

FILED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

2008 MAY 20 AM 8:05
STEPHEN R. LUDWIG, CLERK
U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF INDIANA

LINCOLN NATIONAL LIFE INSURANCE)
COMPANY,)

Plaintiff,)

vs.)

TRANSAMERICA FINANCIAL LIFE)
INSURANCE COMPANY, TRANSAMERICA)
LIFE INSURANCE COMPANY, WESTERN)
RESERVE LIFE ASSURANCE COMPANY)
OF OHIO, MONUMENTAL LIFE)
INSURANCE COMPANY, MERRILL)
LYNCH LIFE INSURANCE COMPANY, and)
ML LIFE INSURANCE COMPANY OF NEW)
YORK,)

Defendants.)

1:08CV0135 PS

CASE NO. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Lincoln National Life Insurance Company, by counsel, and for its Complaint against Defendants, Transamerica Financial Life Insurance Company, Transamerica Life Insurance Company, Western Reserve Life Assurance Company of Ohio, Monumental Life Insurance Company, Merrill Lynch Life Insurance Company and ML Life Insurance Company of New York, 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. Transamerica Financial Life Insurance Company ("TFLIC") is a corporation organized and existing under the laws of the State of New York. TFLIC's principal place of business is located at 4 Manhattanville Road, Purchase, New York 10577.

4. TFLIC is doing business in Indiana and in this judicial district. TFLIC is licensed and registered with the Indiana Department of Insurance. Materials from the Indiana Department of Insurance's website showing TFLIC's registration are attached as Exhibit 1.

5. Transamerica Life Insurance Company ("TLIC") is organized and existing under the laws of the State of Iowa. TLIC's principal place of business is located at 4333 Edgewood Road, Northwest, Cedar Rapids, Iowa 52405.

6. TLIC is doing business in the State of Indiana and in this judicial district. TLIC is licensed and registered with the Indiana Department of Insurance. Materials from the Indiana Department of Insurance's website showing TLIC's registration are attached as Exhibit 1.

7. Western Reserve Life Assurance Company of Ohio ("WRL") is organized and existing under the laws of the State of Ohio. WRL's principal place of business is located at 570 Carillon Parkway, St. Petersburg, Florida 33716.

8. WRL is doing business in the State of Indiana and in this judicial district. WRL is licensed and registered with the Indiana Department of Insurance. Materials from the Indiana Department of Insurance's website showing WRL's registration are attached as Exhibit 1.

9. Monumental Life Insurance Company ("Monumental") is organized and existing under the laws of the State of Iowa. Monumental's principal place of business is located at 4333 Edgewood Road NE, Cedar Rapids, Iowa 52499.

10. Monumental is doing business in the State of Indiana and in this judicial district. Monumental is licensed and registered with the Indiana Department of Insurance. Materials from the Indiana Department of Insurance's website showing Monumental's registration are attached as Exhibit 1.

11. Merrill Lynch Life Insurance Company ("MLLIC") is a corporation organized and existing under the laws of the State of Arkansas. MLLIC's principal place of business is located at 4333 Edgewood Road NE, Cedar Rapids, Iowa 52499.

12. MLLIC is doing business in Indiana and in this judicial district. MLLIC is licensed and registered with the Indiana Department of Insurance. Materials from the Indiana Department of Insurance's website showing MLLIC's registration are attached as Exhibit 1.

13. ML Life Insurance Company of New York ("ML") is a corporation organized and existing under the laws of the State of New York. ML's principal place of business is located at 4 Manhattanville Road, Purchase, New York 10577.

14. TFLIC, TLIC, WRL, Monumental, MLLIC and ML are all sister companies. TFLIC, TLIC, WRL, Monumental, MLLIC and ML are all part of AEGON USA, Inc. AEGON USA, Inc. is related to and affiliated with the AEGON Group, which is headquartered in The Hague in the Netherlands.

15. TFLIC, TLIC, WRL, Monumental, MLLIC and ML are all wholly owned subsidiaries of AEGON USA, Inc. (See Exhibit 2).

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

COUNT I – PATENT INFRINGEMENT

17. On May 20, 2008, United States Patent No. 7,376,608 (the "'608 Patent"), entitled "Method and Apparatus for Providing Retirement Income Benefits" was duly and legally issued to Lincoln. A copy of the "Issue Notification" of the '608 Patent is attached as Exhibit 3. A physical copy of the '608 Patent will be filed as soon as it becomes available.

18. The '608 Patent relates to a computerized method for administering annuity products.

19. Lincoln is the owner by assignment of the entire right, title, and interest in and to the '608 Patent.

20. TFLIC, TLIC, WRL, Monumental, MLLIC and ML individually and collectively are infringing the '608 Patent by administering, selling and/or offering to sell within this judicial district and elsewhere, variable annuities with guaranteed living withdrawal benefits, including the Guaranteed Principal Solution 5-for-Life, 5-for-Life with Growth, Income Select for Life, the Investor Choice Annuity Product, Retirement Income Choice and/or Architect riders.

21. Through this lawsuit, Lincoln has provided notice to each Defendant of its infringement of the '608 Patent.

22. As a consequence of the acts of infringement by the Defendants, 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 '608 Patent infringed by Defendants;
- (b) An award of damages adequate to compensate Lincoln for Defendants' infringement of the '608 Patent, but in no event less than a reasonable royalty, together with interest and costs as fixed by the Court;

- (c) An award of reasonable attorneys' fees;
- (d) A permanent injunction enjoining Defendants from continuing their infringing activities; and
- (e) An award of all other relief appropriate in the premises.

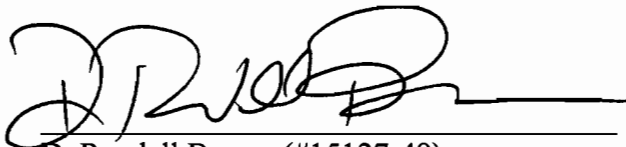
RESERVATION OF RIGHTS

Lincoln hereby reserves the right to name additional Transamerica entities to this lawsuit for patent infringement as investigation and discovery continue.

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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