

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

**ROTHSCHILD BIOMETRIC SYSTEMS,  
LLC,**

Plaintiff,

v.

**USAA SAVINGS BANK,**

Defendant.

**Civil Action No. 2:17-cv-61**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Rothschild Biometric Systems, LLC (“Plaintiff”) files this Complaint against USAA Savings Bank (“Defendant”) alleging as follows:

**PARTIES**

1. Plaintiff Rothschild Biometric Systems, LLC is limited liability company organized under the state of Texas having a principal place of business at 1400 Preston Road, Ste. 400, Plano, TX 75093.

2. Upon information and belief Defendant is a corporation organized and existing under the laws of the State of Nevada with a principal place of business located at 9800 Fredericksburg Road, San Antonio, TX 78288. Defendant can be served via its registered agent for service of process: The Corporation Trust Company of Nevada, 701 S. Carson St., Ste. 200, Carson City, NV 89701.

**JURISDICTION AND VENUE**

3. This is an action for infringement of a United States patent arising under 35 U.S.C. §§ 271(a), 281, and 284 - 85. This Court has subject matter jurisdiction over this action under 28 U.S.C. §1331 and §1338(a).

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

5. 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. 8,799,088)**

6. On August 5, 2014, United States Patent No. 8,799,088 (the "'088 Patent") was duly and legally issued by the United States Patent and Trademark Office for an invention titled "System and Method for Verifying User Identity Information in Financial Transactions." A true and correct copy of the '088 Patent is attached hereto as Exhibit A.

7. Mr. Leigh M. Rothschild is listed as the inventor of the '088 Patent.

8. Plaintiff is the owner by assignment of the '088 Patent with all rights in and to that patent.

9. Defendant directly or through intermediaries, makes, uses, imports, sells, and/or offers for sale products and/or systems (*i.e.*, USAA Biometrics (the “Accused Instrumentality”) that infringes claims 1, 2, 3, 4, 9, and 14 of the ’088 Patent.

10. Upon information and belief, Defendant has been and is now infringing claims 1, 2, 3, 4, 9, and 14 of the ’088 Patent in the State of Texas, in this Judicial District, and elsewhere in the United States, by, among other things, directly or through intermediaries, making, using, importing, selling and/or offering for mobile payment systems using biometric identification covered by one or more claims of the ’088 Patent to the injury of Plaintiff. Defendant is thus infringing, literally infringing, and/or infringing the ’088 Patent under the doctrine of equivalents. Defendant is thus liable for infringement of the ’088 Patent pursuant to 35 U.S.C. §. 271(a).

11. Upon information and belief, to the extent any marking was required by 35 U.S.C. § 287, predecessors in interest to the ’088 Patent complied with such requirements.

12. The Accused Instrumentality infringes claim 1 of the ’088 Patent by performing a method for verifying the identity of users of financial services provider cards over a network, the method comprising: providing a web site for verifying the identity of a user of a financial services provider card (*i.e.*, the USAA App connects to a USAA website for verifying the identify of a user using fingerprint, voice, or facial recognition data), the web site being hosted by at least one server in communication with the network (*i.e.*, the USAA secure servers); requesting, by the at least one server, a plurality of biometric identification data of the user (*i.e.*, the USAA server requests voice, facial, and/or fingerprint data when setting up the user’s quick login); uploading the plurality of biometric identification data of the user requested by the at least one server via a network connected computing device to the web site (*i.e.*, the provided biometric data is uploaded to the server from the user’s smartphone running the USAA app); authenticating, by the at least one

server, the uploaded plurality of biometric identification data with a biometric identification data stored in a related information repository (*e.g.*, each time a user sets up the USAA app, the biometric data is compared to previously stored biometric data); storing the plurality of biometric identification data in a database coupled to the at least one server (*i.e.*, the provided biometric data is stored on the USAA secure server); and uploading biometric identification data provided by the user at a point-of-sale terminal to the at least one server (*i.e.*, when a user attempts to use their USAA App to pay, they must provide their biometric identification to quick login, which is provided to the USAA secure server); determining, by the at least one server, if the biometric identification data provided by the user at point-of-sale of the terminal matches the biometric identification data retrieved from the database and sending a validation signal to the terminal if the biometric identification data provided by the user at point-of-sale of the terminal matches the biometric identification data retrieved from the database (*i.e.*, the provided biometric data is compared to the biometric data stored on the USAA secured server, if the data matches, a payment token is provided to the point-of-sale terminal); receiving the validating signal at the point-of-sale terminal and executing a purchase transaction at a point-of sale terminal (*i.e.*, the receipt of the payment token at the point-of-sale terminal is used to complete the transaction). *See* Ex. B, Figs. 1-13.

13. The Accused Instrumentality infringes claim 2 of the '088 Patent by accessing a preselected identification verification web site via the network connected computing device (*i.e.*, the USAA App running on a smart phone accesses the USAA secured server); and verifying the user's identity using standard verification software (*i.e.*, biometric verification software for voice, fingerprint, or facial recognition) to confirm the user's identity as the true user of the financial services card. *See* Figs. 1-2, 11-13.

14. The Accused Instrumentality infringes claim 3 of the '088 Patent by requesting a plurality of biometric identification data includes a face image of the user. *See* Fig. 5.

15. The Accused Instrumentality infringes claim 4 of the '088 Patent by requesting a plurality of biometric identification data includes a fingerprint of the user. *See* Fig. 5.

16. The Accused Instrumentality infringes claim 9 of the '088 Patent by requesting a plurality of biometric identification data includes a voice pattern of the user. *See* Fig. 5.

17. The Accused Instrumentality infringes claim 14 of the '088 Patent by accessing by the at least one server (*i.e.*, the USAA secured sever), the biometric identification data based on an identity of the card (*i.e.*, the USAA secured server access biometric information associated with the card). *See* Figs. 11-13.

18. As a result of the Defendant's infringement of the '088 Patent, Plaintiff has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court.

19. Unless a permanent injunction is issued enjoining Defendant and its agents, servants, employees, attorneys, representatives, affiliates, and all others acting on their behalf from infringing the '088 Patent, Plaintiff will be irreparably harmed.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter:

1. A judgment in favor of Plaintiff that Defendant has infringed the '088 Patent;
2. A permanent injunction enjoining Defendant and its officers, directors, agents servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement, inducing the infringement of, or contributing to the infringement of the '088 Patent, or such other equitable relief the Court determines is warranted;

3. A judgment and order requiring Defendant pay to Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's infringement of the '088 Patent as provided under 35 U.S.C. § 284, and an accounting of ongoing post-judgment infringement; and

4. Any and all other relief, at law or equity, 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.

January 19, 2017.

Respectfully submitted,

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