

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

STORED VALUE SOLUTIONS, INC. n/k/a)	
CERIDIAN STORED VALUE SOLUTIONS,)	
INC.)	
)	
Plaintiff,)	C.A. No. 09-495-KAJ
)	
v.)	JURY TRIAL DEMANDED
)	
CARD ACTIVATION TECHNOLOGIES, INC.,)	
)	
Defendant.)	

AMENDED COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff, Stored Value Solutions, Inc. n/k/a Ceridian Stored Value Solutions, Inc., files this complaint for declaratory judgment against Defendant Card Activation Technologies, Inc. and alleges as follows:

THE PARTIES

1. Stored Value Solutions, Inc. n/k/a Ceridian Stored Value Solutions, Inc. (“SVS”) is a Delaware corporation having its principal place of business at 101 Bullitt Lane, Suite 305, Louisville, KY 40222.

2. Upon information and belief, Card Activation Technologies, Inc. (“CAT”) is a Delaware corporation, with headquarters at 53 West Jackson Blvd., Suite 1618, Chicago, Illinois 60604-3749, and having its principal place of business in Scottsdale, Arizona.

3. CAT is the owner and assignee of U.S. Patent No. 6,032,859 (“the ’859 Patent”) entitled “Method for processing debit purchase transactions using a counter-top terminal system,” which issued March 7, 2000. A copy of the ’859 Patent is attached hereto as Exhibit A. On October 5, 2010, the United States Patent & Trademark Office issued an *Ex Parte*

Reexamination Certificate for the '859 Patent. This Reexamination Certificate is attached hereto as Exhibit B.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), in that it involves substantial claims arising under the United States Patent Act, 35 U.S.C. § 1 *et. seq.*

5. This Court may declare the rights and other legal relations of the parties pursuant to the Federal Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202, because there is a case of actual controversy within the Court's jurisdiction to provide a declaratory judgment that the '859 Patent is invalid.

6. As a Delaware corporation, CAT is subject to personal jurisdiction in this Court.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and (c).

THE PRESENCE OF AN ACTUAL CONTROVERSY

8. SVS has been the innovative force behind gift cards since 1996 when SVS began creating, managing and growing gift card programs for some of the best-known names in retailing. SVS provides custom gift card solutions for prepaid cards, loyalty and business-to-business applications for a diverse set of clients including retailers, airlines, casinos and e-tailers. As a leading provider of magnetic stripe gift cards, SVS serves six of the top ten U.S. retailers and annually processes over one billion transactions for 600 clients and their 580 million cardholders.

9. On information and belief, MedCom USA, Inc., a Delaware corporation with its principal place of business in Scottsdale, Arizona, acquired the '859 Patent from New View Technologies, Inc.

10. In the Fall of 2005, MedCom began sending letters to retailers asserting that gift cards sold by these retailers infringe the '859 Patent. By November 2005, MedCom had contacted no fewer than ten retailers for which SVS provides gift cards and gift card processing.

11. SVS responded to MedCom on behalf of ten SVS customers on November 18, 2005. In its letter, SVS asserted that SVS gift cards did not infringe the '859 Patent and that the '859 Patent is invalid.

12. On December 15, 2005, counsel for MedCom responded via letter stating that, "I must also emphasize that it is the use of the Stored Value Systems processing system that may conflict with the '859 Patent." (Emphasis in original.)

13. SVS responded via letter to MedCom on January 30, 2006. SVS received no further response from MedCom.

14. On information and belief, CAT was incorporated in 2006 for the sole purpose of monetizing the '859 Patent.

15. On information and belief, the '859 Patent was transferred to CAT by MedCom in exchange for shares of common stock.

16. CAT filed suit against McDonald's Corporation and the Walgreen Company on October 13, 2006 for patent infringement of the '859 Patent and sued Sears Holding Corporation on November 28, 2006.

17. On information and belief, in November 2006, CAT began sending letters to retailers asserting that gift cards sold by these retailers infringe the '859 Patent.

18. SVS responded to CAT on behalf of an SVS customer on February 23, 2007, and referenced SVS's previous communications to MedCom regarding the '859 Patent, including its November 18, 2005 letter. SVS never received a response to its February 23, 2007 letter.

19. SVS responded to CAT on behalf of another SVS customer on June 7, 2007, and referenced SVS's previous communications to MedCom regarding the '859 Patent, including its November 18, 2005 letter, and its previous February 23, 2007 communication to CAT. SVS never received a response to its June 7, 2007 letter.

20. SVS responded to CAT on behalf of another SVS customer on November 8, 2007, and referenced SVS's previous communications to MedCom regarding the '859 Patent, including its November 18, 2005 letter, and its previous February 23, 2007 and June 7, 2007 communications to CAT. SVS never received a response to its November 8, 2007 letter.

21. SVS responded to CAT on behalf of another SVS customer on December 12, 2007, and referenced SVS's previous communications to MedCom regarding the '859 Patent, including its November 18, 2005 letter, and its previous February 23, 2007, June 7, 2007, and November 8, 2007 communications to CAT. SVS never received a response to its December 12, 2007 letter.

22. SVS responded to CAT on behalf of another SVS customer on December 19, 2007, and referenced SVS's previous communications to MedCom regarding the '859 Patent, including its November 18, 2005 letter, and its previous February 23, 2007, June 7, 2007, November 8, 2007, and December 12, 2007 communications to CAT. SVS never received a response to its December 19, 2007 letter.

23. SVS responded to CAT on behalf of two additional SVS customers on January 25, 2008, and referenced SVS's previous communications to MedCom regarding the '859 Patent, including its November 18, 2005 letter, and its previous February 23, 2007, June 7, 2007, November 8, 2007, December 12, 2007, and December 19, 2007 communications to CAT. SVS never received a response to its January 25, 2008 letter.

24. On April 1, 2009 and on May 28, 2009, CAT filed lawsuits against SVS customers asserting infringement of the '859 Patent.

25. Since its inception in 2006, CAT has continued to threaten SVS's customers claiming that the gift cards and gift card processing provided by SVS to its customers infringes the '859 Patent. CAT has now followed through on that threat by suing SVS customers.

26. Therefore, an actual controversy exists between SVS and CAT with respect to whether SVS's gift cards and gift card processing infringes the '859 Patent. SVS has agreed to indemnify a number of its customers regarding the gift cards and gift card services SVS provides. CAT continues to threaten SVS's customers regarding use of SVS's gift cards and gift card services via correspondence, which directly impacts SVS's business activities. SVS will suffer concrete and imminent harm through CAT's threats against SVS's customers, and a favorable decision invalidating the '859 patent will stop the imminent harm.

THE AMENDED CLAIMS

27. Independent Claims 20 and 29 in the original '859 Patent each claimed a "method for processing debit purchase transactions" that, *inter alia*, included the step of "entering an authorization code through the keypad for having the computer initiate communication with a host data processor."

28. Dependent claim 21 in the original '859 Patent, which appears below, stated that the step of "entering an authorization code through the keypad for having the computer initiate communication with a host data processor" comprised the entry of both a "customer authorization code" and a "clerk authorization code":

21. The method according to claim 20, wherein the authorization code entering step comprises the steps of:

entering a customer authorization code for authorizing access to a customer data base of a host processor; and

entering a clerk authorization code for initiating a debit purchase transaction.

29. Dependent claim 32 in the original '859 Patent, which appears below, stated that the step of "entering an authorization code through the keypad for having the computer initiate communication with a host data processor" comprised the entry of both a "customer authorization code" and a "clerk authorization code":

21. The method according to claim 29, wherein the authorization code entering step comprises the steps of:

entering a customer authorization code for authorizing access to a customer data base of a host processor; and

entering a clerk authorization code for initiating a debit purchase transaction.

30. On October 5, 2010, the United States Patent & Trademark Office issued an *Ex Parte* Reexamination Certificate for the '859 Patent.

31. In the Reexamination Certificate, claims 21 and 32 are cancelled.

32. In the Reexamination Certificate, claims 20 and 29 are amended to include the following steps: "entering a customer authorization code for authorizing access to a customer data base of a host processor," and "entering a clerk authorization code for initiating a debit purchase transaction."

33. Amended claims 20 and 29 each include the following three steps:

entering an authorization code through the keypad for having the computer initiate communication with a host data processor;

entering a customer authorization code for authorizing access to a customer data base of a host processor;

entering a clerk authorization code for initiating a debit purchase transaction.

**COUNT I
DECLARATORY JUDGMENT OF INVALIDITY**

34. The allegations of paragraphs 1 through 33 are incorporated by reference as if fully set forth herein.

35. Each of the claims of the '859 Patent is invalid for failure to satisfy the provisions of sections 102 and 103 of Title 35 of the United States Code.

**COUNT II
DECLARATORY JUDGMENT OF INVALIDITY**

36. The allegations of paragraphs 1 through 35 are incorporated by reference as if fully set forth herein.

37. The specification of the '859 Patent only describes the entry of two codes, namely "entering a customer authorization code for authorizing access to a customer data base of a host processor," and "entering a clerk authorization code for initiating a debit purchase transaction."

38. The specification of the '859 Patent does not describe the entry of a third code that is distinct from the "customer authorization code" and "clerk authorization code."

39. The specification of the '859 patent does not provide adequate written description for the step of "entering an authorization code through the keypad for having the computer initiate communication with a host data processor."

40. Amended claims 20, 22-31, and 33-38, which each include the step of "entering an authorization code through the keypad for having the computer initiate communication with a host data processor," are each invalid for failure to satisfy the provisions of section 112, first paragraph, of Title 35 of the United States Code.

PRAYER FOR RELIEF

WHEREFORE, plaintiff SVS prays that:

A. The Court declare invalid each of the claims of the '859 Patent;

- B. The Court issue an injunction against CAT and anyone acting in privity or concert with CAT from charging infringement or instituting any legal action for infringement of the '859 Patent against SVS or anyone acting in privity with SVS, including the divisions, successors, assigns, agents, suppliers, manufacturers, contractors and customers of SVS;
- C. SVS be awarded its costs in this action;
- D. SVS be awarded its attorneys fees pursuant to 35 U.S.C. § 285; and
- E. SVS be awarded such other and further relief as this Court deems is just and proper.

DEMAND FOR A JURY TRIAL

SVS hereby demands a trial by jury in this action.

Respectfully submitted,

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Dated: April 1, 2011
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CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on April 1, 2011, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I further certify that on April 1, 2011, the attached document was Electronically Mailed to the following person(s):

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