

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KAR ENTERPRISES, LLC,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 4:11-cv-11200-TSH
)	
FORD MOTOR COMPANY,)	DEMAND FOR JURY TRIAL
)	
Defendant.)	

**KAR ENTERPRISES, LLC’S FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

Plaintiff KAR ENTERPRISES, LLC (“Kar” or “Plaintiff”) brings this First Amended Complaint for patent infringement against Defendant FORD MOTOR COMPANY (“Ford” or “Defendant”).

NATURE OF ACTION

1. This is an action for patent infringement under 35 U.S.C. §§ 271, *et seq.*, by Kar against Ford for infringement of United States Patent Nos. 7,959,177 B2, 7,757,803 B2, and 8,256,560 B2 (the “Patents-in-Suit”).

PARTIES

2. Plaintiff Kar is a limited liability corporation organized and existing under the laws of the Commonwealth of Massachusetts, with a principal place of business at 55 Elm Street, Shrewsbury, MA 01545, within this judicial district.

3. Upon information and belief, Defendant Ford is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 1 American Road, Dearborn, MI 48126-2798

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a).

5. Upon information and belief, Ford has substantial and continuous contacts with this district, conducts continuous and systematic business in this district, markets its products to customers based in this district, and has otherwise purposefully availed itself of the privilege of conducting business in this judicial district, and is thus subject to personal jurisdiction in this district.

6. Venue is proper in this Court under 28 U.S.C. §§1391(b), (c) and 1400(b).

COUNT 1: INFRINGEMENT OF U.S. PATENT NO. 7,959,177 B2

7. Kar incorporates by reference paragraphs 1 to 6 as if fully set forth herein.

8. On June 14, 2011, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 7,959,177 B2 (“the ‘177 Patent”), entitled “Motor Vehicle Operator Identification and Maximum Speed Limiter,” to the listed inventors Richard Fiske, Andy Surabian and Kevin Weigold. Kar is the assignee and owner of the ‘177 Patent, a copy of which is attached hereto.

9. Upon information and belief, Ford has infringed and continues to infringe the ‘177 Patent under 35 U.S.C. § 271(a) by at least making, using, offering for sale, selling,

and/or importing into the United States, certain MyKey® technology in its cars and/or trucks.

10. Upon information and belief, Ford has contributed to and/or induced infringement and continues to contribute to or induce infringement of the ‘177 Patent under 35 U.S.C. § 271(b), (c) or (f) by knowingly providing its customers with MyKey® technology in its cars and/or trucks that are designed, configured, specially adapted or intended to be used in configurations or ways that are within the scope of at least one claim of the ‘177 Patent, and/or by knowingly providing assistance to its customers in designing, configuring, using or specially adapting MyKey® technology in its cars and/or trucks in configurations or ways that are within the scope of at least one claim of the ‘177 Patent.

11. Ford is not licensed under the ‘177 Patent.

12. As a result of Ford’s infringement of the ‘177 Patent, Kar has been irreparably injured. Unless such infringing acts are enjoined by this Court, Kar will continue to suffer additional irreparable injury.

13. As a result of Ford’s infringement of the ‘177 Patent, Kar has suffered, and continues to suffer, damages, in an amount not yet determined, of at least a reasonable royalty.

COUNT 2: INFRINGEMENT OF U.S. PATENT NO. 7,757,803 B2

14. Kar incorporates by reference paragraphs 1 to 13 as if fully set forth herein.

15. On July 20, 2010 the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 7,757,803 B2 (“the ‘803 Patent”), entitled “Motor Vehicle Operator Identification and Maximum Speed Limiter,” to the

listed inventors Richard Fiske, Andy Surabian and Kevin Weigold. Kar is the assignee and owner of the '803 Patent, a copy of which is attached hereto.

16. Upon information and belief, Ford has infringed and continues to infringe the '803 Patent under 35 U.S.C. § 271(a) by at least making, using, offering for sale, selling, and/or importing into the United States, certain MyKey® technology in its cars and/or trucks.

17. Upon information and belief, Ford has contributed to and/or induced infringement and continues to contribute to or induce infringement of the '803 Patent under 35 U.S.C. § 271(b), (c) or (f) by knowingly providing its customers with MyKey® technology in its cars and/or trucks that are designed, configured, specially adapted or intended to be used in configurations or ways that are within the scope of at least one claim of the '803 Patent, and/or by knowingly providing assistance to its customers in designing, configuring, using or specially adapting MyKey® technology in its cars and/or trucks in configurations or ways that are within the scope of at least one claim of the '803 Patent.

18. Ford is not licensed under the '803 Patent.

19. As a result of Ford's infringement of the '803 Patent, Kar has been irreparably injured. Unless such infringing acts are enjoined by this Court, Kar will continue to suffer additional irreparable injury.

20. As a result of Ford's infringement of the '803 Patent, Kar has suffered, and continues to suffer, damages, in an amount not yet determined, of at least a reasonable royalty.

COUNT 3: INFRINGEMENT OF U.S. PATENT NO. 8,256,560 B2

21. Kar incorporates by reference paragraphs 1 to 20 as if fully set forth herein.

22. On September 4, 2012 the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 8,256,560 B2 (“the ‘560 Patent”), entitled “Motor Vehicle Operator Identification and Maximum Speed Limiter,” to the listed inventors Richard Fiske, Andrew Surabian and Kevin Weigold. Kar is the assignee and owner of the ‘560 Patent, a copy of which is attached hereto.

23. Upon information and belief, Ford has infringed and continues to infringe the ‘560 Patent under 35 U.S.C. § 271(a) by at least making, using, offering for sale, selling, and/or importing into the United States, certain MyKey® technology in its cars and/or trucks.

24. Upon information and belief, Ford has contributed to and/or induced infringement and continues to contribute to or induce infringement of the ‘560 Patent under 35 U.S.C. § 271(b), (c) or (f) by knowingly providing its customers with MyKey® technology in its cars and/or trucks that are designed, configured, specially adapted or intended to be used in configurations or ways that are within the scope of at least one claim of the ‘560 Patent, and/or by knowingly providing assistance to its customers in designing, configuring, using or specially adapting MyKey® technology in its cars and/or trucks in configurations or ways that are within the scope of at least one claim of the ‘560 Patent.

25. Ford is not licensed under the ‘560 Patent.

26. As a result of Ford's infringement of the '560 Patent, Kar has been irreparably injured. Unless such infringing acts are enjoined by this Court, Kar will continue to suffer additional irreparable injury.

27. As a result of Ford's infringement of the '560 Patent, Kar has suffered, and continues to suffer, damages, in an amount not yet determined, of at least a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, Kar requests the following relief:

(a) a declaration that Ford infringes the Patents-in-Suit under 35 U.S.C. § 271 and a final judgment incorporating same;

(b) equitable relief under 35 U.S.C. § 283, including, but not limited to, an injunction that enjoins Ford and any of its officers, agents, employees, assigns, representatives, privies, successors, and those acting in concert or participation with them from infringing, contributing to and/or inducing infringement of the Patents-in-Suit;

(c) an award of damages sufficient to compensate Kar for infringement of the Patents-in-Suit by Ford, together with prejudgment and post-judgment interest under 35 U.S.C. § 284;

(d) an accounting for damages;

(e) an order compelling Ford to compensate Kar for any ongoing and/or future infringement of the Patents-in-Suit, in an amount to be determined;

(f) a declaration that Ford's infringement is willful and an award of enhanced damages under 35 U.S.C. § 284

(g) a judgment holding that this is an exceptional case under 35 U.S.C. § 285 awarding Kar its reasonable attorney fees, costs, and expenses; and

(h) such other relief as deemed just and proper by the Court.

JURY TRIAL DEMAND

Plaintiff Kar demands a trial by jury on all issues triable by right of jury.

Respectfully submitted,

/s/ Gary E. Lambert

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Attorneys for Plaintiff

KAR ENTERPRISES, LLC

October 25, 2012

CERTIFICATE OF ELECTRONIC SERVICE

I certify that I served a copy of:

**KAR ENTERPRISES, LLC'S FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

on October 25, 2012 by:

electronically filing same with the Clerk of the Court for the District of Massachusetts using the ECF System which will send notification to all registered participants of the ECF System