

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

**SONIC INDUSTRY, LLC,
Plaintiff,**

v.

**TEXANS CREDIT UNION
Defendant.**

§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 2:12-cv-637

JURY TRIAL DEMANDED

PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff Sonic Industry, LLC ("Plaintiff"), by and through its undersigned counsel, files this Complaint against Defendant Texans Credit Union as follows:

NATURE OF THE ACTION

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

PARTIES

2. Plaintiff Sonic Industry, LLC is a limited liability company organized under the laws of the State of Delaware. Plaintiff maintains its principal place of business at 3422 Old Capital Trail, PMB (STE) 1549, Wilmington, Delaware 19808-

6192. Plaintiff is the exclusive licensee of the '793 patent and possesses the right to sue for infringement and recover past damages.

3. Upon information and belief, Defendant Texans Credit Union ("Defendant") is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 777 East Campbell Road, Richardson, TX 75081.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, 35 U.S.C. § *et seq.*, including 35 U.S.C. § 271. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

5. The Court has personal jurisdiction over Defendant because: Defendant is present within or has minimum contacts with the State of Texas and the Eastern District of Texas; Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in the Eastern District of Texas; Defendant has sought protection and benefit from the laws of the State of Texas; Defendant regularly conducts business within the State of Texas and within the Eastern District of Texas; and Plaintiff's causes of action arise directly from Defendant's business contacts and other activities in the State of Texas and in the Eastern District of Texas.

6. More specifically, Defendant, directly and/or through authorized intermediaries, ships, distributes, offers for sale, sells, and/or advertises (including the

provision of an interactive web page) its products and services in the United States, the State of Texas, and the Eastern District of Texas. Defendant solicits customers in the State of Texas and in the Eastern District of Texas. Defendant has paying customers who are residents of the State of Texas and the Eastern District of Texas and who use the Defendant's products and services in the State of Texas and in the Eastern District of Texas.

7. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§1391 and 1400(b).

COUNT I– INFRINGEMENT OF U.S. PATENT 5,954,793

8. Plaintiff refers to and incorporates herein the allegations of Paragraphs 1-6 above.

9. The '793 Patent was duly and legally issued by the United States Patent and Trademark Office on September 21, 1999, after full and fair examination. Plaintiff is the exclusive licensee of the '793 patent and possesses all rights of recovery under the '793 patent with respect to the Defendant, including the right to sue for infringement and recover past damages.

10. Defendant owns, operates, advertises, controls, sells, and otherwise provides hardware and software for "A method for remotely setting limits on an information distribution system including a remote processing device for being connected to a host computer by a communications channel, said method comprising the steps of:

entering selection and limit parameters at the remote processing device; verifying the selection and limit parameters at the remote processing device prior to establishing said communications channel; if the selection and limit parameters are verified at the remote processing device, establishing said communications channel and transferring said selection and limit parameters from the remote processing device to the host computer by the communication channel; storing said selection and limit parameters in a memory of the host computer; transmitting inbound information directly from at least one information source, through a communications link, to said host computer, said information source being outside said host computer and said processing device; extracting, only in said host computer, extracted information from said inbound information in response to said selection and limit parameters, said extracted information including only those portions of inbound information which satisfy said selection and limit parameters; and distributing a non-interactive paging message from the host computer to the remote processing device, said paging message including, of said inbound information transmitted to said host computer, only said extracted information.”

11. Defendant has infringed and continues to infringe one or more claims of the ’793 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, systems and methods for using a remote device to set a selection and limit on a server. More particularly, Defendant sells and/or requires and/or directs users to access and/or use a software

system on a remote device to enter and verify selection and limit parameters for online banking prior to transmitting the parameters to a host computer for processing, in a manner claimed in the '793 patent. Defendant infringes the '793 patent by Defendant providing the Texans Banking Software that practices a method for remotely setting limits on an information distribution system.

12. Defendant infringes '793 patent by providing customers a variety of tools and systems designed to manage and facilitate interacting with their bank accounts, including an alert system providing users with messages when conditions change. The remote processing device corresponds to a user's desktop computer, laptop, smart phone, tablet, or any other portable device interacting with the Texans Banking Software. The host computer is the Defendant's server feeding customer information to the remote processing device, and the communications channel is the data transfer channel that ferries information between the host computer and portable device. Selection and limit parameters refer to classifications that the customer may monitor and receive alerts related to those classifications. Selection limits correspond to the appropriate account. The limit parameters correspond to the values corresponding to whether an alert should be generated. This alert generation capability is accessible through the Defendant's software present on a user's computer (the remote processing device). The customer enters selection and limit parameters for generating an alert. These parameters are verified when the user selects "Save".

13. After selection and limit parameters are established, the customer's computer, the remote processing device sends this data to the Defendant's servers, the host computer, over the data transfer channel, the communication channel. Once the parameter data is transferred from the remote processing device to the host computer, that data is stored in memory. The Defendant infringes the '793 patent when the inbound information corresponds to financial data that the host computer aggregates for access by the customer. For the information to go between the inbound information source and the host computer, a communications link is established. These inbound information sources are outside both Defendant's servers handling customer requests, the host computer, and the customer's computer, the remote processing device. The host computer, after receiving the parameter data from the remote processing device, extracts the relevant information from the inbound information source and delivers only that information as an alert to the user. This infringement of the '793 patent occurs when, a customer's account goes below a threshold and an alert is generated to the customer's remote processing device, computer and/or smart phone.

14. While the Defendant's server is receiving information about many accounts, when it receives information indicating that a customer's specific account has gone below a specific threshold, the Defendant's server generates an alert for delivery to the customer's computer, alerting the customer about the movement of said account, but not about the movement of any other accounts, such as money markets, mortgages,

certificates of deposits or savings. The host computer, after receiving the parameter data from the remote processing device, extracts the relevant information from the inbound information source and delivers only that information as an alert to the customer.

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

16. Defendant also has infringed under 35 U.S.C. § 271(b) by inducing infringement of the '793 patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, performing certain steps of the methods claimed by the '793 patent, and advising, encouraging, or otherwise inducing others to perform the remaining steps claimed by the '793 patent to the injury of Plaintiff. For example, Defendant has configured the banking software to be made available for use with most computer systems, smart phones, and other remote processing devices, inducing others to perform steps claimed thereby infringing on the '793 patent. Defendant has had knowledge of the '793 patent since at least as early as October 22, 2012 when Plaintiff's counsel contacted Defendant and offered to license the '793 patent, and by continuing the actions described above, has had specific intent to induce infringement of the '793 patent pursuant to 35 U.S.C. § 271(b).

17. Plaintiff is entitled to recover from the Defendant the damages sustained by Plaintiff as a result of the Defendant's wrongful acts in an amount subject to proof at

trial, 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.

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

JURY DEMAND

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

PRAYER FOR RELIEF

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

- A. An adjudication that one or more claims of the '793 patent have been infringed, either literally and/or under the doctrine of equivalents, directly and/or indirectly by Defendant;
- B. An award to Plaintiff of damages adequate to compensate Plaintiff for the Defendant's acts of infringement together with pre-judgment and post-judgment interest;
- C. That, should Defendant's acts of infringement be found to be willful from the time that Defendant became aware of the infringing nature of their actions, which is the time of filing of Plaintiff's Original Complaint at the latest, that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;

- D. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendant from further acts of infringement with respect to the claims of the '793 patent;
- E. That this Court declare this to be an exceptional case and award Plaintiff its reasonable attorneys' fees and costs in accordance with 35 U.S.C. §285; and
- F. Any further relief that this Court deems just and proper.

Dated: November 27, 2012

Respectfully submitted,

By: /s/Andrew W. Spangler
Andrew Spangler, Esq.
State Bar No. 24041960
email address: spangler@sfipfirm.com
Attorney-in-Charge
SPANGLER & FUSSELL P.C.
208 North Green Street
Suite 300
Longview, TX 75601
Phone: (903) 753-9300
Fax: (903) 553-0403

James A. Fussell, III, Esq.
AR State Bar No. 2003193
Email address: fussell@sipfirm.com
SPANGLER & FUSSELL P.C.
211 N. Union Street, Suite 100
Alexandria, VA 22314
Phone: (903) 753-9300
Fax: (903) 553-0403

**ATTORNEYS FOR PLAINTIFF
SONIC INDUSTRY, LLC**