

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

WOLF RUN HOLLOW LLC, §  
§  
Plaintiff, §  
§  
Vs. §  
§  
TEXAS BANK, §  
THE FIRST NATIONAL BANK OF §  
HUGHES SPRINGS, §  
T BANK, NATIONAL ASSOCIATION, §  
FIRST FINANCIAL BANK, NATIONAL §  
ASSOCIATION, §  
LUBBOCK NATIONAL BANK, §  
FARMERS AND MERCHANTS BANK, §  
TITAN BANK, N.A., §  
THE CITY NATIONAL BANK OF §  
TAYLOR, §  
TEXAS FIRST BANK, and §  
UNION STATE BANK, §  
§  
Defendants. §

Civil Action No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**PLAINTIFF’S ORIGINAL COMPLAINT**

Plaintiff Wolf Run Hollow LLC (“Plaintiff”), by and through its undersigned counsel, files this Original Complaint against Texas Bank; The First National Bank of Hughes Springs; T Bank, National Association; First Financial Bank, National Association; Lubbock National Bank; Farmers and Merchants Bank; Titan Bank, N.A.; The City National Bank of Taylor; Texas First Bank; and Union State Bank (collectively “Defendants”) as follows:

**NATURE OF THE ACTION**

1. This is a patent infringement action to stop Defendants’ infringement of Plaintiff’s United States Patent No. 6,115,817 entitled “Methods and Systems for Facilitating Transmission of Secure Messages Across Insecure Networks” (the “’817 patent”; a copy of

which is attached hereto as Exhibit A). Plaintiff is the exclusive licensee of the '817 patent with respect to the Defendants. Plaintiff seeks injunctive relief and monetary damages.

### **PARTIES**

2. Plaintiff is a limited liability company organized and existing under the laws of the State of Delaware. Plaintiff maintains its principal place of business at 170 Kinnelon Road, Suite 13, Kinnelon, New Jersey 07405. Plaintiff is authorized to do business in Texas. Plaintiff is the exclusive licensee of the '817 patent with respect to the Defendants, and possesses the right to sue for infringement and recover past damages.

3. Upon information and belief, Texas Bank ("Texas Bank") is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 1120 U.S. Highway 79 North, Henderson, Texas 75653.

4. Upon information and belief, The First National Bank of Hughes Springs ("FNB Hughes Springs") is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 505 East First Street, Hughes Springs, Texas 75656.

5. Upon information and belief, T Bank, National Association ("T Bank") is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 16000 Dallas Parkway, Suite 125, Dallas, Texas 75248.

6. Upon information and belief, First Financial Bank, National Association ("First Financial Bank") is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 403 North Main, Cleburne, Texas 76033.

7. Upon information and belief, Lubbock National Bank (“Lubbock National Bank”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 1001 Main Street, Lubbock, Texas 79401.

8. Upon information and belief, Farmers and Merchants Bank (“Farmers and Merchants Bank”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 240 South Texas Street, De Leon, Texas 76444.

9. Upon information and belief, Titan Bank, N.A. (“Titan Bank”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 1702 East Hubbard Street, Mineral Wells, Texas 76067.

10. Upon information and belief, The City National Bank of Taylor (“CNB Taylor”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 212 North Main, Taylor, Texas 76574.

11. Upon information and belief, Texas First Bank (“Texas First Bank”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 3232 Palmer Highway, Texas City, Texas 77592.

12. Upon information and belief, Union State Bank (“Union State Bank”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 600 Main Street, Kerrville, Texas 78029.

### **JURISDICTION AND VENUE**

13. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

14. The Court has personal jurisdiction over each Defendant because: each Defendant has minimum contacts within the State of Texas and the Eastern District of Texas; each Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in the Eastern District of Texas; each Defendant has sought protection and benefit from the laws of the State of Texas; each Defendant regularly conducts business within the State of Texas and within the Eastern District of Texas; and Plaintiff's causes of action arise directly from Defendants' business contacts and other activities in the State of Texas and in the Eastern District of Texas.

15. More specifically, each Defendant, directly and/or through intermediaries, ships, distributes, offers for sale, sells, and/or advertises (including the provision of an interactive web page) its products and services in the United States, the State of Texas, and the Eastern District of Texas. Upon information and belief, each Defendant has committed patent infringement in the State of Texas and in the Eastern District of Texas, has contributed to patent infringement in the State of Texas and in the Eastern District of Texas, and/or has induced others to commit patent infringement in the State of Texas and in the Eastern District of Texas. Each Defendant solicits customers in the State of Texas and in the Eastern District of Texas. Each Defendant has many paying customers who are residents of the State of Texas and the Eastern District of Texas and who each use respective Defendant's products and services in the State of Texas and in the Eastern District of Texas.

16. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391 and 1400(b).

**COUNT I – PATENT INFRINGEMENT**

17. The '817 patent was duly and legally issued by the United States Patent and Trademark Office on September 5, 2000 after full and fair examination. Plaintiff is the exclusive licensee of the '817 patent with respect to the Defendants, and possesses all rights of recovery under the '817 patent with respect to the Defendants, including the right to sue for infringement and recover past damages.

18. Upon information and belief, Texas Bank has infringed and continues to infringe one or more claims of the '817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.texasbnk.com>. Upon information and belief, Texas Bank acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via their secure messaging systems and methods. Upon information and belief, Texas Bank has also contributed to the infringement of one or more claims of the '817 patent, and/or actively induced others to infringe one or more claims of the '817 patent, in this district and elsewhere in the United States.

19. Upon information and belief, FNB Hughes Springs has infringed and continues to infringe one or more claims of the '817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.fnbhs.com>. Upon information and belief, FNB Hughes Springs acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via their secure messaging systems and methods. Upon information and belief, FNB Hughes Springs has also contributed to the

infringement of one or more claims of the '817 patent, and/or actively induced others to infringe one or more claims of the '817 patent, in this district and elsewhere in the United States.

20. Upon information and belief, T Bank has infringed and continues to infringe one or more claims of the '817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.tbank.com>. Upon information and belief, T Bank acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via their secure messaging systems and methods. Upon information and belief, T Bank has also contributed to the infringement of one or more claims of the '817 patent, and/or actively induced others to infringe one or more claims of the '817 patent, in this district and elsewhere in the United States.

21. Upon information and belief, First Financial Bank has infringed and continues to infringe one or more claims of the '817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.firstmybank.com>. Upon information and belief, First Financial Bank acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via their secure messaging systems and methods. Upon information and belief, First Financial Bank has also contributed to the infringement of one or more claims of the '817 patent, and/or actively induced others to infringe one or more claims of the '817 patent, in this district and elsewhere in the United States.

22. Upon information and belief, Lubbock National Bank has infringed and continues to infringe one or more claims of the '817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United

States, secure messaging systems and methods, including via the website <http://www.lubbocknational.com>. Upon information and belief, Lubbock National Bank acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via their secure messaging systems and methods. Upon information and belief, Lubbock National Bank has also contributed to the infringement of one or more claims of the '817 patent, and/or actively induced others to infringe one or more claims of the '817 patent, in this district and elsewhere in the United States.

23. Upon information and belief, Farmers and Merchants Bank has infringed and continues to infringe one or more claims of the '817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.fmbank-tx.com>. Upon information and belief, Farmers and Merchants Bank acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via their secure messaging systems and methods. Upon information and belief, Farmers and Merchants Bank has also contributed to the infringement of one or more claims of the '817 patent, and/or actively induced others to infringe one or more claims of the '817 patent, in this district and elsewhere in the United States.

24. Upon information and belief, Titan Bank has infringed and continues to infringe one or more claims of the '817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.titanbank.com>. Upon information and belief, Titan Bank acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via their secure messaging systems and methods. Upon

information and belief, Titan Bank has also contributed to the infringement of one or more claims of the '817 patent, and/or actively induced others to infringe one or more claims of the '817 patent, in this district and elsewhere in the United States.

25. Upon information and belief, CNB Taylor has infringed and continues to infringe one or more claims of the '817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.cnbt.com>. Upon information and belief, CNB Taylor acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via their secure messaging systems and methods. Upon information and belief, CNB Taylor has also contributed to the infringement of one or more claims of the '817 patent, and/or actively induced others to infringe one or more claims of the '817 patent, in this district and elsewhere in the United States.

26. Upon information and belief, Texas First Bank has infringed and continues to infringe one or more claims of the '817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.texasfirstbank.com>. Upon information and belief, Texas First Bank acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via their secure messaging systems and methods. Upon information and belief, Texas First Bank has also contributed to the infringement of one or more claims of the '817 patent, and/or actively induced others to infringe one or more claims of the '817 patent, in this district and elsewhere in the United States.



27. Upon information and belief, Union State Bank has infringed and continues to infringe one or more claims of the '817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.unionstatebank.net>. Upon information and belief, Union State Bank acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via their secure messaging systems and methods. Upon information and belief, Union State Bank has also contributed to the infringement of one or more claims of the '817 patent, and/or actively induced others to infringe one or more claims of the '817 patent, in this district and elsewhere in the United States.

28. Each Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

29. Plaintiff is entitled to recover from the Defendants the damages sustained by Plaintiff as a result of the Defendants' wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

30. Defendants' infringement of Plaintiff's exclusive rights under the '817 patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

**JURY DEMAND**

31. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

**PRAYER FOR RELIEF**

Plaintiff respectfully requests that the Court find in its favor and against Defendants, and that the Court grant Plaintiff the following relief:

- A. An adjudication that one or more claims of the '817 patent have been infringed, either literally and/or under the doctrine of equivalents, by one or more Defendants and/or by others to whose infringement Defendants have contributed an/or by others whose infringement has been induced by Defendants;
- B. An award to Plaintiff of damages adequate to compensate Plaintiff for the Defendants' acts of infringement together with pre-judgment and post-judgment interest;
- C. That one or more of the Defendants' acts of infringement be found to be willful from the time that Defendants became aware of the infringing nature of their actions, which is the time of filing of Plaintiff's Original Complaint at the latest, and that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;
- D. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendants from further acts of (1) infringement, (2) contributory infringement, and (3) actively inducing infringement with respect to the claims of the '817 patent;
- E. That this Court declare this to be an exceptional case and award Plaintiff its reasonable attorneys' fees and costs in accordance with 35 U.S.C. §285; and
- F. Any further relief that this Court deems just and proper.

Dated: November 12, 2010

Respectfully submitted,

/s/Melissa Richards Smith

Melissa Richards Smith

Texas State Bar No. 24001351

GILLAM & SMITH, L.L.P.

303 South Washington Avenue

Marshall, Texas 75670

Telephone: (903) 934-8450

Facsimile: (903) 934-9257

E-mail: [melissa@gillamsmithlaw.com](mailto:melissa@gillamsmithlaw.com)

**ATTORNEY FOR PLAINTIFF**

**WOLF RUN HOLLOW LLC**