

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

AUTOLOXER LLC,

Plaintiff,

v.

CATERPILLAR INC.,

Defendant.

CIVIL ACTION NO. 15-cv-1628

PATENT CASE

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Autoloxer LLC files this Original Complaint for Patent Infringement against Caterpillar Inc., and would respectfully show the Court as follows:

I. THE PARTIES

1. Plaintiff Autoloxer LLC (“Autoloxer” or “Plaintiff”) is a Texas limited liability company with its principal place of business in the Eastern District of Texas at 2150 South Central Expressway #200, McKinney, Texas 75070.

2. On information and belief, Defendant Caterpillar Inc. (“Defendant”) is a Delaware corporation with its place of business at 501 Southwest Jefferson Avenue, Peoria, Illinois 61630.

II. JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction of such action under 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, Defendant is subject to this Court’s specific and general personal jurisdiction, pursuant to due process and the Texas Long Arm Statute, due at

least to its substantial business in this forum, including at least a portion of the infringements alleged herein.

5. Without limitation, on information and belief, within this state, Defendant has used and/or sold the patented inventions thereby committing, and continuing to commit, acts of patent infringement alleged herein. In addition, on information and belief, Defendant has derived substantial revenues from its infringing acts occurring within the State of Texas and this District. Further, on information and belief, Defendant is subject to the Court's general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and deriving substantial revenue from goods and services provided to persons or entities in the State of Texas and in this District. Further, on information and belief, Defendant is subject to the Court's personal jurisdiction at least due to its sales of the accused instrumentality from within the State of Texas and within this District. Defendant has committed such purposeful acts and/or transactions in the State of Texas and in this District such that it reasonably should know and expect that it could be haled into this Court as a consequence of such activity.

6. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). On information and belief, Defendant has sufficient contacts with the State of Texas and this District such that this Court is a fair and reasonable venue for the litigation of this action. On information and belief, from and within this District Defendant has committed at least a portion of the infringements at issue in this case. In addition, on information and belief, Defendant has derived substantial revenues from its infringing acts and is subject to personal jurisdiction in this District for at least the reasons identified above, including due at least to its sale of the Caterpillar Command Technology system within the State of Texas and from this District.

7. For these reasons, personal jurisdiction exists and venue is proper in this Court under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b).

III. COUNT I
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 7,084,735)

8. Plaintiff incorporates the above paragraphs herein by reference.

9. On August 1, 2006, United States Patent No. 7,084,735 (“the ‘735 Patent”) was duly and legally issued by the United States Patent and Trademark Office. The ‘735 Patent is titled “Remote Vehicle Security System.” A true and correct copy of the ‘735 Patent is attached hereto as Exhibit A and incorporated herein by reference.

10. Autoloxer is the assignee of all right, title and interest in the ‘735 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the ‘735 Patent. Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement of the ‘735 Patent by Defendant.

11. The ‘735 Patent has been cited as prior art during the prosecution history of subsequently-issued United States patents, including patents assigned to Polaris Industries Inc. and Caterpillar Inc.

12. Defendant was aware of the ‘735 patent at least as early as June 11, 2013, the issue date of United States Patent No. 8,463,946, which is assigned to Defendant and in which the ‘735 patent was cited as prior art by the examiner during the prosecution history.

13. **Direct Infringement.** Upon information and belief, Defendant has been and now is directly infringing at least claim 1 of the ‘735 patent in the State of Texas, in this District, and elsewhere in the United States, by actions comprising selling and/or using vehicles with the Caterpillar Command Technology system, and/or similar functionality, which include a system

for limiting performance of a vehicle comprising a first controller located aboard said vehicle and configured to control, in accordance with a stimulus originating from a location local to the vehicle, to a first operational performance characteristic; a command device located remotely from the vehicle and configured to send a control signal via a wireless communication network; a receiving device located aboard said vehicle and configured to receive said control signal; and a second controller located aboard the vehicle and configured to limit, in response to said control signal, said control of said vehicle to a second operational performance characteristic when said stimulus indicates to said first controller to control said vehicle to the first operational performance characteristic; wherein said second controller is further configured to (i) transmit to said first controller, responsive to said control signal, a vehicle limitation command message to place said vehicle in a vehicle limitation mode, and (ii) cause a vehicle limitation flag to be stored in non-volatile memory, and wherein said vehicle limitation flag is indicative of maintaining said vehicle in said vehicle limitation mode.

14. **Indirect Infringement.** Upon information and belief, Defendant has been and now is indirectly infringing by way of inducing infringement and contributing to the infringement of at least claim 1 of the '735 patent in the State of Texas, in this District, and elsewhere in the United States, by providing the Caterpillar Command Technology system above for use by Defendant's customers. Defendant is a direct and indirect infringer, and its clients using the accused instrumentalities are direct infringers. Upon information and belief, Defendant had actual knowledge of the '735 patent since at least June 11, 2013, the issue date of United States Patent No. 8,463,946, which is assigned to Defendant and in which the '735 patent was cited as prior art by the examiner during the prosecution history.

15. On information and belief, since becoming aware of the '735 patent, Defendant is and has been committing the act of inducing infringement by specifically intending to induce infringement by providing the accused instrumentalities to its clients and by aiding and abetting its use. Defendant encourages customers to use the accused instrumentalities, and provides instructions for conducting the directly infringing use. On information and belief, Defendant knew or should have known that through its acts it was and is inducing infringement of the '735 patent.

16. On information and belief, Defendant is and has been committing the act of contributory infringement by intending to provide the identified accused instrumentalities to its clients knowing that it is a material part of the invention, knowing that its use was made and adapted for infringement of the '735 patent, and further knowing that the system is not a staple article or commodity of commerce suitable for substantially noninfringing use.

17. Plaintiff has been damaged as a result of Defendant's infringing conduct. Defendant is thus liable to Plaintiff for damages in an amount that adequately compensates Plaintiff for such Defendant's infringement of the '735 patent, *i.e.*, in an amount that by law cannot be less than would constitute a reasonable royalty for the use of the patented technology, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

18. On information and belief, Defendant will continue its infringement of one or more claims of the '735 patent unless enjoined by the Court. Each and all of the Defendant's infringing conduct thus causes Plaintiff irreparable harm and will continue to cause such harm without the issuance of an injunction.

19. On information and belief, Defendant has had at least constructive notice of the '735 patent by operation of law, and there are no marking requirements that have not been complied with.

VI. JURY DEMAND

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of United States Patent No. 7,084,735 has been infringed, either literally and/or under the doctrine of equivalents, by Defendant;
- b. Judgment that Defendant account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct complained of herein;
- c. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;
- d. That Defendant be permanently enjoined from any further activity or conduct that infringes one or more claims of United States Patent No. 7,084,735; and
- e. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: October 6, 2015

Respectfully submitted,

/s/ David R. Bennett

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**ATTORNEY FOR PLAINTIFF
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