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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY: _____

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8 UNITED STATES DISTRICT COURT
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA
10 LOS ANGELES DIVISION
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12 SONIC INDUSTRY, LLC,

13 Plaintiff,

14 v.

15 CAPITAL ONE, N.A.

16 Defendant.
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Case No. 2:12-cv-05189-JAK-JCG

**FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

Jury Trial Demanded

BY FAX

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

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3 **PLAINTIFF'S ORIGINAL COMPLAINT**

4 Plaintiff Sonic Industry, LLC ("Plaintiff"), by and through its undersigned counsel, files
5 this Original Complaint against Capital One, N.A. ("Defendant") as follows:

6 **NATURE OF THE ACTION**

7 1. This is a patent infringement action to stop Defendant's infringement of Plaintiff's
8 United States Patent No. 5,954,793 entitled "*Remote Limit-Setting Information System*" (the
9 "'793 patent"; a copy of which is attached hereto as Exhibit A). Plaintiff is the exclusive licensee
10 of the '793 patent with respect to the Defendant. Plaintiff seeks injunctive relief and monetary
11 damages.

12 **PARTIES**

13 2. Plaintiff is a limited liability company organized and existing under the laws of the
14 State of Delaware. Plaintiff maintains its principal place of business at 3422 Old Capital Trail,
15 PMB (STE) 1549, Wilmington, Delaware 19808-6192. Plaintiff is the exclusive licensee of the
16 '793 patent with respect to the Defendant, and possesses the right to sue for infringement and
17 recover past damages.

18 3. Upon information and belief, Defendant is a corporation organized and existing
19 under the laws of the State of Delaware, with its principal place of business located at 1680
20 Capital One Drive, McLean Virginia 22102.

21 **JURISDICTION AND VENUE**

22 4. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et*
23 *seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter
24 jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

25 5. The Court has personal jurisdiction over Defendant because: Defendant is present
26 within or has minimum contacts with the State of California and the Central District of California;
27 Defendant has purposefully availed itself of the privileges of conducting business in the State of
28 California and in the Central District of California; Defendant has sought protection and benefit

1 from the laws of the State of California; Defendant regularly conducts business within the State of
2 California and within the Central District of California; and Plaintiff's causes of action arise
3 directly from Defendant's business contacts and other activities in the State of California and in
4 the Central District of California.

5 6. More specifically, Defendant, directly and/or through authorized intermediaries,
6 ships, distributes, offers for sale, sells, and/or advertises (including the provision of an interactive
7 web page) its products and services in the United States, the State of California, and the Central
8 District of California. Upon information and belief, Defendant has committed patent
9 infringement in the State of California and in the Central District of California, has contributed to
10 patent infringement in the State of California and in the Central District of California, and/or has
11 induced others to commit patent infringement in the State of California and in the Central District
12 of California. Defendant solicits customers in the State of California and in the Central District of
13 California. Defendant has paying customers who are residents of the State of California and the
14 Central District of California and who use the Defendant's products and services in the State of
15 California and in the Central District of California.

16 7. Venue is proper in the Central District of California pursuant to 28 U.S.C. §§ 1391
17 and 1400(b).

18 **COUNT I – PATENT INFRINGEMENT**

19 8. The '793 patent was duly and legally issued by the United States Patent and
20 Trademark Office on September 21, 1999, after full and fair examination, for systems and
21 methods for setting limits on a remote information system. Plaintiff is the exclusive licensee of
22 the '793 patent with respect to the Defendant, and possesses all rights of recovery under the '793
23 patent with respect to the Defendant, including the right to sue for infringement and recover past
24 damages.

25 9. Plaintiff is informed and believes that Defendant owns, operates, advertises,
26 controls, sells, and otherwise provides hardware and software for "remotely setting limits on an
27 information processing system." Upon information and belief, Defendant has infringed and
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1 continues to infringe one or more claims of the '793 patent by making, using, providing, offering
2 to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United
3 States, systems and methods for using a remote device to set a selection and limit on a server.
4 More particularly, Plaintiff is informed and believes that Defendant sells and/or requires and/or
5 directs users to access and/or use a software system on a remote device to enter and verify
6 selection and limit parameters for online banking prior to transmitting the parameters to a host
7 computer for processing, in a manner claimed in the '793 patent. Upon information and belief,
8 Defendant has contributed to the infringement of one or more claims of the '793 patent, and/or
9 actively induced others to infringe one or more claims of the '793 patent, in this district and
10 elsewhere in the United States.

11 10. Defendant's aforesaid activities have been without authority and/or license from
12 Plaintiff.

13 11. Plaintiff is entitled to recover from the Defendant the damages sustained by
14 Plaintiff as a result of the Defendant's wrongful acts in an amount subject to proof at trial, which,
15 by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this
16 Court under 35 U.S.C. § 284.

17 12. Defendant's infringement of Plaintiff's exclusive rights under the '793 patent will
18 continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at
19 law, unless enjoined by this Court.

20 **JURY DEMAND**

21 13. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of
22 Civil Procedure.

23 **PRAYER FOR RELIEF**

24 Plaintiff respectfully requests that the Court find in its favor and against Defendant, and
25 that the Court grant Plaintiff the following relief:

- 26 A. An adjudication that one or more claims of the '793 patent have been infringed,
27 either literally and/or under the doctrine of equivalents, by Defendant and/or by
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1 others to whose infringement Defendant has contributed and/or by others whose
2 infringement has been induced by Defendant;

3 B. An award to Plaintiff of damages adequate to compensate Plaintiff for the
4 Defendant's acts of infringement together with pre-judgment and post-judgment
5 interest;

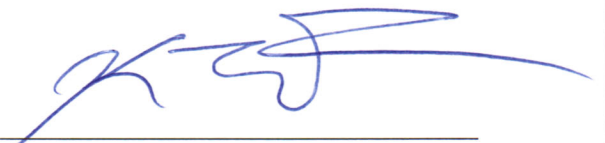
6 C. That, should Defendant's acts of infringement be found to be willful from the time
7 that Defendant became aware of the infringing nature of their actions, which is the
8 time of filing of Plaintiff's Original Complaint at the latest, that the Court award
9 treble damages for the period of such willful infringement pursuant to 35 U.S.C. §
10 284;

11 D. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the
12 Defendant from further acts of (1) infringement, (2) contributory infringement, and
13 (3) actively inducing infringement with respect to the claims of the '793 patent;

14 E. That this Court declare this to be an exceptional case and award Plaintiff its
15 reasonable attorneys' fees and costs in accordance with 35 U.S.C. §285; and

16 F. Any further relief that this Court deems just and proper.

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19 Respectfully submitted,
20 **LAW OFFICES OF KRIS LE FAN**

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22 Dated: July 11, 2012

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Kris Le Fan, Esq.,
24 Attorney for Plaintiff
25 SONIC INDUSTRY, LLC
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