

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

VOICE SYSTEMS TECHNOLOGY, INC.,

Plaintiff,

v.

ATAGO U.S.A., INC.,

Defendant.

Civil Action No.: 15-cv-11552

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Voice Systems Technology, Inc. (“VST”), by its attorneys, alleges as follows for its Complaint for Patent Infringement against Defendant Atago U.S.A., Inc. (“Atago”).

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendant’s infringement of United States Patent No. 7,952,697, entitled “Coffee Refractometer Method and Apparatus” (the “’697 patent”; a copy of which is attached hereto as Exhibit A). Plaintiff is the owner by assignment of the ’697 patent. The ’697 patent describes and claims a coffee refractometer and methods of determining the total dissolved solids in brewed coffee using a refractometer. Plaintiff has owned the patent throughout defendant’s infringing acts and still owns the patent.

PARTIES

2. Plaintiff VST is a Massachusetts corporation having its principal place of business at Harvard, Massachusetts, 01451.

3. Defendant Atago U.S.A., Inc., is a Washington corporation having its principal place of business at 11811 NE 1st Street, Suite 101, Bellevue, Washington 98005.

4. VST acquired the patent application for the '697 patent and all other intellectual property and other assets relating to the patented refractometer technology from the George Howell Coffee Company, LLC ("GHCC") of Acton, Massachusetts in 2010. VST is the successor in interest to GHCC relating to coffee refractometer technology.

5. In 2008, Atago executed agreements with GHCC through which it obtained from GHCC technical information, software, trade secrets, data, and other know-how, all of which was developed in this judicial district and is now owned by VST (collectively "VST Intellectual Property"). Atago purposefully obtained access to VST Intellectual Property, and negotiated agreements pertaining to it, knowing GHCC was based in Massachusetts. On information and belief, Atago has used VST Intellectual Property in the products accused below of infringing VST's '697 patent.

6. In October 2013, VST specifically notified Atago of its intellectual property, including the '697 patent, when it appeared Atago intended to launch the sale of infringing coffee refractometers. Atago responded and informed VST that it did not intend to sell such products at that time and further acknowledged VST's patents. Atago further promised to advise VST of information "or a proposal" if the circumstances changed. All such communications, and Atago's commitment to provide information or a proposal to VST, was purposefully directed into the Commonwealth of Massachusetts.

JURISDICTION AND VENUE

7. This action is for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has jurisdiction over the patent infringement cause of action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. The Court has personal jurisdiction over Defendant because, on information and belief, it has purposefully availed itself of the privileges of conducting business in the Commonwealth of Massachusetts; it has sought protection and benefit from the laws of the Commonwealth of Massachusetts; it conducts business within the Commonwealth of Massachusetts; it has caused harm to Plaintiff within the Commonwealth of Massachusetts; and Plaintiff's causes of action arise directly from Defendant's contacts and other activities in the Commonwealth of Massachusetts.

9. Under 28 U.S.C. §§ 1391 and 1400, venue in this judicial district is proper because, on information and belief, Defendant has committed acts of patent infringement in this district, is subject to personal jurisdiction in this district, has caused the injuries complained of herein in this district, and/or is present in this district.

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 7,952,697

10. VST refers to and incorporates herein the allegations of Paragraphs 1-9 above.

11. Defendant, including at least through its agents and resellers, has offered infringing products for sale nationwide and in this judicial district, including at least the PAL-COFFEE Pocket Refractometer No. 4532.

12. The defendant has infringed and is still infringing one or more claims of the '697 patent by making, selling, and using coffee refractometers and systems that embody the patented invention, and has actively induced and is still actively inducing users of coffee refractometer

products sold by Defendant, including at least the PAL-COFFEE Pocket Refractometer No. 4532, to infringe one or more claims of the '697 patent, and Defendant will continue to do so unless enjoined by this court.

13. Defendant's infringement of the '697 Patent has occurred with knowledge of the '697 Patent and willfully, intentionally and deliberately in violation of 35 U.S.C. § 284. Despite having full knowledge of the '697 Patent, defendant has not taken steps to avoid infringement; instead, Defendant has continued to infringe the '697 Patent in an objectively reckless manner.

14. VST has been injured by Atago's ongoing, willful infringement of the '697 Patent and is entitled to recover damages adequate to compensate VST for infringement of the '697 Patent.

15. The plaintiff has complied with the statutory requirement of placing a notice of the '697 patent on refractometers it manufactures and sells, and has given defendant written notice of the '697 patent and the infringement.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), VST demands a trial by jury for all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, VST prays that the Court enter judgment against Atago as follows:

- (1) Entry of judgment holding Atago liable for infringement of the '697 Patent;
- (2) An Order enjoining Atago and its officers, agents, servants, employees, and attorneys, and those in active concert or participation with them who receive actual notice of the order granting the injunction by personal service or otherwise, from continued acts of infringement of the '697 Patent;

(3) An award to VST of damages against Atago for the infringement of the '697 Patent, together with prejudgment and post-judgment interest;

(4) Trebling of damages under 35 U.S.C. § 284 in view of the willful and deliberate nature of Atago's infringement of the '697 Patent;

(5) An award to VST of its costs and attorney's fees under 35 U.S.C. § 285; and

(6) Such other and further relief to VST, at law or in equity, which the Court may deem proper.

Dated: April 8, 2015

By: /s/Aaron R. Feigelson
Aaron R. Feigelson (BBO #654710)

John B. Conklin (admission *pro hac vice* pending)
David M. Airan (admission *pro hac vice* pending)
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
Chicago, Illinois 60601
Telephone: (312) 616-5600
Facsimile: (312) 616-5700

Attorneys for Plaintiff
VOICE SYSTEMS TECHNOLOGY, INC.