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10 MCOM IP, LLC

11
12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **WESTERN DIVISION**

15 MCOM IP, LLC,

16
17 Plaintiff,

18 v.

19 FCTI, INC.,

20 Defendant.

Case No.:

**PLAINTIFF’S ORIGINAL
COMPLAINT FOR PATENT
INFRINGEMENT**

(35 U.S.C. § 271)

JURY TRIAL DEMANDED

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23 mCom IP, LLC (“mCom”) files this Original Complaint and demand for jury
24 trial seeking relief from patent infringement of the claims of U.S. Patent No.
25 8,862,508 (“the ‘508 patent”) (referred to as the “Patent-in-Suit”) by FCTI, Inc.
26 (“FCTI”).
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1 **I. THE PARTIES**

2 1. Plaintiff mCom is a Texas Limited Liability Company with its principal
3 place of business located in Harris County, Texas.

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5 2. On information and belief, FCTI is a credit union existing under the laws
6 of the State of Delaware, with a principal place of business located at 11766 Wilshire
7 Blvd, Suite 300, Los Angeles, CA 90025. On information and belief, FCTI sells and
8 offers to sell products and services throughout California, including in this judicial
9 district, and introduces products and services that perform infringing methods or
10 processes into the stream of commerce knowing that they would be sold in California
11 and this judicial district. Defendant may be served through its registered agent, or
12 wherever they may be found.

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15 **II. JURISDICTION AND VENUE**

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17 3. This Court has original subject-matter jurisdiction over the entire action
18 pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an
19 Act of Congress relating to patents, namely, 35 U.S.C. § 271.

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21 4. This Court has personal jurisdiction over Defendant because: (i)
22 Defendant is present within or has minimum contacts within the State of California
23 and this judicial district; (ii) Defendant has purposefully availed itself of the privileges
24 of conducting business in the State of California and in this judicial district; and (iii)
25 Plaintiff's cause of action arises directly from Defendant's business contacts and other
26 activities in the State of California and in this judicial district.
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1 5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b).
2 Defendant has committed acts of infringement and has a regular and established place
3 of business in this District. Further, venue is proper because Defendant conducts
4 substantial business in this forum, directly or through intermediaries, including: (i) at
5 least a portion of the infringements alleged herein; and (ii) regularly doing or
6 soliciting business, engaging in other persistent courses of conduct and/or deriving
7 substantial revenue from goods and services provided to individuals in California and
8 this District.
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11 **III. INFRINGEMENT**

12 **A. Infringement of the '508 Patent**


13 6. On October 14, 2014, U.S. Patent No. 8,862,508 (“the ‘508 patent”,
14 attached as Exhibit A) entitled “System and method for unifying e-banking touch
15 points and providing personalized financial services” was duly and legally issued by
16 the U.S. Patent and Trademark Office. MCom owns the ‘508 patent by assignment.
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19 7. The ‘508 patent relates to novel and improved systems and methods for
20 constructing a unified banking system.
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22 8. FCTI maintains, operates, and administers methods and systems of
23 unified banking systems that infringe one or more claims of the ‘508 patent, including
24 one or more of claims 1-20, literally or under the doctrine of equivalents. Defendant
25 put the inventions claimed by the ‘508 Patent into service (i.e., used them); but for
26 Defendant’s actions, the claimed-inventions embodiments involving Defendant’s
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1 products and services would never have been put into service. Defendant's acts
2 complained of herein caused those claimed-invention embodiments as a whole to
3 perform, and Defendant's procurement of monetary and commercial benefit from it.

5 9. Support for the allegations of infringement may be found in the
6 following preliminary table:

<p>8 13. A unified 9 electronic banking 10 system, said system 11 comprising:</p>	<p>For example, FCTI has a <u>unified brand platform</u>.</p>
<p>12 FCTI: Transforming ATMs into Banking Channels</p> <div data-bbox="292 966 1421 1638">  <p>14 Jeff Wernecke Robel Guga</p> <p>15 Traditionally, ATMs have been restricted to being cash dispensing machines, with a surcharge collected from end users for each transaction. Not anymore. Heralding a new era in banking services is FCTI—a trusted and leading provider of ATM networks and services. Founded in 1999, the company has been</p> <p>16 successfully transforming cash dispensers in off-premise locations into robust channels for delivering banking products and services. FCTI's services enable customers in off-premise locations to perform transactions with the same experience as that of a bank branch," states Robel Guga, Co-CEO and CTO, FCTI.</p> <p>17 Jeff Wernecke, Co-CEO and CFO and Robel Guga, Co-CEO and CTO</p> <p>18 Implemented by a combination of proprietary and off-the-shelf products, FCTI's smart ATMs' core value proposition comes from the multi-bank branding feature, enabled by MBNA—the company's patented multi-bank application. "When users swipe their cards, MBNA automatically changes the user interface including the color, logo, services, and products to that of the card-issuing bank, thereby providing an experience similar to an in-branch ATM," mentions Guga. Following this, MBNA establishes a real-time communication channel between users and banks to enable services such as transferring and receiving money; the software also enables 'card-less' transfer of cash across banks to prevent card skimming. FCTI's ATMs typically feature a 20"-inch long digital LCD topper that allows firms to advertise their products and services to end users.</p> <p>19 From a maintenance standpoint, FCTI's smart ATMs detect faulty components themselves without any human intervention. Problems with card readers or dispensers are identified accurately, thereby simplifying the tasks for technicians and significantly increasing ATM availability.</p> <p>20 FCTI's ATMs offer the convenience of anytime, anywhere banking services.</p> <p>21 <i>"When users swipe their cards, MBNA automatically changes the user interface including the color, logo, services, and products to that of the card-issuing bank"</i></p> <p>22 its path-breaking vision and value proposition has struck a chord with several organizations in the banking and retail domain. "Our growth story has been driven by our customer service and ground breaking ATM services," mentions Jeff Wernecke, Co-CEO and CFO, FCTI. The company is currently deploying ATMs in over 8,000 locations of 7-Eleven—the convenience store chain—which is bound to increase the number of FCTI's ATMs further. "This is an unprecedented project as there has never been an instance of 8,000 ATMs being set up by one provider," remarks Wernecke. He further adds that foot-traffic inconvenience stores are greater than banks, which FCTI intends to leverage to create a win-win proposition for banks, stores, and itself. Not surprisingly, the venture has won the attention of several regional banks with many of them extending interest in FCTI to gain a national presence. A particular bank that leveraged the ATM services of FCTI witnessed a respectable increase in transactions within a short span of time.</p> <p>23 With over 2,000 clients, including some of the largest U.S. financial institutions, travel centers, and retail chains, FCTI has carved a niche for itself in the ATM technology space. While the company enjoys a presence in all the 50 states of the U.S., the number of FCTI ATMs is poised for a significant increase with the 7-Eleven project. The company is focused is on growing the FCTI brand by winning the trust of both customers and users, alike. With several promising ventures on its plate, FCTI is poised for a bright future.</p> <p>24 https://payment-and-card.cioreview.com/vendor/2017/fcti</p> </div>	

1 a common multi-channel server,
2 wherein said multi-channel server is
3 communicatively coupled to one or
4 more independent computer systems;
5 wherein each of one or more
6 independent computer systems is
7 associated with an independent
8 financial institution, and each of said
9 computer systems is communicatively
coupled to said multi-channel server;

For example, FCTI's
unified brand
platform
communicatively
couple's ATM's and
financial institutions
with their multi-
channel (omni-
channel server.)



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15 Jeff Wernecke, Co-CEO and CFO
and Robel Gugs, Co-CEO and CTO

to being cash dispensing machines, with a surcharge collected from end users for each transaction. Not anymore. Heralding a new era in banking services is FCTI—a trusted and leading provider of ATM networks and services. Founded in 1993, the company has been successfully transforming cash dispensers in off-premise locations into robust channels for delivering banking products and services. "FCTI's services enable customers in off-premise locations to perform transactions with the same experience as that of a bank branch," states Robel Gugs, Co-CEO and CTO, FCTI.

16 implemented by a combination of proprietary and off-the-shelf products, FCTI's smart ATMs' core value proposition comes from the multi-bank branding feature, enabled by MBA—the company's patented multi-bank application. When users swipe their cards, MBA automatically changes the user interface including the color, logo, services, and products to that of the card-issuing bank, thereby providing an experience similar to an in-branch ATM, mentions Gugs. Following this, MBA establishes a real-time communication channel between users and banks to enable services such as transferring and receiving money; the software also enables card-less transfer of cash across banks to prevent card skimming. FCTI's ATMs typically feature 20.7-inch long digital LCD topgear that allows firms to advertise their products and services to end users.

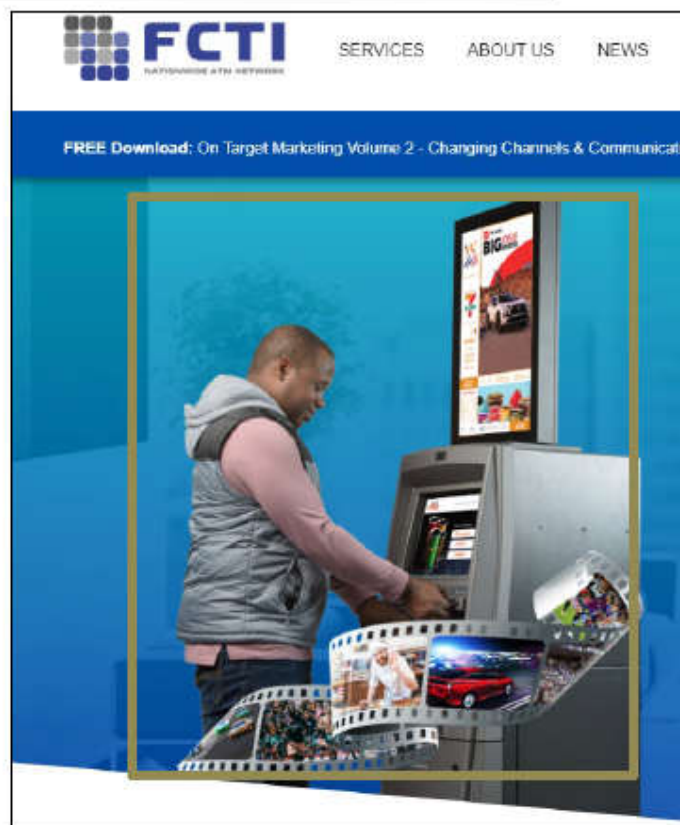
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20 From a maintenance standpoint, FCTI's smart ATMs detect faulty components themselves without any human intervention. Problems with card readers or dispensers are identified accurately, thereby simplifying the tasks for technicians and significantly increasing ATM availability.

21 FCTI's ATMs offer the convenience of anytime, anywhere banking services.

22 <https://payment-and-card.cioreview.com/vendor/2017/fcti>

1 one or more e-banking touch points,
2 each of which comprise one or more of
3 an automatic teller/transaction
4 machine (ATM), a self-service coin
5 counter (SSCC), a kiosk, a digital
6 signage display, an online accessible
7 banking website, a personal digital
8 assistant (PDA), a personal computer
9 (PC), a laptop, a wireless device, or a
combination of two or more thereof,

For example, FCTI's e-banking touch points include an ATM device that can connect and perform banking operations.



wherein one or more of said e-banking touch points are communicatively coupled to said multi-channel server, and wherein at least one of said e-banking touch points is in communication with one or more financial institutions through said multi-channel server;

For example, the customers can access an ATM machine which is coupled to the financial institution using FCTI's omni-channel platform.



Jeff Wernecke, Co-CEO and CFO and Robel Gugsu, Co-CEO and CTO

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Implemented by a combination of proprietary and off-the-shelf products, FCTI's smart ATMs' core value proposition comes from the multi-bank branding feature, enabled by MEA—the company's patented multi-bank application. "When users swipe their cards, MEA automatically changes the user interface including the color, logo, services, and products to that of the card-issuing bank,

ME A establishes a real-time communication channel between users and banks to enable services such as transferring and receiving money; the software also enables 'card-less' transfer of cash across banks to prevent card skimming. FCTI's ATMs typically feature 20.7-inch long digital LCDopper that allows firms to advertise their products and services to end users.

From a maintenance standpoint, FCTI's smart ATMs detect faulty components themselves without any human intervention. Problems with card readers or dispensers are identified accurately, thereby simplifying the tasks for technicians and significantly increasing ATM availability.

FCTI's ATMs offer the convenience of anytime, anywhere banking services.

<https://payment-and-card.cioreview.com/vendor/2017/fcti>

1 and a data storage device,
2 wherein transactional usage
3 data associated with a
4 transaction initiated by a user
5 through one of said e-banking
6 touch points is stored in said
7 data storage device and
8 accessed by one or more of said
9 other e-banking touch points:

For example, FCTI's banking technology stores the customers personal and financial information on FCTI's data base. Customer information is stored on FCTI's data base and accessed by the ATM device.



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Implemented by a combination of proprietary and off-the-shelf products, FCTI's smart ATMs' core value proposition comes from the multi-bank branding feature, enabled by MBA—the company's patented multi-bank application. "When users swipe their cards, MBA automatically changes the user interface including the color, logo, services, and products to that of the card-issuing bank, thereby providing an experience similar to an in-branch ATM," mentions Gugsu. Following this, MBA establishes a real-time communication channel between users and banks to enable services such as transferring and receiving money; the software also enables 'card-less' transfer of cash across banks to prevent card skimming. FCTI's ATMs typically feature a 27-inch long digital LCD topper that allows firms to advertise their products and services to end users.

From a maintenance standpoint, FCTI's smart ATMs detect faulty components themselves without any human intervention. Problems with card readers or dispensers are identified accurately, thereby simplifying the tasks for technicians and significantly increasing ATM availability.

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<https://payment-and-card.cioreview.com/vendor/2017/fcti>

1 wherein said active session is monitored
2 via said server in real-time for selection
3 of targeted marketing content correlated
4 to said user-defined preferences, said
5 targeted marketing content correlated to
6 said user-defined preferences is selected
7 subsequent to said monitoring.

For example, FCTI
omni-channel
banking platform
allows for real-time
targeted marketing.

8 **TARGETED ATM MARKETING**
9 **Your Cardholder. Your Brand.**
10 **Your Message.**

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12
13 Deliver real-time omni-channel messaging to your cardholders at
14 popular retail locations nationwide with custom ATM marketing tools
15 from FCTI!



<https://www.fcti.com/financial-institutions/financial-institutions-marketing/>

1 **and transmitted in real-time to at**
2 **least one of said e-banking touch**
3 **points for acceptance, rejection, or no**
4 **response by a user**, and wherein said
5 response by said user is used during
6 said active session to determine whether
7 transmission of additional information
8 related to said marketing content occurs
9 during said active session.

For example, the customer can access their **account and can interact with call to action, and single use coupons**. The customer will have to accept which would prompt a new screen to appear.

DYNAMIC MESSAGING FOR FINANCIAL INSTITUTIONS

FCTI's patented MBA technology allows your bank or credit union to deliver custom ATM messaging designed to target individual cardholders at popular retailers throughout the US. Our MBA programs include large screen HD digital toppers, complete transaction screen customization, fully customizable receipt options and real-time message control. Advanced marketing options include on-screen call-to-action, phone number and email capture, single use coupons and much more – all with real, trackable ROI.

<https://www.fcti.com/financial-institutions/financial-institutions-marketing/>

25 These allegations of infringement are preliminary and are therefore subject to change.

26 10. FCTI has and continues to induce infringement. FCTI has actively
27 encouraged or instructed others (e.g., its customers and/or the customers of its related
28

1 companies), and continues to do so, on how to construct a unified banking system
2 such as to cause infringement of one or more of claims 1–20 of the '508 patent,
3
4 literally or under the doctrine of equivalents. Moreover, FCTI has known of the '508
5 patent and the technology underlying it from at least the date of issuance of the patent
6 and the date of the lawsuit filing.

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8 11. FCTI has and continues to contributorily infringe. FCTI has actively
9 encouraged or instructed others (e.g., its customers and/or the customers of its related
10 companies), and continues to do so, on how to use its products and services (e.g.,
11 construction of unified banking system) and related services that provide unified
12 banking systems such as to cause infringement of one or more of claims 1–20 of the
13 '508 patent, literally or under the doctrine of equivalents. Moreover, FCTI has known
14 of the '508 patent and the technology underlying it from at least the date of issuance
15 of the patent and the date of the lawsuit filing.
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18 12. FCTI has caused and will continue to cause MCom damage by direct and
19 indirect infringement of (including inducing infringement of) the claims of the '508
20 patent.
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22 **IV. PRAYER FOR RELIEF**

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24 WHEREFORE, MCom prays for relief as follows:

- 25 a. enter judgment that Defendant has infringed the claims of the '508
26 patent;
27
28 b. award MCom damages in an amount sufficient to compensate it for

1 Defendant's infringement of the '508 patent in an amount no less than a
2 reasonable royalty or lost profits, together with pre-judgment and post-
3 judgment interest and costs under 35 U.S.C. § 284;
4

5 c. award MCom an accounting for acts of infringement not presented at
6 trial and an award by the Court of additional damage for any such acts
7 of infringement;
8

9 d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award
10 MCom its attorneys' fees, expenses, and costs incurred in this action;
11

12 e. declare Defendant's infringement to be willful and treble the damages,
13 including attorneys' fees, expenses, and costs incurred in this action and
14 an increase in the damage award pursuant to 35 U.S.C. § 284;
15

16 f. a decree addressing future infringement that either (i) awards a
17 permanent injunction enjoining Defendant and its agents, servants,
18 employees, affiliates, divisions, and subsidiaries, and those in
19 association with Defendant from infringing the claims of the Patents-in-
20 Suit, or (ii) awards damages for future infringement in lieu of an
21 injunction in an amount consistent with the fact that for future
22 infringement the Defendant will be an adjudicated infringer of a valid
23 patent, and trebles that amount in view of the fact that the future
24 infringement will be willful as a matter of law; and
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28 g. award MCom such other and further relief as this Court deems just and

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proper.

Dated: September 17, 2021

Respectfully submitted,

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DEMAND FOR JURY TRIAL

MCom hereby requests a trial by jury on issues so triable by right.

Dated: September 17, 2021

Respectfully submitted,

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