

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DOCUMENT SECURITY SYSTEMS, INC.,

Plaintiff,

COMPLAINT
(Jury Trial Demanded)

- v -

Civil Action No. _____

COUPONS.COM INCORPORATED,

Defendant.

Plaintiff, by its counsel, Nixon Peabody LLP, alleges as follows:

THE PARTIES

1. Document Security Systems, Inc. (“DSS”) is a corporation duly organized under the laws of the state of New York with its principal place of business at 28 East Main Street, Suite 1525, Rochester, New York 14614.

2. Upon information and belief, Coupons.com Incorporated (“Coupons”) is a corporation duly organized under the laws of the state of Delaware with its principal place of business at 400 Logue Avenue, Mountain View, California 94043.

JURISDICTION AND VENUE

3. This Court has subject matter over this action pursuant to 28 U.S.C. § 1332(a)(1) because the parties are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

4. Personal jurisdiction over Defendant Coupons exists pursuant to CPLR § 302 because (1) Defendant Coupons has contracted to provide goods or services in the state of New York and (2) Defendant Coupons has committed a tortious act which has caused injury to person

or property within the state of New York, and Defendant Coupons regularly does or solicits business, engages in other persistent courses of conduct, and derives substantial revenue from goods used or consumed or services rendered in the state of New York.

5. Venue is proper pursuant to 28 U.S.C. § 1391(a) because a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

FACTS

6. DSS is a corporation which specializes in anti-counterfeiting, authentication, and mass-serialization technologies.

7. From 2003 to 2008, DSS had a business relationship with Coupons whereby it provided safety paper to Coupons for use in the printing of coupons.

8. In conjunction with this business relationship, DSS and Coupons (at that time know as Coupons Inc.) signed two non-disclosure agreements (“NDAs”), one in 2003, and one in 2005. Copies of the NDAs are attached hereto as **Exhibits A and B**.

9. In July 2006, David Wicker, a DSS employee, traveled to California to meet with representatives of Coupons. Pursuant to the NDAs, Mr. Wicker provided Coupons with discs containing three kinds of DSS security technology, including DSS’s proprietary, secret “Blockout” technology.

10. The Blockout technology disc contained a graphic file with anti-copy pattern and color features (the “Blockout File”).

11. The Blockout File was constructed by the use of technology that is proprietary and confidential to DSS (the “Blockout File Technology”), and, when placed onto an image, will render a print-out of the image unable to be copied or scanned by high-end electronic devices.

12. DSS takes reasonable steps to maintain the security and secrecy of the Blockout File Technology, and the technical details of this technology are not available to the public.

13. The Blockout File Technology cannot be reverse engineered from coupons or other documents produced using the Blockout File Technology.

14. DSS obtains an economic advantage from the secrecy of the Blockout File Technology.

15. In August 2010, DSS learned that Coupons was utilizing Blockout File Technology on its coupons.

16. DSS performed an investigation into the matter and discovered that Coupons is currently utilizing the Blockout File Technology in both its digital and print coupons and, upon information and belief, has been doing so since at least 2008.

17. Upon information and belief, Coupons has utilized the Blockout File Technology on hundreds of millions of coupons, and realized revenues and profits in the millions of dollars.

18. Coupons has never paid DSS for the use of the Blockout File, nor has DSS ever granted Coupons the right to commercial use of the Blockout File.

19. Coupons' unauthorized use of the Blockout File Technology is causing and will continue to cause irreparable harm to DSS.

20. Upon information and belief, Coupons' unauthorized use of the Blockout File Technology has been intentional, willful, malicious, and in bad faith.

AS AND FOR A FIRST CAUSE OF ACTION
Breach of Contract

21. DSS incorporates by reference the allegations in the prior paragraphs as if set forth here.

22. The 2005 NDA is a valid and binding contract between DSS and Coupons.

23. The Blockout File is "Confidential Information" under the 2005 NDA.

24. Pursuant to the 2005 NDA, Coupons agreed to use Confidential Information for the sole purpose of “evaluat[ing] a potential business relationship regarding patented and unpatented technology and trade secrets of DSS related to document printing security features” and to reproduce it only to the extent necessary to do so.

25. DSS fulfilled its obligations pursuant to the 2005 NDA.

26. Coupons has breached the 2005 NDA by using the Blockout File for its own commercial purposes.

27. By reason of the foregoing, DSS has been damaged in an amount to be determined at trial, but which, upon information and belief, exceeds ten million dollars (\$10,000,000.00), together with interest, costs and reasonable attorneys’ fees.

AS AND FOR A SECOND CAUSE OF ACTION
Misappropriation of Trade Secrets

28. DSS incorporates by reference the allegations of the prior paragraphs as if set forth here.

29. The Blockout File Technology is a trade secret owned by DSS.

30. Coupons used the Blockout File Technology in violation of an agreement between DSS and Coupons.

31. Coupons used the Blockout File Technology in violation of a confidential relationship between DSS and Coupons.

32. Coupons acquired the Blockout File Technology under circumstances giving rise to a duty to maintain its secrecy or limit its use.

33. Coupons used the Blockout File technology without DSS’s consent.

34. Coupons misappropriated the Blockout File Technology.

35. By reason of the foregoing, DSS has been damaged in an amount to be determined at trial, but which, upon information and belief, exceeds ten million dollars (\$10,000,000.00), together with interest, costs and reasonable attorneys' fees.

AS AND FOR A THIRD CAUSE OF ACTION
Unfair Competition

36. DSS incorporates by reference the allegations in the prior paragraphs as if set forth here.

37. A confidential relationship existed between DSS and Coupons.

38. Coupons agreed not use the Blockout File for any purpose other than evaluating a potential business relationship regarding patented and unpatented technology and trade secrets of DSS related to document printing security features.

39. Instead, Coupons commercially used the Blockout File to unfairly profit off the skill, labor, and efforts of DSS and to wrongfully exploit DSS's proprietary rights.

40. Coupons thereby engaged in the bad faith misappropriation of a commercial advantage that rightfully belonged to DSS.

41. By reason of the foregoing, DSS has been damaged in an amount to be determined at trial, but which, upon information and belief, exceeds ten million dollars (\$10,000,000.00), together with interest, costs and reasonable attorneys' fees.

AS AND FOR A FOURTH CAUSE OF ACTION
Unjust Enrichment

42. DSS incorporates by reference the allegations in the prior paragraphs as if set forth here.

43. As a result of the foregoing, Coupons has benefited at DSS's expense.

44. Coupons' enrichment is unjust, and equity and good conscience require restitution to DSS.

DEMAND FOR JURY TRIAL

45. DSS demands a trial by jury to the extent permitted by applicable law.

DEMAND FOR RELIEF

WHEREFORE, DSS demands judgment in its favor and against Coupons as follows:

1. A permanent injunction enjoining and restraining Coupons, its agents, servants, employees, privies, representatives, successors, assigns, and all other persons in active concert or participation with Coupons, from using the Blockout File Technology;
2. Damages and other monetary relief in an amount to be determined at trial, together with interest, costs and reasonable attorneys' fees; and
3. Such other and further relief as the Court deems just and reasonable.

Dated: Rochester, New York
October 24, 2011

NIXON PEABODY LLP

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