IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

Phoenix Licensing, L.L.C., an Arizona limited liability company, and LPL Licensing, L.L.C., a Delaware limited liability company; Plaintiffs, vs. Fifth Third Bancorp, an Ohio corporation, and Fifth Third Bank, an Ohio corporation; Defendants.	CASE NO. 2:12-cv-00213 **Jury Trial Demanded**

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Phoenix Licensing, L.L.C. ("Phoenix") and LPL Licensing, L.L.C. ("LPL") sue Fifth Third Bancorp and Fifth Third Bank (collectively, "Fifth Third" or "Defendants").

Introduction

1. Plaintiff Phoenix owns the inventions for the following marketing technology (i.e., the "patented marketing technology"):

(a) Computerized apparatuses, methods, or systems that implement decision criteria, product information, and client information to automatically select and present products appropriate for the client via client communications (for example, a direct mail communication incorporating variable information) as described and claimed in United States Patent Number 5,987,434 entitled "Apparatus and Method for Transacting Marketing and Sales of Financial Products" (the "'434 patent");

(b) Apparatuses, methods, or systems that automatically prepare customized

replies to responses, generated from marketing communications delivered to clients for products or services, such as financial products or services, as described and claimed in United States Patent Number 6,999,938 entitled "Automated Reply Generation Direct Marketing System" (the "'938 patent"); and

(c) Apparatuses, methods, or systems that automatically generate personalized communication documents for financial products or services, where the communications include personalized content that present alternative descriptions, characteristics and/or identifications associated with the financial product or service, as described and claimed in United States Patent Number 7,890,366 entitled "Personalized Communication Documents, System and Method for Preparing Same" (the "'366 patent"). (The '434, '938, and '366 patents are collectively referred to as the "Patents.")

2. Pursuant to a license agreement dated December 1, 2006, Plaintiff LPL is the exclusive licensee of the Patents.

3. Defendants (a) have used, and continue to use, Plaintiff Phoenix's patented marketing technology that they make, use, import, sell, and offer to sell, without Plaintiffs' permission; and (b) have contributed to or induced, and continue to contribute to or induce, others to infringe the Patents.

4. Plaintiffs seek damages for patent infringement and an injunction preventing Defendants from making, using, selling, or offering to sell, and from contributing to and inducing others to make, use, sell, or offer to sell the patented marketing technology without Plaintiffs' permission.

Jurisdiction and Venue

5. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271 and 281, *et seq*. The Court has original jurisdiction over this patent infringement action under 28 U.S.C. § 1338(a).

6. Within this judicial district each of the Defendants has committed acts and continues to commit acts that give rise to this action, including making sales of infringing products and offering for sale infringing products. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and § 1400.

Plaintiffs Phoenix and LPL

7. Phoenix Licensing, L.L.C. is an Arizona limited liability company having a principal place of business in Scottsdale, Arizona.

8. LPL Licensing, L.L.C. is a Delaware limited liability company having a principal place of business in Scottsdale, Arizona.

Fifth Third Defendants

9. Upon information and belief, Fifth Third Bancorp is an Ohio corporation with its principal place of business in Cincinnati, Ohio.

10. Upon information and belief, Fifth Third Bank is an Ohio corporation with its principal place of business in Cincinnati, Ohio.

First Claim for Patent Infringement
(infringement of the '434 patent)

11. Plaintiffs incorporate by reference each of the allegations in paragraphs 1 through 10 above and further allege as follows:

12. The United States Patent and Trademark Office issued the '434 patent on November 16, 1999 for inventions covering the following marketing technology: computerized apparatuses, methods, or systems that implement decision criteria, product information, and client information to automatically select and present products appropriate for the client (for example, a direct mail communication incorporating variable information), as described and claimed in the '434 patent. Attached as Exhibit A is a copy of the '434 patent. Through assignment, Plaintiff Phoenix is the owner of all right, title, and interest in the '434 patent, including all rights to pursue and collect damages for past infringements of the patent.

13. Defendants have infringed the '434 patent and, unless enjoined, will continue to do so by using Plaintiffs' patented marketing technology, namely hardware and/or software responsible for generating marketing documents (including letters and e-mails) concerning Defendants' financial products that use information about the customers to determine which product is appropriate for which customer. For example, if Fifth Third has two customers (or potential customers), Customer A and Customer B, the infringing hardware and/or software automatically selects financial products appropriate for Customer A (e.g., "Fifth Third Bank Visa Signature Card") and a financial product appropriate for Customer B (e.g., "Fifth Third Bank Platinum MasterCard"). Upon information and belief, Defendants also actively and knowingly have induced and continue to induce infringement of the '434 patent by providing third party vendors with explanations, instructions, information, and/or support services related to the third parties' use of said infringing hardware and/or software. Upon information and belief,

Defendants have also contributed to infringement of the ‘434 patent by actively and knowingly providing third parties with hardware and/or software components that are used as a material element by the third parties in said infringing hardware and software.

14. Plaintiffs have been damaged by the infringement of the ‘434 patent by Defendants and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the ‘434 patent.

15. Plaintiffs are entitled to recover damages from Defendants as compensation for the infringement of the ‘434 patent.

16. Plaintiffs demand trial by jury of all issues relating to their claims regarding the ‘434 patent.

Second Claim for Patent Infringement
(infringement of the ‘938 patent)

17. Plaintiffs incorporate by reference each of the allegations in paragraphs 1 through 16 above and further allege as follows:

18. The United States Patent and Trademark Office issued the ‘938 patent on February 14, 2006 for inventions covering the following marketing technology: apparatuses, methods, or systems that automatically prepare customized replies to responses, generated from marketing communications delivered to clients for products or services, such as financial products or services, as described and claimed in the ‘938 patent. Attached as Exhibit B is a copy of the text of the ‘938 patent. Through assignment, Plaintiff Phoenix is the owner of all right, title, and interest in the ‘938 patent, including all rights to pursue and collect damages for past infringements of the patent.

19. Defendants have infringed the '938 patent and, unless enjoined, will continue to do so by using Plaintiffs' patented marketing technology, namely hardware and/or software responsible for generating marketing documents concerning Defendants' financial products (including content appearing on Defendants' website, e.g., www.53.com) that include content customized for a particular customer without a license or permission from Plaintiffs. For example, the hardware and/or software that generates content on www.53.com provide customized responses to verify a customer's identity based on the information provided by the customer (*e.g.*, "Which of the following street addresses in 'Crystal City' have you ever lived at or been associated with?"). Upon information and belief, Defendants also actively and knowingly have induced and continue to induce infringement of the '938 patent by providing third party vendors with explanations, instructions, information, and/or support services related to the third parties' use of said infringing hardware and/or software. Upon information and belief, Defendants have also contributed to infringement of the '938 patent by actively and knowingly providing third parties with hardware and/or software components that are used as a material element by the third parties in said infringing hardware and software.

20. Plaintiffs have been damaged by the infringement by Defendants of the '938 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the '938 patent.

21. Plaintiffs are entitled to recover damages from Defendants as compensation for the infringement of the '938 patent.

22. Plaintiffs demand trial by jury of all issues relating to their claims regarding the '938 patent.

Third Claim for Patent Infringement
(infringement of the '366 patent)

23. Plaintiffs incorporate by reference each of the allegations in paragraphs 1 through 22 above and further allege as follows:

24. The United States Patent and Trademark Office issued the '366 patent on February 15, 2011 for inventions covering the following marketing technology: apparatuses, methods, or systems that automatically generate personalized marketing communications for financial products or services, where the communications include personalized content that present alternative descriptions, characteristics, and/or identifications associated with the financial product or service, as described and claimed in the '366 patent. Attached as Exhibit C is a copy of the text of the '366 patent. Through assignment, Plaintiff Phoenix is the owner of all right, title, and interest in the '366 patent, including all rights to pursue and collect damages for past infringements of the patent.

25. Defendants have infringed the '366 patent and, unless enjoined, will continue to do so by using Plaintiffs' patented marketing technology, namely hardware and/or software responsible for generating marketing documents (including letters and e-mails) concerning Defendants' financial products that include content customized for particular users without a license or permission from Plaintiffs. For example, hardware and/or software that automatically generates successive letters sent to customers (or potential customers) that include content about a product (e.g., auto insurance) that varies between customers infringes the '366 patent. For example, a letter generated by said hardware and/or software intended for a particular individual may indicate on its face that he may consolidate credit card balances onto a Fifth Third Bank credit card with an introductory 0% APR for 12 billing cycles, while another

letter generated by same said hardware and/or software intended for a different particular individual may include different content – e.g., it may state on its face that the introductory APR is 3.99% for 18 billing cycles. Upon information and belief, Defendants also actively and knowingly have induced and continue to induce infringement of the ‘366 patent by providing third party vendors with explanations, instructions, information, and/or support services related to the third parties’ use of said infringing hardware and/or software. Upon information and belief, Defendants have also contributed to infringement of the ‘366 patent by actively and knowingly providing third parties with hardware and/or software components that are used as a material element by the third parties in said infringing hardware and software.

26. Plaintiffs have been damaged by the infringement by Defendants of the ‘366 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the ‘366 patent.

27. Plaintiffs are entitled to recover damages from Defendants as compensation for the infringement of the ‘366 patent.

28. Plaintiffs demand trial by jury of all issues relating to their claims regarding the ‘366 patent.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

A. A decree preliminarily and permanently enjoining Defendants, their officers, directors, employees, agents, and all persons in active concert with them from infringing, contributing to the infringement of, or inducing others to infringe LPL's Patents;

B. Compensatory damages for Defendants' infringement of LPL's Patents;

C. Costs of suit and attorneys' fees on the basis that this patent infringement case is exceptional;

D. Pre-judgment interest; and

E. All such other relief as justice requires.

Date: August 9, 2012

Respectfully Submitted,

/s/ Richard E. Lyon
Richard E. Lyon
CA State Bar No. 229288
Email: rick@dovellaw.com
Gregory Scott Dovel
CA State Bar No. 135387
Email: greg@dovellaw.com
Sean A. Luner
CA State Bar No. 165443
sean@dovellaw.com
Dovel & Luner, LLP
201 Santa Monica Blvd., Suite 600
Santa Monica, CA 90401
Telephone: (310) 656-7066
Facsimile: (310) 656-7069

S. Calvin Capshaw
State Bar No. 03783900
Elizabeth L. DeRieux
State Bar No. 05770585
CAPSHAW DERIEUX, L.L.P.
114 E. Commerce Ave.
Gladewater, Texas 75647
Telephone: (903) 236-9800
Facsimile: (903) 236-8787
Email: capshaw@capshawlaw.com
Email: ederieux@capshawlaw.com

ATTORNEYS FOR PLAINTIFFS
PHOENIX LICENSING, L.L.C. and
LPL LICENSING, L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this 9th day of August, 2012, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Richard E. Lyon