

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

TDE PETROLEUM DATA SOLUTIONS, INC., a
Texas corporation,

PLAINTIFF

v.

AKM ENTERPRISE, INC. DBA MOBLIZE, Inc. a
Texas corporation,

DEFENDANT.

Civil Action No.:

JURY
TRIAL
DEMANDED
FED.R.CIV.P.38

**PLAINTIFF TDE PETROLEUM DATA SOLUTIONS, INC.'S
ORIGINAL COMPLAINT**

Plaintiff TDE Petroleum Data Solutions, Inc. ("Plaintiff" or "TDE") files this Original Complaint against Defendant AKM Enterprise, Inc. DBA Moblize, Inc. ("Defendant" or "Moblize") for patent infringement, and alleges as follows:

THE PARTIES

1. Plaintiff is a corporation organized and existing under the laws of the State of Texas with its principal place of business located in Sugar Land, Texas.

2. Defendant is a corporation organized and existing under the laws of the State of Texas with its principal place of business located at 5177 Richmond Avenue, Suite 1051, Houston, Texas 77056.

JURISDICTION AND VENUE

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

4. This Court has original and exclusive jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Personal jurisdiction exists over Defendant Mobilize because it: (i) conducts business within this judicial district; (ii) has committed or contributed to acts of patent infringement within the Eastern District of Texas as alleged in this Complaint; (iii) has directed activities at the Eastern District of Texas that have caused injury within this judicial district; or (iv) otherwise has sufficient contacts with the state.

6. Venue is proper in the United States District Court for the Eastern District of Texas under to 28 U.S.C. §§ 1391(b), (c) and 1400(b). Defendant Mobilize has offered infringing goods and services for sale or sold infringing goods and services in this judicial district.

FACTUAL BACKGROUND

7. Plaintiff TDE owns all rights, title and interests in United States Patent No. 6,892,812 (the “’812 Patent”) titled “Automated Method and System for Determining the State of Well Operations and Performing Process Evaluation,” including the right to bring suit and collect for past infringement. A true and correct copy of the ‘812 Patent is attached hereto as Exhibit A.

8. The ‘812 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

9. The ‘812 Patent is directed to a method for providing automated determination of well states that utilizes data collected from available mechanical and hydraulic sources, performs

quality control on the data and formats it for decision making on rig activity in real or near real-time.

10. Plaintiff TDE practices the '812 Patent in its automatic operations recognition technology to provide well state detection services. These services form the core of its business. TDE's innovative service enables an oil rig operator to monitor and organize global rig operations accurately and efficiently.

11. TDE is the technology leader in the automatic operations recognition technology field, also known as well state detection.

12. This technology was initially developed and patented by Noble Drilling Services, Inc. ("Noble"). Noble subsequently transferred the '812 Patent to Nexen Data Solutions.

13. In 2009, Plaintiff's parent company TDE Thonhauser Data Engineering GmbH ("TDE Thonhauser") purchased the '812 Patent from Nexen Data Solutions. TDE Thonhauser and Plaintiff TDE, its wholly-owned U.S. subsidiary, designed and built a system around the patented technology. Now, Plaintiff TDE owns the '812 Patent.

14. Even in the midst of the 2009 financial crisis, TDE built and brought its service to market using the '812 Patent's patented methods.

15. Unbeknownst to TDE, Defendant Mobilize had also entered this marketplace to compete directly with TDE sometime before October 2014. According to Defendant Mobilize's website, Mobilize aggregates data directly from the field source, ensuring quality control and data accuracy and providing real time analytics on well optimization and "smart rig state" detection. Mobilize began selling and offering to sell services that infringe one or more claims of the '812 Patent.

16. On information and belief, Moblize entered the marketplace without first attempting to obtain a license from TDE or performing due diligence to determine that its competing product did not infringe the '812 Patent.

17. TDE remained unaware of Moblize's continuing infringement, until TDE discovered that Robert Purvis had joined Moblize on or about October 29, 2014. According to Moblize's website, Mr. Purvis is Vice President of Sales.

18. Once TDE learned that Mr. Purvis joined Moblize, TDE began investigating Moblize's activities. On or about January 21, 2015, Dr. Eric Maidla, Plaintiff's president, met with Mr. Purvis specifically to discuss the '812 patent.

19. On information and belief, Moblize continued and continues to sell unlicensed services after this meeting on or about January 21, 2015, despite knowledge that they infringe one or more claims of the '812 Patent.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 6,892,812

20. Plaintiff incorporates by reference the allegations set forth in paragraphs 1-19 as though fully set forth herein.

21. TDE is the owner of all right, title and interest to the '812 Patent, including the right to sue for damages from past and continuing infringement. The '812 Patent is valid and enforceable.

22. Defendant has infringed the '812 Patent by making, using, selling or offering to sell services, including automated determination of well states for drilling systems, which embody or practice one or more claims of the '812 Patent in violation of 35 U.S.C. § 271.

23. Defendant has had actual notice of the ‘812 Patent at least since on or about January 21, 2015, when Dr. Eric Maidla, Plaintiff’s President, met with Mr. Robert Purvis, Defendant’s Vice President and member of its management team, for a lunch meeting to specifically discuss the ‘812 Patent. Since Defendant received actual knowledge of the ‘812 Patent, its continued infringing activities have recklessly disregarded their infringement the ‘812 Patent. Defendant’s infringing actions were therefore willful and in deliberate disregard of TDE’s rights, making this case exceptional within the meaning of the United States patent laws and entitling TDE to increased damages under 35 U.S.C. § 284 and to attorneys’ fees and costs under 35 U.S.C. § 285.

24. Defendant has induced infringement of the ‘812 Patent in violation of 35 U.S.C. § 271 through concerted effort to encourage and facilitate its customers’ direct infringement of one or more claims of the ‘812 Patent. On information and belief, Mobilize provides its customers with support through its “Drilling & Completion Engineers team,” “Early Warning Command Centers (EWCs),” and “Well-At-A-Glance-ProAct™” functionality, as well as a video available on its website. These acts intend to induce Mobilize’s customers to utilize Defendant’s competing automated determination of well state service, which infringe the ‘812 Patent. On information and belief, Defendant continued to provide these features after receiving actual notice of the ‘812 Patent with the specific knowledge and intent that its customers would necessarily infringe the ‘812 Patent.

25. Defendant has also engaged in contributory infringement of the ‘812 Patent in violation of 35 U.S.C. § 271 by providing aggregated data obtained through Plaintiff’s patented method to Mobilize’s customers for use in its competing automated determination of well states services. The data aggregated through this process are not staple articles or commodities suitable

for substantial non-infringing use because they are fundamental to and designed specifically to provide functionality in the automated determination of well states services that infringe the '812 Patent. On information and belief, Defendants' received actual notice of the '812 Patent as alleged above and therefore sold within the United States services that practice the '812 Patent knowing that those services are especially made or especially adapted for use in infringing the '812 Patent and that those services are not staple articles or commodities suitable for substantial non-infringing use.

26. Plaintiff TDE has been irreparably damaged and will continue to be damaged by Defendant Moblize's infringement of the '812 Patent unless enjoined preliminarily and permanently by this Court.

27. TDE has further been damaged as a result of Moblize's infringing conduct described herein. Moblize is liable to TDE in an amount that adequately compensates it for its infringement, 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.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff TDE prays for the following relief:

a. That Defendant Moblize, their officers, agents, directors, servants, employees and attorneys, and all persons in active concert or participation with them be enjoined, preliminarily and permanently, from making, using, selling, offering for sale or importing into the United States any product, service or component which infringe U.S. Patent No. 6,892,812;

b. That Plaintiff TDE be compensated for the damages caused by Defendant Moblize's infringement under 35 U.S.C. Section 284, in an amount to be determined by an

accounting, but not less than a reasonable royalty, (plus pre-judgment and post-judgment interest);

c. That the award of damages be trebled as provided by 35 U.S.C. Section 284 for willful infringement;

d. That TDE be awarded reasonable attorney's fees pursuant to 35 U.S.C. §285, or as otherwise provided by law;

e. That TDE be awarded all costs of the suit; and,

f. That Plaintiff TDE be awarded such relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

In accordance with Fed.R.Civ.P. 38, Plaintiff TDE demands a jury trial on all issues so triable.

Respectfully submitted,

/s/Malcolm E. Whittaker

Malcolm E. Whittaker
LEAD ATTORNEY
Whittaker Law Firm
Texas Bar No. 24038336
2341 Glen Haven Boulevard
Houston, Texas 77030
IPLitigate@aol.com

and

Dr. Steven A. Moore
California Bar No. 232114
Pillsbury Winthrop Shaw Pittman
501 West Boulevard
Suite 1100
San Diego, California 92101
Steve.moore@pillsburylaw.com