

FILED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

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SEAL OF THE DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF INDIANA

LINCOLN NATIONAL LIFE INSURANCE
COMPANY,

Plaintiff,

v.

TRANSAMERICA FINANCIAL LIFE
INSURANCE COMPANY,

Defendant.

1:04CV0396
CASE NO. _____

TLS

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Lincoln National Life Insurance Company, by counsel, and for its complaint against Defendant, Transamerica Financial Life Insurance Company, alleges and states as follows:

PARTIES, JURISDICTION, AND VENUE

1. This is an action for patent infringement arising under Title 35 of the United States Code. This Court has jurisdiction over the subject matter of this controversy under 28 U.S.C. §§ 1331 and 1338(A).

2. Plaintiff, Lincoln National Life Insurance Company ("Lincoln"), is a corporation organized and existing under the laws of the State of Indiana. Lincoln has a principal place of business located in Fort Wayne, Indiana.

3. Upon information and belief, Transamerica Financial Life Insurance Company ("Transamerica") is a corporation organized and existing under the laws of the State of New York. Transamerica's principal place of business is located at 4 Manhattanville Road, Purchase, New York 10577. Prior to April 1, 2003, Transamerica was known as Transamerica Life

Insurance Company of New York. On April 1, 2003, Transamerica Life Insurance Company of New York merged with AUSA Life Insurance Company, Inc. and changed its name to Transamerica Financial Life Insurance Company, the Defendant in this lawsuit.

4. Transamerica is doing business in this judicial district. Materials from Transamerica's website provide that Transamerica is "[l]icensed in all states and the District of Columbia." (See Exhibit 2).

5. Venue lies in this judicial district by virtue of 28 U.S.C. §§ 1391 and 1400(b).

COUNT I - PATENT INFRINGEMENT

6. On August 26, 2003, United States Patent No. 6,611,815 (the "'815 Patent"), entitled "Method and System for Providing Account Values in an Annuity with Life Contingencies," was duly and legally issued to Lincoln. On July 27, 2004, the United States Patent and Trademark Office issued a Certificate of Correction, correcting Column 13, lines 40-55 of the '815 Patent. A copy of the '815 Patent and the Certificate of Correction is attached as Exhibit 1.

7. The '815 patent relates to a data processing method for administering an annuity product having a guarantee of lifetime payments.

8. Since August 26, 2003, Lincoln has been and is still the owner by assignment of the entire right, title, and interest in and to the '815 Patent.

9. Transamerica has been, and is now, willfully and deliberately infringing the '815 Patent by selling and/or offering to sell within this judicial district and elsewhere, a living benefit rider to Transamerica variable annuities called a "Guaranteed Principal Solution" ("GPS").

Transamerica's GPS rider is covered by the claims of the '815 Patent. Transamerica marketing materials describing the GPS Rider are attached as Exhibit 3.

10. Through prior correspondence, Lincoln has provided notice to Transamerica of its infringement. Despite this notice, Transamerica has willfully and deliberately persisted in its infringement.

11. As a consequence of the acts of infringement by Transamerica, Lincoln has suffered irreparable damage to its property in an amount not yet determined, and Lincoln will continue to be damaged by such acts in the future.

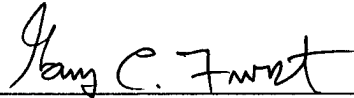
WHEREFORE, Lincoln prays for:

- (a) A judgment declaring the '815 Patent infringed by Transamerica;
- (b) An award of damages adequate to compensate Lincoln for Transamerica's infringement of the '815 Patent, but in no event less than a reasonable royalty, together with interest and costs as fixed by the Court;
- (c) An award increasing damages up to three times the amount found or assessed by the Court to be due Lincoln for Transamerica's infringement of the '815 Patent in view of the willful and deliberate nature of the infringement;
- (d) An award of reasonable attorneys' fees;
- (e) A permanent injunction enjoining Transamerica from continuing its infringing activities; and
- (f) An award of all other relief appropriate in the premises.

JURY DEMAND

Lincoln, by counsel, and under Fed. R. Civ. P. 38, demands a trial by jury of all issues triable of right by jury.

Respectfully submitted,



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