

Coleman W. Watson, Esq. (SBN 266015)
coleman@watsonllp.com

WATSON LLP
601 S. Figueroa Street, Suite 4050
Los Angeles, CA 90017
Telephone: 213.228.3233
Facsimile: 213.330.4222

*Attorneys for Plaintiff,
Transaction Secure, LLC*

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

TRANSACTION SECURE, LLC, a
foreign limited liability company,

Plaintiff,

vs.

DEVIANTART, INC., a foreign
corporation,

Defendant.

Case No.: 2:19-cv-05836

**AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

**DEMAND FOR INJUNCTIVE
RELIEF**

DEMAND FOR JURY TRIAL

Plaintiff, TRANSACTION SECURE, LLC, sues Defendant,
DEVIANTART, INC., and alleges as follows:

NATURE OF THE ACTION

1. This is an action for infringement of United States Patent No. 8,738,921 under the Patent Act, 35 U.S.C. § 271, *et seq.*, based on Defendant's unauthorized commercial manufacture, use, importation, offer for sale, and sale of infringing products and services in the United States.

AMENDED COMPLAINT FOR PATENT INFRINGEMENT
AND DEMAND FOR JURY TRIAL

1 **PARTIES**

2 2. Plaintiff, TRANSACTION SECURE, LLC, is a foreign limited
3 liability company.

4 3. Defendant, DEVIANTART, INC., is a foreign corporation, organized
5 under the laws of the State of Delaware, with its headquarters in Los Angeles,
6 California. Defendant uses, sells, and/or offers to sell products and/or services in
7 interstate commerce that infringe the '921 Patent.

8 **SUBJECT MATTER JURISDICTION**

9 4. This court has original jurisdiction over the subject matter of this
10 action, pursuant to 28 U.S.C. §§ 1331 and 1338(a), because this action involves a
11 federal question relating to patents.

12 **PERSONAL JURISDICTION**

13 5. The court has general *in personam* jurisdiction over Defendant
14 because Defendant resides and is found in the State of California.

15 **VENUE**

16 6. Venue is proper in this court, pursuant to 28 U.S.C. § 1400(b),
17 because Defendant has a regular and established place of business in this district
18 and resides in this district.

19 **COUNT I**

20 **PATENT INFRINGEMENT**

21 7. Plaintiff repeats and re-alleges paragraphs 2 through 6 by reference, as
22 if fully set forth herein.

23 8. On May 27, 2014, the United States Patent & Trademark Office
24 (USPTO) duly and legally issued the '921 Patent, entitled "System and Method for
25 Authenticating a Person's Identity Using a Trusted Entity." A true and authentic
26 copy of the '921 Patent is attached hereto as **Exhibit "A"** and incorporated herein
27 by reference.

1 9. The '921 Patent teaches both a system and method for protecting
2 sensitive information from identity theft and claims an advancement over two-
3 factor authentication, which is now the predominate form of digital authentication
4 of sensitive information.

5 *State of the Art*

6 10. The identity theft problem exists largely because a person's name,
7 SSN, and birthday are frequently used and given to others to verify the person's
8 identity. Individuals use this information to get employment, apply for a credit
9 card, obtain a mortgage, buy a mobile phone, get healthcare, and perform
10 numerous other transactions. A person's SSN and birthday are usually stored
11 electronically by businesses in databases or on physical paper documents which
12 can be viewed by many individuals within a business.

13 11. Once a person supplies his/her SSN and birthday, they lose control of
14 how that information will be used and who will view that information.

15 12. At times, business computer systems and databases get hacked into
16 allowing the hacker access to the person's personal identity information. At other
17 times, the SSN and birthday are transmitted to businesses and others electronically
18 via the Internet.

19 13. The Internet is an unsecured network, so information not properly
20 encrypted can be viewed by others on the Internet. There are various ways an
21 impersonator or identity thief can obtain a person's SSN or birthday. The thief can
22 obtain this information by looking at business records, viewing unencrypted
23 messages with this information, or other types of fraud.

24 14. Once a thief has someone's SSN and birthday, the thief can use that
25 information anytime during the lifetime of the person because of the permanence
26 of SSN and birthday and its association with the person. The SSN and birthday
27 have been reliable indicators of a person's existence but their widespread use by
28

1 both the person and identity theft impersonators has made them of little use in
2 authenticating the identity of person using the information.

3 ***The Patent-in-Suit***

4 15. Plaintiff is the assignee of the entire right, title, and interest in the
5 '921 Patent, including the right to assert causes of action arising under the '921
6 Patent.

7 16. The system and method of the '921 Patent increase the efficiency of
8 components that use software because of the benefits claimed by the '921 Patent,
9 namely flexibility and a higher degree of certainty as to authenticating that a
10 person is who he/she claims to be. The prior art is described as uncertain because
11 under the prior art, a user's assurance of authentication is limited to just
12 confirming that certain *devices* are what they claim to be, not that certain *persons*
13 are who they claim to be.

14 17. The '921 Patent provides a solution to this problem by both reducing
15 the number of times that personal identity information is exposed on the Internet
16 and generating unique alpha-numeric codes that are encrypted with specific
17 personal identity information that must match authentication requests.

18 18. Through Claim 1, the '921 Patent claims:

19 A method for authenticating a person's identity to a
20 transactional entity using a trusted entity with a secure
21 repository of a person's personal identity information,
22 comprising: receiving personal identity information at a trusted
23 entity computer system, the personal identity information being
24 confidentially stored by the trusted entity computer system; in
25 the secure repository, storing a user identifier and a password
26 that are associated with, but do not contain, the personal
27 identity information; at the trusted entity computer system,
28 receiving a request from the person for a unique code, the
request including the user identifier and the password, the
person's identity having been previously authenticated by the
trusted entity computer system; providing the unique code to
the person, the unique code comprising a person identifier and a
key, wherein the unique code is thereafter transmitted to a
transactional entity to identify the person without providing the
personal identity information to the transactional entity; and the

1 trusted entity computer system confirming the unique code to
2 the transactional entity to verify the person's identity.

3 19. Through Claim 24, the '921 Patent claims:

4 A system for authenticating a person's identity to a
5 transactional entity using a trusted entity, comprising: a trusted
6 entity which receives personal identity information from a
7 person, the personal identity information being confidentially
8 stored by the trusted entity; a user identifier associated with but
9 not containing any of the personal identity information; a
10 password associated with but not containing any of the personal
11 identity information; a client module with a person input device
12 for a person to enter the user identifier and the password, a
13 person processing unit connected to the person input device to
14 prompt the person for the user identifier and the password, and
15 a person display unit connected to the person processing unit to
16 display a the key associated with a person identifier to form a
17 unique code to the person, the person's identity having been
18 previously authenticated by the trusted entity; a transactional
19 processing module with an transactional input device for the
20 transactional entity to enter the key, a transactional processing
21 unit connected to the transactional input device to prompt the
22 transactional entity for the key, and a transactional display unit
23 connected to the transactional processing unit to display a
24 message to the transactional entity authenticating the person's
25 identity and to display a photograph of the person, whereby the
26 photograph is a secondary verification to the unique code; and a
27 trusted entity server with a trusted entity processing unit to
28 process requests from the client module and the transactional
processing module using a network, and a database accessible
to the trusted entity processing unit to store the user identifier,
the password, the unique code, and the person's personal
identity information, including the photograph.

19 20. Claim 1 represents an improvement in the art because a trusted entity
20 independently authenticates a person's identity based on a series of information
21 provided by a person to the trusted entity. This, in turn, eliminates the need for a
22 transactional entity to independently authenticate a person's identity, which
23 significantly reduces costs to the transactional entity. In fact, under the method
24 claimed, a person does not provide his or her personal identity information to a
25 transactional entity. Because the method gives the transactional entity greater
26 confidence in authentication without the need to actually expose personal identity
27 information, the identity theft problem is reduced.

1 21. The ‘921 Patent further represents an improvement in computer
2 technology because under the method claimed, authentication is achieved by a
3 trusted entity and a transactional entity matching encrypted alpha-numeric codes
4 that contain undecipherable information to the human eye, whereas in the prior art,
5 authentication was achieved by only a person and a transactional entity (or many
6 different transactional entities). The ‘921 Patent reduces the identity theft problem
7 by relying solely on authentication between the trusted entity and transactional
8 entity, both of whom are already in the business of handling and adequately
9 protecting confidential information, unlike a person.

10 22. Overall, the claims of the ‘921 Patent do not merely gather, analyze,
11 and output data, nor does the ‘921 Patent merely add an algorithm to old data to
12 generate new data. Instead, the ‘921 Patent teaches a system and method that is
13 not concerned with manipulation of data, but rather, an improvement in the state of
14 the art no matter what the underlying data describes. Under the method claimed,
15 the ‘921 Patent transforms personal identity information (SSN, birthdate, etc.) that
16 is easily decipherable by providing a unique alpha-numeric code containing that
17 same information that is undecipherable to the human eye, which mitigates the
18 possibility of identity theft.

19 23. Thus, the risk of fraud is much lower under the ‘921 Patent because
20 the unique alpha-numeric code has no value to an identity thief and a trusted entity
21 will only authenticate such code if it is received by a transactional entity.

22 24. Identity theft is a problem uniquely suited to the Internet because it
23 rarely requires “real world” evidence to confirm a person’s identity, and the pure
24 exchange of digital information allows identity thieves to capitalize on stealing
25 identities. Thus, technological advancements in digital information has made it the
26 predominant form of communication, which has created a problem unique to
27 digital information. The method claimed by the ‘921 Patent addresses this
28

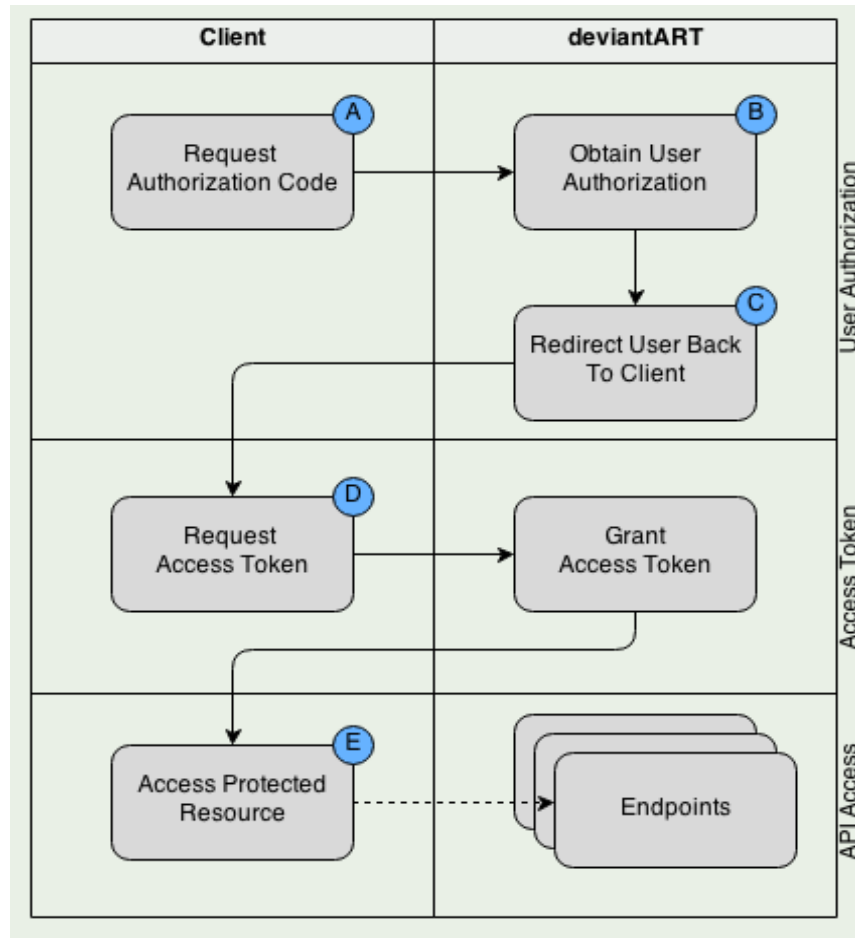
1 problem through a technological advancement over two-factor authentication by
2 requiring a person to verify their personal identity information to a trusted entity,
3 who then guards against identity theft by generating the unique alpha-numeric
4 codes and then matching these codes only against transactional entities. The end
5 result of this method is to ensure that persons are authenticated, not simply that
6 devices are authenticated, which was the state of the art in two factor
7 authentication.

8 25. Defendant infringes at least Claim 1 of the '921 Patent through an
9 authentication method it uses, along with a system for authenticating a person's
10 identity, which such method is disclosed at:

11 <https://www.deviantart.com/developers/authentication>.

12 26. Defendant's website operates as the Accused Product.

13 27. The Accused Product is a trusted entity, as claimed by Plaintiff, to
14 authenticate account holders when such holders want to access a service from a
15 resource server (i.e., a transactional entity), by using non-personal information for
16 securing personal data:



The client redirects the user to deviantART for the user to authorize the clients access to their account. The client must provide redirect_uri and any scopes they wish to access.

Before directing the resource owner back to the client with the authorization code, the authorization server authenticates the resource owner and obtains authorization. Because the resource owner only authenticates with the authorization server, the resource owner's credentials are never shared with the client.

28. The Accused Product receives personal information from users at a trusted entity computer system, such as their name, age, birthdate, email address, phone number etc. when users create an account. Defendant then confidentially

1 stores this data for promoting safety and security, through a process explained at
2 <https://about.deviantart.com/policy/privacy/>.

3 29. Defendant, in a secure repository, provides users with authorization
4 login details (i.e., user identifier and password) that they are associated with, but
5 the login details do not contain the personal details.

6 30. The user then requests Defendant for resource access to a trusted
7 entity computer system. The request includes the user identifier and the password.
8 Defendant provides an authorization code to obtain an access token and ID token
9 for accessing the services.

10 31. Defendant provides a unique authorization code to the user in
11 response of the request of the user, just as in the '921 Patent, which includes a user
12 identified and access key, wherein the unique code is thereafter transmitted to a
13 transactional entity to authenticate the user's identity without giving personal
14 information to the transactional entity to mitigate against the risk of identity theft.

15 32. The unique authorization code is required to obtain an access token.
16 This access token then used by the user for accessing the services.

17 33. In the Accused Product, the user identity is verified by the resource
18 server by using the authorization code to allow the user to access the code.

19 34. Upon information and belief, Defendant has known of the existence of
20 the '921 Patent, and its acts of infringement have been willful and/or in disregard
21 for the '921 Patent, without any reasonable basis for believing that it had a right to
22 engage in the infringing conduct.

23 35. Defendant's acts of infringement of the '921 Patent have caused and
24 will continue to cause Plaintiff damages for which Plaintiff is entitled to
25 compensation pursuant to 35 U.S.C. § 284.

26 36. Defendant's acts of infringement of the '921 Patent have caused and
27 will continue to cause Plaintiff immediate and irreparable harm unless such
28

1 infringing activities are also enjoined by this court pursuant to 35 U.S.C. § 283.
 2 Plaintiff has no adequate remedy at law.

3 37. Upon information and belief, the ‘921 Patent, at all times material,
 4 was and is in compliance with 35 U.S.C. § 287.

5 **WHEREFORE**, Plaintiff, TRANSACTION SECURE, LLC, demands
 6 judgment against Defendant, DEVIANTART, INC., and respectfully seeks the
 7 entry of an order (i) adjudging that Defendant has infringed the ‘921 Patent, in
 8 violation of 35 U.S.C. § 271; (ii) granting an injunction enjoining Defendant, its
 9 employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries
 10 and assigns, and all of those in active concert and participation with any of the
 11 foregoing persons or entities from infringing the ‘921 Patent; (iii) ordering
 12 Defendant to account and pay damages adequate to compensate Plaintiff for
 13 Defendant’s infringement of the ‘921 Patent, with pre-judgment and post-
 14 judgment interest and costs, pursuant to 35 U.S.C. § 284; (iv) ordering that the
 15 damages award be increased up to three times the actual amount assessed, pursuant
 16 to 35 U.S.C. § 284; (v) declaring this case exceptional and awarding Plaintiff its
 17 reasonable attorneys’ fees, pursuant to 35 U.S.C. § 285; and, (vi) awarding such
 18 other and further relief as this court deems just and proper.

19 **DEMAND FOR JURY TRIAL**

20 Plaintiff, TRANSACTION SECURE, LLC, hereby demands a trial by jury
 21 of all issues so triable pursuant Fed. R. Civ. P. 38 and Local Rule 38–1.

22 /s/ Coleman Watson
 23 Coleman W. Watson, Esq.

24
 25 **DATED** on September 30, 2019
 26

27 Respectfully submitted,
 28 AMENDED COMPLAINT FOR PATENT INFRINGEMENT
 AND DEMAND FOR JURY TRIAL

1 WATSON LLP

2
3 */s/ Coleman Watson*

4 **Coleman W. Watson, Esq.**

5 California Bar No. 266015

6 Florida Bar. No. 0087288

7 Georgia Bar No. 317133

8 New York Bar No. 4850004

9 coleman@watsonllp.com

10 docketing@watsonllp.com

11 **WATSON LLP**

12 601 S. Figueroa Street, Suite 4050

13 Los Angeles, CA 90017

14 Telephone: 213.228.3233

15 Facsimile: 213.330.4222

16 *Attorneys for Plaintiff,*

17 *Transaction Secure, LLC*