

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

SECURE AXCESS, LLC	§	
<i>Plaintiff</i>	§	
v.	§	CASE NO.:
	§	JURY DEMANDED
BANK OF AMERICA CORP.;	§	
BANK OF AMERICA, N.A.;	§	
A.N.B. HOLDING COMPANY, LTD.;	§	
AMERICAN NATIONAL BANK OF TEXAS;	§	
ARVEST BANK GROUP, INC.;	§	
ARVEST BANK;	§	
AUSTIN BANCORP, INC.;	§	
AUSTIN BANK, TEXAS NA;	§	
BANK OF THE OZARKS, INC.;	§	
BANK OF THE OZARKS;	§	
CITIZENS 1 ST BANK;	§	
COMPASS BANCSHARES, INC.;	§	
COMPASS BANK A/K/A BBVA COMPASS;	§	
CULLEN/FROST BANKERS, INC.;	§	
THE FROST NATIONAL BANK;	§	
DIBOLL STATE BANCSHARES, INC.;	§	
FIRST BANK & TRUST EAST TEXAS;	§	
FIRST COMMUNITY BANCSHARES, INC.;	§	
FIRST NATIONAL BANK TEXAS;	§	
FIRST NATIONAL OF NEBRASKA, INC.;	§	
FIRST NATIONAL BANK OF OMAHA;	§	
FIRST NATIONAL BANK SOUTHWEST;	§	
STERLING BANCSHARES, INC.;	§	
STERLING BANK;	§	
HARRIS BANKCORP., INC.;	§	
HARRIS N.A.;	§	
INTOUCH CREDIT UNION F/K/A EDS	§	
CREDIT UNION;	§	
ING DIRECT BANCORP;	§	
ING BANK, FSB D/B/A ING DIRECT USA;	§	
NORTH DALLAS BANK & TRUST CO.;	§	
ZIONS BANCORPORATION;	§	
ZIONS FIRST NATIONAL BANK; and	§	
AMEGY BANK N.A. D/B/A AMEGY	§	
BANK OF TEXAS;	§	
<i>Defendants</i>	§	

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

COMES NOW Plaintiff Secure Axxess, L.L.C. (“Secure Axxess”) and files this Original Complaint against Defendants Bank of America Corp.; Bank of America, N.A.; A.N.B. Holding Company, Ltd.; American National Bank of Texas; Arvest Bank Group, Inc.; Arvest Bank; Austin Bancorp, Inc.; Austin Bank, Texas NA; Bank of the Ozarks, Inc.; Bank of the Ozarks; Citizens 1st Bank; Compass Bancshares, Inc.; Compass Bank a/k/a BBVA Compass; Cullen/Frost Bankers, Inc.; The Frost National Bank; Diboll State Bancshares, Inc.; First Bank & Trust East Texas; First Community Bancshares, Inc.; First National Bank Texas; First National of Nebraska, Inc.; First National Bank of Omaha; First National Bank Southwest; Sterling Bancshares, Inc.; Sterling Bank; Harris Bankcorp., Inc.; Harris N.A.; InTouch Credit Union f/k/a EDS Credit Union; ING DIRECT Bancorp.; ING Bank, FSB d/b/a ING DIRECT USA; North Dallas Bank & Trust Co.; Zions Bancorporation; Zions First National Bank; and Amegy Bank National Association d/b/a Amegy Bank of Texas; and alleges as follows:

I. NATURE OF THE SUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

II. THE PARTIES

2. Plaintiff **SECURE AXCESS, L.L.C.** is a Texas limited liability company that maintains its principal place of business at 555 Republic Drive, Suite 200, Plano, Texas 75074.

3. Defendant **Bank of America Corporation** is a Delaware Corporation that maintains its principal place of business at 100 North Tryon Street, Charlotte, North Carolina 28255. This Defendant does business in Texas and can be served with process through its

Registered Agent for Service, CT Corporation System, located at 350 N. St. Paul Street Ste. 2900, Dallas, Texas 75201.

4. Defendant **Bank of America, National Association** is a banking subsidiary of Defendant Bank of America that maintains its principal place of business at 101 South Tryon St., Charlotte, North Carolina 28202. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, CT Corporation System, 350 North St. Paul Street Ste. 2900, Dallas, Texas 75201.

5. Defendant **A.N.B. Holding Company, Ltd.** maintains its principal place of business at 102 West Moore Street, Terrell, Texas 75160. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, Riter C. Hulsey, at 102 West Moore St., Terrell, Texas 75160.

6. Defendant **American National Bank of Texas** is a banking subsidiary of Defendant A.N.B. Holding Company, Ltd. and maintains its principal place of business at 102 West Moore Avenue, Terrell, Texas 75160. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, Riter C. Hulsey, at 102 West Moore St., Terrell, Texas 75160.

7. Defendant **Arvest Bank Group, Inc.** is an Arkansas corporation that maintains its principal place of business at 125 W. Central Street, Ste. 218, Bentonville, AR 72712. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, Ken F. Calhoun, Eighth Fl. Mercantile Bldg., One Riverfront Pl., North Little Rock, AR 72114.

8. Defendant **Arvest Bank** is a banking subsidiary of Defendant Arvest Bank Group, Inc. This Defendant does business in Texas and can be served with process through its

Registered Agent for Service, Ken F. Calhoun, Eighth Fl. Mercantile Bldg., One Riverfront Pl., North Little Rock, AR 72114.

9. Defendant **Austin Bancorp, Inc.** is a Texas corporation with its principal place of business at 200 East Commerce St., P.O. Box 951, Jacksonville, Texas 75766. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, Debbie Colville, at 200 East Commerce Street, Jacksonville, Texas 75766, or its Chairman, Jeff Austin, Jr., at 200 E. Commerce St., Jacksonville, TX 75766.

10. Defendant **Austin Bank, Texas NA** is a banking subsidiary of Defendant Austin Bancorp, Inc. that maintains its principal place of business at 200 East Commerce St., P.O. Box 951, Jacksonville, Texas 75766. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, Debbie Colville, at 200 East Commerce Street, Jacksonville, Texas 75766, or its Chairman, Jeff Austin, Jr., at 200 E. Commerce St., Jacksonville, TX 75766.

11. Defendant **Bank of the Ozarks, Inc.** is an Arkansas corporation that maintains its principal place of business at 17901 Chenal Parkway, Little Rock, Arkansas 72223. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, Dan Thomas, at 5949 Sherry Lane, Suite 1075, Dallas, Texas 75225.

12. Defendant **Bank of the Ozarks** is an Arkansas chartered bank subsidiary of Bank of the Ozarks, Inc. that maintains its principal place of business at 17901 Chenal Parkway, Little Rock, Arkansas 72223. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, Dan Thomas, at 5949 Sherry Lane, Suite 1075, Dallas, Texas 75225.

13. Defendant **Citizens 1st Bank** is a bank chartered under the laws of the state of Texas that maintains its principal place of business at 2001 East South East Loop 323, Tyler, Texas 75701. This Defendant does business in Texas and can be served with process through its President and Registered Agent for Service James I. Perkins at P.O. Box 227, Rusk, Texas 75785-0227.

14. Defendant **Compass Bancshares, Inc.** is a Delaware corporation that maintains its principal place of business at 15 South 20th Street, Birmingham, Alabama 35233. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, Jerry W. Powell, 15 South 20th Street, Birmingham, Alabama 35233.

15. Defendant **Compass Bank** a/k/a **BBVA Compass** is a wholly-owned banking subsidiary of Defendant Compass Bancshares, Inc. with its principal place of business at 15 South 20th Street, Birmingham, Alabama 35233. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, CT Corporation System, 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201-4234.

16. Defendant **Cullen/Frost Bankers, Inc.** is a Texas Corporation that maintains its principal place of business at 100 W. Houston St. # RB-6, San Antonio, Texas 78205-1414. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, Stan McCormick, 100 W. Houston St., San Antonio, Texas 78205.

17. Defendant **The Frost National Bank** is a banking subsidiary of Defendant Cullen/Frost Bankers, Inc. This Defendant does business in Texas and can be served with process through its President and Director, Pat Frost, or its Registered Agent for Service, Stan McCormick, both at 100 W. Houston St., San Antonio, Texas 78205.

18. Defendant **Diboll State Bancshares, Inc.** is a Texas corporation that maintains its principal place of business at 104 N. Temple Drive, Diboll, Texas, 75941-2035. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, Jay Shands, 104 N. Temple Drive, Diboll, Texas, 75941-2035.

19. Defendant **First Bank & Trust East Texas** is a bank organized and licensed under the laws of the State of Texas and a banking subsidiary of Defendant Diboll State Bancshares, Inc. that maintains its principal place of business at 104 N. Temple Dr., Diboll, Texas, 75941. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, Jay Shands, 104 N. Temple Drive, Diboll, Texas, 75941-2035.

20. Defendant **First Community Bancshares, Inc.** is a Texas corporation with its principal place of business at 507 N. Gray, Killeen, Texas 76541. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, James W. Meredith, at 507 N. Gray, Killeen, Texas 76541.

21. Defendant **First National Bank Texas** is a banking subsidiary of Defendant First Community Bancshares, Inc. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, James W. Meredith, at 507 N. Gray, Killeen, Texas 76541.

22. Defendant **First National of Nebraska, Inc.** is a privately held interstate bank holding company with its principal place of business at 1620 Dodge St., Omaha, Nebraska, 68197-0003. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, CT Corporation System, at 350 N. St. Paul St., Ste. 2900, Dallas, TX 75201-4234.

23. Defendant **First National Bank of Omaha** is a banking subsidiary of Defendant First National of Nebraska, Inc. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, CT Corporation System, at 350 N. St. Paul St., Ste. 2900, Dallas, TX 75201-4234.

24. Defendant **First National Bank Southwest** is a banking subsidiary of Defendant First National Bank of Omaha. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, CT Corporation System, at 350 N. St. Paul St., Ste. 2900, Dallas, TX 75201-4234.

25. Defendant **Sterling Bancshares, Inc.** is a Texas corporation that maintains its principal place of business at 10260 Westheimer, Houston, Texas 77042. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, James W. Goolsby, Jr., at 10260 Westheimer Rd., Houston, Texas 77042.

26. Defendant **Sterling Bank** is a banking subsidiary of Defendant Sterling Bancshares, Inc. with its principal place of business at 10260 Westheimer, Houston, Texas 77042. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, Janet B. Groue, at 5757 Memorial Drive, Houston, Texas 77007.

27. Defendant **Harris Bankcorp, Inc.** is a Delaware corporation that maintains its principal place of business at 111 West Monroe Street, Chicago, Illinois 60603. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, Colleen Hennessy, 111 West Monroe Street, Fl. 22nd East, Chicago, Illinois 60603-4096.

28. Defendant **Harris N.A.** is a wholly owned banking subsidiary of Defendant Harris Bankcorp., Inc. and maintains its principal place of business at 111 West Monroe Street, Chicago, Illinois 60603. This Defendant does business in Texas and can be served through its

President and Chief Executive Officer, Ellen Costello, 111 West Monroe, Chicago, Illinois 60603.

29. Defendant **InTouch Credit Union** f/k/a **EDS Credit Union** is a Texas credit union that maintains its principal place of business at 5640 Democracy Drive, Plano, Texas 75024 and receives correspondence for this address at P.O. Box 250169, Plano, Texas 75025. This Defendant does business in Texas and can be served through its President and CEO, Kent Lugrand, P.O. Box 250169, Plano, Texas 75025.

30. Defendant **ING DIRECT Bancorp** is a Delaware Corporation that maintains its principal place of business at One South Orange Street, Wilmington, DE 19801. This Defendant does business in Texas and can be served through its registered agent for service of process, Deneen Donnley-Evans, One South Orange Street, Wilmington, DE 19801.

31. Defendant **ING Bank, FSB d/b/a ING DIRECT USA**, is a federally chartered savings bank headquartered and maintaining its principal place of business at One South Orange Street, Wilmington, Delaware, 19801. This Defendant does business in Texas and can be served through its registered agent for service of process, Deneen Donnley-Evans, One South Orange Street, Wilmington, DE 19801.

32. Defendant **North Dallas Bank & Trust Co.** is a Texas state bank that maintains its principal place of business at 12900 Preston Rd., Dallas, Texas 75230. The Defendant does business in Texas and can be served through its registered agent and president, Mike Shipman, at 12900 Preston Rd., Dallas, Texas 75230 or P.O. Box 679001, Dallas, Texas 75367.

33. Defendant **Zions Bancorporation** is a Utah corporation that maintains its principal place of business at One South Main Street, Suite 1500, Salt Lake City, Utah 84111. This Defendant does business in Texas and can be served with process through its Registered

Agent for Service, Corporation Service Company, 2180 South 1300 East, Suite 650, Salt Lake City, Utah 84106.

34. Defendant **Zions First National Bank** is a wholly-owned banking subsidiary of Defendant Zions Bancorporation that maintains its principal place of business at One South Main Street, Salt Lake City, Utah 84111. This Defendant does business in Texas and can be served with process through its President and Chief Executive Officer, A. Scott Anderson, One South Main Street, Salt Lake City, Utah 84111.

35. Defendant **Amegy Bank National Association d/b/a Amegy Bank of Texas** is a wholly-owned banking subsidiary of Zions Bancorporation that maintains its principal place of business at 4400 Post Oak Parkway, Houston, Texas 77027. This Defendant does business in Texas and can be served with process through its Registered Agent for Service, Corporation Service Company d/b/a CSC - Lawyers Incorporating Service Company, at 211 E. 7th Street, Suite 620, Austin, TX 78701-3218.

III. JURISDICTION AND VENUE

36. This action arises under the patent laws of the United States, Title 35 of the United States Code. The Court's jurisdiction over this action is proper under the above statutes, including 35 U.S.C. §271 *et seq.*, 28 U.S.C. § 1331, 28 U.S.C. § 1332, and 28 U.S.C. § 1338.

37. Personal jurisdiction exists generally over Defendants pursuant to 28 U.S.C. § 1391 because they have sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and within this District. Personal jurisdiction also exists specifically over Defendants because of Defendants' conduct in making, using, selling, offering to sell, and/or importing directly or indirectly infringing products or services, and/or Defendants'

contributory infringement or inducement of infringement within the State of Texas and within this District.

38. Venue is proper in this Court under 28 U.S.C. §§1391(b), (c), and (d), as well as 28 U.S.C., §1400(b) for the reasons set forth above. Furthermore, venue is proper because Defendants solicit and establish online banking relationships with individuals in this District, which include infringing products or services as discussed below. Each act of Defendants' directly or indirectly infringing conduct in this District gives rise to proper venue.

IV. BACKGROUND

39. This cause of action asserts infringement of United States Patent No. 7,631,191 B2 entitled "System and Method for Authenticating a Web Page" ("the '191 Patent") (the "Patent-in-Suit"). A true and correct copy of the '191 Patent is attached hereto as Exhibit A.

40. Secure Axxess is the current owner of all rights, title, and interest in and under the '191 patent, which duly and legally issued on December 8, 2009, with Elliott Glazer, Dirk White, David Armes, Fred Alan Bishop, and Michael Barrett as the named inventors, and is entitled "System and Method for Authenticating a Web Page." Application No. 11/423,340, which resulted in the '191 Patent, is a continuation of application No. 09/656,074, which resulted in United States Patent No. 7,203,838 B1. The '191 Patent is subject to a terminal disclaimer. Secure Axxess has standing to sue for the infringement of the '191 Patent.

41. Defendants Bank of America Corp. and Bank of America, N.A. (the "Bank of America Defendants") offer banking services to individuals and businesses in the United States including Texas, and particularly within this District. The Bank of America Defendants provide online banking services via electronic means including, but not limited to, the web site <https://www.bankofamerica.com>. In connection with these online banking services, the Bank of

America Defendants make and use a system and method for authenticating a web page that infringes one or more claims of the '191 Patent.

42. Defendants A.N.B. Holding Company, Ltd. and American National Bank of Texas (the "ANB Texas Defendants") offer banking services to individuals and businesses in the United States including Texas, and particularly within this District. The ANB Texas Defendants provide online banking services via electronic means including, but not limited to, the web site <http://www.anbt.com>. In connection with these online banking services, the ANB Texas Defendants make and use a system and method for authenticating a web page that infringes one or more claims of the '191 Patent.

43. Defendants Arvest Bank Group, Inc. and Arvest Bank (the "Arvest Bank Defendants") offer banking services to individuals and businesses in the United States including Texas, and particularly within this District. The Arvest Bank Defendants provide online banking services via electronic means including, but not limited to, the web site <https://www.arvest.com>. In connection with these online banking services, the Arvest Bank Defendants make and use a system and method for authenticating a web page that infringes one or more claims of the '191 Patent.

44. Defendants Austin Bancorp, Inc. and Austin Bank, Texas NA (the "Austin Bank Defendants") offer banking services to individuals and businesses in the United States including Texas, and particularly within this District. The Austin Bank Defendants provide online banking services via electronic means including, but not limited to, the web site <https://www.austinbank.com>. In connection with these online banking services, the Austin Bank Defendants make and use a system and method for authenticating a web page that infringes one or more claims of the '191 Patent.

45. Defendants Bank of the Ozarks, Inc. and Bank of the Ozarks (the “Bank of the Ozarks Defendants”) offer banking services to individuals and businesses in the United States including Texas, and particularly within this District. The Bank of the Ozarks Defendants provide online banking services via electronic means including, but not limited to, the web site <http://www.bankoftheozarks.com>. In connection with these online banking services, the Bank of the Ozarks Defendants make and use a system and method for authenticating a web page that infringes one or more claims of the ’191 Patent.

46. Defendant Citizens 1st Bank offers banking services to individuals and businesses in the United States including Texas, and particularly within this District. Citizens 1st Bank provides online banking services via electronic means including, but not limited to, the web site <http://www.citizens1stbank.com>. In connection with these online banking services, Citizens 1st Bank makes and uses a system and method for authenticating a web page that infringes one or more claims of the ’191 Patent.

47. Defendants Compass Bancshares, Inc. and Compass Bank a/k/a BBVA Compass (the “Compass Bank Defendants”) offer banking services to individuals and businesses in the United States including Texas, and particularly within this District. The Compass Bank Defendants provide online banking services via electronic means including, but not limited to, the web site <http://www.bbvacompass.com>. In connection with these online banking services, the Compass Bank Defendants make and use a system and method for authenticating a web page that infringes one or more claims of the ’191 Patent.

48. Defendants Cullen/Frost Bankers, Inc. and The Frost National Bank (the “Frost Bank Defendants”) offer banking services to individuals and businesses in the United States including Texas, and particularly within this District. The Frost Bank Defendants provide online

banking services via electronic means including, but not limited to, the web site <https://www.frostbank.com>. In connection with these online banking services, the Frost Bank Defendants make and use a system and method for authenticating a web page that infringes one or more claims of the '191 Patent.

49. Defendants Diboll State Bancshares, Inc. and First Bank & Trust East Texas (the "FBTET Defendants") offer banking services to individuals and businesses in the United States including Texas, and particularly within this District. The FBTET Defendants provide online banking services via electronic means including, but not limited to, the web site <https://www.fbtet.com>. In connection with these online banking services, the FBTET Defendants make and use a system and method for authenticating a web page that infringes one or more claims of the '191 Patent.

50. Defendants First Community Bancshares, Inc. and First National bank Texas (the "FNBT Defendants") offer banking services to individuals and businesses in the United States including Texas, and particularly within this District. The FNBT Defendants provide online banking services via electronic means including, but not limited to, the web site <https://www.1stnb.com>. In connection with these online banking services, the FNBT Defendants make and use a system and method for authenticating a web page that infringes one or more claims of the '191 Patent.

51. Defendants First National of Nebraska, Inc., First National Bank of Omaha, and First National Bank Southwest (the "First National Bank Southwest Defendants") offer banking services to individuals and businesses in the United States including Texas, and particularly within this District. The First National Bank Southwest Defendants provide online banking services via electronic means including, but not limited to, the web site

<https://www.fnsouthwest.com>. In connection with these online banking services, the First National Bank Southwest Defendants make and use a system and method for authenticating a web page that infringes one or more claims of the '191 Patent.

52. Defendants Sterling Bancshares, Inc. and Sterling Bank (the "Sterling Bank Defendants") offer banking services to individuals and businesses in the United States including Texas, and particularly within this District. The Sterling Bank Defendants provide online banking services via electronic means including, but not limited to, the web site <http://www.banksterling.com>. In connection with these online banking services, the Sterling Bank Defendants make and use a system and method for authenticating a web page that infringes one or more claims of the '191 Patent.

53. Defendants Harris Bankcorp, Inc. and Harris, N.A. (the "Harris Bank Defendants") offer banking services to individuals and businesses in the United States including Texas, and particularly within this District. The Harris Bank Defendants provide online banking services via electronic means including, but not limited to, the web site <https://www4.harrisbank.com>. In connection with these online banking services, the Harris Bank Defendants make and use a system and method for authenticating a web page that infringes one or more claims of the '191 Patent.

54. Defendant In Touch Credit Union offers banking services to individuals and businesses in the United States including Texas, and particularly within this District. In Touch Credit Union provides online banking services via electronic means including, but not limited to, the web site <https://www.itcu.org>. In connection with these online banking services, In Touch Credit Union makes and uses a system and method for authenticating a web page that infringes one or more claims of the '191 Patent.

55. Defendants ING DIRECT Bancorp and ING Bank, FSB d/b/a ING DIRECT USA (the “ING Bank Defendants”) offer banking services to individuals and businesses in the United States including Texas, and particularly within this District. The ING Bank Defendants provide online banking services via electronic means including, but not limited to, the web site <https://secure.ingdirect.com>. In connection with these online banking services, the ING Bank Defendants make and use a system and method for authenticating a web page that infringes one or more claims of the ’191 Patent.

56. Defendant North Dallas Bank & Trust Co. (“NDBT”) offers banking services to individuals and businesses in the United States including Texas, and particularly within this District. NDBT provides online banking services via electronic means including, but not limited to, the web site <https://www.ndbt.com>. In connection with these online banking services, NDBT makes and uses a system and method for authenticating a web page that infringes one or more claims of the ’191 Patent.

57. Defendants Zions Bancorporation, Zions First National Bank, and Amegy Bank N.A. d/b/a Amegy Bank of Texas (the “Zions/Amegy Bank Defendants”) offer banking services to individuals and businesses in the United States including Texas, and particularly within this District. The Zions Bank Defendants provide online banking services via electronic means including, but not limited to, the web site <https://www.zionsbank.com>. In connection with these online banking services, the Zions Bank Defendants make and use a system and method for authenticating a web page that infringes one or more claims of the ’191 Patent.

V. CLAIMS

58. Based on the above-described services and products, Plaintiff asserts several causes of action against the Defendants. These causes of action are detailed as follows.

A. Direct Patent Infringement

59. The allegations of paragraphs 1-58 above are incorporated by reference as if fully set forth herein.

60. The Bank of America, ANB Texas, Arvest Bank, Austin Bank, Bank of the Ozarks, Citizens 1st Bank, Compass Bank, Frost Bank, FBTET, FNBT, First National Bank Southwest, Sterling Bank, Harris Bank, InTouch Credit Union, ING Bank, NDBT, and Zions/Amegy Bank Defendants have directly infringed and continue to infringe at least one claim of the '191 Patent by making, using, selling, and/or offering to sell in the United States, without Secure Axxess's authority, their online banking services websites that use the patented systems and methods for authenticating a web site. Defendants' use of website authenticity, including but not limited to the use of authenticity stamps in the form of images, graphic, or text, infringes at least one claim of the '191 Patent. Defendants' online banking services and websites are directed to and accessible from this District.

B. Inducement of Patent Infringement

61. The allegations of paragraphs 1-60 above are incorporated by reference as if fully set forth herein.

62. Further and in the alternative, Defendants have induced infringement of at least one claim of the '191 Patent in violation of one or more provisions of 35 U.S.C. § 271 through, among other activities, providing online banking services websites that use, without authority, the patented systems and methods and requiring users of their web sites to use and instructing its users how to use the patented systems and methods.

VI. VICARIOUS LIABILITY

63. The allegations of paragraphs 1-62 above are incorporated by reference as if fully set forth herein.

64. In addition to liability for their own independent conduct, the Defendants are also liable for the conduct of their subsidiaries, affiliates, and related entities under the doctrines of alter ego and single business enterprise, and under applicable state and federal statutes and regulations.

VII. INJUNCTION

65. The allegations of paragraphs 1-64 above are incorporated by reference as if fully set forth herein.

66. Defendants will continue to infringe the '191 Patent unless enjoined by this Court. Plaintiff therefore requests that this Court enter an order under 35 U.S.C. § 283 preliminarily and permanently enjoining Defendants from continuing to make or use infringing security systems or methods.

VIII. DAMAGES

A. Reasonable Royalty

67. The allegations of paragraphs 1-66 above are incorporated by reference as if fully set forth herein.

68. For the above-described infringement, Plaintiff has been injured and seeks damages to adequately compensate it for Defendants' infringement of the '191 Patent. Such damages should be no less than the amount of a reasonable royalty under 35 U.S.C. § 284.

B. Enhanced Damages, Attorneys' Fees, and Expenses

69. The allegations of paragraphs 1-68 above are incorporated by reference as if fully set forth herein.

70. Secure Axxess contends that Defendants willfully infringed the '191 Patent. Plaintiff requests that the Court enter a finding of willful infringement and enhanced damages under 35 U.S.C. § 284 up to three times the amount found by the trier of fact.

71. Plaintiff further requests that the Court enter an order finding that this is an exceptional case within the meaning of 35 U.S.C. §285. Pursuant to such an order Plaintiff seeks recovery of its reasonable attorneys' fees and expenses.

PRAYER FOR RELIEF

Secure Axxess respectfully requests the following relief:

a. A judgment that the'191 Patent is infringed, directly and/or indirectly, either literally and/or under the doctrine of equivalents, by Defendants as described herein;

b. A judgment and order preliminarily and permanently enjoining each Defendant, its agents, employees, representatives, successors and assigns, and those acting in privity or in concert with them, from further infringement and/or inducing infringement of the'191 Patent;

c. A judgment and order requiring each Defendant to pay Secure Axxess damages under 35 U.S.C. § 284, including treble damages for willful infringement as provided by 35 U.S.C. § 284, and supplemental damages for any continuing post-verdict infringement up until entry of the final Judgment with an accounting as needed;

e. A judgment and order requiring each Defendant to pay Secure Axxess pre-judgment and post-judgment interest on the damages awarded;

f. A judgment and order finding this to be an exceptional case and requiring each Defendant to pay the costs of this action (including all disbursements) and attorneys fees as provided by 35 U.S. C. § 285;

g. Such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff requests a jury trial of all issues triable of right by a jury.

Dated: 16 December, 2010

Respectfully submitted,



ANTHONY BRUSTER, Attorney in Charge
STATE BAR NO. 24036280

EDWARD CHIN
STATE BAR NO. 50511688

NICOLE REED KIEWER
STATE BAR NO. 24041759

ANDREW WRIGHT
STATE BAR NO. 24063927

NIX PATTERSON & ROACH, L.L.P.
5215 N. O'Connor Blvd., Suite 1900
Irving, Texas 75039

972.831.1188 (telephone)

972.444.0716 (facsimile)

akbruster@nixlawfirm.com

edchin@me.com

nicolekiewer@nixlawfirm.com

andrewjwright@me.com

DEREK GILLILAND
STATE BAR NO. 24007239

BRAD SEIDEL
STATE BAR NO. 24008008

JOHN HULL
STATE BAR NO. 24050791

NIX PATTERSON & ROACH, L.L.P.
205 LINDA DRIVE
DAINGERFIELD, TEXAS 75638

903.645.7333 (telephone)

903.645.5389

dgilliland@nixlawfirm.com

bradseidel@nixlawfirm.com

johnhull@nixlawfirm.com