

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

**CARDSOFT (ASSIGNMENT FOR THE
BENEFIT OF CREDITORS), LLC,
Plaintiff,**

v.

FIRST DATA CORPORATION,

Defendant.

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Civil Action No. 2:13-CV-0290

JURY TRIAL DEMANDED

**FIRST DATA CORPORATION'S ANSWER TO
COMPLAINT FOR PATENT INFRINGEMENT**

First Data Corporation ("First Data") responds to the Complaint for Patent Infringement ("Complaint") of Plaintiff CardSoft (Assignment for the Benefit of Creditors), LLC as follows:

1. First Data is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Complaint and therefore denies those allegations.

2. First Data admits that it is a corporation organized and existing under the laws of the state of Delaware, but its principal place of business is located at 5565 Glenridge Connector, N.E., Suite 2000, Atlanta, Georgia 30342, United States of America. First Data denies that it is a limited liability company.

3. First Data admits that the Complaint purports to state an action against First Data for patent infringement under the patent laws of the United States, including 35 U.S.C. § 271 et seq., over which this Court has subject matter jurisdiction, but First Data denies that Plaintiff has a valid claim for patent infringement against First Data under those laws.

4. First Data denies the allegations in Paragraph 4 of the Complaint.

5. First Data denies the allegations in Paragraph 5 of the Complaint.

6. First Data admits that the '945 Patent attached to the Complaint as Exhibit A is entitled "Method and Apparatus for Controlling Communications." First Data is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 6 of the Complaint and therefore denies those allegations.

7. First Data denies the allegations in Paragraph 7 of the Complaint.

8. First Data is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 of the Complaint and therefore denies those allegations.

9. First Data denies the allegations in Paragraph 9 of the Complaint.

10. First Data denies the allegations in Paragraph 10 (incorrectly numbered as Paragraph 8 in the Complaint) of the Complaint.

11. First Data denies the allegations in Paragraph 11 (incorrectly numbered as Paragraph 9 in the Complaint) of the Complaint.

12. First Data admits that the '683 patent attached to the Complaint as Exhibit B is entitled "Method and Apparatus for Controlling Communications." First Data is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 12 (incorrectly numbered as Paragraph 10 in the Complaint) of the Complaint and therefore denies those allegations.

13. First Data denies the allegations in Paragraph 13 (incorrectly numbered as Paragraph 11 in the Complaint) of the Complaint.

14. First Data is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14 (incorrectly numbered as Paragraph 12 in the Complaint) of the Complaint and therefore denies those allegations.

15. First Data denies the allegations in Paragraph 15 (incorrectly numbered as Paragraph 9 in the Complaint) of the Complaint.

16. First Data denies the allegations in Paragraph 16 (incorrectly numbered as Paragraph 12 in the Complaint) of the Complaint.

17. First Data denies the allegations in Paragraph 17 (incorrectly numbered as Paragraph 13 in the Complaint) of the Complaint.

Prayer for Relief: The Prayer for Relief requires no response. To the extent that any response is required, First Data denies that the Plaintiff should be granted any of the relief it requests.

AFFIRMATIVE DEFENSES

First Data asserts the following affirmative defenses to Plaintiff's claims for patent infringement. The assertion of an affirmative defense is not a concession that First Data has the burden of proving the matter asserted.

FIRST AFFIRMATIVE DEFENSE

First Data has not infringed and does not infringe the '945 Patent or the '683 Patent, either directly or indirectly, literally or under the doctrine of equivalents. First Data has not contributed to any infringement by others or induced others to infringe any claim of either patent.

SECOND AFFIRMATIVE DEFENSE

On information and belief, the '945 Patent and the '683 Patent are invalid for failure to satisfy the conditions of patentability as specified under one or more sections of Title 35 of the United States Code, including, without limitation, 35 U.S.C. §§ 101, 102, 103, and/or 112. First Data reserves the right to assert any other basis for invalidity or unenforceability, or any other defense, that discovery may reveal.

THIRD AFFIRMATIVE DEFENSE

On information and belief, Plaintiff's claims for injunctive relief and for damages for infringement of the '945 Patent and the '683 Patent are limited by the doctrines of laches, waiver, equitable estoppel and unclean hands.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims for damages for infringement of the '945 Patent and the '683 Patent are limited by 35 U.S.C. § 287 to those damages occurring only after notice of infringement.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims for equitable relief and for damages are barred, in whole or in part, by 35 U.S.C. § 287.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim upon which relief may be granted.

SEVENTH AFFIRMATIVE DEFENSE

On information and belief, the '945 Patent and the '683 Patent are unenforceable because Plaintiff failed to disclose the patents in a standards-setting organization.

EIGHTH AFFIRMATIVE DEFENSE

On information and belief, the '945 Patent and the '683 Patent are unenforceable due to inequitable conduct.

For all of the above reasons, First Data prays that Plaintiff takes nothing by its Complaint and that First Data be awarded such other and further relief to which it may be justly entitled.

Dated: July 1, 2013

Respectfully submitted,

/s/ Robert W. Kantner

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***ATTORNEYS FOR DEFENDANT FIRST
DATA CORPORATION***

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