

maintained a resident agent in Texas for service of process. Accordingly, substitute service may be made on CT Corporation and/or Defendant ILC 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 LDARtool's claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a).

5. On information and belief, ILC maintains offices in the State of Kentucky 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, including the actions described below. 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, Defendant has advertised that it serves locations in Texas. It has referred to having one of its biggest clients in Texas. On information and belief, Defendant has sold its software Products (discussed below) to companies such as TEAM Industrial Services in Alvin, Texas and Bayport Technical in La Porte, Texas. Defendant has participated in symposia in Texas related to its software Products (discussed below).

7. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391 and 1400(b). Certain acts of infringement and inducement described below have taken place in this Judicial District.

INFRINGEMENT OF U.S. PATENT NO. 7,657,384

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 ILC has had knowledge of the ‘384 patent.

11. Defendant ILC 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 “LeakDAS Mobile Edition” (LME) (“Products”). Defendant’s acts of inducement have included selling and/or providing such Products to its customers; advertising such Products on its website and through YouTube videos; and providing instructions to its customers regarding use of such Products, e.g., in a document published by ILC entitled “LeakDAS Version 4 – The Complete Guide” (the “LeakDAS Complete Guide”). Defendant is liable for inducement under 35 U.S.C. § 271(b).

12. Defendant ILC has also been engaging in contributory infringement of the '384 patent under 35 U.S.C. § 271(c). For example, on information and belief, Defendant has offered to sell, and has sold, a material or apparatus for use in practicing one or more method claims of the '384 patent, knowing the same to be especially made or especially adapted for use in an infringement of that patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use. That material or apparatus includes, at least, certain features of its LeakDAS Mobile Edition ("LME" or "Product"). By using the Product, others, particularly certain customers of Defendant, have directly infringed the '384 patent.

13. On information and belief, ILC's inducement of infringement of the '384 patent, and its contributory infringement, have been with notice and knowledge of the patent and, further, have been willful and deliberate.

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

15. 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 U.S. PATENT NO. 8,386,164

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

17. On February 26, 2013, U.S. Patent No. 8,386,164 ("the '164 patent"), entitled "Locating LDAR Components Using Position Coordinates," 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 '164 patent, including the right to sue for and recover all past, present, and future damages for infringement of the '164 patent.

18. Defendant ILC has had knowledge of the '164 patent.

19. Defendant ILC has been performing actions that constitute direct and/or indirect infringement of the '164 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 "LeakDAS Mobile Edition" (LME) ("Products"). Defendant's acts of inducement have included selling or providing such Products to its customers; advertising such Products on its website and through YouTube videos; and providing instructions to its customers regarding use of such Products, including the publication of its LeakDAS Complete Guide. Defendant is therefore liable for inducement under 35 U.S.C. § 271(b).

20. Defendant ILC has also been engaging in contributory infringement of the '164 patent under 35 U.S.C. § 271(c). For example, on information and belief, Defendant has offered to sell, and has sold, a material or apparatus for use in practicing one or more method claims of the '164 patent, knowing the same to be especially made or especially adapted for use in an infringement of that patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use. That material or apparatus includes, at least, certain features of its LeakDAS Mobile Edition ("LME" or "Product"). By using the Product, others, particularly certain customers of Defendant, have directly infringed the '164 patent.

21. On information and belief, ILC's inducement of infringement of the '164 patent, and its contributory infringement, have been with notice and knowledge of the patent and, further, have been willful and deliberate.

32. 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.

23. 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 ILC has infringed U.S. Patent No. 7,657,384 and U.S. Patent No. 8,386,164 (collectively "Patents-in-Suit");

B. Defendant's infringement of the Patents-in-Suit has been willful and deliberate;

C. Defendant account for and pay to LDARtools all damages caused by its infringement of the Patents-in-Suit as complained of herein in accordance with 35 U.S.C. § 284;

D. The amount of damages with respect to Defendant's infringement, contributory infringement, and/or 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 patent infringement;

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 patent infringement 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: 12/11/14

By: /s/ Barrett H. Reasoner
Barrett H. Reasoner
Attorney-in-Charge
Texas Bar No. 16641980
S.D. Tex. No. 14922
breasoner@gibbsbruns.com
GIBBS & BRUNS, LLP
1100 Louisiana, Suite 5300
Houston, TX 77002
Telephone: (713) 650-8805
Facsimile: (713) 750-0903

OF COUNSEL:

Michael R. Absmeier
Texas Bar No. 24050195
S.D. Tex. No. 608947
mabsmeier@gibbsbruns.com
Brice A. Wilkinson
Texas Bar No. 24075281
S.D. Tex. No. 1277347
bwilkinson@gibbsbruns.com
GIBBS & BRUNS, LLP

1100 Louisiana, Suite 530
Houston, Texas 77002
Telephone: 713-650-8805
Facsimile: 713-750-0903

Douglas H. Elliott
Texas Bar No. 06535900
S.D. Tex. No. 7830
doug@elliottiplaw.com
Eric M. Adams
Texas Bar No. 24031686
S.D. Tex. No. 30371
eadams@elliottiplaw.com

Sylvia Ngo
Texas Bar No. 24067100
S.D. Tex. No. 1146305
sylvia@elliottiplaw.com
THE ELLIOTT LAW FIRM
6750 West Loop South, Suite 995
Bellaire, Texas 77401
Telephone: 832-45-3560
Facsimile: 832-485-3511

**ATTORNEYS FOR PLAINTIFF
LDARTOOLS, INC. AND COUNTER-DEFENDANT
REX MOSES**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served this 11th of December, 2014 with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by hand-delivery, electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Barrett H. Reasoner
Barrett H. Reasoner