

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ISLAND INTELLECTUAL PROPERTY LLC, a)	
Delaware Limited Liability Company,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: _____
)	
FIRST SOUTHWEST COMPANY, a Delaware)	JURY TRIAL DEMANDED
Corporation,)	
)	
Defendant.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Island Intellectual Property LLC (“Island IP” or “Plaintiff”), by its attorneys Young Conaway Stargatt & Taylor, LLP and Amster, Rothstein & Ebenstein LLP, hereby demands a trial by jury and for its complaint against Defendant First Southwest Company (“First Southwest” or “Defendant”) alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising out of First Southwest’s infringement of U.S. Patent No. 7,933,821, issued on April 26, 2011, and entitled “Systems and Methods for Administering Return Sweep Accounts” (“the ’821 Patent”), generally relating to computerized account management techniques used with insured deposit accounts.
2. Specifically, this complaint asserts claims against First Southwest arising from its infringement of at least Claims 19 and 28 of the ’821 Patent.
3. A true and correct copy of the ’821 Patent is attached hereto as Exhibit A.

THE PARTIES

4. Plaintiff Island IP is a limited liability company, organized and existing under the laws of the State of Delaware, within this District. The principal place of business of Island IP is located at 1250 Broadway, Thirty-Second Floor, New York, NY 10001.

5. Defendant First Southwest is a company organized and existing under the laws of the State of Delaware, within this District. The principal place of business of First Southwest is located at 325 N. St. Paul Street, Suite 800, Dallas, TX 75201.

JURISDICTION AND VENUE

6. This is a civil action for patent infringement arising under the United States patent statutes, 35 U.S.C. § 1 *et seq.*

7. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

8. Defendant First Southwest is subject to this Court's personal jurisdiction because it is incorporated in the State of Delaware and has designated an agent for service of process in the State of Delaware.

9. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

FACTUAL BACKGROUND

10. Island IP is an industry leader in providing cash management and monetary regulation systems.

11. The principals of Double Rock Corporation ("Double Rock"), the corporate parent of Island IP, developed an innovative product known as "insured deposits," which provided financial service institutions with the ability to offer customers FDIC-insured, interest-bearing demand accounts, with unlimited checking.

12. Since Double Rock introduced their first insured deposit product, the principals of Double Rock developed many improvements to the insured deposits product.

13. In a typical insured deposit product available today, client funds from one or more source institutions are swept into one or more FDIC-insured and interest-bearing aggregated accounts at one or more program banks.

14. When more than one program bank is used, client funds may obtain “enhanced FDIC insurance”. In other words, client funds may be insured for more than the FDIC limits placed on funds held in a single FDIC-insured institution.

15. One improvement, developed by the principals of Double Rock, relates to providing banking institutions (like banks and broker-dealers affiliated with banks) offering this kind of insured deposit product with the ability to retain insured deposit assets on the books of a bank within the infrastructure of the banking institution (like the same bank or an affiliated bank), yet provide for excess FDIC insurance by using additional program banks which are unaffiliated with the banking institution.

THE PATENT-IN-SUIT

16. The '821 Patent generally claims novel and non-obvious systems and methods used with deposit sweep products which generally allow a source banking institution (like a bank or broker-dealer with an affiliated bank) to retain funds at one or more affiliated banks, but also allow for excess FDIC insurance for customers by using non-affiliated banks.

17. Island IP, a wholly-owned subsidiary of Double Rock, is the owner of all rights, title and interest in the '821 Patent.

DEFENDANT FIRST SOUTHWEST'S INFRINGING PRODUCT

18. As reflected in “FDIC Clearing Terms and Conditions” obtained from First Southwest’s website, Defendant First Southwest operates, within the United States, a money

management program designated as the “Cash Force Bank Insured Deposit Program” (“BIDP”). Exhibit B is a true and correct copy of “FDIC Clearing Terms and Conditions” for “Cash Force Bank Insured Deposit Program” obtained from the webpage www.firstsw.com/LinkClick.aspx?fileticket=ccLt6ZX-hEE%3D&tabid=174 (downloaded on April 25, 2011).

19. In the BIDP, client funds from clients of First Southwest are swept into one or more FDIC insured and interest-bearing aggregated accounts at one or more program banks.

20. As reflected in Exhibit B, the BIDP includes as a program bank, PlainsCapital Bank, which is affiliated with First Southwest, as well as other program banks, such as Bank of America, Crown bank, Deutsche Bank, East West Bank, Evolve Bank and Trust, Merrick Bank, Pulaski Bank, Savannah Bancorp, Security Financial, TriState Capital Bank, Umpqua Bank, Union Bank of CA and Zions National Bank, which are not affiliated with First Southwest.

21. Upon information and belief, Defendant First Southwest directs or controls Deutsche Bank Trust Company of Americas (“Deutsche”) and/or Total Bank Solutions LLC (“TBS”) which act as First Southwest’s agents, to assist in the administration of and/or provide certain services with respect to the operation of the BIDP.

22. Upon information and belief, Defendant First Southwest in its BIDP has withdrawn or caused to be withdrawn funds from an FDIC-insured and interest-bearing account at one or more banks within their infrastructure more than six times during a month period.

23. Upon information and belief, the computer systems used to operate the BIDP, under the direction or control of Defendant First Southwest, use the method claimed in at least Claim 19 of the ’821 Patent and the system claimed in at least Claim 28 of the ’821 Patent.

24. Upon information and belief, Defendant First Southwest put the system used to operate the BIDP into service and obtains benefit from the system.

25. Defendant First Southwest does not have a license or other authorization from Island IP to practice the claims set forth in the '821 Patent.

26. Similarly, Deutsche and TBS do not have a license or other authorization from Island IP to practice the claims set forth in the '821 Patent.

COUNT ONE

(Patent Infringement by Defendant First Southwest of the '821 Patent)

27. Island IP incorporates by reference as if fully set forth herein the averments contained within the preceding paragraphs.

28. Defendant First Southwest infringes, literally and/or under the doctrine of equivalents, at least Claims 19 and 28 of the '821 Patent, in violation of Title 35, United States Code section 271 through one or more of the following: (1) the manufacture, use, sale, and/or offer for sale of the inventions claimed in the '821 Patent; and/or (2) the active inducement of another, including at least Deutsche and/or TBS, to infringe the '821 Patent.

29. Since at least the filing of this Complaint, Defendant First Southwest will be aware of the '821 Patent, and Island IP's contention that the continued operation of the BIDP, as operated as of that time, constitutes infringement of the '821 Patent.

30. Upon information and belief, Defendant First Southwest has been aware of Double Rock's insured deposit product operating in accordance with the '821 Patent.

31. Unless enjoined by this Court, Defendant First Southwest will continue its acts of infringement causing substantial and irreparable harm to Island IP.

32. Island IP is suffering and will continue to suffer damages as the direct and proximate result of Defendant First Southwest's infringement of the '821 Patent.

33. Island IP is suffering and will continue to suffer irreparable injury as the direct and proximate result of Defendant First Southwest's infringement of the '821 Patent.

PRAYER FOR RELIEF

WHEREFORE, Island IP requests judgment against Defendant First Southwest as follows:

A. That Defendant First Southwest be held liable for infringement of at least Claims 19 and 28 of the '821 Patent.

B. That a permanent injunction issue against Defendant First Southwest, its officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from continued acts of infringement of the '821 Patent, including without limitation the further operation of the BIDP.

C. That the Court order Defendant First Southwest to pay to Island IP damages adequate to compensate Island IP for the acts of infringement of Defendant First Southwest together with interest and costs, pursuant to 35 U.S.C. § 284.

D. That the Court award such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

34. Island IP hereby requests a trial by jury.

Respectfully submitted,

/s/ John W. Shaw

John W. Shaw (No. 3362)
Pilar G. Kraman (No. 5199)
YOUNG CONAWAY STARGATT & TAYLOR, LLP
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, Delaware 19899-0391
(302) 571-6600
jshaw@ycst.com
Attorneys for Plaintiff
Island Intellectual Property LLC

Of Counsel:
Anthony Lo Cicero
Charles R. Macedo
Benjamin Charkow
AMSTER ROTHSTEIN & EBENSTEIN LLP
90 Park Avenue
New York, New York 10016
(212) 336-8000

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