

**IN THE UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CARD ACTIVATION TECHNOLOGIES, INC.,)	
)	
Plaintiff,)	
)	Case No. 09cv 3202
v.)	
)	Judge: Leinenweber
)	
PAYLESS SHOESOURCE, INC. and)	
PAYLESS GOLD VALUE, INC.)	JURY DEMANDED
)	
Defendants.)	

REVISED FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

NOW COMES the Plaintiff, CARD ACTIVATION TECHNOLOGIES, INC., through its attorneys, Keith H. Orum, Mark D. Roth and Beata Bukranova of ORUM & ROTH, LLC, and for its Complaint for Patent Infringement against the Defendants, PAYLESS SHOESOURCE, INC. and PAYLESS GOLD VLAUE, INC., states:

Jurisdiction

1. This is a civil action for patent infringement, injunctive relief and damages arising under the United States Patent Act, 35 U.S.C. §1, *et. seq.* Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §1331 and 1338 (a). Defendant, Payless ShoeSource, Inc. is a Missouri corporation with its principal place of business in Topeka, Kansas. Defendant, Payless Gold Value, Inc. is a Kansas Corporation, with its principal place of business in Topeka, Kansas. Defendants do significant business in Chicago, Illinois. Defendants are subject to personal jurisdiction in this Court and are amenable to service of process pursuant to Illinois's Long-Arm Statute and Rule 4(e) of the Federal Rules of Civil Procedure.
2. Venue lies in this District pursuant to 28 U.S.C. §1391(b) and (c), and 1400(b).

Parties

3. Plaintiff is a corporation incorporated under the laws of the state of Delaware, with its primary office in Chicago, Illinois.
4. Payless ShoeSource, Inc. operates stores selling footwear and miscellaneous retail items in the United States and specifically in the Chicago land area. Payless Gold Value, Inc. operates the gift card program for Payless ShoeSource, Inc.

Infringement

5. Plaintiff is the owner of United States Patent No. 6,032,859 entitled “Method for Processing Debit Purchase Transactions Using a Counter-Top Terminal System”, issued on March 7, 2000 (“859 Patent”) and which is a valid and enforceable patent.
6. Defendants maintain a method for processing gift cards and adding value to gift cards that directly infringes the 859 patent. For example, the Defendants’ system includes electronic terminals that are located on the countertop at Defendants’ stores. These terminal systems include a telecommunication means operable with a computer. The system employed by the Defendants also includes a display responsive to a computer, and a card reader communicating with a computer for modifying the purchasing value of a card in response to card use.
7. In the case of all transactions using the electronic terminals, the clerk enters an authorization code identifying the clerk and allowing the initiation of all transactions, including debit purchase transactions. In the case of adding initial value to a gift card, the clerk enters transaction data through the keypad of the terminal accessible to the clerk. The clerk swipes the card through the clerk accessible device. The customer

authorization code, which is contained on the reverse side of the gift card and also encoded onto the magnetic stripe on the back of the card, is then entered. The clerk asks the customer for the amount of money to be added to the card, receives the equivalent amount of money and enters that amount into the system through the keypad of the clerk accessible device. The transaction information, including the amount of value to be added to the card, is transferred to a host data processor through the telecommunication means. The value of the gift card is increased by the amount of the request for an increase in value. A response is displayed on the clerk accessible device and the customer accessible device. The process of adding value to a gift card with existing value, or one having already been in use, is similar to the above-described transaction. A receipt is printed for both transactions.

8. In the case of purchasing merchandise with a gift card, the process is similar to the above steps. The clerk enters a clerk authorization code. The clerk enters transaction data through the keypad. The clerk scans the merchandise or in the alternative enters the merchandise code on the keypad of the clerk accessible device. The clerk swipes the customer's gift card through a card reader on the counter-top terminal. The customer authorization code is then entered and the terminal sends the transaction data to the host computer, which then sends a response to the terminals. The system displays a response on the terminal. In the above scenarios Defendants are in a contractual relationship with the parties supplying the equipment used to infringe the patent and otherwise control the actions of the parties involved infringing the patent.
9. The steps outlined above in paragraphs 7 and 8 infringe claims 1, 3, 5, 6, 10, 11, 12, 16, and 17 of the '859 Patent. Plaintiff is not asserting infringement of any other claims in the 859 Patent.

10. Defendants have been aware of the patent and that the method employed by the Defendants infringes the patent since at least October 2005. Defendants' infringement is therefore willful. Specifically, Defendants were made aware of the patent and its infringement in a letter dated October 15, 2005 and again in letters sent on September 5, 2006 and September 15, 2006, December 15, 2008, January 12, 2009 and January 16, 2009. Defendants' gift card processing company has also notified Defendants about the patent and claimed infringement.

11. In the alternative, Defendants contributory infringe the patent. The Defendants compile all of the pieces necessary to infringe the patent, knowing about the patent and the claimed infringement. Further, Defendants sell gift cards containing a customer authorization code on each gift card, and which is specifically designed to be used in a manner that infringes the 859 Patent.

12. In the alternative, Defendants induces infringement of the patent. Defendants have the intention of inducing direct infringement by their customers. Defendants actively induce infringement because they know or should know of the infringement, and yet continue to promote and sell gift cards, with the intent of causing direct infringement.

Prayer for Relief

WHEREFORE, Plaintiff prays that judgment be entered against the Defendants, Payless ShoeSource, Inc. and Payless Gold Value, Inc., and requests the following relief:

- a. That the Defendants be held to have infringed the 859 Patent;
- b. That the Defendants and their subsidiaries, affiliates, franchisees, successors, assigns, officers, agents, servants, employees, customers, attorneys and all persons acting in concert and participation with them or any of them, be temporarily and preliminarily enjoined during the pendency of this action, and subsequently permanently enjoined,

from directly infringing, contributing to the infringement of and inducing infringement of the 859 Patent without express written authority of the Plaintiff.

- c. That the Defendants be directed to fully compensate Plaintiff for any and all damages attributable to Defendants' infringement of the 859 Patent in an amount to be proven at trial;
- d. That this case be deemed exceptional;
- e. That any damage award be trebled;
- f. That Plaintiff be awarded its reasonable attorney's fees;
- g. That Plaintiff be awarded costs of suit and an assessment of interest; and
- h. That Plaintiff has such other, further and different relief as this Court deems proper under the circumstances.

Respectfully submitted,

/Mark D. Roth/

Attorney for Plaintiff

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