

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DELTA AIR LINES, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 09-941 (SLR)
	)	
APPLIED INTERACT, LLC and QUEST	)	<b>JURY TRIAL DEMANDED</b>
NETTECH CORP.,	)	
	)	
Defendants.	)	

**SECOND AMENDED COMPLAINT**

Plaintiff Delta Air Lines, Inc. ("Delta"), by its undersigned attorneys, alleges as follows:

**PARTIES**

1. Delta is a Delaware corporation with its principal place of business in Atlanta, Georgia.
2. Upon information and belief, and according to United States Patent & Trademark Office records, Response Reward Systems, L.C. was assigned on May 18, 1995 the following United States Patents: (a) U.S. Patent No. 5,227,874 ("the '874 Patent") entitled "Method for measuring the effectiveness of stimuli on decisions of shoppers," which issued on July 13, 1993; (b) U.S. Patent No. 5,249,044 ("the '044 Patent") entitled "Product information storage, display, and coupon dispensing system," which issued on September 28, 1993; and (c) U.S. Patent No. 5,128,752 ("the '752 Patent") entitled "System and method for generating and redeeming tokens," which issued on July 7, 1992 (collectively, the "Response Reward Patents"). True and correct copies of the Response Reward Patents are attached hereto as Exhibits A-C and incorporated herein by reference. The Response Reward Patents have been the subject of a large number of lawsuits.

3. Upon information and belief, and according to United States Patent & Trademark Office records, Response Reward Systems, L.C. assigned the Response Reward Patents to Intertech Holdings LLC (“Intertech”) on or about November 7, 2003.

4. Defendant Applied Interact LLC, (“Applied Interact”), upon information and belief, is a limited liability company organized under the laws of the state of Delaware. Upon information and belief, Applied Interact is the exclusive licensee of the Response Reward Patents with the exclusive right to license and the exclusive right to sue for patent infringement. Upon information and belief, Applied Interact has brought a number of lawsuits attempting to enforce some of the Response Rewards Patents.

5. Defendant Quest NetTech Corporation (“Quest”), upon information and belief, is a corporation organized under the state of Texas with its principal place of business in Jericho, New York. Defendant Quest obtained certain ownership rights and liabilities in the Response Reward Patents from Applied Interact and/or Intertech to at least certain of the intellectual property rights at issue in this lawsuit. Applied Interact and Defendant Quest are collectively referred to as “Defendants.”

#### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction under the patent laws of the United States, 35 U.S.C. § 1 *et seq.* and under the Declaratory Judgment Act 28 U.S.C. § 2201 *et seq.* The Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1338, 2201, and 2202.

7. This Court has personal jurisdiction over Applied Interact at least by virtue of Applied Interact being a corporation organized and existing under the laws of the State of Delaware and having purposely availed itself of the protections of the laws of Delaware.

8. This Court has personal jurisdiction over Defendant Quest at least by virtue of its acquisition of certain patent rights and liabilities from Applied Interact and/or Intertech and thus having purposely availed itself of the protections of the laws of Delaware.

9. Venue is proper under 28 U.S.C. § 1391.

10. In a letter to Delta dated March 20, 2009, Applied Interact asserted that certain online activities (collectively “the accused activities”), including on-line check-in, are covered by various claims of the ‘874 Patent, the ‘044 Patent, and the ‘752 Patent. In its March 20, 2009 letter, Applied Interact noted that it recently concluded actions against three other airlines and that it was actively licensing its portfolio. This letter included three claim charts comparing activities which it attributes to Delta to specific claims of the ‘874, the ‘044, and the ‘752 Patents.

11. Applied Interact’s communications and the numerous actions involving the Patents create an actual case or controversy between Applied Interact and Delta. Applied Interact has identified and asserted rights under the Response Reward Patents, identified allegedly infringing activities, and offered Delta a royalty-generating license. Based on at least those activities, there is a substantial controversy between Delta and Applied Interact of sufficient immediacy and reality to warrant an issuance of a declaratory judgment.

12. The actual and justiciable controversy between Delta and Applied Interact concerns the validity and alleged infringement of the Response Reward Patents.

13. Upon information and belief, Applied Interact and/or Intertech has sold or transferred certain of its patent rights and liabilities in the Response Reward Patents to Defendant Quest and there is a substantial controversy between Delta and Defendant Quest of sufficient immediacy and reality to warrant an issuance of a declaratory judgment.

14. The actual and justiciable controversy between Delta and Defendant Quest concerns the validity and alleged infringement of the Response Reward Patents.

**COUNT I**  
**(Declaratory Judgment of Non-infringement of  
Any Valid and Enforceable Claim of the '874 Patent)**

15. Plaintiff Delta realleges and incorporates by reference paragraphs 1 through 14 above.

16. An actual controversy exists between Delta and Defendants concerning whether the accused activities directly or indirectly infringe or have infringed any valid and enforceable claim of the '874 Patent.

17. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Delta requests a declaration by the Court that it does not infringe any valid and enforceable claim of the '874 Patent, either directly, contributorily, or by inducement, so that Delta can ascertain its rights and duties with respect to the accused activities.

**COUNT II**  
**(Declaratory Judgment of Non-infringement  
of Any Valid and Enforceable Claim of the '044 Patent)**

18. Plaintiff Delta realleges and incorporates by reference paragraphs 1 through 17 above.

19. An actual controversy exists between Delta and Defendants concerning whether the accused activities directly or indirectly infringe or have infringed any valid and enforceable claim of the '044 Patent.

20. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Delta requests a declaration by the Court that it does not infringe any valid and enforceable claim of the '044 Patent, either directly, contributorily, or by inducement, so that Delta can ascertain its rights and duties with respect to the accused activities.

**COUNT III**  
**(Declaratory Judgment of Non-infringement  
of Any Valid and Enforceable Claim of the '752 Patent)**

21. Plaintiff Delta realleges and incorporates by reference paragraphs 1 through 20 above.

22. An actual controversy exists between Delta and Defendants concerning whether the accused activities directly or indirectly infringe or have infringed any valid and enforceable claim of the '752 Patent.

23. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Delta requests a declaration by the Court that it does not infringe any valid and enforceable claim of the '752 Patent, either directly, contributorily, or by inducement, so that Delta can ascertain its rights and duties with respect to the accused activities.

**COUNT IV**  
**(Declaratory Judgment of Invalidity of the '874 Patent)**

24. Delta incorporates by reference the allegations in paragraphs 1 through 23 above.

25. An actual controversy exists between Delta and Defendants concerning whether the '874 Patent is invalid for failing to meet one or more of the requirements for patentability set forth in 35 U.S.C. §§ 101, 102, 103, and/or 112.

26. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Delta requests a declaration by the Court that the claims of the '874 Patent are invalid for failing to meet one or more of the requirements for patentability set forth in 35 U.S.C. §§ 101, 102, 103, and/or 112.

**COUNT V**  
**(Declaratory Judgment of Invalidity of the '044 Patent)**

27. Delta incorporates by reference the allegations in paragraphs 1 through 26 above.

28. An actual controversy exists between Delta and Defendants concerning whether the '044 Patent is invalid for failing to meet one or more of the requirements for patentability set forth in 35 U.S.C. §§ 101, 102, 103, and/or 112.

29. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Delta requests a declaration by the Court that the claims of the '044 Patent are invalid for failing to meet one or more of the requirements for patentability set forth in 35 U.S.C. §§ 101, 102, 103, and/or 112.

**COUNT VI**  
**(Declaratory Judgment of Invalidity of the '752 Patent)**

30. Delta incorporates by reference the allegations in paragraphs 1 through 29 above.

31. An actual controversy exists between Delta and Defendants concerning whether the '752 Patent is invalid for failing to meet one or more of the requirements for patentability set forth in 35 U.S.C. §§ 101, 102, 103, and/or 112.

32. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Delta requests a declaration by the Court that the claims of the '752 Patent are invalid for failing to meet one or more of the requirements for patentability set forth in 35 U.S.C. §§ 101, 102, 103, and/or 112.

**JURY DEMAND**

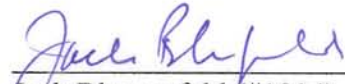
33. Plaintiff Delta demands a trial by jury of all issues triable by jury.

**PRAYER FOR RELIEF**

WHEREFORE, Delta prays for judgment against Defendants and an order:

- A. Declaring that the '874, '044 and '752 Patents are invalid;
- B. Declaring that Delta is not infringing any valid, enforceable claim of the '874, '044 or '752 Patents;
- C. Declaring this case exceptional under 35 U.S.C. § 285;
- D. Awarding Delta its costs and reasonable attorneys' fees; and
- E. Granting Delta such other and further relief as may be just and proper.

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August 23, 2010