

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

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TRANS WORLD ENTERTAINMENT)	
CORPORATION,)	
)	
	Plaintiff,)	
)	
v.)	Civil Action No.
)	
FINANCIAL SYSTEMS)	
INNOVATION LLC,)	
)	
	Defendant.)	
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COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff, Trans World Entertainment Corporation (referred to herein as “Plaintiff” or “TWE”), by and through its undersigned counsel, files this Complaint for Declaratory Judgment against Defendant Financial Systems Innovation LLC (referred to herein as “Defendant” or “Financial Systems Innovation”) averring as follows:

NATURE OF THE ACTION

1. This is an action for a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202. This action arises under the Patent Laws of the United States, 35 U.S.C. §§ 1, *et seq.*

THE PARTIES

2. TWE is a corporation organized and existing under the laws of the State of New York and has its principal place of business at 38 Corporate Circle, Albany, New York 12203. TWE employs approximately 700 people in the Capital District. TWE is one of the largest specialty music and video retailers in the United States. Founded in 1972, TWE currently operates nearly 900 stores in 47 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. TWE’s national

mall-based portfolio is united under the brand name FYE For Your Entertainment. TWE offers a wide selection of entertainment products, including CDs, DVDs, prerecorded audio and videocassettes and related accessories. TWE's headquarters and main distribution center are in Albany, New York.

3. Upon information and belief, Financial Systems Innovation is a limited liability company organized and existing under the laws of the State of Illinois and has its principal place of business at 500 Skokie Boulevard, Suite 585, Northbrook, Illinois. Upon information and belief, Financial Systems Innovation is engaged in the business of buying, owning, and licensing patents and patent interests, including pending applications. Upon information and belief, Financial Systems Innovation does not itself invent anything; its principal activity is to purchase patents and sue others on those patents (often on a contingency fee basis).

JURISDICTION AND VENUE

4. This court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this district court pursuant to 28 U.S.C. §§ 1391(b) and (c).

6. Upon information and belief, this Court has personal jurisdiction over Defendant.

DECLARATORY JUDGMENT OF NON-INFRINGEMENT

7. TWE repeats and realleges the allegations of paragraphs 1-6 as if set forth herein.

8. On or about March 15, 2005, TWE received at its Albany, New York headquarters a letter from Julia Feldman, Director of Licensing for Acacia Technologies Group ("Acacia"), alleging that TWE's "system for handling credit and/or debit transactions infringes the '592 Patent." The letter also alleged that in January 2005 Acacia purchased Financial Systems Innovation and represented

that Financial Systems Innovation controls the rights to United States Patent No. 4,707,592 (“the ‘592 patent”), entitled Personal Universal Identity Card System for Failsafe Interactive Financial Transactions, attached hereto as Exhibit A. The letter further alleged that Financial Systems Innovation had entered into license or settlement agreements with a number of companies, was in license negotiations with other companies, and had patent infringement lawsuits pending in two jurisdictions. The letter attached a form of license agreement to be executed by TWE. The enclosed license agreement required TWE to make a payment to Financial Systems Innovation in order to avoid being sued for allegedly infringing the ‘592 patent. The letter closed with the following statement, “[i]n the event that we are forced to bring litigation against you to enforce the ‘592 Patent, we will seek to recover the maximum damages allowed by law.”

9. On April 28, 2005, counsel for TWE responded to Ms. Feldman’s March 15, 2005 letter and explained why TWE does not infringe the ‘592 patent. On or about May 4, 2005, TWE’s counsel received a response from Ms. Feldman in which she stated that “this is not the first time we have addressed the issues raised in your letter. We have addressed them many times in the lawsuits we have filed to enforce the patent, and as explained in my previous correspondence, you can see that many entities elected to accept a reasonable license.” The letter closed with the following statement, “I am hopeful that we can also reach an amicable licensing resolution with TWE without the necessity for litigation.”

10. On June 23, 2005, TWE’s counsel was contacted by Tisha DeRaimo, in house counsel for Acacia. During the conference call, TWE’s counsel explained to Ms. DeRaimo why TWE does not infringe the ‘592 patent.

11. On or about July 18, 2005, Robert Higgins, Chairman and Chief Executive Officer of TWE, received at TWE's Albany, New York headquarters a letter from Ms. DeRaimo. Ms. DeRaimo stated that, "[w]e are attempting to resolve this matter with you amicably before resorting to litigation. We must stress that if you ignore this correspondence as you have done in the past, we may have no choice but to bring litigation against you to enforce the '592 patent." On July 20, 2005, TWE's counsel responded to Ms. DeRaimo's letter.

12. Defendant has placed TWE in a reasonable apprehension that it will be sued for alleged infringement of the '592 patent.

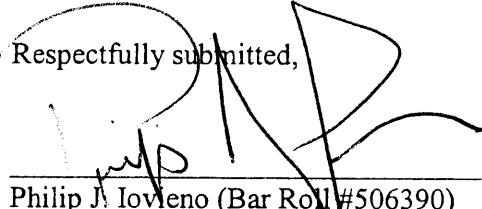
13. There is a substantial and continuing justiciable controversy between TWE and Defendant as to the alleged infringement of the '592 patent, and Defendant's assertion of its intention to enforce the '592 patent against TWE.

14. TWE has not infringed and is not infringing any claim of the '592 patent.

WHEREFORE, TWE respectfully requests that this Court enter the following relief:

- a. a declaratory judgment that TWE is not liable for infringement of any valid claim of the '592 patent;
- b. a judgment in favor of TWE for its attorneys fees, costs, and expenses in this action; and
- c. a judgment in favor of TWE for such further necessary and proper relief as this Court may deem just.

Respectfully submitted,



Philip J. Iovieno (Bar Roll #506390)
Robert C. Tietjen (Bar Roll #106046)
Boies, Schiller & Flexner, LLP
10 North Pearl Street
4th Floor
Albany, NY 12207
(518) 434-0600

Steven Lieberman
Minaksi Bhatt
Rothwell Figg Ernst & Manbeck
Suite 800
1425 K Street, N.W.
Washington, DC 20005
(202) 783-6040

Attorneys for Plaintiff
Trans World Entertainment Corporation

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