

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

ALEXSAM, INC.,

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Plaintiff,

§

§

§

Case No. 2:07-CV-512-CE

v.

§

§

The Honorable C. Everingham

UNITEDHEALTH GROUP INC., UNITED

§

HEALTHCARE SERVICES, INC., EXANTE BANK,

§

INC., AND EXANTE FINANCIAL SERVICES, INC.,

§

§

Defendants.

§

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Alexsam, Inc. (“Alexsam”), brings this action against defendants UnitedHealth Group Incorporated (“UnitedHealth Group”), United HealthCare Services, Inc. (“United HealthCare”), Exante Bank, Inc. (“Exante Bank”), and Exante Financial Services, Inc. (“Exante”) and alleges:

THE PARTIES

1. Alexsam is a corporation organized and existing under the laws of the State of Texas.

2. On information and belief, UnitedHealth Group is a corporation organized and existing under the laws of the State of Minnesota, has designated its registered agent and office for purposes of service of process as C T Corporation System Inc., 100 South 5th Street, # 1075, Minneapolis, Minnesota 55402, and is doing business in this judicial district, in Texas and elsewhere in the United States.

3. On information and belief, United HealthCare is a corporation organized and existing under the laws of the State of Minnesota, has designated its registered agent and office for purposes of service of process as C T Corporation System Inc., 100 South 5th Street, # 1075, Minneapolis, Minnesota 55402, and is doing business in this judicial district, in Texas and elsewhere in the United States.

4. On information and belief, Exante Bank is a corporation organized and existing under the laws of the State of Utah, has designated its registered agent and office for purposes of service of process as C T Corporation System, 136 East South Temple, Suite 2100, Salt Lake City, Utah 84111, and is doing business in this judicial district, in Texas and elsewhere in the United States. On information and belief, Exante Bank has changed its name to OptumHealth Bank, and as such continues to carry on the former business of Exante Bank, by reason of which this action may continue to be maintained against Exante and/or OptumHealth Bank pursuant to Rule 25(c) and other rules. According to its website, "OptumHealth Bank is part of the financial services unit of OptumHealth, a health and wellness company serving more than 60 million people. OptumHealth is part of the UnitedHealth Group (NYSE:UNH) family of companies."

5. On information and belief, Exante Financial Services, Inc. is a corporation organized and existing under the laws of the State of Delaware, has designated its registered agent and office for purposes of service of process as The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, and is doing business in this judicial district, in Texas and elsewhere in the United States. On information and belief, Exante Financial Services, Inc. has changed its name to OptumHealth Financial Services. Upon information and belief, OptumHealth Financial Services continues to carry on the business of Exante Financial Services, Inc. by reason of which this action may continue to be maintained against Exante Financial Services, Inc. and/or OptumHealth Financial Services pursuant to Rule 25(c) and other rules. According to its

website “OptumHealth Financial Services includes OptumHealth Bank, Member FDIC, and is a division of OptumHealth, Inc., one of the nation’s largest health and wellness companies. OptumHealth is a division of UnitedHealth Group (NYSE: UNH).”

JURISDICTION AND VENUE

6. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code.

7. Subject-matter jurisdiction over Alexsam’s claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a).

8. On information and belief; each defendant has solicited business in the State of Texas, transacted business within the State of Texas and attempted to derive financial benefit from residents of the State of Texas, including benefits directly related to the instant patent infringement cause of action set forth herein.

9. On information and belief, each defendant has placed its products and services into the stream of commerce throughout the United States and is actively engaged in transacting business in Texas and in the Eastern District of Texas.

10. One or more of the defendants, either alone or in conjunction with others, has committed acts of infringement within this judicial district, has induced others to commit acts of infringement within this judicial district, and/or has contributed to infringing activities within this judicial district, all as alleged more specifically below.

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

PATENT INFRINGEMENT

12. On December 14, 1999, U.S. Patent No. 6,000,608 (“the ‘608 patent”), entitled “Multifunction Card System,” a copy of which is attached hereto as Exhibit A, was duly and legally issued to the inventor, Robert E. Dorf. Mr. Dorf has assigned all right, title and interest in the ‘608 patent to Alexsam, including the right to sue for and recover all past, present and future damages for infringement of the ‘608 patent.

13. Each defendant, either alone or in conjunction with others, has in the past and continues to infringe, contribute to infringement, and/or induce infringement of claims 32 and 33 of the ‘608 patent by making, using, selling and/or offering to sell, and/or causing others to use products, which in combination with other devices and systems, and in use, are covered by at least one of said claims of the ‘608 patent. Each defendant is liable for infringement pursuant to 35 U.S.C. § 271. Notwithstanding the foregoing allegations of this paragraph 13, however, this claim of infringement excludes claims of infringement as to the 147 “integrated cards” issued by defendants in 2008, and also excludes cards performing the sole function of “medical ID cards” as and to the extent disclosed by defendants in discovery herein prior to the date of this amended complaint.

14. Upon information and belief, one or more of the defendants has provided cards to customers in this judicial district, which cards have been used in this judicial district in a manner that infringes claims 32 and 33 of the ‘608 patent. However, this claim of infringement excludes claims of infringement as to the 147 “integrated cards” issued by defendants in 2008 and also excludes Defendants’ cards performing the sole function of “medical ID cards” as and to the extent disclosed by defendants in discovery herein prior to the date of this amended complaint.

15. Upon information and belief, the infringing acts of the defendants complained of herein of making, using, selling or offering to sell products, methods or services claimed in claims 32

and 33 of the '608 patent have occurred throughout the United States, including within this judicial district.

16. Each defendant's acts of infringement have caused damage to Alexsam, and Alexsam is entitled to recover from each defendant the damages sustained by Alexsam as a result of each defendant's wrongful acts in an amount subject to proof at trial.

17. As a consequence of the infringement complained of herein, Alexsam has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless the defendants are enjoined by this Court from committing further acts of infringement.

PRAYER FOR RELIEF

WHEREFORE, Alexsam prays for entry of judgment that:

A. Each defendant has infringed, contributed to infringement of and/or induced infringement of claims 32 and 33 of the '608 patent;

B. Each defendant account for and pay to Alexsam all damages caused by their infringement of claims 32 and 33 of the '608 patent;

C. Alexsam be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining each defendant, and their respective officers, agents, servants, employees and those persons in active concert or participation with them from further acts of patent infringement;

D. Alexsam be granted pre-judgment and post-judgment interest on the damages caused to it by reason of each defendant's patent infringement;

E. Alexsam be granted its reasonable attorneys' fees;

F. Costs be awarded to Alexsam; and

G. Alexsam be granted such other and further relief as the Court may deem just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Alexsam demands trial by jury on all claims and issues so triable.

Date: April 13, 2011

Respectfully submitted,

/s/ Alison Aubry Richards

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Counsel for Plaintiff

CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 13th day of April, 2011. Any other counsel of record will be served by first class mail.

/s/Alison Aubry Richards
Attorney for Plaintiff, Alexsam, Inc.