

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

**ADVANCEME, INC.,**

Plaintiff,

vs.

**RAPIDPAY LLC, BUSINESS CAPITAL  
CORPORATION, FIRST FUNDS LLC,  
MERCHANT MONEY TREE, INC., REACH  
FINANCIAL, LLC and FAST TRANSACT,  
INC. dba SIMPLE CASH**

Defendants

**CASE NO. 6: 05-CV-424 LED**

NO JURY REQUESTED –

EQUITABLE RELIEF ONLY

**AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff AdvanceMe, Inc. (“AdvanceMe”) files this amended complaint against defendants Rapidpay LLC, Business Capital Corporation, First Funds LLC, Merchant Money Tree, Inc., Reach Financial, LLC and Fast Transact, Inc. DBA Simple Cash. Pursuant to the Docket Control Order entered by the Court on February 24, 2006, AdvanceMe hereby amends its original complaint against Rapidpay LLC to include the aforementioned additional defendants. Since AdvanceMe seeks only injunctive relief in this action, the Court set forth an expedited claim construction and discovery schedule in the Docket Control Order. Given the limited nature of the relief sought against the additional defendants, AdvanceMe respectfully requests this Court to maintain the schedule set forth in the Docket Control Order. A true and correct copy of this Court’s Docket Control Order is attached hereto as Exhibit A.

**THE PARTIES**

1. Plaintiff AdvanceMe, Inc. (“AdvanceMe”) is a corporation organized under the laws of Delaware having its principal place of business at 600 TownPark Lane, Suite 500, Kennesaw, Georgia 30144.

2. Upon information and belief, at all relevant times mentioned below, Defendant Rapidpay LLC (“Rapidpay”) has been a limited liability company organized under the laws of the state of New York having its principal place of business at 17 Battery Place, Suite 1231, New York, New York 10017.

3. Upon information and belief, at all relevant times mentioned below, Defendant Business Capital Corporation (“Business Capital”) has been incorporated under the laws of the state of Missouri having its principal place of business at 105 East 5th Street, 5th Floor, Kansas City, Missouri 64106.

4. Upon information and belief, at all relevant times mentioned below, Defendant First Funds LLC (“First Funds”) has been a limited liability company organized under the laws of the state of New York having its principal place of business at 240 West 35th Street, 16th Floor, New York, New York 10001.

5. Upon information and belief, at all relevant times mentioned below, Defendant Merchant Money Tree, Inc. (“Merchant Money Tree”) has been incorporated under the laws of the state of Texas having its principal place of business at 2855 Magnum Road, Suite 303, Houston, Texas 77092.

6. Upon information and belief, at all relevant times mentioned below, Defendant Reach Financial, LLC (“Reach Financial”) has been a limited liability company organized under the laws of the state of Connecticut having its principal place of business at 2 Sound View Drive, Greenwich, Connecticut 06830.

7. Upon information and belief, at all relevant times mentioned below, Defendant Fast Transact, Inc. DBA Simple Cash (“Simple Cash”) has been incorporated under the laws of the state of Washington having its principal place of business at 2590 Willamette Drive NE, Suite 202, Lacey, Washington 98516.

8. Defendants Rapidpay, Business Capital, First Funds, Merchant Money Tree, Reach Financial and Simple Cash are referred to collectively as “Defendants” in this amended complaint.

### **JURISDICTION AND VENUE**

9. This lawsuit is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271 *et seq.* The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1338(a).

10. Upon information and belief, this Court has personal jurisdiction over Defendants and venue is proper in this District under 28 U.S.C. 1391(c) and 1400(b) because Defendants have continuously offered for sale, and continue to offer for sale, services that infringe the patent in this judicial district.

**THE PATENT IN SUIT**

11. On September 6, 2005, the United States Patent and Trademark Office (“USPTO”) issued U.S. Patent No. 6,941,281 entitled “Automated Payment” (hereinafter “the ‘281 patent”). A true and correct copy of the ‘281 patent is attached hereto as Exhibit B.

12. AdvanceMe is the owner of the ‘281 patent by assignment with full and exclusive right to bring suit to enforce this patent.

**COUNT ONE:**

**INFRINGEMENT OF THE ‘281 PATENT**

13. AdvanceMe realleges and incorporates herein the allegations of paragraphs 1 through 13 of this Complaint as if fully set forth herein.

14. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants have infringed and are continuing to infringe, literally and/or under the doctrine of equivalents, the ‘281 patent by practicing one or more claims of the ‘281 patent in their use of methods and/or systems covered by the ‘281 patent and offering financial services that utilize methods and/or systems covered by the ‘281 patent.

15. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants have infringed and are continuing to infringe the ‘281 patent by contributing to or actively inducing the infringement by others of the ‘281 patent.

16. Upon information and belief, Defendants have willfully infringed the ‘281 patent.

17. Upon information and belief, Defendants’ acts of infringement of the ‘281 patent will continue after service of this amended complaint unless enjoined by the Court.

18. Unless Defendants are enjoined by this Court from continuing their infringement of the '281 patent, AdvanceMe will suffer additional irreparable damages and impairment of the value of its patent rights. Thus, AdvanceMe is entitled to an injunction against further infringement.

**PRAYER FOR RELIEF**

WHEREFORE, AdvanceMe prays for the following relief:

- (a) That Defendants, their officers, agents, servants, employees, and those persons acting in active concert or in participation with them be enjoined from further infringement of the '281 patent pursuant to 35 U.S.C. § 283;
- (b) That Defendants be ordered to pay attorneys' fees pursuant to 35 U.S.C. § 285;
- (c) That Defendants be ordered to pay all costs associated with this action; and
- (d) That AdvanceMe be granted such other and additional relief as the Court deems just and proper.

Respectfully submitted:

Date: February 27, 2006

By: /s/ Otis Carroll

Otis Carroll, Attorney-in-Charge  
Texas State Bar No. 03895700  
IRELAND, CARROLL & KELLEY P.C.  
6101 South Broadway, Suite 500  
Tyler, Texas 75703  
Telephone: (903) 561-1600  
Facsimile: (903) 581-1071  
Email: [Fedserv@icklax.com](mailto:Fedserv@icklax.com)

ATTORNEYS FOR PLAINTIFF ADVANCEME,  
INC.

PAUL, HASTINGS, JANOFSKY & WALKER LLP

Ronald S. Lemieux (*Admitted Pro Hac Vice*)  
Daniel B. Pollack (*Admitted Pro Hac Vice*)  
Five Palo Alto Square, Sixth Floor  
Palo Alto, CA 94306-2155  
Telephone: (650) 320-1800  
Telecopier: (650) 320-1900  
Email: ronlemieux@paulhastings.com

Elizabeth L. Brann (CA Bar No. 222873)  
3579 Valley Centre Drive  
San Diego, CA 92130  
Telephone: (858) 720-2500  
Telecopier: (858) 720-2555

ATTORNEYS FOR PLAINTIFF ADVANCEME, INC.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by facsimile transmission and/or first class mail this 27<sup>th</sup> day of February, 2006.

/s/ Otis Carroll