on all matters and issues so triable.

Date: <u>November 2, 2016</u>   Respectfully Submitted,

                                                            <u>/s/ Matthew M. Wawrzyn</u>
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