

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE**

Wireless Media Innovations, LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. _____
	§	DEMAND FOR JURY TRIAL
Kirkland’s Stores, Inc.,	§	
	§	
Defendant.	§	

PLAINTIFF’S COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Wireless Media Innovations, LLC (“WMI” or “Plaintiff”), by way of its Complaint against Kirkland’s Stores, Inc. (“Defendant”), hereby alleges as follows:

THE PARTIES

1. Plaintiff WMI is a limited liability company organized under the laws of Delaware with a place of business at 1209 Orange Street, Wilmington, Delaware 19801.
2. Upon information and belief, Defendant Kirkland’s Stores, Inc. is a corporation organized under the laws of Tennessee with a principal place of business at 2501 McGavock Pike, Suite 1000, Nashville, Tennessee 37214-1237. Defendant can be served with process through its registered agent, Adam Holland, 2501 McGavock Pike, Suite 1000, Nashville, Tennessee 37214-1237.

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.*

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

5. This Court has personal jurisdiction over Defendant by virtue of, *inter alia*, its presence in Tennessee having established minimum contacts with the forum, having conducted business within this Judicial District, and having engaged in systematic and continuous contacts with the State of Tennessee. In particular, Defendant maintains its headquarters in the State of Tennessee, is incorporated under the laws of the State of Tennessee, and Defendant regularly conducts business in this Judicial District including by operating several places of business within Delaware.

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b). In particular, Defendant has committed acts of patent infringement at its distribution center located in Jackson, Tennessee.

THE PATENTS-IN-SUIT
U.S. PATENT NOS. 6,148,291 and 5,712,789

7. On November 14, 2000, United States Patent No. 6,148,291 (“the ’291 Patent”), entitled “CONTAINER AND INVENTORY MONITORING METHODS AND SYSTEM,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’291 Patent is attached as Exhibit A to this Complaint.

8. On January 27, 1998 United States Patent No. 5,712,789 (“the ’789 Patent”), entitled “CONTAINER MONITORING SYSTEM AND METHOD,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’789 Patent is attached as Exhibit B to this Complaint.

9. WMI is the assignee and owner of the right, title, and interest in and to the Patents-in-Suit, including the right to assert all causes of action arising under the Patents-in-Suit and the right to any remedies for infringement thereof.

FIRST CLAIM FOR RELIEF
INFRINGEMENT OF U.S. PATENT NO. 6,148,291

10. WMI realleges and incorporates by reference the allegations of paragraphs 1 through 9 of this Complaint as though fully set forth herein.

11. In violation of 35 U.S.C. § 271(a), Defendant has directly infringed and continues to directly infringe, both literally and under the doctrine of equivalents, the '291 Patent, by using yard management systems and operative methods associated therewith to monitor the locations, movement, and load statuses of containers in at least one of Defendant's facilities, without authorization from WMI.

12. The infringement of the '291 Patent by Defendant has caused and continue to cause damage to WMI in an amount to be determined at trial.

SECOND CLAIM FOR RELIEF
INFRINGEMENT OF U.S. PATENT NO. 5,712,789

13. WMI realleges and incorporates by reference the allegations of paragraphs 1 through 12 of this Complaint as though fully set forth herein.

14. In violation of 35 U.S.C. § 271(a), Defendant has directly infringed and continues to directly infringe, both literally and under the doctrine of equivalents, the '789 Patent, by using yard management systems and operative methods associated therewith to monitor the locations, movement, and load statuses of containers in at least one of Defendant's facilities, without authorization from WMI.

15. The infringement of the '789 Patent by Defendant has caused and continue to cause damage to WMI in an amount to be determined at trial.

WILLFUL INFRINGEMENT

16. Defendant has had knowledge of the Patents-in-Suit and its infringement thereof, at least as of the filing date of this Complaint.

17. Upon information and belief, Defendant's infringement is ongoing.

18. Upon information and belief, Defendant's ongoing infringement despite its knowledge of the Patents-in-Suit and WMI's accusations of infringement is objectively reckless and willful.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, WMI demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, WMI respectfully demands judgment for itself and against Defendant as follows:

A. An adjudication that Defendant has directly infringed the Patents-in-Suit pursuant to 35 U.S.C. § 271(a);

B. An award of damages to be paid by Defendant adequate to compensate WMI for Defendant's past infringement of the Patents-in-Suit, and any continuing or future infringement of the Patents-in-Suit through the date such judgment is entered, including costs, expenses, and interest;

C. An order that Defendant pay an ongoing royalty in an amount to be determined for any continued infringement after the date judgment is entered;

D. To the extent that Defendant's conduct subsequent to the date of its notice of the Patents-in-Suit is found to be objectively reckless, an award of enhanced damages pursuant to 35 U.S.C. § 284 for Defendant's willful infringement of the Patents-in-Suit;

E. A declaration finding WMI's Patent infringement case to be an exceptional case, and awarding WMI attorneys' fees pursuant to 25 U.S.C. § 285;

F. An accounting of all infringing acts including, but not limited to, those acts not presented at trial and an award of WMI's damages for any such acts; and

G. For such further relief at law or in equity as the Court may deem just and proper.

DATED: November 15, 2013

Respectfully Submitted,

/s/ Douglas F. Halijan

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