

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

LUPERCAL LLC,

Plaintiff

v.

**THE PNC FINANCIAL SERVICES
GROUP, INC.,**

Defendant

Case No. 2:20-cv-00136

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Lupercal LLC (“Lupercal” or “Plaintiff”) files this Complaint for patent infringement against Defendants The PNC Financial Services Group, Inc. (“PNC” or “Defendant”), and alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under 35 U.S.C. § 1 *et seq.*

PARTIES

2. Lupercal is a limited liability company organized and existing under the laws of the State of Texas with its principal place of business in Dallas, Texas.

3. Upon information and belief, Defendant is a corporation organized and existing under the laws of the State of Pennsylvania, with its principal place of business at One PNC Plaza, 249 Fifth Avenue, 21st Floor, Pittsburgh, Pennsylvania 15222. Defendant can be served with process through its registered agent Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

JURISDICTION AND VENUE

4. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Upon information and belief, Defendant is subject to personal jurisdiction of this Court based upon it having regularly conducted business, including the acts complained of herein, within the State of Texas and this judicial district and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

6. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400 because Defendants have committed acts of infringement and have regular and established places of business in this judicial district.

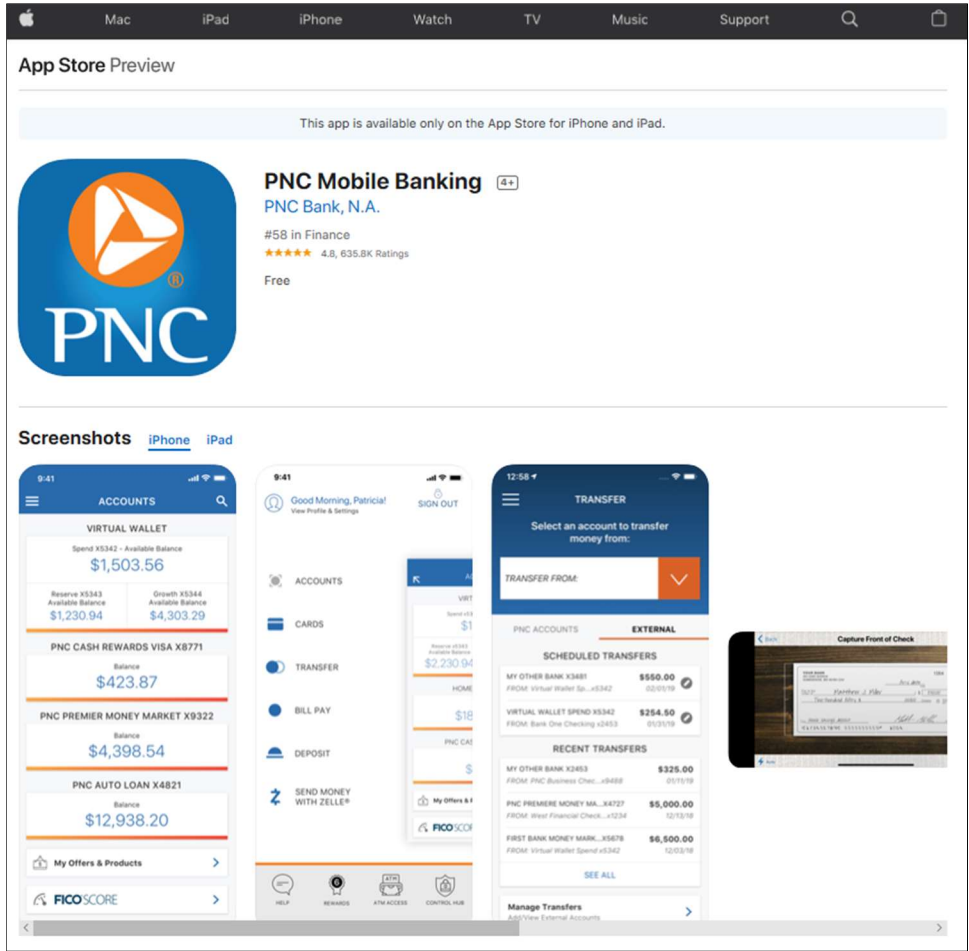
COUNT I
(Infringement of U.S. Patent No. 9,386,094)

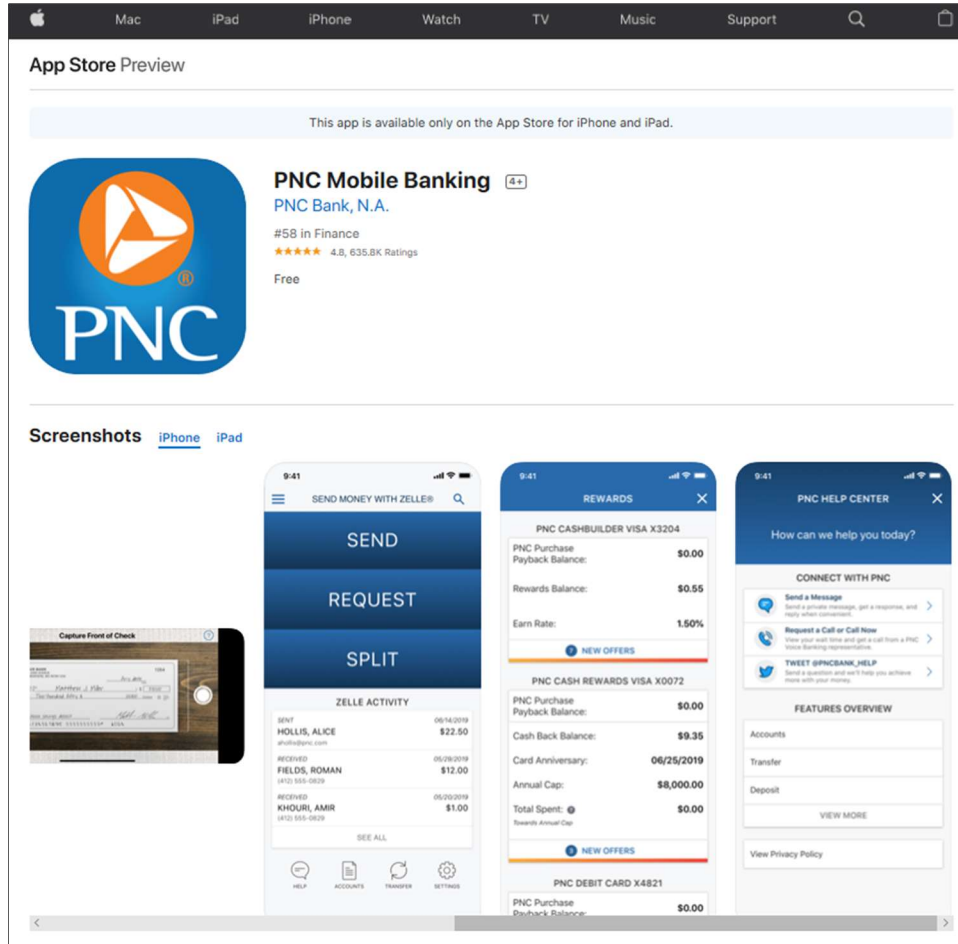
7. Lupercal incorporates paragraphs 1 through 6 as though fully set forth herein.

8. Plaintiff is the owner, by assignment, of U.S. Patent No. 9,386,094 (the “’094 Patent”), entitled SYSTEM AND METHOD FOR MEDIA SUBMISSION, which issued on July 5, 2016. A copy of the ’094 Patent is attached as Exhibit A.

9. The ’094 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

10. Defendant provides the PNC Mobile Banking App for use with Apple iOS devices and Android devices, which is available for download from Apple’s iTunes App Store and Google Play Apps:





Get 24/7 access to your PNC Bank account information and services from your iPhone or iPod Touch. PNC Mobile Banking is a free service offered to all PNC Online Banking customers.

Check Balances – See current account balances for your checking, savings, and credit card accounts.

View Transactions – View recent transaction history in your checking or savings accounts and search for specific transactions by date, amount, or check number.

Transfer Funds – Transfer funds between your eligible PNC banking accounts.

Mobile Deposit – Use your camera equipped iOS device to deposit checks.

Pay Bills – Make one-time bill payments to billers you have entered in PNC Online Banking.

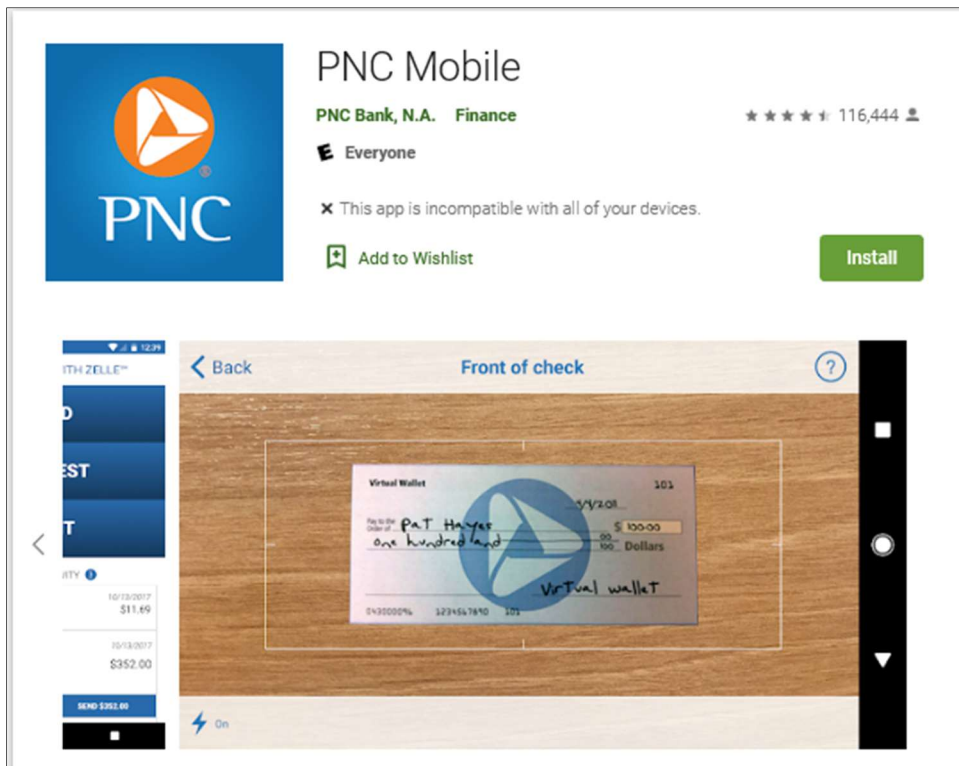
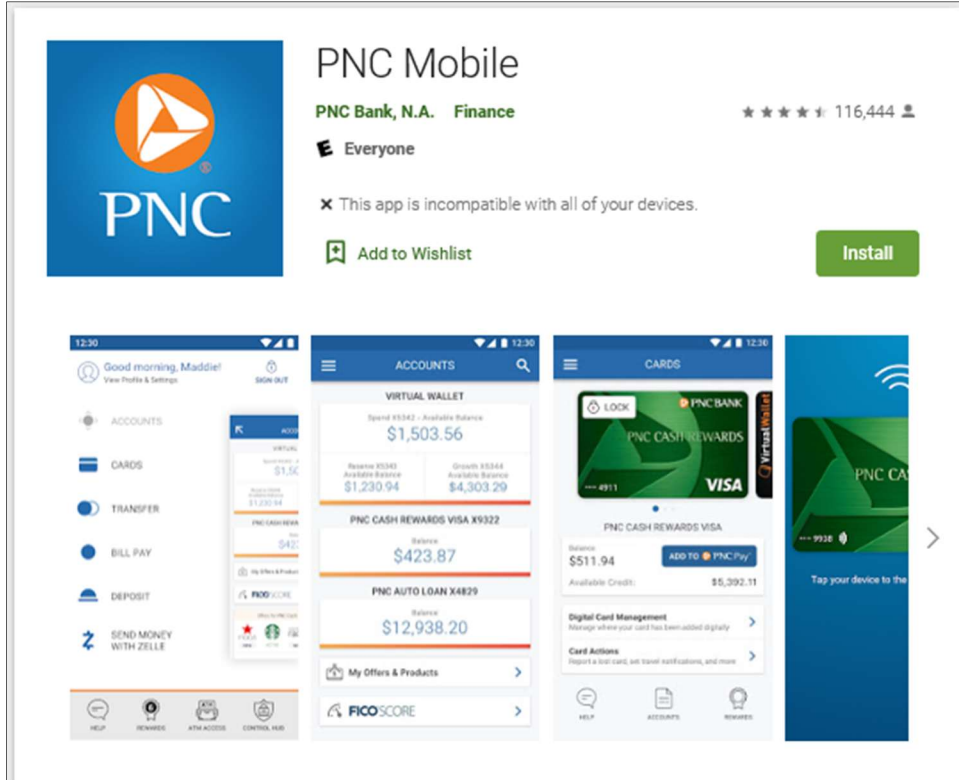
Send Money with ZelleSM – The new way to send money simply, securely, to almost anyone in minutes.

Cards – View and manage your PNC credit, debit and SmartAccess cards and make in-store payments with Apple Pay right from the PNC Mobile app.

Locate PNC – Locate the nearest PNC Bank Branch or ATM using built-in Location Services or search by zip code and street address.

Security – With PNC's security & privacy, you can be confident that your personal and financial information will be protected while using PNC Mobile Banking.

<https://apps.apple.com/us/app/pnc-mobile-banking/id303113127>



Get 24/7 access to your PNC Bank account information and services from your Android mobile device. PNC Mobile Banking is a free service offered to all PNC Online Banking customers.

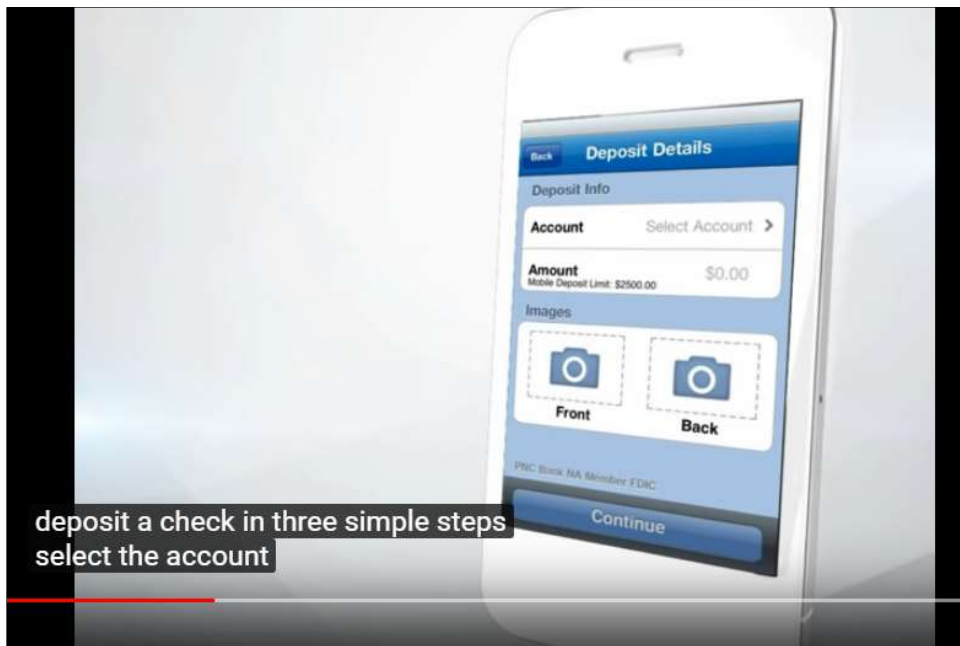
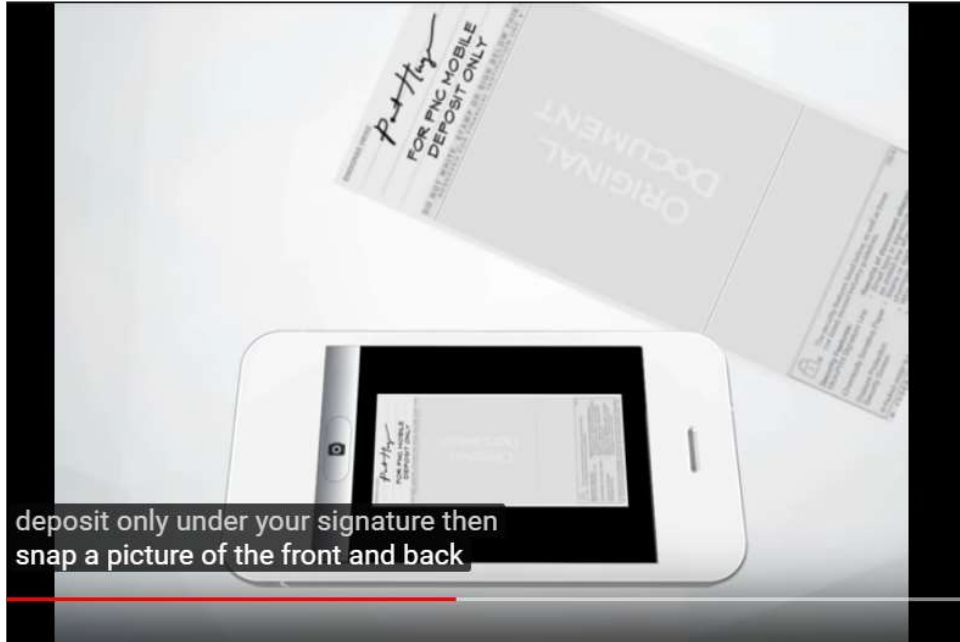
- Check Balances - See current account balances for your checking, savings, and credit card accounts.
- View Transactions - View recent transaction history in your checking or savings accounts.
- Transfer Funds - Transfer funds between your eligible PNC banking accounts.
- Mobile Deposit - Use your camera equipped Android device to deposit checks.
- Pay Bills - Make one-time bill payments to billers you have entered in PNC Online Banking.
- Send Money with ZelleSM - The new way to send money simply, securely, to almost anyone in minutes.
- Cards – PNC Pay lets you make in-store purchases using your PNC credit, debit and SmartAccess cards using your Android mobile device.
- Locate PNC- Locate the nearest PNC Bank Branch or ATM using built-in Location Services or search by zip code and street address.
- Security - With PNC's security & privacy, you can be confident that your personal and financial information will be protected while using PNC Mobile Banking.

https://play.google.com/store/apps/details?id=com.pnc.ecommerce.mobile&hl=en_US

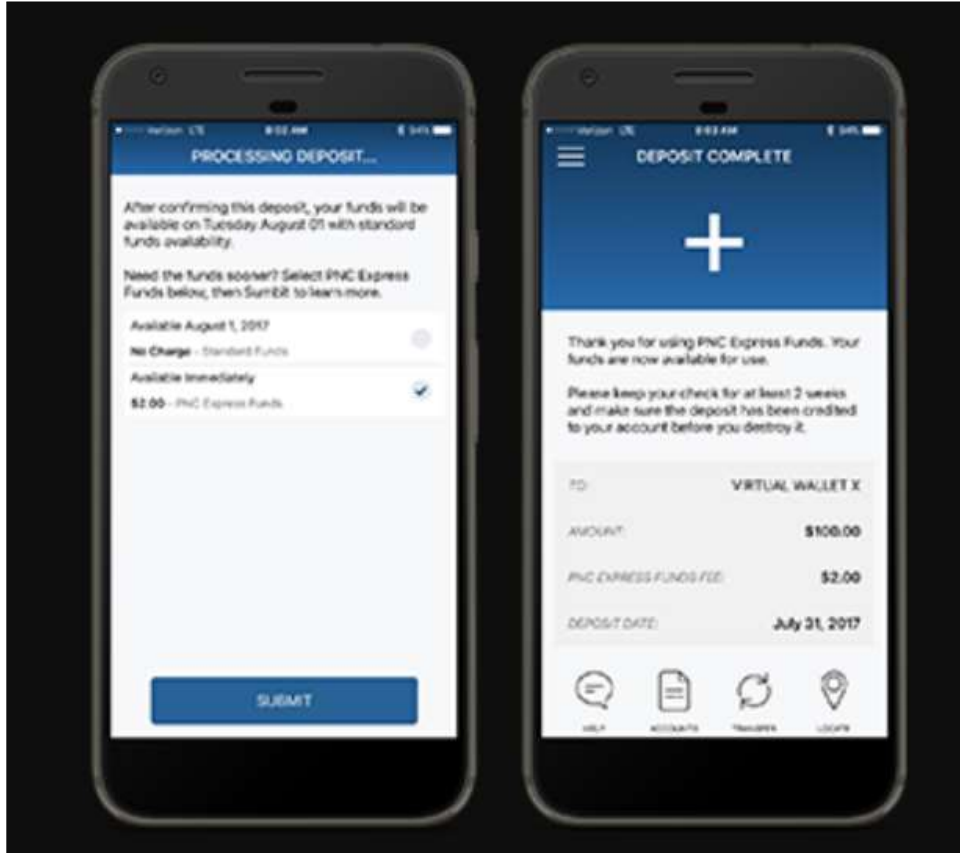
11. The PNC Mobile App enables account holders to deposit checks electronically by taking a photo of the front and back of the check. After selecting an account to deposit the check to, the user enters the amount of the check.

12. The photo of the front and back is manually taken by the user – as a result, the images produced may be blurry or otherwise undesirable, and the application enables the user to retake a given photo (front or back). A visual representation of the photos is displayed on the screen.

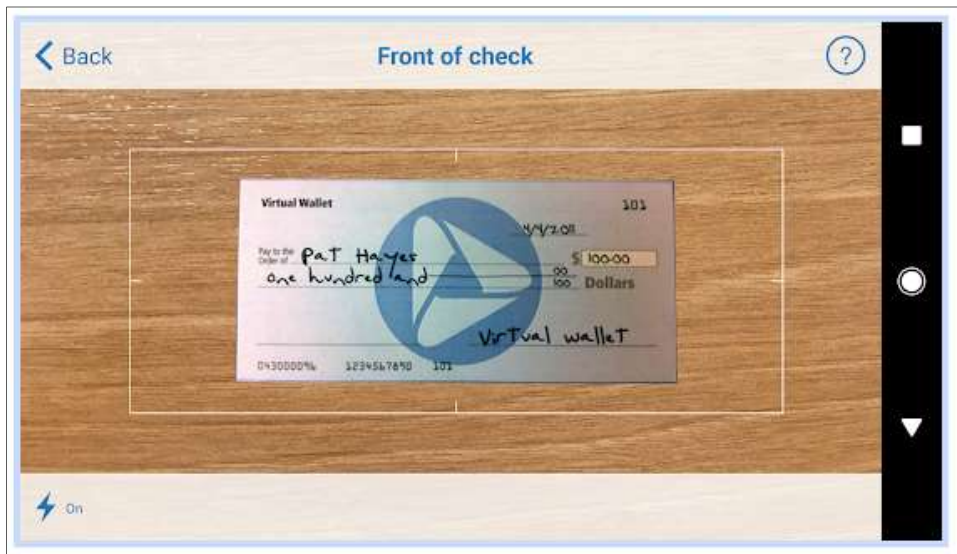
13. After selecting an account to deposit the check to, the user enters the amount of the check.



<https://www.youtube.com/watch?v=ESNj-r-WDzo>



https://www.pnc.com/content/dam/pnc-com/images/personal/OnlineBanking/MobileBanking/mobile_deposit_express_funds_iphones.png



https://play.google.com/store/apps/details?id=com.pnc.ecommerce.mobile&hl=en_US

14. Upon being accepted by the user (via the PNC Mobile App), the application pre-processes the front and back images to produce and front and back pre-processed images that is controlled by one or more preprocessing parameters received from a device (e.g., a server used to download the PNC Mobile App) separate from the user device (user's smart phone) in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party.

15. Defendant controls the operation and use of the PNC Mobile App and encourages its customers to use the PNC Mobile App to deposit checks to the customer's accounts with Defendant. The Defendant's PNC Mobile App is the Accused Instrumentality through which Defendant and its customers infringe the '094 Patent.

16. At least by developing, distributing, operating, promoting, and encouraging the use of the PNC Mobile App, Defendant encourages its customers to use the PNC Mobile App to practice the claimed methods, which Defendant controls the use of and derives a direct benefit and profit from.

17. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including Claim 42, of the '094 Patent by developing, distributing, operating, promoting, and encouraging the use of the PNC Mobile App in the United States without authority. Defendant has infringed and continues to infringe the '094 Patent either directly or through the acts of inducement in violation of 35 U.S.C. § 271.

18. Defendant has been on notice of the '094 Patent at least as early as January 15, 2019 when it received a notice letter from Plaintiff, which included a claim chart comparing the '094 Patent claims to the PNC Mobile App.

19. Claim 42 recites:

42. A computer implemented method performed by an image submission tool on a user device, comprising:

causing the image submission tool to generate a visual representation of one or more images, the visual representation enabling a user to determine whether the one or more images should be replaced with one or more replacement images;

causing the image submission tool to enable a user to enter text information for association with the one or more images or the one or more replacement images;

causing the image submission tool to pre-process the one or more images or the one or more replacement images to produce one or more pre-processed images, the pre-processing by the image submission tool controlled by one or more pre-processing parameters received from a device separate from the user device in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party;

causing the image submission tool to enable a user to submit the one or more pre-processed images; and

causing the image submission tool to transmit the one or more pre-processed images.

20. As indicated above, the PNC Mobile App enables account holders to deposit checks electronically by taking a photo of the front and back of the check. After selecting an account to deposit the check to, the user enters the amount of the check.

21. More particularly, the PNC Mobile App is a computer implemented method performed by an image submission tool on a user device.

22. In the process of using the PNC Mobile App, the computer implemented method causes the image submission tool to generate a visual representation of one or more images, the visual representation enabling a user to determine whether the one or more images should be replaced with one or more replacement images.

23. In the process of using the PNC Mobile App, the computer implemented method causes the image submission tool to enable a user to enter text information for association with the one or more images or the one or more replacement images.

24. In the process of using the PNC Mobile App, the computer implemented method causes the image submission tool to pre-process the one or more images or the one or more replacement images to produce one or more pre-processed images, the pre-processing by the image submission tool controlled by one or more pre-processing parameters received from a device separate from the user device in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party.

25. In the process of using the PNC Mobile App, the computer implemented method causes the image submission tool to enable a user to submit the one or more pre-processed images.

26. In the process of using the PNC Mobile App, the computer implemented method causes the image submission tool to transmit the one or more pre-processed images.

27. Lupercal has been damaged by Defendant's infringing activities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against Defendant:

1. declaring that the Defendant has infringed the '094 Patent;
2. awarding Plaintiff its damages suffered as a result of Defendant's infringement of the '094 Patent;
3. awarding Plaintiff its costs, attorneys' fees, expenses, and interest; and
4. granting Plaintiff such further relief as the Court finds appropriate.

JURY DEMAND

Plaintiff demands trial by jury, Under Fed. R. Civ. P. 38.

Dated: May 1, 2020

Respectfully submitted,

/s/ Raymond W. Mort, III
Raymond W. Mort, III
Texas State Bar No. 00791308
raymort@austinlaw.com

THE MORT LAW FIRM, PLLC
100 Congress Ave, Suite 2200
Austin, Texas 78701
Tel/Fax: (512) 865-7950

**ATTORNEYS FOR PLAINTIFF
LUPERCAL LLC**