

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

Peter F. Wingard)	
Netlatch, LLC)	
Plaintiffs,)	
)	
vs.)	
)	Civil Action File No.: 5:14-cv-149
Pete Mankins Nissan)	
Nissan North America, Inc.)	
)	
Defendants.)	
)	
)	

COMPLAINT

Plaintiffs Peter F. Wingard and Netlatch, LLC (“Plaintiffs”) hereby file this Complaint against Pete Mankins Nissan (“Pete Mankins”) and Nissan North America, Inc. (“Nissan”) (collectively “Defendants”) and respectfully allege as follows:

PARTIES, JURISDICTION, AND VENUE

1.

Plaintiff Peter F. Wingard is a resident of Georgia.

2.

Netlatch, LLC is a limited liability company formed under the laws of Florida, having a principal place of business at 1061 OakPointe Place, Dunwoody, GA 30338.

3.

Upon information and belief, Defendant Pete Mankins located at 3707 Summerhill Rd Texarkana, TX 75503 has done business in the Eastern District of Texas at all times material hereto.

4.

Upon information and belief, Nissan is a corporation having a principal place of business at 1 Nissan Way Franklin, TN, 37067. Nissan is engaged in the business of importing, manufacturing, and/or selling motor vehicles to a network of Nissan dealers and distributors with locations throughout the country.

5.

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

6.

Subject matter jurisdiction in this Court is proper under 28 U.S.C. §§ 1331, 1338(a).

7.

Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400.

8.

The Court has personal jurisdiction over Pete Mankins *inter alia* because Pete Mankins resides in this district and because a substantial part of the events or omissions giving rise to the claim occurred in this District.

9.

The Court has personal jurisdiction over Nissan *inter alia* because a substantial part of the events or omissions giving rise to the claim occurred in this District.

FACTUAL BACKGROUND

10.

Wingard pioneered the technology behind keyless ignition systems.

11.

Keyless ignition systems enable engines in vehicles to be started with the use of coded key and in some instances without inserting the coded key in the ignition. Generally, keyless ignition is achieved when a “key fob” transmits a unique code to a car’s receiver and the unique code transmitted by the key fob matches the unique code stored on the car’s memory.

12.

On June 25, 1996, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 5,530,431 (“the ‘431 patent”), entitled “Anti-Theft Device For Protecting Electronic Equipment” to Wingard. A true and correct copy of the ‘431 Patent is attached as Exhibit A.

13.

The ‘431 Patent is directed to apparatuses and methods for providing security for electronic equipment. In particular, the ‘431 Patent is directed to

methods and apparatuses to secure electronic equipment by configuring the electronic equipment to power up only in the presence of a unique code transmitted to the electronic equipment from an external source.

14.

Wingard has been at all relevant times up to July 28, 2014, the owner of all rights, title, and interest in the '431 Patent. On July 28, 2014, Wingard assigned the '431 patent to Netlatch, LLC.

COUNT I: PATENT INFRINGEMENT
(U.S. PATENT NO. 5,530,431)

15.

Plaintiffs reassert and incorporate by reference the allegations contained in Paragraphs 10 through 14 of its Complaint.

16.

The '431 Patent is valid.

17.

The '431 Patent is enforceable.

18.

Upon information and belief, Defendants make, use, sell, offer to sell, and/or import vehicles incorporating keyless ignition systems (i.e., systems that enable engines in vehicles to be started with the use of a coded key, which may or may not be inserted into an ignition).

19.

Upon information and belief, Pete Mankins uses, sells, offers to sell, and/or imports vehicles incorporating keyless ignition systems (i.e., systems that enable engines in vehicles to be started with the use of a coded key, which may or may not be inserted into an ignition) (hereinafter, "Accused Pete Mankins Products"). For example, upon information and belief, Pete Mankins makes, uses, sells, offers to sell, and/or imports vehicles incorporating keyless ignition systems under the names Keyless Start, Nissan Intelligent Key® with Push Button Ignition, Smart Entry, Keyless Access system, Keyless Entry System, Push Button Start, or names of like import.

20.

Upon information and belief, Nissan makes, uses, sells, offers to sell, and/or imports vehicles incorporating keyless ignition systems (i.e., systems that enable engines in vehicles to be started with the use of a coded key, which may or may not be inserted into an ignition) (hereinafter, "Accused Nissan Products"). For example, upon information and belief, Nissan makes, uses, sells, offers to sell, and/or imports vehicles incorporating keyless ignition systems under the names Keyless Start, Nissan Intelligent Key® with Push Button Ignition, Smart Entry, Keyless Access system, Keyless Entry System, Push Button Start, or names of like import.

21.

Upon information and belief, the Accused Pete Mankins Products and Accused Nissan Products embody and/or practice the '431 Patent's claimed apparatus, system, and/or method for providing security for electronic equipment.

22.

Defendants Pete Mankins and Nissan have infringed, and are continuing to infringe, the '431 Patent by making, using, importing, selling and/or offering to sell the Accused Pete Mankins Products and Accused Nissan Products, respectively, within the United States, and/or by contributing to and/or inducing such infringement.

23.

For example, on information and belief, Pete Mankins uses, imports, sells and/or offers to sell within the United States infringing products incorporating keyless ignition systems, including without limitation, the Accused Pete Mankins Products.

24.

On information and belief, Nissan makes, uses, imports, sells and/or offers to sell within the United States infringing products incorporating keyless ignition systems, including without limitation, the Accused Nissan Products.

25.

Upon information and belief, by making, using, importing, selling, and/or offering to sell the Accused Pete Mankins Products and Accused Nissan Products in the United States, Defendants Pete Mankins and Nissan, respectively, with specific intent, have actively induced others to infringe the '431 Patent under 35 U.S.C. § 271(b).

26.

For example, Nissan has actively induced, its dealers, its dealers' customers, and other purchasers of Nissan vehicles such as Pete Mankins to infringe the '431 Patent by making, importing, selling, and/or offering to sell the Accused Nissan Products.

27.

For example, Pete Mankins has actively induced its customers to infringe the '431 Patent by importing, selling, and/or offering to sell the Accused Pete Mankins Products for or to its customers.

28.

Upon information and belief, an Accused Pete Mankins Product and Accused Nissan Product constitutes a material part of the invention claimed in the '431 Patent.

29.

Upon information and belief, Defendants Pete Mankins and Nissan have both the knowledge and intent that the Accused Pete Mankins Products and Accused Nissan Products, respectively, that it makes, uses, imports, sells, and/or offers to sell in the United States will be used in an infringing manner, and Defendants Pete Mankins and Nissan encourage and promote the Accused Pete Mankins Products and Accused Nissan Products, respectively, to be used in an infringing manner.

30.

For example, Nissan has both the knowledge and intent that the Accused Nissan Products that it makes, uses, imports, sells, and/or offers to sell in the United States will be used in an infringing manner and encourages and promotes the Accused Nissan Products to be used by its dealers, its dealers' customers, and other purchasers of Nissan vehicles such as Pete Mankins in an infringing manner.

31.

For example, Pete Mankins has both the knowledge and intent that the Accused Pete Mankins Products that it uses, imports, sells, and/or offers to sell in the United States will be used in an infringing manner and encourages and promotes the Accused Pete Mankins Products to be used by its customers in an infringing manner.

32.

Upon information and belief, Defendants Pete Mankins and Nissan are making, using, importing, selling, and/or offering to sell in the United States the Accused Pete Mankins Products and the Accused Nissan Products, respectively, with knowledge that (1) the Accused Pete Mankins Products and Accused Nissan Products, respectively, are especially made or especially adapted for use in an infringement of the '431 Patent, and (2) the Accused Pete Mankins Products and Accused Nissan Products, respectively, are not staple articles or commodities of commerce suitable for noninfringing use.

33.

For example, upon information and belief, Defendant Nissan is making, using, importing, selling, and/or offering to sell in the United States the Accused Nissan Products to or for its dealers, its dealers' customers, and other purchasers of Nissan vehicles such as Pete Mankins with knowledge that (1) the Accused Nissan Products are especially made or especially adapted for use in an infringement of the '431 Patent, and (2) the Accused Nissan Products are not staple articles or commodities of commerce suitable for noninfringing use.

34.

For example, upon information and belief, Defendant Pete Mankins is using, importing, selling, and/or offering to sell in the United States the Accused Pete Mankins Products to its customers with knowledge that (1) the Accused Pete

Mankins Products are especially made or especially adapted for use in an infringement of the '431 Patent, and (2) the Accused Pete Mankins Products are not staple articles or commodities of commerce suitable for noninfringing use.

35.

Pete Mankins and Nissan are therefore liable as a contributory infringer under 35 U.S.C. § 271(c).

36.

Upon information and belief, Defendants' acts of direct and/or indirect infringement of the '431 Patent are and have been willful, have caused and will continue to cause Plaintiffs to suffer substantial damages, and have caused and will continue to cause Plaintiffs to suffer irreparable harm unless Defendants are permanently enjoined from continuing its infringement.

37.

Plaintiffs have no adequate remedy at law.

38.

Plaintiffs seek (1) damages adequate to compensate it for Defendants' infringement of the '431 Patent, (2) treble damages; (3) attorneys' fees; (4) cost; and (5) a preliminary and thereafter permanent injunction.

39.

40.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray for the following relief against Defendants:

- (a) a judgment that Defendants infringed the '431 Patent;
- (b) that Defendants are preliminarily and permanently enjoined from further infringement pursuant to 35 U.S.C. § 283;
- (c) that Defendants be ordered pursuant to 35 U.S.C. § 284 to account to and pay Plaintiffs for the actual damages suffered by Plaintiffs as a result of Defendants' acts of infringement of the '431 Patent;
- (d) That Defendants be ordered to pay Plaintiffs treble damages pursuant to 35 U.S.C. §284;
- (e) That Defendants be ordered to pay prejudgment interest pursuant to 35 U.S.C. §284;
- (f) That Defendants be ordered to pay all costs associated with this action pursuant to 35 U.S.C. §284;
- (g) That Defendants be ordered to pay Plaintiffs' attorneys' fees pursuant to 35 U.S.C. §285; and
- (h) That Plaintiffs are granted such other and additional relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all issues so triable as of right and plead in this case.

Respectfully submitted this 26th day of November, 2014.

/s/ Charlena Thorpe
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EXHIBIT A