

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

MCOM IP, LLC,)	
Plaintiff,)	
)	Civil Action No. 6:21-cv-00480
v.)	
)	
FIRST TECH FEDERAL)	
CREDIT UNION,)	
Defendant.)	

PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

mCom IP, LLC (“mCom”) files this First Amended Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 8,862,508 (“the ‘508 patent”) (referred to as the “Patent-in-Suit”) by First Technology Federal Credit Union (“First Tech”).¹

I. THE PARTIES

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

2. On information and belief, FIRST TECH is a credit union existing under the laws of the State of California, with a regular and established place of business located at 6201 Sanger Ave., Waco, Texas 76710. On information and belief, FIRST TECH sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Texas and this judicial district. Defendant may be served at its place of business or wherever they may be found.

¹ This First Amended Complaint is filed pursuant to Rule 12(a)(1)(B), within 21 days of Defendant’s Motion to Dismiss under Rule 12(b)(6) and corrects the chart in the pleading. (Defendant’s Motion was filed on October 14, 2021)

II. JURISDICTION AND VENUE

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

4. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Texas and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in this judicial district.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, 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 this District.

III. INFRINGEMENT

A. Infringement of the '508 Patent

6. On October 14, 2014, U.S. Patent No. 8,862,508 ("the '508 patent", attached as Exhibit A) entitled "System and method for unifying e-banking touch points and providing personalized financial services" was duly and legally issued by the U.S. Patent and Trademark Office. MCom owns the '508 patent by assignment.

7. The '508 patent relates to novel and improved systems and methods for constructing a unified banking system.

8. FIRST TECH maintains, operates, and administers methods and systems of unified banking systems that infringe one or more claims of the '508 patent, including one or more of claims 1-20, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the '508 Patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

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

13. A unified electronic banking system, said system comprising:

Find a Location | Routing #321180379 | Help | Privacy | Rates & Fees

BECOME A MEMBER **LOG IN**

First Tech

DISCOVER BANK BORROW INSURE INVEST LEARN

DIGITAL BANKING

[Home](#) > [Bank](#) > [Digital Banking](#)



©2021 First Technology Federal Credit Union, d/b/a First Tech Federal Credit Union. All rights reserved.

<https://www.firsttechfed.com/bank/digital-banking>

First Technology Federal Credit Union has a unified electronic banking system.

The reference includes subject matter disclosed by the claims of the patent after the priority date.

US8862508 B2

First Technology Federal Credit Union

a common multi-channel server, wherein said multi-channel server is communicatively coupled to one or more independent computer systems;



Set up automatic deposits into a savings account

Designate a percentage of your paycheck to be automatically deposited into a high interest savings account each month and watch the power of compounding interest. Check out our [Instant Access Savings](#) account.



Use a free checking account that pays

Start using a [Dividend Rewards Checking](#) account that not only eliminates monthly balance fees, but pays you back in the form of monthly dividends and ATM rebates.*



Keep an eye on your balance

Download our [mobile app](#) and monitor your daily expenses. Trips to the coffee shop, the deli and weekend movies can really add up. You're sure to find ways to lower your spending and increase your savings.



Open a certificate of deposit

Nest your money in a [certificate](#) if you don't need access to it for a while. Your money will be safe and certificates pay higher rates than traditional savings accounts.**

<https://www2.firsttechfed.com/LP=50>

The reference describes a common multi-channel server, wherein said multi-channel server is communicatively coupled to one or more independent computer systems.

US8862508 B2

First Technology Federal Credit Union

wherein each of one or more independent computer systems is associated with an independent financial institution, and each of said computer systems is communicatively coupled to said multi-channel server;

It's always best to take a good look at the ATM or card readers for anything that looks "added on" or unnatural to the machine prior to using it. Also, keep your other hand over the keypad when you enter your PIN. It's important to note that First Tech's ATM machines use advanced, dip card reader technology which make it much harder for fraudsters to attach skimming devices. If you have any doubt about the security of an ATM, don't use it and report it to us immediately.

<https://www.firsttechfed.com/help/security/predict>

Download the App that helps you do it all, no matter where life takes you. First Tech's Mobile App gives you the flexibility to pay bills, transfer money, pay people you know, monitor your account activities and more from anywhere, anytime.



<https://www.firsttechfed.com/bank/digital-banking>

The reference describes each of one or more independent computer systems is associated with an independent financial institution, and each of said computer systems is communicatively coupled to said multi-channel server.

US8862508 B2

First Technology Federal Credit Union

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

How secure is the App?

We use the same security infrastructure as we do for our Online Banking platform to protect your financial transactions and identity. You can read more about how we and you can protect your security in our Fraud Prevention Center.

<https://www.firsttechfed.com/bank/digital-banking/common-questions>

The reference describes one or more e-banking touch points, each of which comprise one or more of an automatic teller/transaction machine (ATM), a self-service coin counter (SSCC), a kiosk, a digital signage display, an online accessible banking website, a personal digital assistant (PDA), a personal computer (PC), a laptop, a wireless device, or a combination of two or more thereof, 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.

US8862508 B2

First Technology Federal Credit Union

a data storage device, wherein transactional usage data associated with a transaction initiated by a user through one of said e-banking touch points is stored in said data storage device and accessed by one or more of said other e-banking touch points;

Will my transaction history be available? Yes, the new Online Banking will contain the same two years of your transaction history as our current system does.

<https://www2.firsttechfed.com/LP=175>

The reference describes a data storage device, wherein transactional usage data associated with a transaction initiated by a user through one of said e-banking touch points is stored in said data storage device and accessed by one or more of said other e-banking touch points.

US8862508 B2

First Technology Federal Credit Union

wherein said active session is monitored via said server in real-time for selection of targeted marketing content correlated to said user-defined preferences, said targeted marketing content correlated to said user-defined preferences is selected subsequent to said monitoring and transmitted in real-time to at least one of said e-banking touch points for acceptance, rejection, or no response by a user, and

Choose the alerts you'd like to use

You can add additional protection—and convenience—to your accounts with First Tech Online and Mobile Banking. Log in to Online and Mobile Banking, select "Setup Notifications" under the "Quick Links" section, and customize your alerts.

Want to know when funds are withdrawn from your account? Activate an Automatic Withdrawal Alert. You can also set up Balance Alerts and Insufficient Funds Alerts. Keep a close eye on routine transactions with Check Cleared Alerts and Debit Card Purchase Alerts. Additional alert options include Transfer Fails, Transfer Succeeds and Online Banking Access Alerts.

<https://www.firsttechfed.com/articles/alert-staying-informed-helps-fight-fraud>

The reference describes said active session is monitored via said server in real-time for selection of targeted marketing content correlated to said user-defined preferences, said targeted marketing content correlated to said user-defined preferences is selected subsequent to said monitoring and transmitted in real-time to at least one of said e-banking touch points for acceptance, rejection, or no response by a user.

US8862508 B2

First Technology Federal Credit Union

wherein said response by said user is used during said active session to determine whether transmission of additional information related to said marketing content occurs during said active session.

Choose the alerts you'd like to use

You can add additional protection—and convenience—to your accounts with First Tech Online and Mobile Banking. Log in to Online and Mobile Banking, select "Setup Notifications" under the "Quick Links" section, and customize your alerts.

Want to know when funds are withdrawn from your account? Activate an Automatic Withdrawal Alert. You can also set up Balance Alerts and Insufficient Funds Alerts. Keep a close eye on routine transactions with Check Cleared Alerts and Debit Card Purchase Alerts. Additional alert options include Transfer Fails, Transfer Succeeds and Online Banking Access Alerts.

<https://www.firsttechfed.com/articles/alert-staying-informed-helps-fight-fraud>

The reference describes said response by said user is used during said active session to determine whether transmission of additional information related to said marketing content occurs during said active session.

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

15. FIRST TECH has and continues to induce infringement. FIRST TECH has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to construct a unified banking system such as to cause infringement of one or more of claims 1–20 of the '508 patent, literally or under the doctrine of equivalents. Moreover, FIRST TECH has known of the '508 patent and the technology underlying it from at least the date of issuance of the patent.

16. FIRST TECH has and continues to contributorily infringe. FIRST TECH has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., construction of unified banking system) and related services that provide unified banking systems such as to cause infringement of one or more of claims 1–20 of the '508 patent, literally or under the doctrine of equivalents. Moreover, FIRST TECH has known of the '508 patent and the technology underlying it from at least the date of issuance of the patent.

17. FIRST TECH has caused and will continue to cause MCom damage by direct and indirect infringement of (including inducing infringement of) the claims of the '508 patent.

IV. JURY DEMAND

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

V. PRAYER FOR RELIEF


WHEREFORE, MCom prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the '508 patent;
- b. award MCom damages in an amount sufficient to compensate it for Defendant's infringement of the '508 patent in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award MCom an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award MCom its attorneys' fees, expenses, and costs incurred in this action;

- e. declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and
- g. award MCom such other and further relief as this Court deems just and proper.

Respectfully submitted,

Ramey & Schwaller, LLP



William P. Ramey, III
Texas State Bar No. 24027643
5020 Montrose Blvd., Suite 800
Houston, Texas 77006
(713) 426-3923 (telephone)
(832) 900-4941 (fax)
wramey@rameyfirm.com

Attorneys for MCom IP, LLC

CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure, I hereby certify that all counsel are being served on this day of October 27, 2021, with a copy of the foregoing via email.

/s/ William P. Ramey, III
William P. Ramey, III