

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CHASE BANK USA, N.A.,)	
)	Civil Action No.
Plaintiff,)	
)	
v.)	
)	
SOURCE, INC.,)	
)	
Defendant.)	

COMPLAINT FOR DECLARATORY RELIEF

Plaintiff Chase Bank USA, N.A. (“Chase”), complains against Defendant Source, Inc. (“Source”), as follows:

INTRODUCTION

1. This is an action for declaratory relief under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and under the patent laws of the United States, 35 U.S.C. § 1 *et. seq.*, seeking a declaration that Chase does not infringe any valid and enforceable claims of U.S. Patent No. RE36,116 (the “‘116 patent”).

PARTIES

2. Chase is a national association with its main office, as set forth in its articles of association, located at 200 White Clay Center Drive, Newark, Delaware, 19711.

3. Source is a Delaware corporation and, on information and belief, has its principal offices in Newhall, California. On information and belief, Source owns the rights to the ‘116 patent, whose infringement is challenged in this action.

JURISDICTION AND VENUE

4. This Court has jurisdiction over Chase's claims pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

5. This Court has personal jurisdiction over Source because Source is a citizen of Delaware due to its incorporation in Delaware.

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

GENERAL ALLEGATIONS

7. On information and belief, Source owns the rights to the '116 patent. A copy of the patent is attached as Exhibit 1.

8. This action is properly brought under 28 U.S.C. § 2201 because there is an actual controversy whether Chase infringes any claims of the '116 patent. Specifically, on or about February 21, 2008, Source caused a letter (the "Letter") to be sent to JPMorgan Chase & Co. ("JPMorgan"), the ultimate corporate parent of Chase, noting that an action had been filed in the Eastern District of Texas asserting that the Chase Freedom Credit Card (the "Card") infringed the '116 patent (the "Texas Suit"). Copies of the Letter and the Complaint from the Texas Suit are attached as Exhibits 2 and 3, respectively.

9. The Texas Suit improperly named as a defendant "JPMorgan Chase & Co. ... a national banking association." No such entity exists; JPMorgan Chase & Co. is a financial holding company and is not a national banking association. The other most similarly named affiliated entity is JPMorgan Chase Bank, N.A. Neither JPMorgan Chase & Co. nor JPMorgan Chase Bank, N.A. owns or operates the Card. The Terms and Conditions of the Card clearly indicate that the Card is issued by Chase. JPMorgan's Annual Report also lists Chase as JPMorgan's credit-card issuing bank.

10. Chase, which is a separate entity from JPMorgan, owns and operates the Card, and thus has a reasonable apprehension of being sued for infringement of the '116 patent.

11. Source failed to effect service of its Complaint in the Texas Suit within 120 days of filing as required under Federal Rule of Civil Procedure 4(m). Upon the expiration of 120 days, JPMorgan moved to dismiss the Complaint for Source's failure to effect proper service. Source responded by effecting service on JPMorgan and claiming in an opposition to JPMorgan's motion that Source had good cause for its delay because it was pursuing settlement with other defendants and attempting to narrow the issues.

12. Despite Source's assertion that it was diligently pursuing settlements, since its initial demand letter, Source has not contacted JPMorgan (or Chase) for any attempt at settlement or narrowing of disputed issues of fact or law. On information and belief, Source has not pursued settlement even when contacted to do so by another defendant.

13. Nevertheless, Source continues to assert that the Card infringes the claims of the '116 patent. Based on Source's actions and Chase's ownership and operation of the Card, there is an actual, immediate and justiciable controversy between Chase and Source as to the infringement of the '116 patent. Chase is entitled to the declaratory judgment that it seeks in order to resolve the legal and factual questions raised by Source and to afford relief from the uncertainty and controversy that Source's accusations have precipitated.

CLAIM FOR RELIEF

14. Chase repeats each and every allegation of paragraphs 1-13 as if set forth here in full.

15. Chase has not infringed, directly or indirectly, any claim of the '116 patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Chase respectfully requests that this Court:


- a) Adjudge that Chase does not infringe on any claims of U.S. Patent No. RE36,116;
- b) Award Chase its costs and expenses of this litigation, including reasonable attorneys' fees and disbursements pursuant to 35 U.S.C. § 285; and
- c) Award such other relief as the Court deems reasonable and just under the circumstances.

OF COUNSEL:

Mark G. Matuschak
WILMER CUTLER PICKERING
HALE AND DORR LLP
60 State Street
Boston, MA 02109
(617) 526-6559

Dated: August 20, 2008
879303

POTTER ANDERSON & CORROON LLP

By: 
Philip A. Rovner (#3215)
Hercules Plaza
P.O. Box 951
Wilmington, DE 19899-0951
(302) 984-6000
provner@potteranderson.com

*Attorney for Plaintiff
Chase Bank USA, N.A.*