

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

LEON STAMBLER,

Plaintiff,

v.

**FIRST CITIZENS BANCSHARES, INC.
and FIRST CITIZENS BANK & TRUST
COMPANY,**

Defendants.

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Civil Action No. 2:12-CV-676

JURY TRIAL DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff LEON STAMBLER files this Original Complaint against FIRST CITIZENS BANCSHARES, INC. and FIRST CITIZENS BANK & TRUST COMPANY, alleging as follows:

I. THE PARTIES

1. Plaintiff LEON STAMBLER (“Stambler”) is an individual residing in Parkland, Florida.

2. Defendant FIRST CITIZENS BANCSHARES, INC. is a Delaware corporation with its principal place of business in Raleigh, North Carolina. This Defendant may be served with process through its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

3. Defendant FIRST CITIZENS BANK & TRUST COMPANY (a subsidiary of First Citizens BancShares, Inc.) is a North Carolina chartered banking institution with its principal place of business in Raleigh, North Carolina. This Defendant may be served with

process through its President, Ed Willingham, 239 Fayetteville Street, Raleigh, North Carolina 27601.

II. JURISDICTION AND VENUE

4. This is an action for patent infringement arising under 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction of this action under Title 28 U.S.C. §1331 and §1338(a).

5. The Court has general and specific personal jurisdiction over each Defendant, and venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b). Each Defendant has substantial contacts with the forum as a result of pervasive business activities conducted within the State of Texas and within this District. On information and belief, each Defendant regularly solicits business in Texas and in this District, and derives substantial revenue from products, systems, and/or services provided to individuals or entities residing in Texas and in this District. Each Defendant provides secure online transaction services directly to customers in this District through its interactive website(s). Specifically, each Defendant conducts business relating to secure online banking, including online bill pay, with and for customers residing in this District through interactive website(s) (*e.g.*, firstcitizens.com). Through the provisions of such products and/or services, each Defendant has committed and continues to commit acts of patent infringement in the State of Texas and in this District.

III. PATENT INFRINGEMENT

6. On August 11, 1998, United States Patent No. 5,793,302 (“the ‘302 patent”) was duly and legally issued for a “Method for Securing Information Relevant to a Transaction.” A true and correct copy of the ‘302 patent is attached hereto as Exhibit A.

7. Stambler is the inventor and owner of all rights, title, and interest in and to the '302 patent, and Stambler possesses all rights of recovery under it.

8. Defendants FIRST CITIZENS BANCSHARES, INC. and FIRST CITIZENS BANK & TRUST COMPANY (together, "First Citizens Bank") have infringed and continue to infringe, directly, and/or through the inducement of others, claimed methods of the '302 patent.

9. First Citizens Bank has been and now is directly infringing claims of the '302 patent, including (for example) at least claims 41 and 47 of the '302 patent, by performing secure online transactions initiated using First Citizens Bank's secure online banking products and/or services (*e.g.*, First Citizens Online Banking) accessible through First Citizens Bank's interactive online website(s) (*e.g.*, firstcitizens.com) and, upon information and belief, claim 8 of the '302 patent by engaging in encrypted communications between computers or other devices owned by First Citizens Bank.

10. First Citizens Bank has been and now is inducing its customers' direct infringement of claims of the '302 patent, including (for example) at least claims 7 and 8 of the '302 patent, by requiring customers to use SSL and/or TLS to secure information communicated using First Citizens Bank's secure online banking products and/or services (*e.g.*, First Citizens Online Banking) accessible through First Citizens Bank's interactive online website(s) (*e.g.*, firstcitizens.com).

11. First Citizens Bank has knowledge that its customers use of SSL and/or TLS to secure information communicated using First Citizens Bank's secure online banking products and services infringes claims of the '302 patent (*e.g.*, claims 7 and 8) based, at least, on this complaint.

12. First Citizens Bank intends that its customers infringe claims of the '302 patent (*e.g.*, claims 7 and 8) by requiring that its customers use SSL and/or TLS when using First Citizens Bank's secure online banking products and/or services (*e.g.*, First Citizens Online Banking), which requires the customer's device (*e.g.*, computer, smartphone) to perform the steps of claimed methods.

13. Stambler has been damaged as a result of First Citizens Bank's infringing conduct. First Citizens Bank is, thus, liable to Stambler in an amount that adequately compensates him for its infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

IV. JURY DEMAND

Stambler hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

V. PRAYER FOR RELIEF

Stambler requests that the Court find in his favor and against Defendants, and that the Court grant Stambler the following relief:

- a. Judgment that one or more claims of United States Patent No. 5,793,302 has been infringed, either literally and/or under the doctrine of equivalents, by one or more Defendants and/or by others to whose infringement has been induced by Defendants;
- b. Judgment that Defendants account for and pay to Stambler all damages to and costs incurred by Stambler because of Defendants' infringing activities and other conduct complained of herein;
- c. That Stambler be granted pre-judgment and post judgment interest on the damages caused by Defendants' infringing activities and other conduct complained of herein;
- d. That the Court declare this an exceptional case and award Stambler his reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285; and

- e. That Stambler be granted such other and further relief as the Court may deem just and proper under the circumstances.

Respectfully submitted,



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