

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THE PNC FINANCIAL SERVICES)
GROUP, INC., and)
PNC BANK, NATIONAL ASSOCIATION,)
)
Plaintiffs,)
)
v.)
)
MAXIM INTEGRATED PRODUCTS, INC.)
)
Defendant.)

Civil Action No. _____

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiffs, The PNC Financial Services Group, Inc. and PNC Bank, National Association (collectively "PNC"), through the undersigned attorneys, alleges the following for its Complaint against Defendant Maxim Integrated Products, Inc. ("Maxim"):

NATURE OF ACTION

1. This is an action for declaratory judgment seeking relief of non-infringement and invalidity under the patent laws of the United States, Title 35, United States Code, the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and Fed. R. Civ. P. 57.

THE PARTIES

2. The PNC Financial Services Group, Inc., a publicly-traded corporation listed on the New York Stock Exchange as "PNC," is a Pennsylvania corporation with its principal place of business in Pittsburgh, Pennsylvania.

3. PNC Bank, National Association, a national banking association with its principal place of business in Pittsburgh, Pennsylvania, is a wholly-owned, indirect subsidiary of The PNC Financial Services Group, Inc.

4. Upon information and belief, Defendant Maxim is a Delaware corporation with its principal place of business at 120 San Gabriel Drive, Sunnyvale, California.

JURISDICTION AND VENUE

5. This declaratory judgment claim arises under the United States Patent Laws, 35 U.S.C. § 100 et seq., and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Subject matter jurisdiction is proper under 28 U.S.C. §§ 1331 and 1338(a). This matter presents an actual case or controversy and serves the purpose of resolving the legal rights of the parties.

6. This Court has personal jurisdiction over Maxim because Maxim has maintained continuous and systematic contacts with the Commonwealth of Pennsylvania, and Maxim has purposefully availed itself of the benefits and protections of the laws of the Commonwealth of Pennsylvania.

7. Maxim, directly and/or through its distribution networks, offers for sale, sells, and/or distributes products within the Commonwealth of Pennsylvania.

8. Upon information and belief, Maxim maintains sales offices within the Commonwealth of Pennsylvania. See Exhibit A, a printout from Maxim's website <http://www.maxim-ic.com/sales/offices/worldwide.mvp>, showing its worldwide sales offices, including two for Pennsylvania. Specifically, one of the sales offices listed on Maxim's website references a Maxim sales representative in "US - Pennsylvania (Western)."

9. Upon information and belief, Maxim engages franchised distributors within the Commonwealth of Pennsylvania. See Exhibit B, a printout from Maxim's website <http://www.maxim-ic.com/sales/offices/distributor/franchise.mvp>, showing three franchised distributors in Pennsylvania. Specifically, one of the Maxim franchised distributors, Avnet, Inc., has a branch office located in Wexford, Pennsylvania (in the Western District of Pennsylvania).

10. In addition, Maxim operates an interactive website through which persons in Pennsylvania can and do order products from Maxim, which are shipped to Pennsylvania. See <http://www.maxim-ic.com/sales/>.

11. On December 2, 2011, counsel for Maxim sent a demand letter to PNC's General Counsel in Pittsburgh, Pennsylvania, alleging patent infringement against PNC in Pennsylvania.

12. Venue is proper in this judicial district under 28 U.S.C. §§ 1391.

FACTUAL BACKGROUND

13. In the December 2, 2011 demand letter, counsel for Maxim accused PNC of infringing Maxim's patents. Specifically, Maxim alleged that PNC's mobile platforms, including multiple software applications for iPhone and other mobile devices, infringe the claims of United States Patent Nos. 5,940,510 ("510 patent"), 5,949,880 ("880 patent"), 6,105,013 ("013 patent"), and 6,237,095 ("095 patent").

14. Upon information and belief, the '510, '880, '013, and '095 patents are assigned to Maxim. True and correct copies of the four patents are attached hereto as Exhibits C, D, E, and F. True and correct assignments of the four patents are attached hereto as Exhibits G, H, I, and J.

15. In the December 2, 2011 letter, Maxim alleged that "[i]t is our belief that PNC is infringing a number of the patents within the Maxim Mobile Transaction Patent Portfolio." Specifically, Maxim stated that PNC mobile platforms "infringe certain claims within the portfolio via direct infringement, joint infringement, contributory infringement and/or inducement." It further stated that if it did not hear from PNC within a month (i.e., by January 2, 2012), "Maxim will assume that PNC does not want to obtain a license in a non-litigious manner and will act accordingly."

16. On December 20, 2011, in-house counsel for PNC responded to counsel for Maxim, advising that: "PNC is in the process of reviewing the claims made in your letter. Due to vacation schedules around the holidays, we will not be in a position to respond to your letter by January 2, 2012." In response, on January 3, 2012, counsel for Maxim responded, proposing further communications in the form of a conference call on "January 24 or January 26."

17. Maxim's initial January 2, 2012 deadline, as later extended by counsel for Maxim to January 24 or January 26, is a clear and unmistakable threat of litigation against PNC.

18. Maxim attached to the December 2, 2011 letter nine pages of claim charts for the '510, '880, '013, and '095 patents. In particular, for claims of the '510 patent, Maxim alleged "infringement under joint infringement"; for claims of the '880 patent, Maxim alleged "infringement under direct infringement"; and for claims of the '013 and '095 patents, Maxim alleged "infringement under joint infringement, contributory infringement and inducement."

19. Maxim also attached to the December 2, 2011 letter a 33-page document entitled "Analysis of PNC Mobile Banking Software Application." Maxim stated that it analyzed the PNC mobile banking software application to show that "the PNC bank infringes certain claims within Maxim patents." In addition, Maxim stated that "[t]his document is referenced by the claim charts, provided herewith, showing the PNC mobile banking application, server structures and processes, and overall system architecture infringe a diverse set of claims within the Maxim patent portfolio."

20. Maxim's letter, together with the detailed attachments alleging patent infringement, is a further clear and unmistakable threat of litigation against PNC.

21. Additionally, Maxim has recently brought a number of lawsuits against different entities, alleging infringement of the claims of the '510, '880, '013, and '095 patents. For example, in the past three weeks alone, Maxim initiated five patent infringement lawsuits. Specifically, on January 6, 2012, Maxim filed three separate patent infringement lawsuits against (1) Capital One Financial Corporation, (2) Expedia, Inc., and (3) Starbucks Corporation, respectively. On January 9, 2012, Maxim filed a fourth patent infringement lawsuit against (4) Bank of the West. Then, on January 11, 2012, Maxim filed yet a fifth patent infringement lawsuit against (5) First United Bank & Trust Co. Maxim filed all of these patent infringement lawsuits in the District Court for the Eastern District of Texas.

22. Given Maxim's initiation of other litigation with respect to the '510, '880, '013, and '095 patents, and in light of Maxim's December 2, 2011 letter, it is clear that Maxim intends to pursue litigation against PNC.

COUNT I: DECLARATORY JUDGMENT OF NON-INFRINGEMENT

23. PNC incorporates the preceding paragraphs as if fully set forth herein.

24. PNC has not directly infringed, and does not directly infringe, any claim of the '510, '880, '013, and '095 patents.

25. PNC has not jointly infringed, and does not currently jointly infringe, any claim of the '510, '880, '013, and '095 patents.

26. PNC has not contributorily infringed, and does not currently contributorily infringe, any claim of the '510, '880, '013, and '095 patents.

27. PNC has not induced, and does not currently induce, any infringement of any claim of the '510, '880, '013, and '095 patents.

28. PNC is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that PNC does not infringe any claim of the '510, '880, '013, and '095 patents.

COUNT II: DECLARATORY JUDGMENT OF INVALIDITY

29. PNC incorporates the preceding paragraphs as if fully set forth herein.

30. The claims of each of the '510, '880, '013, and '095 patents are invalid under Title 35 of the United States Code, including but not limited to §§ 101, 102, 103 and/or 112.

31. PNC is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the claims of the '510, '880, '013, and '095 patents are invalid.

PRAYER FOR RELIEF

WHEREFORE, PNC respectfully requests that this Court enter judgment in its favor as follows:

- a) declare that PNC has not directly infringed, and does not currently directly infringe, any claim of the '510, '880, '013, and '095 patents;
- b) declare that PNC has not jointly infringed, and does not currently jointly infringe, any claim of the '510, '880, '013, and '095 patents;
- c) declare that PNC has not contributorily infringed, and does not currently contributorily infringe, any claim of the '510, '880, '013, and '095 patents;

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