

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

PerdiemCo LLC

Plaintiff,

v.

Geotab Inc. and Geotab USA, Inc.

Defendants.

Docket No. 2:15-cv-726

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff PerdiemCo LLC (“PerDiem”) files this complaint against Geotab Inc. and Geotab USA, Inc. (collectively, “Geotab” or “Defendants”) for infringement of U.S. Patent Nos. 8,223,012 (“the ’012 patent”), 8,493,207 (“the ’207 patent”), 8,717,166 (“the ’166 patent”), and 9,003,499 (“the ’499 patent”) (collectively, “patents-in-suit”), hereby alleges as follows:

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.

The Parties

2. PerDiem is a Texas limited liability company with its principal place of business at 505 E Travis Street, Suite 205, Marshall, TX 75670-4258.

3. Darrell Diem, the inventor of the patents-in-suit and Chief Technology Officer of PerDiem, served in the Air Force for four years as an electronics technician. After being honorably discharged, Mr. Diem worked his way through college to earn degrees in physics and math from

Marquette University. Mr. Diem also obtained a Masters of Business Administration from Michigan State, and a Masters of Arts in Pastoral Ministries from St. Thomas University, Miami, Florida. Mr. Diem has worked for Motorola, Harris Corporation, Time Domain, and other leading technology companies. Mr. Diem currently teaches computers to students at St. John the Baptist Catholic School, where he is a Deacon.

4. Mr. Diem conceived the inventions in the patents-in-suit when his daughter's car broke down on a long road trip. Mr. Diem wanted to convey location information for his daughter in an efficient way that would still protect her privacy. Mr. Diem's inventions, which have a wide range of significant applications, are widely used today.

5. Geotab Inc. is a corporation organized and existing under the laws of Canada with its principal place of business at 1081 South Service Road West, Oakville, Ontario, L6L 6K3, Canada. Geotab Inc. can be served with process through its registered agent: Corporation Service Company, 2711 Centerville Road, Ste. 400, Wilmington, DE 19808.

6. Geotab USA, Inc. is a corporation organized and existing under the laws of the state of Delaware, with a principal place of business at 1802 Alafaya Trail, Orlando, FL 32826. Geotab USA, Inc. can be served with process through its registered agent: Corporation Service Company, 2711 Centerville Road, Ste. 400, Wilmington, DE 19808.

7. Defendants make, use, sell, offer for sale, and/or import products and services that infringe patents owned by PerDiem, including without limitation, Geotab's Fleet Management Solutions, Vehicle Tracking Device (including but not limited to the Geotab GO 7), and Fleet Management Software (including but not limited to the "MyGeotab" software) (collectively, "Accused Products"), either directly or indirectly through their subsidiaries or affiliates, to customers throughout the United States, including in this District.

Jurisdiction and Venue

8. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. Defendants maintain continuous and systematic contacts within this District by selling and offering for sale products and services to customers within this District, and by offering for sale products and services that are used within this District.

10. This Court has specific personal jurisdiction over Defendants pursuant to due process and the Texas Long Arm Statute because Defendants, directly or through intermediaries, have conducted and conduct substantial business in this forum, including but not limited to: (i) engaging in at least part of the infringing acts alleged herein; (ii) purposefully and voluntarily placing one or more infringing products or services into the stream of commerce with the expectation that they will be purchased and/or used by consumers in this forum; and/or (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services provided to individuals in Texas and in this District. Venue is proper in this Court under 28 U.S.C. §§ 1391(b)-(d) and 1400(b) for the reasons set forth above.

The Patents-In-Suit

11. The '012 patent, entitled "System and Method for Conveying Object Location Information," was duly and legally issued by the United States Patent and Trademark Office on July 17, 2012. A copy of the '012 patent is attached hereto as Exhibit A.

12. The '207 patent, entitled "Location Information Sharing System and Method for Conveying Location Information based on User Authorization," was duly and legally issued by

the United States Patent and Trademark Office on July 23, 2013. A copy of the '207 patent is attached hereto as Exhibit B.

13. The '166 patent, entitled "System and Method for Conveying Location Information via a Plurality of Information-Sharing Environments" was duly and legally issued by the United States Patent and Trademark Office on May 6, 2014. A copy of the '166 patent is attached hereto as Exhibit C.

14. The '499 patent, entitled "System and Method for Conveying Event Information Based on Varying Levels of Administrative Privilege Under Multiple Levels of Access Controls" was duly and legally issued by the United States Patent and Trademark Office on April 7, 2015. A copy of the '499 patent is attached hereto as Exhibit D.

15. PerDiem is the exclusive owner of all rights, title, and interest in the '012 patent, the '207 patent, the '166 patent, and the '499 patent, and has the right to bring this suit to recover damages for any current or past infringement of these patents.

16. The family of the patents-in-suit have been cited in other patents owned by many companies in a variety of industries including, Honeywell, Bank of America, Fatdoor, EMC Corporation, General Motors, Blackbird Technology, and Allure Energy.

Count I

Infringement of the '012 Patent

17. Paragraphs 1 through 16 are incorporated by reference as if fully stated herein.

18. The '012 patent is valid and enforceable.

19. Defendants have infringed, and continue to infringe, one or more claims of the '012 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the

United States, products and/or services encompassed by those claims, including for example, by making, using, selling, offering for sale, and/or importing the Accused Products.

20. Third parties, including Defendants' customers, have infringed, and continue to infringe, one or more claims of the '012 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, the Accused Products.

21. Defendants have knowledge and notice of the '012 patent and their infringement at least through the filing and service of the Complaint in this action.

22. Defendants have induced infringement, and continue to induce infringement, of one or more claims of the '012 patent under 35 U.S.C. § 271(b). Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '012 patent by selling or otherwise supplying the Accused Products with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States, and/or import into the United States the Accused Products for their intended purpose to infringe the '012 patent; and with the knowledge and intent to encourage and facilitate the infringement through the dissemination of the Accused Products and/or the creation and dissemination of documentation and technical information related to the Accused Products.

23. Defendants have contributed to the infringement by third parties, including Defendants' customers, and continue to contribute to infringement by third parties, including Defendants' customers, of one or more claims of the '012 patent under 35 U.S.C. § 271(c), by selling and/or offering for sale in the United States and/or importing into the United States the Accused Products knowing that those products constitute a material part of the inventions of the '012 patent, knowing that those products are especially made or adapted to infringe the '012 patent,

and knowing that those products are not staple articles of commerce suitable for substantial noninfringing use.

24. PerDiem has been and continues to be damaged by Defendants' infringement of the '012 patent.

25. Since having knowledge of the '012 patent, Defendants knew or should have known that, without taking a license to the patents-in-suit, their actions continue to infringe one or more claims of the '012 patent. Therefore, Defendants' infringement has and will continue to be willful.

26. Defendants' conduct in infringing the '012 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

Count II

Infringement of the '207 Patent

27. Paragraphs 1 through 26 are incorporated by reference as if fully stated herein.

28. The '207 patent is valid and enforceable.

29. Defendants have infringed, and continue to infringe, one or more claims of the '207 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, products and/or services encompassed by those claims, including for example, by making, using, selling, offering for sale, and/or importing the Accused Products.

30. Third parties, including Defendants' customers, have infringed, and continue to infringe, one or more claims of the '207 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, the Accused Products.

31. Defendants have knowledge and notice of the '207 patent and their infringement at least through the filing and service of the Complaint in this action.

32. Defendants have induced infringement, and continue to induce infringement, of one or more claims of the '207 patent under 35 U.S.C. § 271(b). Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '207 patent by selling or otherwise supplying the Accused Products with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States, and/or import into the United States the Accused Products for their intended purpose to infringe the '207 patent; and with the knowledge and intent to encourage and facilitate the infringement through the dissemination of the Accused Products and/or the creation and dissemination of documentation and technical information related to the Accused Products.

33. Defendants have contributed to the infringement by third parties, including Defendants' customers, and continue to contribute to infringement by third parties, including Defendants' customers, of one or more claims of the '207 patent under 35 U.S.C. § 271(c), by selling and/or offering for sale in the United States and/or importing into the United States the Accused Products knowing that those products constitute a material part of the inventions of the '207 patent, knowing that those products are especially made or adapted to infringe the '207 patent, and knowing that those products are not staple articles of commerce suitable for substantial noninfringing use.

34. PerDiem has been and continues to be damaged by Defendants' infringement of the '207 patent.

35. Since having knowledge of the '207 patent, Defendants knew or should have known that, without taking a license to the patents-in-suit, their actions continue to infringe one or more claims of the '207 patent. Therefore, Defendants' infringement has and will continue to be willful.

36. Defendants' conduct in infringing the '207 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

Count III

Infringement of the '166 Patent

37. Paragraphs 1 through 36 are incorporated by reference as if fully stated herein.

38. The '166 patent is valid and enforceable.

39. Defendants have infringed, and continue to infringe, one or more claims of the '166 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, products and/or services encompassed by those claims, including for example, by making, using, selling, offering for sale, and/or importing the Accused Products.

40. Third parties, including Defendants' customers, have infringed, and continue to infringe, one or more claims of the '166 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, the Accused Products.

41. Defendants have knowledge and notice of the '166 patent and their infringement at least through the filing and service of the Complaint in this action.

42. Defendants have induced infringement, and continue to induce infringement, of one or more claims of the '166 patent under 35 U.S.C. § 271(b). Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement

of the '166 patent by selling or otherwise supplying the Accused Products with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States, and/or import into the United States the Accused Products for their intended purpose to infringe the '166 patent; and with the knowledge and intent to encourage and facilitate the infringement through the dissemination of the Accused Products and/or the creation and dissemination of documentation and technical information related to the Accused Products.

43. Defendants have contributed to the infringement by third parties, including Defendants' customers, and continue to contribute to infringement by third parties, including Defendants' customers, of one or more claims of the '166 patent under 35 U.S.C. § 271(c), by selling and/or offering for sale in the United States and/or importing into the United States the Accused Products knowing that those products constitute a material part of the inventions of the '166 patent, knowing that those products are especially made or adapted to infringe the '166 patent, and knowing that those products are not staple articles of commerce suitable for substantial noninfringing use.

44. PerDiem has been and continues to be damaged by Defendants' infringement of the '166 patent.

45. Since having knowledge of the '166 patent, Defendants knew or should have known that, without taking a license to the patents-in-suit, their actions continue to infringe one or more claims of the '166 patent. Therefore, Defendants' infringement has and will continue to be willful.

46. Defendants' conduct in infringing the '166 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

Count IV

Infringement of the '499 Patent

47. Paragraphs 1 through 46 are incorporated by reference as if fully stated herein.

48. The '499 patent is valid and enforceable.

49. Defendants have infringed, and continue to infringe, one or more claims of the '499 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, products and/or services encompassed by those claims, including for example, by making, using, selling, offering for sale, and/or importing the Accused Products.

50. Third parties, including Defendants' customers, have infringed, and continue to infringe, one or more claims of the '499 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, the Accused Products.

51. Defendants have knowledge and notice of the '499 patent and their infringement at least through the filing and service of the Complaint in this action.

52. Defendants have induced infringement, and continue to induce infringement, of one or more claims of the '499 patent under 35 U.S.C. § 271(b). Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '499 patent by selling or otherwise supplying the Accused Products with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States, and/or import into the United States the Accused Products for their intended purpose to infringe the '499 patent; and with the knowledge and intent to encourage and facilitate the infringement through the dissemination of the Accused Products and/or the creation and dissemination of documentation and technical information related to the Accused Products.

53. Defendants have contributed to the infringement by third parties, including Defendants' customers, and continue to contribute to infringement by third parties, including Defendants' customers, of one or more claims of the '499 patent under 35 U.S.C. § 271(c), by selling and/or offering for sale in the United States and/or importing into the United States the Accused Products knowing that those products constitute a material part of the inventions of the '499 patent, knowing that those products are especially made or adapted to infringe the '499 patent, and knowing that those products are not staple articles of commerce suitable for substantial noninfringing use.

54. PerDiem has been and continues to be damaged by Defendants' infringement of the '499 patent.

55. Since having knowledge of the '499 patent, Defendants knew or should have known that, without taking a license to the patents-in-suit, their actions continue to infringe one or more claims of the '499 patent. Therefore, Defendants' infringement has and will continue to be willful.

56. Defendants' conduct in infringing the '499 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

Prayer for Relief

WHEREFORE, PerDiem prays for judgment as follows:

- A. That Defendants have infringed each of the patents-in-suit;
- B. That PerDiem be awarded all damages adequate to compensate it for Defendants' infringement of the patents-in-suit, such damages to be determined by a jury with pre-judgment and post-judgment interest;
- C. A judgment that the infringement was willful and that such damages be trebled;

D. An order permanently enjoining Defendants and their officers, agents, servants and employees, privies, and all persons in concert or participation with them, from further infringement of the patents-in-suit;

E. That this case be declared an exceptional case within the meaning of 35 U.S.C. § 285 and that PerDiem be awarded attorney fees, costs, and expenses incurred in connection with this action; and

F. That PerDiem be awarded such other and further relief as this Court deems just and proper.

Demand for Jury Trial

PerDiem hereby demands a trial by jury on all issues so triable.

DATED: May 15, 2015

/s/ J. Mark Mann

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