

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE TICKET RESERVE, INC.)	
)	
Plaintiff,)	Case No. 09-cv-
)	
v.)	
)	JURY TRIAL DEMANDED
OPTIONIT, INC.)	
)	
Defendant.)	

ORIGINAL COMPLAINT

Plaintiff The Ticket Reserve Inc. ("TTR" or "Plaintiff"), files this Original Complaint against Defendant, OptionIt, Inc. ("Defendant").

I. NATURE OF THE ACTION

1. This is an action for patent infringement.

II. PARTIES

2. Plaintiff is a corporation organized and existing under the laws of the State of Illinois with its principal place of business located at 1109 S. Wolf Road, Bldg 8 #2, Wheeling, Illinois 60090. TTR integrates its sophisticated, computerized platform for purchasing ticket options into such websites as www.tournamentofroses.com for the College Football National Championship game to be played in the Rose Bowl in 2010.

3. Upon information and belief, Defendant OptionIt, Inc. is a Delaware Corporation. Upon information and belief, OptionIt is a Chicago, Illinois based company located at 10456 S. Seeley, Chicago, Illinois. OptionIt may be served through its President, Co-Founder, and Director, Christian S. Pappas at 10456 S. Seeley, Chicago, Illinois 60603, or wherever he may be

found. OptionIt operates an interactive website at www.optionit.com for selling options for sporting event tickets in Illinois and throughout the United States.

III. JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under the provisions of 28 U.S.C. §§ 1331 and 1338(a), in that this action for patent infringement arises under the laws of the United States, including 35 U.S.C. §§ 271 and 281-285.

5. Personal jurisdiction over Defendant comports with 735 ILCS 5/2-209 and the United States Constitution because Defendant does business in this judicial district, has committed and continues to commit, or has contributed and continues to contribute to, acts of patent infringement in this judicial district as alleged in this Complaint, or otherwise has sufficient contacts with the state.

6. Venue is proper in this judicial district under the provisions of 28 U.S.C. §§ 1391(b), (c), and § 1400(b).

IV. FACTUAL BACKGROUND

7. TTR, founded in 2001 and based in Chicago, Illinois, is dedicated to providing consumers with access to the biggest and most prestigious live events. Eight years ago, TTR was founded on a simple principle: people typically only want to attend a major sporting event when their team plays in it. Unfortunately, by the time your team qualifies for the championship game or the NCAA tournament, the only people with tickets are the scalpers. In 2001, TTR launched its website, built on the principle that people should be able to reserve access to a face-value ticket, tied to a particular team, in advance of a given event.

8. TTR pioneered the "Pre-Primary" or "Forward" market to give live event fans the opportunity to experience the excitement of watching their favorite events, in-person. TTR's

sophisticated, electronic platform is a proven and economical alternative to the current primary and secondary ticketing operations.

9. TTR has taken the same principle from sports markets and extended it out to additional markets such as (1) Consumer products—allowing consumers to reserve a new product before it is sold out; (2) Lodging—guaranteeing the consumer a hotel room months in advance of a big event if the consumer's favorite team makes it to the event; and (3) Live Events—ensuring the consumer will not miss seeing his/her favorite band or Broadway show.

10. TTR not only pioneered this concept, but was also the first company to put it into practice. In addition to launching its website to implement the novel TTR concept, TTR has also secured agreements from the biggest sporting agencies (such as Major League Baseball, the NCAA and the Bowl Championship Series) and integrated its ticket option platform on their websites. For example, TTR's platform for purchasing ticket options has been integrated into the Tournament of Roses's website for tickets to the National Championship game on January 7, 2010.

11. TTR owns issued patents and many pending patent applications on its technology. In fact, on June 3, 1999, Charles Cella ("Cella") filed a provisional patent application with the United States Patent and Trademark Office for a patent titled "Contingency-Based Options and Futures for Contingent Travel Accommodations" ("U.S. Patent Application"). *See* Exhibit A. Subsequently, Cella also filed an international patent application under the Patent Cooperation Treaty ("PCT Application") for his same invention. On December 14, 2000, the PCT Application became a published document for the world to see what Cella had invented. Indeed, once Cella filed the PCT Application, the technology contained in Cella's patent application (which is the same technology in dispute in the case) was no longer confidential information, as

it was in the public domain and available to the public. The PCT Application, publication number WO 00/75838 A1, is attached hereto as Exhibit B. Cella subsequently assigned his rights to his U.S. Patent Application and his PCT Application to TTR.

12. On April 22, 2008, United States Patent No. 7,363,267 (the "'267 Patent") entitled "Contingency-Based Options and Futures for Contingent Travel Accommodations" was duly and legally issued to The Ticket Reserve, Inc. A true and correct copy of the '267 Patent is attached hereto as Exhibit C. The '267 Patent relates to, among other things, a system for purchasing options and/or contingent rights for tickets for sporting events occurring in the future. The '267 Patent is valid and enforceable.

13. Unlike TTR's innovative platform for purchasing ticket options, Defendant OptionIt's website is nothing more than an infringing knockoff website. Upon information and belief, in July 2009, OptionIt launched its website, www.optionit.com, and began offering ticket options for NHL and NFL football games. See Exhibit D. On or about September 25, 2009, OptionIt began offering ticket options for Boston Celtics' regular season and post-season games. See Exhibit E. OptionIt now also offers ticket options for post season games for teams such as the St. Louis Rams, Buffalo Bills, Baltimore Ravens, and San Jose Sharks.

V. CAUSE OF ACTION

DEFENDANT'S INFRINGEMENT OF THE '267 PATENT

14. OptionIt, through its website, offers for sale and sells ticket options for playoff games. Exhibit E. At a minimum, Defendant offers and sells contingent event ticket options for Boston Celtics' playoff games. That is, Defendant sells ticket options for Celtics playoff games not knowing whether the Celtics will actually make the NBA playoffs. Defendant similarly offers and sells ticket options for playoff games for three NFL teams and one NHL team. Upon

information and belief, OptionIt's ticket option platform has infringed claims of the '267 Patent literally and/or under the doctrine of equivalents.

15. Defendant's infringement of the '267 Patent has injured TTR, has caused financial damage to TTR, and will continue to do so unless enjoined by the Court.

VI. JURY DEMAND

16. TTR hereby demands a trial by jury of any and all issues triable of right by a jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

VII. PRAYER

TTR requests a judgment from this Court including the following:

- a. Defendant OptionIt, Inc. has infringed claims of the '267 Patent either literally or under the doctrine of equivalents;
- b. Defendant and its agents, servants, officers, directors, employees, and all persons acting in concert with it, directly or indirectly, be permanently enjoined from infringing the '267 Patent;
- c. Defendant be ordered to account and pay to TTR the damages to which it is entitled as a consequence of the infringement of the '267 Patent including lost profits and/or no less than a reasonable royalty;
- d. Damages be trebled for the willful, deliberate, and intentional infringement by Defendant in accordance with 35 U.S.C. § 284;
- e. Declare this case an exceptional case and TTR be awarded prejudgment interest, costs, disbursements, and attorneys' fees herein in accordance with 35 U.S.C. § 285; and

- f. TTR be awarded such other and further relief as this Court may deem just and equitable.

Respectfully submitted this 24th day of November, 2009.

/s/ Charles B. Leuin
Charles B. Leuin (IL ARDC 6225447)
Cameron M. Nelson (IL ARDC 6275585)
Greenberg Traurig, LLP
77 West Wacker Drive
Suite 2500
Chicago, IL 60601
(312) 456-8400 - Telephone
(312) 456-8435 - Facsimile

John F. Luman III¹
Texas Bar No. 00794199
Andrew W. Zeve²
Texas Bar No. 24042209
Bracewell & Giuliani LLP
711 Louisiana, Suite 2300
Houston, Texas 77002
(713) 223-2300 - Telephone
(713) 221-1212 – Facsimile

ATTORNEYS FOR PLAINTIFF

¹ *Pro hac vice* application forthcoming.

² *Pro hac vice* application forthcoming.