

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

FILED-CLERK
U.S. DISTRICT COURT
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EASTERN-MARSHALL

ALEXSAM, INC.

Plaintiff,

vs

EVOLUTION BENEFITS, INC., and
HUMANA INC.

Defendants.

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BY _____

Case No. ~~2-07-CV-288~~

JURY TRIAL DEMANDED

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COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Alexsam, Inc. ("Alexsam") brings this action against defendants Evolution Benefits, Inc. ("EBI") and Humana Inc. ("Humana"), 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, EBI is a corporation organized and existing under the laws of the State of Delaware, and has designated its registered agent and office for purposes of service of process as Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808. EBI is doing business in this judicial district, in Texas and elsewhere in the United States.
3. On information and belief, Humana is a corporation organized and existing under the laws of the State of Delaware, and has designated its registered agent and office for purposes of service of process as Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington,

Delaware 19808. Humana is doing business in this judicial district, in Texas and elsewhere in the United States

JURISDICTION AND VENUE

4. 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.

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

6. On information and belief, EBI and Humana have each 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.

7. On information and belief, EBI and Humana have each placed their products and services into the stream of commerce throughout the United States and are actively engaged in transacting business in Texas and in the Eastern District of Texas.

8. Each defendant, either alone or in conjunction with others, has committed acts of infringement in this District, and is subject to personal jurisdiction in this District.

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

PATENT INFRINGEMENT

10. 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.

11. Upon information and belief, defendants, either alone or in conjunction with others, have in the past and continue to infringe, contribute to infringement, and/or induce infringement of the '608 patent by making, using, selling and/or offering to sell, and/or causing others to use, in this judicial district and elsewhere in the United States, products and services, which in combination with other devices and systems, and in use, are covered by at least one claim of the '608 patent. Defendants are liable for infringement of the '608 patent pursuant to 35 U.S.C. § 271.

12. On information and belief, the infringement of the '608 patent by EBI has been with notice and knowledge of the '608 patent and has been willful and deliberate.

13. Defendants' acts of infringement have caused damage to Alexsam, and Alexsam is entitled to recover from defendants the damages sustained by Alexsam as a result of defendants' wrongful acts in an amount subject to proof at trial.

14. 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 defendants are enjoined by this Court from committing further acts of infringement.

PRAYER FOR RELIEF

WHEREFORE, Alexsam prays for entry of judgment that:

A. Defendants have infringed, contributed to infringement of and/or induced infringement of the '608 patent;

B. The infringement, contributory infringement and/or induced infringement of the '608 patent by EBI has been willful and deliberate;

C. Defendants account for and pay to Alexsam all damages caused by defendants' infringement of the '608 patent, and that the Court increase the amount of damages as a result of the infringement by EBI to three times the amount found or assessed by the Court because of the willful and deliberate nature of the infringement, all in accordance with 35 U.S.C. § 284;

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

E. Alexsam be granted pre-judgment and post-judgment interest on the damages caused to it by reason of defendants' patent infringement;

F. The Court declare this an exceptional case and that Alexsam be granted its reasonable attorneys' fees in accordance with 35 U.S.C. § 285;

G. Costs be awarded to Alexsam; and,


H. 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.

Respectfully submitted,

Dated: July 13, 2007

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