

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

LDARTOOLS, INC.

Plaintiff,

vs.

GUIDEWARE SYSTEMS, LLC,

Defendant.

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Case No. \_\_\_\_\_

**JURY DEMAND**

**ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff LDARtools, Inc. (“LDARtools” or “Plaintiff”) brings this action against Defendant Guideware Systems, LLC (“Guideware” or “Defendant”) and alleges:

**THE PARTIES**

1. Plaintiff LDARtools is a corporation organized and existing under the laws of the State of Texas with a principle place of business at 1102 Dickinson Avenue, Dickinson, Texas 77539.

2. Defendant Guideware is a limited liability company organized and existing under the laws of the State of California. On information and belief, Defendant’s principle place of business is at 2064 Alameda Padre Serra, Santa Barbara, California 93103 and/or 2020 Alameda Padre Serra, Santa Barbara, California 93103. Defendant’s registered agent in California is Michael D Schely, at 311 E Carrilo Street, Suite D, Santa Barbara, California 93101. On information and belief, Defendant Guideware has engaged in business in the state of Texas but has not designated or maintained a resident agent in Texas for service of process. Accordingly,

substitute service may be made on Michael Schely and/or Defendant Guideware via the Texas Secretary of State in accordance with TEX. CIV. PRAC. & REM. CODE §§ 17.026 and 17.044.

### **JURISDICTION AND VENUE**

3. This is an action for patent infringement arising under the provisions of the patent laws of the United States of America, 35 U.S.C. § 100 *et seq.*, including § 271.

4. Subject-matter jurisdiction over LDARtools' claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a).

5. On information and belief, Guideware maintains offices in the State of California and has customers located in the State of Texas and this Judicial District, and sells products in the State of Texas and in this Judicial District, including the products specifically identified below.

6. Defendant is subject to personal jurisdiction in the State of Texas and this Judicial District and is doing business in this Judicial District. Defendant has minimum contacts with the State of Texas, has purposefully availed itself of the privileges of conducting business in the State of Texas and this Judicial District, and regularly conducts business within the State of Texas and this Judicial District. Plaintiff's causes of action arise directly from Defendant's sales, marketing, business contacts, and other activities in the State of Texas and in this Judicial District. For example, on information and belief, Defendant sells its software Product (discussed below) to companies such as LDAR Solutions in Baytown, Texas.

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b). Certain acts of inducement described below have taken place in this Judicial District, such as those acts on LDAR Solutions in Baytown, Texas.

## INFRINGEMENT OF THE '384 PATENT

8. LDARtools realleges and incorporates by reference the allegations in paragraphs 1-7.

9. On February 2, 2010, U.S. Patent No. 7,657,384 (“the ‘384 patent”) entitled “Management of Response to Triggering Events in Connection with Monitoring Fugitive Emissions”, a copy of which is attached hereto as **Exhibit 1**, was duly and legally issued. LDARtools is the owner by assignment of all right, title, and interest in and to the ‘384 patent, including the right to sue for and recover all past, present, and future damages for infringement of the ‘384 patent.

10. Defendant Guideware has knowledge of the ‘384 patent.

11. Defendant Guideware has been performing actions that constitute direct and/or indirect infringement of the ‘384 patent. For example, on information and belief, Defendant has been knowingly inducing its customers to engage in direct infringement by encouraging use of Defendant’s products, including, for example, its “Guideware Mobile” product (“Product”). Direct infringement of the ‘384 patent occurs whenever the Product’s end user (e.g., customers of Guideware) physically performs any of the methods recited in the ‘384 patent’s claims by running the Guideware software. Defendant’s acts of inducement include selling and/or providing such Product to its customers; advertising such Product on its website; and providing instructions to its customers regarding use of such Product, which is specifically configured to use the methods claimed in the ‘384 patent. Defendant is therefore liable for inducement under 35 U.S.C. § 271(b).

**12.** On information and belief, Guideware's inducement of infringement of the '384 patent has been with notice and knowledge of the patent and, further, has been willful and deliberate.

**13.** Defendant's acts of indirect infringement have caused damage to LDARtools, and LDARtools is entitled to recover from Defendant the damages it sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial.

**14.** As a consequence of the infringement complained of herein, Plaintiff has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement. Plaintiff is therefore entitled to a preliminary and permanent injunction.

#### **INFRINGEMENT OF THE '290 PATENT**

**15.** LDARtools realleges and incorporates by reference the allegations in paragraphs 1-14.

**16.** On October 11, 2011, U.S. Patent No. 8,034,290 ("the '290 patent") entitled "Reigniting Flame in Volatile Organic Compound Device," a copy of which is attached hereto as **Exhibit 2**, was duly and legally issued. LDARtools is the owner by assignment of all right, title, and interest in and to the '290 patent, including the right to sue for and recover all past, present, and future damages for infringement of the '290 patent.

**17.** Defendant Guideware has had knowledge of the '290 patent.

**18.** Defendant Guideware has been performing actions that constitute direct and/or indirect infringement of the '290 patent. For example, on information and belief, Defendant has been knowingly inducing its customers to engage in direct infringement by encouraging use of Defendant's products, including, for example, its "Guideware Mobile" product ("Product").

Direct infringement of the '290 patent occurs whenever the Product's end user (e.g., customers of Guideware) performs any of the methods recited in the '290 patent's claims by running the Guideware software. Defendant's acts of inducement include selling and/or providing such Product to its customers; advertising such Product on its website; and providing instructions to its customers regarding use of such Product, which is specifically configured to use the methods claimed in the '290 patent. Defendant is therefore liable for inducement under 35 U.S.C. § 271(b).

**19.** On information and belief, Guideware's inducement of infringement of the '290 patent has been with notice and knowledge of the patent and, further, has been willful and deliberate.

**20.** Defendant's acts of indirect infringement have caused damage to LDARtools, and LDARtools is entitled to recover from Defendant the damages it sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial.

**21.** As a consequence of the infringement complained of herein, Plaintiff has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement. Plaintiff is therefore entitled to a preliminary and permanent injunction.

#### **DEMAND FOR JURY TRIAL**

LDARtools demands trial by jury on all claims and issues so triable.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, LDARtools prays for entry of judgment that:

**A.** Defendant Guideware has induced infringement of U.S. Patent No. 7,657,384 and U.S. Patent No. 8,034,290;

**B.** Defendant's inducement of infringement of the '384 patent and the '290 patent has been willful and deliberate;

**C.** Defendant account for and pay to LDARtools all damages caused by its inducement of infringement of the '384 patent and the '290 patent as complained of herein in accordance with 35 U.S.C. § 284;

**D.** The amount of damages with respect to Defendant's inducement of infringement be increased to three times the amount found or assessed by the Court because of the willful and deliberate nature of the infringement, in accordance with 35 U.S.C. § 284;

**E.** LDARtools be granted preliminary and permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining Defendant, its officers, agents, servants, employees, and those persons in active concert or participation with Defendant from further acts of inducement;

**F.** In the event an injunction is not included in the final judgment, an order that Defendant shall be required to pay LDARtools a compulsory, ongoing royalty;

**G.** LDARtools be granted pre-judgment and post-judgment interest on the damages caused to it by reason of Defendant's inducement complained of herein;

**H.** LDARtools be granted its reasonable attorney's fees;

**I.** Costs be awarded to LDARtools; and

**J.** LDARtools be granted such other and further relief as the Court may deem just and proper under the circumstances.

Respectfully submitted,

Dated: January 21, 2014

By: /s/ Douglas H. Elliott

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LDARTOOLS, INC***