

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

WIRELESS MEDIA INNOVATIONS, LLC,)	
)	
Plaintiff,)	Civil Action No. _____
)	
v.)	
)	JURY TRIAL DEMANDED
SEARS HOLDINGS CORPORATION,)	
)	
Defendant.)	

PLAINTIFF’S COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Wireless Media Innovations, LLC (“WMI” or “Plaintiff”), by way of its Complaint against Sears Holdings Corporation (“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 is a corporation organized under the laws of Delaware with its principal place of business at 3333 Beverly Road, Hoffman Estates, Illinois 60179.

NATURE OF THE ACTION

3. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over such Federal Question claims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Defendant is subject to the jurisdiction of this Court by virtue of its regularly conducted, systematic, and continuous business activities within and throughout the State of Delaware. In particular, Defendant is organized under the laws of the State of Delaware, and Defendant maintains numerous business locations within this Judicial District. As such, Defendant has purposefully availed itself of the privilege of conducting business within this State, has established minimum contacts with the State of Delaware and within this Judicial District such that Defendant should reasonably and fairly anticipate being haled into court in this Judicial District, and has purposefully directed its activities to residents of this Judicial District.

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b).

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 at Defendant's facilities within the United States, without authorization from WMI.

12. The infringement of the '291 Patent by Defendant has caused and continues 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 at Defendant's facilities within the United States, without authorization from WMI.

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

WILLFUL INFRINGEMENT

16. Defendant has 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 infringing conduct 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 one or more claims of each of 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. Such other and further relief at law or in equity as the Court may deem just and proper.

Dated: November 15, 2013

STAMOULIS & WEINBLATT LLC

/s/ Richard C. Weinblatt

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