

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

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U.S. DISTRICT COURT
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TX EASTERN-MARSHALL

SOURCE, INC.

Plaintiff

vs.

CENDANT CORP.

Defendant

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CIVIL ACTION NO. **2-05CV-347**

JURY

BY _____

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff Source, Inc. ("Plaintiff" or "Source") files this Original Complaint and in support thereof would show the Court the following:

Parties

1. Source is a Delaware corporation with its principal place of business in Newhall, California

2. On information and belief, Defendant Cendant Corp. ("Defendant" or "Cendant") is a corporation having a principal place of business at 9 West 57th Street, New York, New York 10019. On information and belief, Cendant's agent to receive service of process is the Office of General Counsel, at the aforementioned address

Jurisdiction

3. This Court has federal question jurisdiction over this case pursuant to 28 U S C §§ 1331, 1332, and 1338(a).

4. On information and belief, Cendant has solicited business in the state of Texas, transacted business within the state of Texas and attempted to derive financial benefit from residents

of the state of Texas directly related to the instant patent infringement cause of action set forth herein. Further, on information and belief, venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(c) and § 1400(b) because acts constituting infringement have occurred in this judicial district.

Background

5 On July 10, 1990, United States Patent No. 4,941,090 (the '090 patent, attached hereto) entitled "Centralized Consumer Cash Value Accumulation System For Multiple Merchants" was duly and legally issued to Patrick D. McCarthy and which patent is now legally controlled by Source. Source has the sole right to bring all actions for infringement of the '090 patent and recover all damages for infringement of this patent.

6 On May 26, 1992, United States Patent No. 5,117,355 (the '355 patent, attached hereto) entitled "Centralized Consumer Cash Value Accumulation System For Multiple Merchants" was duly and legally issued to McCarthy and which is now legally owned and controlled by Source. Source has the sole right to bring all actions for infringement of the '355 patent and recover all damages for infringement of this patent.

7 On April 13, 1993, United States Patent No. 5,202,826 (the '826 patent, attached hereto) entitled "Centralized Consumer Cash Value Accumulation System For Multiple Merchants" was duly and legally issued to McCarthy and which patent is now legally controlled by Source. Source has the sole right to bring all actions for infringement of the '826 patent and recover all damages for infringement of this patent.

8 On February 23, 1999, United States Patent No. Re: 36,116 (the '116 patent, attached hereto) entitled "Centralized Consumer Cash Value Accumulation System for Multiple Merchants"

was duly and legally issued to McCarthy and which is now legally owned and controlled by Source. Source has the sole right to bring all actions for infringement of the '116 patent and recover all damages for infringement of this patent.

9. On information and belief, Cendant by its conduct of its ownership, operation, promotion, solicitation and offering to consumers the ability to become a member of "TripRewards" which is a rewards and rebate and loyalty program that Cendant operates through a website (<http://www.TripRewards.com>), has utilized and practiced the claimed inventions in the '090, '355, '826 and '116 patents.

Defendant's Infringement

10. Source incorporates by reference, paragraphs 1-9 herein

11. On information and belief, Cendant, through its TripRewards program, is currently infringing, contributorily infringing, and/or actively inducing the infringement of the '090, '355, '826 and '116 patents by making, using, selling, offering for sale and/or selling within this judicial district and elsewhere in the United States, without license or authority from Source, hardware, processes and methods that practice the inventions claimed in the '090, '355, '826 and '116 patents.

12. On information and belief, Cendant's misappropriation of Plaintiff's inventions through infringement of the '090, '355, '826 and '116 patents has been willful and deliberate. It is also Source's belief that Cendant will continue its infringing activities and will continue this unlawful conduct unless restrained by this Court.

13. On information and belief, Cendant's appropriation of the inventions through infringement of the '090, '355, '826 and '116 patents has allowed Cendant to gain substantial market share in the customer loyalty, rebate and rewards and member services market and to reap unjustified

profits. Cendant's infringement has caused and will continue to cause irreparable harm to Source

14. As a result of this unlawful behavior, Source has been damaged and will continue to be damaged by Cendant's infringement of the '090, '355, '826 and '116 patents

Demand for Jury Trial

15. Source respectfully demands a trial by jury for all claims alleged herein.

Prayer

16. Source respectfully prays for and asks the Court to find and enter judgment as to the following:

A) That this Court adjudge that United States Patent Nos. 4,941,090, 5,117,355, 5,202,826 and the Re 36,116 are valid and that Cendant is and has infringed the patents by direct infringement under 35 U.S.C. § 271(a), contributory infringement under 35 U.S.C. § 271(c) and/or by inducing infringement under 35 U.S.C. § 271(b) as claimed in the Complaint;

B) That Source be awarded under 35 U.S.C. § 284, in an amount to be proven at trial, damages adequate to compensate Source for Cendant's infringement of the '090, '355, '826 and '116 patents;

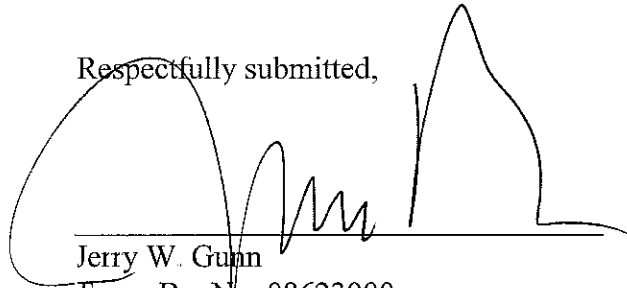
C) That Source be awarded its costs and prejudgment interest on its damages, as provided for by 35 U.S.C. § 284;

D) That this court enter a preliminary and permanent injunction be issued against Defendant and all of its officers, agents, affiliates, servants, employees, and attorneys, and all other persons in active concert or participation with them, against further infringement, inducing infringement, and/or contributing to the infringement of the '090, '355, '826 and

'116 patents;

- E) An accounting be had for the damages to Source arising out of Cendant's infringing activities, together with interest and costs and that such damages be awarded to Source;
- F) That Defendant be adjudged a willful infringer and that the damages to Source be increased under 35 U.S.C. § 284 to three (3) times the amount found or measured;
- G) An award of attorney fees to Plaintiff under 35 U.S.C. § 285;
- H) That the Defendant be ordered to make a written report within a reasonable period, to be filed with the Court, detailing the manner of their compliance with the requested injunction; and
- I) That Plaintiff be entitled to such other and further relief as the Court may deem appropriate

Respectfully submitted,



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