

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

RFCyber CORP.,

Plaintiff,

v.

VISA U.S.A. INC.,

Defendant.

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Case No. 6:22-cv-00697

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, RFCyber Corp. (“RFCyber” or “Plaintiff”), files this Amended Complaint against Defendant Visa U.S.A. Inc. (“Visa” or “Defendant”), for patent infringement under 35 U.S.C. § 271 and alleges as follows:

THE PARTIES

1. RFCyber is a Texas corporation with a place of business at 600 Columbus Avenue, Suite 106, Waco, Texas 76701. RFCyber is the owner of all right, title, and interest in and to, or is the exclusive licensee with the right to sue for U.S. Patent Nos. 8,118,218, 8,448,855, 9,189,787, and 9,240,009 (collectively, the “Patents-in-Suit” or “Asserted Patents”).

2. Defendant Visa U.S.A. Inc. is a corporation organized and existing under the laws of Delaware, with one or more regular and established places of business in this District at least at 12301 Research Blvd, Austin, TX 78759. Visa may be served with process through its registered agent, the Corporation Service Company d/b/a CSC-Lawyers Incorporated, at 211 E. 7th Street Suit 620 Austin, TX 78701. Visa is registered to do business in the State of Texas and has been since at least November 5, 2001.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1, et seq. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, and 1338.

4. This Court has specific personal jurisdiction over Defendant consistent with the requirements of the Due Process Clause of the United States Constitution and the Texas Long Arm Statute. Upon information and belief, Defendant has sufficient minimum contacts with the forum because Defendant has physical locations and transacts substantial business in the State of Texas and in this Judicial District. Further, Defendant has, directly or through subsidiaries or intermediaries, committed and continues to commit acts of patent infringement in the State of Texas and in this Judicial District as alleged in this Complaint, as alleged more particularly below.

5. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1400(b) and 1391(b) and (c) because Defendant is subject to personal jurisdiction in this Judicial District, has committed acts of patent infringement in this Judicial District, and has a regular and established place of business in this Judicial District at 12301 Research Blvd, Austin, TX 78759. Defendant, through its own acts, makes, uses, sells, and/or offers to sell infringing products within this Judicial District, regularly does and solicits business in this Judicial District, and has the requisite minimum contacts with the Judicial District such that this venue is a fair and reasonable one.

PATENTS-IN-SUIT

6. On February 21, 2012, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,118,218 (the “’218 Patent”) entitled “Method and Apparatus for Providing Electronic Purse.” A true and correct copy of the ’218 Patent is attached as Exhibit A.

7. On May 28, 2013, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,448,855 (the “’855 Patent”) entitled “Method and Apparatus for Funding an Electronic Purse.” A true and correct copy of the ’855 Patent is attached as Exhibit B.

8. On November 17, 2015, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 9,189,787 (the “’787 Patent”) entitled “Method and Apparatus for Conducting E-Commerce and M-Commerce.” A true and correct copy of the ’787 Patent is attached as Exhibit C.

9. On January 19, 2016, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 9,240,009 (the “’009 Patent”) entitled “Mobile Devices for Commerce Over Unsecured Networks.” A true and correct copy of the ’009 Patent is attached as Exhibit D.

10. RFCyber is the sole and exclusive owner of all right, title and interest to and in, or is the exclusive licensee with the right to sue for, the ’218, ’855, ’787, and ’009, Patents, and holds the exclusive right to take all actions necessary to enforce its rights to the Patents-in-Suit, including the filing of this patent infringement lawsuit. RFCyber also has the right to recover all damages for past, present, and future infringement of the Patents-in-Suit and to seek injunctive relief as appropriate under the law.

INFRINGEMENT ALLEGATIONS

11. The technologies of the Patents-in-Suit were variously invented by Liang Seng Koh, Hsin Pan, Xiangzhen Xie, Futong Cho, and Fuliang Cho. The Patents-in-Suit generally cover apparatus and methods for provisioning a card and/or enabling secure contactless payment with a portable device. In one exemplary embodiment, a smart card module including a secure

element may emulate a payment card over near field communications (“NFC”). For example, users may select one of a plurality of payment cards stored in a memory of the secure element and carry out a transaction via NFC at a point of service (“POS”). In another embodiment, the device may securely conduct transactions over an open network with a payment server. By facilitating the settlement of charges using an NFC mobile device to read off data pertaining to an electronic invoice, the inventions of the Patents-in-Suit provide significant time-savings, particularly in situations where a payment process would otherwise involve more than one contact between a merchant and consumer.

12. Visa has manufactured, used, marketed, distributed, sold, offered for sale, and exported from and imported into the United States devices and software that infringe the Patents-in-Suit. For example, Visa provides, distributes, and operates services, including but not limited to Visa Token Service (a.k.a. VTS),¹ Visa Ready,² Token ID,³ Visa payWave, and other Token Service Provider and/or Trusted Service Manager solutions that have include functionality to personalize a payment card applet, emulate a payment card, and process a transaction via NFC. The applications and services identified above, alone and together, are non-limiting instances of the Accused Products. The Accused Products practice the claims of the Patents-in-Suit to improve the shopping experience of their users, and to improve Visa’s position in the market.

13. Visa’s infringement of the Patents-in-Suit is willful. Visa continues to commit acts of infringement despite a high likelihood that its actions constitute infringement, and Visa knew or should have known that its actions constituted an unjustifiably high risk of infringement.

¹ See e.g. <https://usa.visa.com/partner-with-us/payment-technology/visa-tokenization.html>.

² See e.g. <https://partner.visa.com/site/programs/visa-ready.html>;

³ See e.g. <https://usa.visa.com/products/token-id.html>; see also <https://usa.visa.com/content/dam/VCOM/global/products/documents/visa-token-id-token-service-provider-fact-sheet.pdf>.

14. Visa has known of its infringement of the Asserted Patents at least since December 20, 2021, when it received service of a subpoena issued by RFCyber in the action of *RFCyber v. Samsung Elecs. Co., and Samsung Elecs. Am., Inc.*, 2:20-cv-00335 (E.D. Tex.), which identified the Patents-in-Suit. Upon information and belief, Visa further received correspondence from Samsung identifying the Patents-in-Suit and putting Visa on notice that functionality it provides infringes the Patents-in-Suit.

15. RFCyber has at all times complied with the marking provisions of 35 U.S.C. § 287 with respect to the Patents-in-Suit. On information and belief, any prior assignees and licensees have also complied with the marking provisions of 35 U.S.C. § 287.

COUNT I
(Infringement of the '218 Patent)

16. Paragraphs 1 through 15 are incorporated herein by reference as if fully set forth in their entireties.

17. RFCyber has not licensed or otherwise authorized Visa to make, use, offer for sale, sell, or import any products that embody the inventions of the '218 Patent.

18. Visa infringes, contributes to the infringement of, and/or induces infringement of the '218 Patent by making, using, selling, offering for sale, distributing, exporting from, and/or importing into the United States products and/or methods covered by one or more claims of the '218 Patent, including, but not limited to, at least the Accused Products.

19. Visa has directly infringed and continues to directly infringe the '218 Patent, either literally or under the doctrine of equivalents, without authority and in violation of 35 U.S.C. § 271, by making, using, offering to sell, selling and/or importing into the United States products that satisfy each and every limitation of one or more claims of the '218 Patent. Upon information and belief, these products include the Accused Products that practice the methods

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