

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOAO CONTROL & MONITORING
SYSTEMS, LLC,

Plaintiff,

v.

FORD MOTOR COMPANY,

Defendant.

Case No. 4:13-cv-13615-MAG-MAR
Consolidated with Case No. 4:12-cv-
14004-MAG-MAR

HON. MARK A. GOLDSMITH

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Joao Control & Monitoring Systems, LLC (“Plaintiff” or “JCMS”), by and through its undersigned counsel, files this Amended Complaint for Patent Infringement against Defendant Ford Motor Company (“Defendant” or “Ford”) as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendant’s infringement of Plaintiff’s United States Patent No. 5,917,405 entitled “*Control Apparatus and Methods for Vehicles*” (hereinafter, the “’405 Patent”; a copy of which is attached hereto as Exhibit A), No. 6,542,076 entitled “*Control, Monitoring and/or Security Apparatus and Method*” (hereinafter, the “’076 Patent”; a copy of which is attached hereto as Exhibit B), No. 6,542,077 entitled “*Monitoring Apparatus for A Vehicle and/or A Premises*” (hereinafter, the “’077 Patent;” a copy of which is attached hereto as Exhibit C), No. 6,549,130 entitled “*Control Apparatus and*

Method for Vehicles and/or for Premises” (hereinafter, the “‘130 Patent”; a copy of which is attached hereto as Exhibit D), and No. 7,397,363 entitled “*Control and/or Monitoring Apparatus and Method*” (hereinafter, the “‘363 Patent”; a copy of which is attached hereto as Exhibit E). The ‘405 patent, the ‘076 patent, the ‘077 patent, the ‘130 patent and the ‘363 patent are collectively referred to as the “Patents-in-Suit. Plaintiff is the owner of the Patents-in-Suit. Plaintiff seeks monetary damages.

PARTIES

2. JCMS is a limited liability company organized and existing under the laws of the state of Delaware. Plaintiff maintains its principal place of business at 122 Bellevue Place, Yonkers (Westchester County), New York, 10703. Plaintiff is the owner of the Patents-in-Suit, and possesses all rights thereto, including the right to exclude the Defendant from making, using, selling, offering to sell or importing in this district and elsewhere into the United States the patented invention(s) of the Patents-in-Suit, the right to license the Patents-in-Suit, and to sue the Defendant for infringement and recover past damages.

3. Upon information and belief, Ford is a corporation duly organized and existing under the laws of the State of Delaware since July 9, 1919 and having its principal place of business located at One American Road, Dearborn (Wayne County), Michigan, 48126. Defendant may be served through its registered agent, The Corporation Company, 30600 Telegraph Road, Suite 2345, Bingham Farms, Michigan, 48025. Upon information and belief, Ford is registered as a Foreign Profit Corporation with the Michigan Department of Licensing and Regulatory Affairs.

4. Upon information and belief, Ford ships, distributes, makes, uses, offers for sale, sells, imports, and/or advertises (including the provision of an interactive web page) its

infringing products and services (“Accused Products and Services”), namely vehicles equipped with systems that may be electronically controlled from a remote location, under the Ford brand name.

JURISDICTION AND VENUE

5. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

6. This lead case (no. 13-cv-13615) was originally filed in the District Court for the District of Delaware (case no. 1:12-cv-01479-GMS). This matter was transferred to this Court, the Eastern District of Michigan, upon the Delaware court’s decision to grant Defendant’s Motion to Transfer, over Plaintiff’s opposition to that Motion. Without waiving its objections to that transfer, Plaintiff states that this Court has jurisdiction over this controversy as follows.

7. The co-pending case (no. 12-cv-14004) was originally filed in the District Court of the District of California (case no. 2:12-cv-00033-DOC-RNBx). This matter was transferred to this Court, the Eastern District of Michigan, upon the California court’s decision to grant Defendant’s Motion to Transfer, over Plaintiff’s opposition to that Motion.

8. The Court has personal jurisdiction over Defendant because: Defendant has minimum contacts within the State of Michigan and in the Eastern District of Michigan; Defendant has purposefully availed itself of the privileges of conducting business in the State of Michigan and in the Eastern District of Michigan; Defendant has sought protection and benefit from the laws of the State of Michigan; Defendant regularly conducts business within the State of Michigan and within the Eastern District of Michigan, and Plaintiff’s causes of action arise

directly from Defendant's business contacts and other activities in the State of Michigan and in the Eastern District of Michigan.

9. More specifically, Defendant, directly and/or through its intermediaries, ships, distributes, makes, uses, imports, offers for sale, sells, and/or advertises (including the provision of an interactive web page) its products and services in the United States, the State of Michigan, and the Eastern District of Michigan. Upon information and belief, Defendant has committed patent infringement in the State of Michigan and in the Eastern District of Michigan. Defendant solicits customers in the State of Michigan and in the Eastern District of Michigan. Defendant has many paying customers who are residents of the State of Michigan and the Eastern District of Michigan and who use Defendant's products and services in the State of Michigan and in the Eastern District of Michigan.

10. Without waiving any objections, Plaintiff alleges that venue is proper in the Southern Division of the Eastern District of Michigan pursuant to 28 U.S.C. §§ 1391 and 1400(b).

BACKGROUND INFORMATION

11. The '405 Patent was duly and legally issued by the United States Patent and Trademark Office on June 29, 1999 after full and fair examination. A Certificate of Correction was issued on May 9, 2000.

12. The '076 Patent was duly and legally issued by the United States Patent and Trademark Office on April 1, 2003 after full and fair examination. Certificates of Correction were issued on July 1, 2003 and October 25, 2005.

13. The '077 Patent was duly and legally issued by the United States Patent and Trademark Office on April 1, 2003 after full and fair examination. A Certificate of Correction was issued on July 1, 2003.

14. The '130 Patent was duly and legally issued by the United States Patent and Trademark Office on April 15, 2003 after full and fair examination. A Certificate of Correction was issued on July 1, 2003.

15. The '363 Patent was duly and legally issued by the United States Patent and Trademark Office on July 8, 2008 after full and fair examination.

16. This action was originally filed on November 15, 2012 in the District of Delaware (Case No. 1:12-cv-01479-GMS) alleging infringement of the '076, '077 and '363 Patents. The Complaint was served on Defendant on or about November 16, 2012.

17. This action was subsequently transferred to this Court upon Defendant's opposed motion on August 21, 2013. *See* Dkt. Nos. 10, 11, 12, 15, 16, 18, 19, 21, 22, 23 and 26 (D. Del., Case No. 1:12-cv-1479).

18. A separate action was filed by JCMS against Ford in the Central District of California on January 3, 2012 alleging infringement of the '405 and '130 Patents on (Case No. 2:12-cv-00033; hereinafter, the "Related Case"). JCMS's Original Complaint in the Related Case was amended on December 21, 2012 upon its unopposed motion (*see* C.D. Cal. Dkt. Nos. 6, 7, and 8) and again on June 18, 2013 after Defendant's opposed motion to dismiss Plaintiff's Indirect Infringement claims was granted with leave to amend (*see* C.D. Cal. Dkt. Nos. 9, 11, 12, 18, and 19). The Related Case was subsequently transferred to this Court upon Ford's opposed motion on September 6, 2012 (*see* C.D. Cal. Dkt. Nos. 34, 39, 41, and 45). The Complaint in the Related Case was amended a third time on August 8, 2013 after Ford's motion

to dismiss the Indirect and Willful infringement claims was denied without prejudice and JCMS was granted to leave to amend its Complaint (*see* case no. 4:12-cv-14004-MAG-MAR, Dkt. Nos. 24, 26). Subsequently the Related Case and this matter were consolidated for all purposes. Dkt. No. 17.

19. On information and belief, Defendant has had knowledge of the '405 and '130 Patents as early as January 17, 2012, the date Defendant was served with the Original Complaint in the Related Case, and perhaps as early as the date of filing of the Complaint in the Related Case.

20. On information and belief, Defendant has had knowledge of the '076, '077, and '363 Patents as early as November 16, 2012, the date Defendant was served with the Original Complaint in this action, and perhaps as early as the date of filing of the Original Complaint.

21. On information and belief, Defendant has had knowledge of the '076, '077, and '363 Patents as early as March 13, 2012, the date the Defendant filed its Answer to the Original Complaint filed in the Related Case.

22. On information and belief, Defendant owns, operates, advertises, and/or controls the website www.ford.com (and related websites such as www.syncmyride.com), through which Defendant advertises, sells, offers to sell, provides and/or educates customers about its products and services.

23. Upon information and belief, Ford ships, distributes, makes, uses, offers for sale, sells, imports and/or advertises (including the provision of an interactive web page) its infringing products and services, namely vehicles (including automobiles, trucks, vans, etc.) equipped with systems that may be electronically controlled from a remote location, under the Ford brand name (hereinafter, the "Accused Products and Services").

24. In particular, vehicles equipped at least with the Ford SYNC® System are provided to Defendant's customers as a feature of Defendant's vehicles for use by Defendant's customers, said use constituting infringement. *See* Exhibit F.

25. Ford makes, uses, offers for sale, sells and/or imports the SYNC® system. *Id.*

26. Ford makes, uses, offers for sale, sells and/or imports a server(s) that form part of and are used with the SYNC® system and related SYNC® services.

27. Ford makes, uses, offers for sale, sells and/or imports server(s) that form part of, and are used with, the SYNC® system and related SYNC® services (hereinafter, the "SYNC System").

28. Ford makes, uses, offers for sale, sells and/or imports the SYNC System to communicate with vehicle owners and to transmit and receive signals via the SYNC System server, computer system, and onboard computer, to alert the vehicle owner of maintenance required to be performed on the vehicle, and/or to schedule(s) a service appointment. *Id.*

29. Ford vehicles equipped with an onboard computer (controller) and the Ford SYNC System include a service marketed and sold by Defendant as the "Vehicle Health Report" which may include a Service Request. *See* Exhibit G.

30. The vehicle's SYNC System and vehicle owner's user profile can be configured to automatically transmit an electronic message (i.e. text message or email) when the Vehicle Health Report is available. *Id.*

31. The vehicle's SYNC System and individual user profile is configured to automatically transmit a signal containing information to remind the vehicle owner to perform scheduled maintenance. *Id.*

32. The Vehicle Health Report is a service that detects failures in the vehicle system, and transmits notifications of the detected failure to the vehicle owner. *Id.*

33. The Vehicle Health Report is a service that also transmits notifications of recommended actions for warning indicators per the onboard computer (controller). *Id.*

34. Ford vehicles equipped with an onboard computer (controller) and the Ford SYNC System include a service marketed and sold by Defendant as the 911 Assist®. *See* Exhibit H.

35. The vehicle's SYNC System detects specific events that occur with the vehicle's computer system or vehicle equipment, and transmits a signal (to 911) via the 911 Assist® service in response to certain types of events. *Id.*

36. The vehicle's SYNC System utilizes the GPS component of the vehicle's onboard computer system and transmits the location via a signal to a remote location using 911 Assist®. *Id.*

37. The 911 Assist® program automatically receives a signal via the vehicle's onboard computer system (detecting an emergency or problem) and automatically calls 911 using the driver's cell phone. *Id.*

38. The 911 Assist® program automatically receives a signal via the SYNC System to open the SYNC System microphone to allow the occupant(s) of the vehicle to speak directly with a 911 operator. *Id.*

39. Ford vehicles equipped with an onboard computer (controller) and the Ford SYNC System also include the SYNC® Destinations, and "Send to Sync", which are services marketed and sold by Defendant which services utilize the vehicle's onboard computer

(controller) in conjunction with other control devices located in a different location. *See* Exhibit I.

40. The Send to Sync® service enables communications including the transmission and receipt of signals to and from the vehicle's onboard computer, a SYNC System server, and the vehicle owner's computer or portable electronic device (i.e., smart phone). *Id.*

41. SYNC® Destinations, a smartphone application (or "app"), that provides for the communications between the vehicle's onboard computer (controller) and the SYNC System computer, and the vehicle owner's smart phone. *Id.*

42. Ford vehicles equipped with an onboard computer (controller) and the Ford SYNC System include a service marketed and sold by Defendant as the audible text messaging service, preset text message responses and customized text messages. *See* Exhibit J.

43. The onboard computer system receives a signal, transmits the signal to a vehicle component, and acts upon the information contained in the signal. *Id.*

44. Ford vehicles equipped with an onboard computer (controller) and the Ford SYNC System include a service marketed and sold by Defendant as the hands-free calling service. *Id.*

45. Ford vehicles equipped with an onboard computer (controller) and the Ford SYNC System include a service marketed and sold by Defendant as the Bluetooth® and SiriusXM® audio streaming. *See* Exhibit K.

46. The onboard computer, in conjunction with Ford SYNC System, receives, generates and transmits signals when processing information for its operation including the following services:

- a. Voice-activated music search;

- b. Voice-activated radio tuning;
- c. Bluetooth® audio streaming;
- d. SiriusXM® Satellite Radio with Replay.

Id.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 5,917,405

47. Plaintiff re-alleges and incorporates by reference each of Paragraphs 1 - 46 above.

48. Defendant has infringed and continues to infringe the '405 Patent either literally or under the doctrine of equivalents through the manufacture and sale of the Accused Products and Services under the Ford brand. Upon information and belief, Defendant has infringed and continues to infringe one or more claims of the '405 Patent because it ships distributes, makes, uses, imports, offers for sale, sells, and/or advertises an apparatus and system capable of communicating with a vehicle system. Defendant provides an onboard computer, incorporated into Defendant's vehicles, that is a vehicle system for transmitting and receiving signals via the SYNC System for services and/or operation of the vehicle system and/or components of the vehicle system (i.e., the Accused Products and Services). Specifically, one or more of Defendant's Accused Products and Services, including but not limited to the Ford SYNC System and the onboard computer system offered in its vehicles, infringes one or more of the claims of the '405 Patent. Ford uses the SYNC system and its various services such as, inter alia, the Vehicle Health Report, to transmit information to the vehicle onboard computer, to the vehicle owner's smart phone, and/or to receive information from the vehicle onboard computer. Defendant's Accused Products and Services are available for sale on its website and through various retailers located in this district and throughout the United States. *See* Exhibit F.

49. Upon information and belief, Defendant has intentionally induced and continues to induce infringement of one or more claims of the '405 Patent in this district and elsewhere in the United States, by its intentional acts which have successfully, among other things, encouraged, instructed, enabled and otherwise caused its customers to use Defendant's vehicles in an infringing manner as previously described in this Court. Despite its knowledge of the existence of the '405 Patent since January 17, 2012 (and possibly as early as January 3, 2012), Defendant, upon information and belief, continues to encourage, instruct, enable and otherwise cause its customers to use Defendant's Accused Products and Services in a manner which infringes the '405 Patent. Upon information and belief, Defendant has specifically intended that its customers use Defendant's Accused Products and Services in such a way that infringes the '405 Patent by, at a minimum, advertising, providing and supporting its Accused Products and Services. Defendant designs, assembles and installs into its vehicles the Accused Products and Services it sells to its customers (directly and through retailers). *See* Exhibits F - K. Defendant advertises its vehicles as including the Accused Products and Services on its website and through several forms of media, including television, newspapers and magazines. *See* Exhibit F. Defendant makes, sells, offers for sale the Accused Products and Service with instructions on and with intention for using and instructing others to use the Accused Products and Services in a manner that infringes the '405 patent. Defendant also instructs its customers on how to use, maintain and update the Accused Products and Services in such a way that infringes the '405 Patent through manuals and other information resources that are available at least through its website. *See* Exhibits F - K. Defendant knew and knows that its actions, including but not limited to providing the Accused Products and Services with instructions as to how to use them, would induce, have induced, and will continue to induce infringement by its

customers. Even where performance of the steps required to infringe one or more claims of the '405 Patent is accomplished by the Defendant and Defendant's customer jointly, Defendant's actions have intentionally and solely caused all of the steps to be performed.

50. Upon information and belief, Defendant has contributed to and continues to contribute to the infringement of one or more claims of the '405 Patent in this district and elsewhere in the United States, by its intentional acts of making, distributing, importing, offering to sell, and selling (directly or through intermediaries) to its customers, its Accused Products and Services and that its customers have utilized said Accused Products and Services. Defendant has successfully, among other things, encouraged, instructed, enabled and otherwise caused its customers to use its Accused Products and Services in an infringing manner as previously described in this Count, having been provided by Defendant to its customers for the primary purpose of causing said customers to use the Accused Products and Services in a manner that infringes one or more claims of the '405 Patent. Defendant has had knowledge of the '405 Patent as early as January 17, 2012 (and possibly as early as January 3, 2012). Upon information and belief, Defendant has specifically intended and/or specifically intends that its customers use Defendant's Accused Products and Services in such a way that infringes the '405 Patent by, at minimum, providing its vehicles along with instructions to its customers on how to use the Accused Products and Services in such a way that infringes the '405 Patent. *See* Exhibits F - K. Defendant knew and/or knows that its Accused Products and Services are especially made and/or adapted for user(s) to infringe one or more claims of the '405 Patent with the assistance and support of Defendant, and, therefore, are not staple articles or commodities of commerce suitable for a substantial non-infringing use, as indicated by the fact that no other uses for the Accused Products and Services are advertised or described in Defendant's literature. Even

where performance of the steps required to infringe one or more claims of the '405 Patent is accomplished by the Defendant and Defendant's customer jointly, Defendant's actions have intentionally and solely caused all of the steps to be performed. Even where performance of the steps required to infringe one or more claims of the '405 Patent is divided such that Defendant and Defendant's customers each perform some but not all of the steps necessary to infringe, Defendant's actions have intentionally caused all of the steps to be performed.

51. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

52. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 6,542,076

53. Plaintiff re-alleges and incorporates by reference each of Paragraphs 1 - 46 above.

54. Defendant has infringed and continues to infringe the '076 Patent either literally or under the doctrine of equivalents through the manufacture and sale of Products and Services under the Ford brand. Upon information and belief, Defendant has infringed and continues to infringe one or more claims of the '076 Patent because it ships distributes, makes, uses, imports, offers for sale, sells, and/or advertises an apparatus capable of remotely controlling a vehicle system. Defendant provides an onboard computer, incorporated into Defendant's vehicles, that is a vehicle system for transmitting and receiving signals via the SYNC System for services and/or operation of the vehicle system and/or components of the vehicle system (i.e., the Accused Products and Services). Specifically, one or more of Defendant's Accused Products

and Services, including but not limited to the Ford SYNC System and the onboard computer functionality offered in its vehicles, infringes one or more of the claims of the '076 Patent. Ford uses the SYNC communication system and its various services such as, *inter alia*, the Vehicle Health Report, to transmit information to the vehicle onboard computer, to the vehicle owner's smart phone, and/or to receive information from the vehicle onboard computer. Upon information and belief, the SYNC system is used to access and utilize a personalized online statement of a vehicle status (via the "Vehicle Health Report"), to access directions from a home computer (via the "Send to SYNC" and "SYNC Destinations" System and Services), to access Bluetooth and Sirius audio streaming, and to obtain emergency response (via the "Ford SYNC 911 Assist" System and Services). Defendant's Accused Products and Services are available for sale on its website and through various retailers located in this district and throughout the United States. *See* Exhibit G.

55. Upon information and belief, Defendant has intentionally induced and continues to induce infringement of one or more claims of the '076 Patent in this district and elsewhere in the United States, by its intentional acts which have successfully, among other things, encouraged, instructed, enabled and otherwise caused its customers to use Defendant's vehicles in an infringing manner as previously described in this Count. Despite its knowledge of the existence of the '076 Patent since November 16, 2012 (and possibly as early as March 13, 2012 and possibly as early as the date of Ford's answer to the Complaint in the Related Case), Defendant, upon information and belief, continues to encourage, instruct, enable and otherwise cause its customers to use Defendant's Accused Products and Services in a manner which infringes the '076 Patent. Upon information and belief, Defendant has specifically intended that its customers use Defendant's Accused Products and Services in such a way that infringes the

'076 Patent by, at a minimum, advertising, providing and supporting its Accused Products and Services. Defendant designs, assembles and installs into its vehicles the Accused Products and Services it sells to its customers (directly and through retailers). *See* Exhibits F - K. Defendant advertises its vehicles as including the Accused Products and Services on its website and through several forms of media, including television, newspapers and magazines. *See* Exhibit F. Defendant makes, sells, offers for sale the Accused Products and Service with instructions on and with intention of its customers using and instructing others to use the Accused Products and Services in a manner that infringes the '076 Patent. Defendant also instructs its customers on how to use, maintain and update the Accused Products and Services in such a way that infringes the '076 Patent through manuals and other information resources that are available at least through its website. *See* Exhibits F - K. Defendant knew and knows that its actions, including but not limited to providing the Accused Products and Services with instructions as to how to use them, would induce, have induced, and will continue to induce infringement by its customers. Even where performance of the steps required to infringe one or more claims of the '076 Patent is accomplished by the Defendant and Defendant's customer jointly, Defendant's actions have intentionally and solely caused all of the steps to be performed.

56. Upon information and belief, Defendant has contributed to and continues to contribute to the infringement of one or more claims of the '076 Patent in this district and elsewhere in the United States, by its intentional acts of making, distributing, importing, offering to sell, and selling (directly or through intermediaries) to its customers, its Accused Products and Services and that its customers have utilized said Accused Products and Services. Defendant has successfully, among other things, encouraged, instructed, enabled and otherwise caused its customers to use its Accused Products and Services in an infringing manner as previously

described in this Count, having been provided by Defendant to its customers for the primary purpose of causing said customers to use the Accused Products and Services in a manner that infringes one or more claims of the '076 Patent. Defendant has had knowledge of the '076 Patent as early as November 16, 2012 (and possibly as early as March 13, 2012 and possibly as early as the date of Ford's answer to the Complaint in the Related Case). Upon information and belief, Defendant has specifically intended and/or specifically intends that its customers use Defendant's Accused Products and Services in such a way that infringes the '076 Patent by, at minimum, providing its vehicles along with instructions to its customers on how to use the Accused Products and Services in such a way that infringes the '076 Patent. *See* Exhibits F - K Defendant knew and/or knows that its Accused Products and Services are especially made and/or adapted for user(s) to infringe one or more claims of the '076 Patent with the assistance and support of Defendant, and, therefore, are not staple articles or commodities of commerce suitable for a substantial non-infringing use, as indicated by the fact that no other uses for the Accused Products and Services are advertised or described in Defendant's literature. Even where performance of the steps required to infringe one or more claims of the '076 Patent is accomplished by the Defendant and Defendant's customer jointly, Defendant's actions have intentionally and solely caused all of the steps to be performed.

57. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

58. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT III
INFRINGEMENT OF U.S. PATENT NO. 6,542,077

59. Plaintiff re-alleges and incorporates by reference each of Paragraphs 1 - 46 above.

60. Plaintiff is informed and believes that Defendant has infringed and continues to infringe the '077 Patent either literally or under the doctrine of equivalents through the manufacture and sale of the Products and Services under the Ford brand. Upon information and belief, Defendant has infringed and continues to infringe one or more claims of the '077 Patent because it ships, distributes, makes, uses, imports, offers for sale, sells, and/or advertises an apparatus capable of remotely controlling a vehicle system. Defendant provides an onboard computer, incorporated into Defendant's vehicles, that is a vehicle system for transmitting and receiving signals via the SYNC System for services and/or operation of the vehicle system and/or components of the vehicle system (i.e., the Accused Products and Services). Specifically, one or more of Defendant's Accused Products and Services, including but not limited to the Ford SYNC System and the onboard computer functionality offered in its vehicles, infringes one or more of the claims of the '077 Patent. Ford uses the SYNC communication system and its various services such as, *inter alia*, the Vehicle Health Report, to transmit information to the vehicle onboard computer, to the vehicle owner's smart phone, and/or to receive information from the vehicle onboard computer. *See* Exhibit G. Upon information and belief, the SYNC system is used to access and utilize personalized online statement of vehicle status (via the "Vehicle Health Report") and to obtain emergency response (via the "Ford SYNC 911 Assist" System and Services). Defendant's Accused Products and Services are available for sale on its website and through various retailers located in this district and throughout the United States.

61. Upon information and belief, Defendant has intentionally induced and continues to induce infringement of one or more claims of the '077 Patent in this district and elsewhere in

the United States, by its intentional acts which have successfully, among other things, encouraged, instructed, enabled and otherwise caused its customers to use Defendant's vehicles in an infringing manner as previously described in this Court. Despite its knowledge of the existence of the '077 Patent since November 16, 2012 (and possibly as early as March 13, 2012 and possibly as early as the date of Ford's answer to the Complaint in the Related Case), Defendant, upon information and belief, continues to encourage, instruct, enable and otherwise cause its customers to use Defendant's Accused Products and Services in a manner which infringes the '077 Patent. Upon information and belief, Defendant has specifically intended its customers use Defendant's Accused Products and Services in such a way that infringes the '077 Patent by, at a minimum, advertising, providing and supporting its Accused Products and Services. Defendant designs, assembles and installs into its vehicles the Accused Products and Services it sells to its customers (directly and through retailers). *See* Exhibits F - K. Defendant advertises its vehicles as including the Accused Products and Services on its website and through several forms of media, including television, newspapers and magazines. *See* Exhibit F. Defendant makes, sells, offers for sale the Accused Products and Service with instructions on and with intention of its customers using and instructing others to use the Accused Products and Services in a manner that infringes the '077 Patent. Defendant also instructs its customers on how to use, maintain and update the Accused Products and Services in such a way that infringes the '077 Patent through manuals and other information resources that are available at least through its website. *See* Exhibits F - K. Defendant knew and knows that its actions, including but not limited to providing the Accused Products and Services with instructions as to how to use them, would induce, have induced, and will continue to induce infringement by its customers. Even where performance of the steps required to infringe one or more claims of the '077 Patent

is accomplished by the Defendant and Defendant's customer jointly, Defendant's actions have intentionally and solely caused all of the steps to be performed.

62. Upon information and belief, Defendant has contributed to and continues to contribute to the infringement of one or more claims of the '077 Patent in this district and elsewhere in the United States, by its intentional acts of making, distributing, importing, offering to sell, and selling (directly or through intermediaries) to its customers, its Accused Products and Services and that its customers have utilized said Accused Products and Services. Defendant has successfully, among other things, encouraged, instructed, enabled and otherwise caused its customers to use its Accused Products and Services in an infringing manner as previously described in this Count, having been provided by Defendant to its customers for the primary purpose of causing said customers to use the Accused Products and Services in a manner that infringes one or more claims of the '077 Patent. Defendant has had knowledge of the '077 Patent as early as November 16, 2012 (and possibly as early as March 13, 2012 and possibly as early as the date of Ford's answer to the Complaint in the Related Case). Upon information and belief, Defendant has specifically intended and/or specifically intends that its customers use Defendant's Accused Products and Services in such a way that infringes the '077 Patent by, at minimum, providing its vehicles along with instructions to its customers on how to use the Accused Products and Services in such a way that infringes the '077 Patent. *See* Exhibits F - K. Defendant knew and/or knows that its Accused Products and Services are especially made and/or adapted for user(s) to infringe one or more claims of the '077 Patent with the assistance and support of Defendant, and, therefore, are not staple articles or commodities of commerce suitable for a substantial non-infringing use, as indicated by the fact that no other uses for the Accused Products and Services are advertised or described in Defendant's literature. Even

where performance of the steps required to infringe one or more claims of the '077 Patent is accomplished by the Defendant and Defendant's customer jointly, Defendant's actions have intentionally and solely caused all of the steps to be performed.

63. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

64. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT IV
INFRINGEMENT OF U.S. PATENT NO. 6,549,130

65. Plaintiff re-alleges and incorporates by reference each of Paragraphs 1 - 46 above.

66. Defendant has infringed and continues to infringe the '130 Patent either literally or under the doctrine of equivalents through the manufacture and sale of Products and Services under the Ford brand. Upon information and belief, Defendant has infringed and continues to infringe one or more claims of the '130 Patent because it ships distributes, makes, uses, imports, offers for sale, sells, and/or advertises an apparatus and system capable of communicating with a vehicle system. Defendant provides an onboard computer, incorporated into Defendant's vehicles, that is a vehicle system for transmitting and receiving signals via the SYNC System for services and/or operation of the vehicle system and/or components of the vehicle system (i.e., the Accused Products and Services). Specifically, one or more of Defendant's Accused Products and Services, including but not limited to the Ford SYNC System and the onboard computer system offered in its vehicles, infringes one or more of the claims of the '130 Patent. Ford uses the SYNC communication system and its various services such as,

inter alia, the Vehicle Health Report, to transmit information to the vehicle onboard computer, to the vehicle owner's smart phone, and/or to receive information from the vehicle onboard computer. Defendant's Accused Products and Services are available for sale on its website and through various retailers located in this district and throughout the United States. *See* Exhibit F.

67. Upon information and belief, Defendant has intentionally induced and continues to induce infringement of one or more claims of the '130 Patent in this district and elsewhere in the United States, by its intentional acts which have successfully, among other things, encouraged, instructed, enabled and otherwise caused its customers to use Defendant's vehicles in an infringing manner as previously described in this Court. Despite its knowledge of the existence of the '130 Patent since January 17, 2012 (and as early as January 3, 2012), Defendant, upon information and belief, continues to encourage, instruct, enable and otherwise cause its customers to use Defendant's Accused Products and Services in a manner which infringes the '130 Patent. Upon information and belief, Defendant has specifically intended that its customers use Defendant's Accused Products and Services in such a way that infringes the '130 Patent by, at a minimum, advertising, providing and supporting its Accused Products and Services. Defendant designs, assembles and installs into its vehicles the Accused Products and Services it sells to its customers (directly and through retailers). *See* Exhibits F-K. Defendant advertises its vehicles as including the Accused Products and Services on its website and through several forms of media, including television, newspapers and magazines. *See* Exhibit F. Defendant makes, sells, offers for sale the Accused Products and Service with instructions on and with intention for using and instructing others to use the Accused Products and Services in a manner that infringes the '130 patent. Defendant also instructs its customers on how to use, maintain and update the Accused Products and Services in such a way that infringes the '130

Patent through manuals and other information resources that are available at least through its website. *See* Exhibits F - K. Defendant knew and knows that its actions, including but not limited to providing the Accused Products and Services with instructions as to how to use them, would induce, have induced, and will continue to induce infringement by its customers. Even where performance of the steps required to infringe one or more claims of the '130 Patent is accomplished by the Defendant and Defendant's customer jointly, Defendant's actions have intentionally and solely caused all of the steps to be performed.

68. Upon information and belief, Defendant has contributed to and continues to contribute to the infringement of one or more claims of the '130 Patent in this district and elsewhere in the United States, by its intentional acts of making, distributing, importing, offering to sell, and selling (directly or through intermediaries) to its customers, its Accused Products and Services and that its customers have utilized said Accused Products and Services. Defendant has successfully, among other things, encouraged, instructed, enabled and otherwise caused its customers to use its Accused Products and Services in an infringing manner as previously described in this Count, having been provided by Defendant to its customers for the primary purpose of causing said customers to use the Accused Products and Services in a manner that infringes one or more claims of the '130 Patent. Defendant has had knowledge of the '130 Patent as early as January 17, 2012 (and as early as January 3, 2012). Upon information and belief, Defendant has specifically intended and/or specifically intends that its customers use Defendant's Accused Products and Services in such a way that infringes the '130 Patent by, at minimum, providing its vehicles along with instructions to its customers on how to use the Accused Products and Services in such a way that infringes the '130 Patent. *See* Exhibits F - K. Defendant knew and/or knows that its Accused Products and Services are especially made

and/or adapted for user(s) to infringe one or more claims of the '130 Patent with the assistance and support of Defendant, and, therefore, are not staple articles or commodities of commerce suitable for a substantial non-infringing use, as indicated by the fact that no other uses for the Accused Products and Services are advertised or described in Defendant's literature. Even where performance of the steps required to infringe one or more claims of the '130 Patent is accomplished by the Defendant and Defendant's customer jointly, Defendant's actions have intentionally and solely caused all of the steps to be performed.

69. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

70. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT V
INFRINGEMENT OF U.S. PATENT NO. 7,397,363

71. Plaintiff re-alleges and incorporates by reference each of Paragraphs 1 - 46 above.

72. Plaintiff is informed and believes that Defendant has infringed and continues to infringe the '363 Patent either literally or under the doctrine of equivalents through the manufacture and sale of the Products and Services under the Ford brand. Upon information and belief, Defendant has infringed and continues to infringe one or more claims of the '363 Patent because it ships, distributes, makes, uses, imports, offers for sale, sells, and/or advertises an apparatus capable of remotely controlling a vehicle system. Defendant provides an onboard computer, incorporated into Defendant's vehicles, that is a vehicle system for transmitting and receiving signals via the SYNC System for services and/or operation of the vehicle system

and/or components of the vehicle system (i.e., the Accused Products and Services). Specifically, one or more of Defendant's Accused Products and Services, including but not limited to the Ford SYNC® System and the onboard computer functionality offered in its vehicles, infringes one or more of the claims of the '363 Patent. Ford uses the SYNC communication system and its various services such as, *inter alia*, the Vehicle Health Report, to transmit information to the vehicle onboard computer, to the vehicle owner's smart phone, and/or to receive information from the vehicle onboard computer. *See* Exhibit G. Upon information and belief, the SYNC system is used to access and utilize personalized online statement of vehicle status (via the "Vehicle Health Report"), to access directions from a home computer (via the "Send to SYNC" and "SYNC Destinations" System and Services), and to obtain emergency response (via the "Ford SYNC 911 Assist" System and Services). Defendant's Accused Products and Services are available for sale on its website and through various retailers located in this district and throughout the United States.

73. Upon information and belief, Defendant has intentionally induced and continues to induce infringement of one or more claims of the '363 Patent in this district and elsewhere in the United States, by its intentional acts which have successfully, among other things, encouraged, instructed, enabled and otherwise caused its customers to use Defendant's vehicles in an infringing manner as previously described in this Count. Despite its knowledge of the existence of the '363 Patent since November 16, 2012 (and possibly as early as March 13, 2012, and possibly as early as the date of Ford's answer to the Complaint in the Related Case), Defendant, upon information and belief, continues to encourage, instruct, enable and otherwise cause its customers to use Defendant's Accused Products and Services in a manner which infringes the '363 Patent. Upon information and belief, Defendant has specifically intended its

customers use Defendant's Accused Products and Services in such a way that infringes the '363 Patent by, at a minimum, advertising, providing and supporting its Accused Products and Services. Defendant designs, assembles and installs into its vehicles the Accused Products and Services it sells to its customers (directly and through retailers). *See* Exhibits F - K. Defendant advertises its vehicles as including the Accused Products and Services on its website and through several forms of media, including television, newspapers and magazines. *See* Exhibit F. Defendant makes, sells, offers for sale the Accused Products and Service with instructions on and with intention of its customers using and instructing others to use the Accused Products and Services in a manner that infringes the '363 Patent. Defendant also instructs its customers on how to use, maintain and update the Accused Products and Services in such a way that infringes the '363 Patent through manuals and other information resources that are available at least through its website. *See* Exhibit F. Defendant knew and knows that its actions, including but not limited to providing the Accused Products and Services with instructions as to how to use them, would induce, have induced, and will continue to induce infringement by its customers. Even where performance of the steps required to infringe one or more claims of the '363 Patent is accomplished by the Defendant and Defendant's customer jointly, Defendant's actions have intentionally and solely caused all of the steps to be performed.

74. Upon information and belief, Defendant has contributed to and continues to contribute to the infringement of one or more claims of the '363 Patent in this district and elsewhere in the United States, by its intentional acts of making, distributing, importing, offering to sell, and selling (directly or through intermediaries) to its customers, its Accused Products and Services and that its customers have utilized said Accused Products and Services. Defendant has successfully, among other things, encouraged, instructed, enabled and otherwise caused its

customers to use its Accused Products and Services in an infringing manner as previously described in this Count, having been provided by Defendant to its customers for the primary purpose of causing said customers to use the Accused Products and Services in a manner that infringes one or more claims of the '363 Patent. Defendant has had knowledge of the '363 Patent as early as November 16, 2012 (and possibly as early as March 13, 2012, and possibly as early as the date of Ford's answer to the Complaint in the Related Case). Upon information and belief, Defendant has specifically intended and/or specifically intends that its customers use Defendant's Accused Products and Services in such a way that infringes the '363 Patent by, at a minimum, providing its vehicles along with instructions to its customers on how to use the Accused Products and Services in such a way that infringes the '363 Patent. *See* Exhibits F - K. Defendant knew and/or knows that its Accused Products and Services are especially made and/or adapted for user(s) to infringe one or more claims of the '363 Patent with the assistance and support of Defendant, and, therefore, are not staple articles or commodities of commerce suitable for a substantial non-infringing use, as indicated by the fact that no other uses for the Accused Products and Services are advertised or described in Defendant's literature. Even where performance of the steps required to infringe one or more claims of the '363 Patent is accomplished by the Defendant and Defendant's customer jointly, Defendant's actions have intentionally and solely caused all of the steps to be performed.

75. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

76. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, which, by law,

cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JURY DEMAND

77. Plaintiff demands a trial by jury on all issues.

PRAYER FOR RELIEF

Plaintiff respectfully requests the following relief:

- A. An adjudication that one or more claims of the Patents-in-Suit have been infringed, either literally and/or under the doctrine of equivalents, by the Defendant and/or its customers;
- B. An adjudication that Defendant has induced infringement of one or more claims of the Patents-in-Suit by Defendant's customers;
- C. An adjudication that Defendant has contributed to the infringement of one or more claims of the Patents-in-Suit by Defendant's customers;
- D. An award of damages to be paid by Defendant adequate to compensate Plaintiff for its past infringement and any continuing or future infringement up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary to adequately compensate Plaintiff for Defendant's infringement, an accounting of all infringing sales including, but not limited to, those sales not presented at trial;
- E. That this Court declare this to be an exceptional case and award Plaintiff its reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and,
- F. Any further relief that this Court deems just and proper.

Respectfully submitted this 10th day of January, 2014.

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CERTIFICATE OF SERVICE

This is to certify that I have this 10th day of January, 2014 electronically filed the foregoing using the CM/ECF system, which will send a copy of the foregoing and related papers to all counsel of record in this matter.

s/ Maureen V. Abbey
Maureen V. Abbey