

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

INTELLECTUAL VENTURES II LLC,

Plaintiff,

v.

**FEDEX CORP., FEDERAL EXPRESS
CORP., FEDEX GROUND PACKAGE
SYSTEM, INC., FEDEX FREIGHT,
INC., FEDEX CUSTOM CRITICAL
INC., FEDEX OFFICE AND PRINT
SERVICES, INC., and GENCO
DISTRIBUTION SYSTEM, INC.,**

Defendants.

Civil Action No. 2:16-cv-980

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Intellectual Ventures II LLC (“Intellectual Ventures II”) for its Complaint against Defendants FedEx Corporation, Federal Express Corporation, FedEx Ground Package System, Inc., FedEx Freight, Inc., FedEx Custom Critical, Inc., FedEx Office and Print Services, Inc., and GENCO Distribution System, Inc. (collectively, “FedEx” or “Defendants”), hereby alleges as follows:

PARTIES

1. Plaintiff Intellectual Ventures II is a Delaware limited liability company with its principal place of business at 3150 139th Ave. SE, Building 4, Bellevue, WA 98005.

2. Defendant FedEx Corporation is a corporation organized under the laws of Delaware having a principal place of business at 942 South Shady Grove Road, Memphis, TN 38120. FedEx Corporation has appointed CT Corporation System located at 1999 Bryan Street, Suite 900, Dallas, TX 75201-3136 as its registered agent for service of process in Texas. FedEx

Corporation is in the business of logistics, transportation, e-commerce, and business services and solutions. FedEx Corporation is the parent company of FedEx-branded businesses.

3. Defendant Federal Express Corporation (hereinafter “FedEx Express”) is a corporation organized under the laws of Delaware having a principal place of business at 3610 Hacks Cross Road, Memphis, TN 38125. FedEx Express has appointed CT Corporation System located at 1999 Bryan Street, Suite 900, Dallas, TX 75201-3136 as its registered agent for service of process in Texas. FedEx Express is in the business of providing express transportation of goods by air and ground.

4. Defendant FedEx Ground Package System, Inc. (hereinafter “FedEx Ground”) is a corporation organized under the laws of Delaware having a principal place of business at 1000 FedEx Drive, Moon Township, PA 15108. FedEx Ground has appointed CT Corporation System located at 1999 Bryan Street, Suite 900, Dallas, TX 75201-3136 as its registered agent for service of process in Texas. FedEx Ground is in the business of logistics by ground, including business-to-business delivery and residential service.

5. Defendant FedEx Freight, Inc. (hereinafter “FedEx Freight”) is a corporation organized under the laws of Arkansas having a principal place of business at 2200 Forward Drive, Harrison, AR 72601. FedEx Freight has appointed CT Corporation System located at 1999 Bryan Street, Suite 900, Dallas, TX 75201-3136 as its registered agent for service of process in Texas. FedEx Freight is in the business of providing less-than-truckload (“LTL”) freight services.

6. Defendant FedEx Custom Critical, Inc. (hereinafter “FedEx Custom Critical”) is a corporation organized under the laws of Ohio having a principal place of business at 1475 Boettler Road, Uniontown, OH 44685. FedEx Custom Critical has appointed CT Corporation

System located at 1999 Bryan Street, Suite 900, Dallas, TX 75201-3136 as its registered agent for service of process in Texas. FedEx Custom Critical specializes in same-day and overnight delivery of expedited freight, including but not limited to temperature-control services (e.g., SenseAware), secure shipping solutions, surface expedited solutions, white glove services, and air expedited services.

7. Defendant FedEx Office and Print Services, Inc. (hereinafter “FedEx Office”) is a corporation organized under the laws of Texas having a principal place of business at 7900 Legacy Drive, Plano, TX 75024. FedEx Office has appointed CT Corporation System located at 1999 Bryan Street, Suite 900, Dallas, TX 75201-3136 as its registered agent for service of process in Texas. FedEx Office is in the business of providing customers with retail access to FedEx Express and FedEx Ground Shipping services, packing services, and copy and print services.

8. Defendant GENCO Distribution System, Inc. (hereinafter “GENCO”) a corporation organized under the laws of Pennsylvania having a principal place of business at 100 Papercraft Park, Pittsburgh, PA 15238. GENCO is in the business of providing third-party logistics services in North America, including in Texas and internationally. GENCO specializes in in Product Lifecycle Logistics® for technology, retail, consumer and industrial goods, and healthcare industries

9. FedEx Express, FedEx Ground, and FedEx Freight are wholly-owned subsidiaries of FedEx Corporation.

10. FedEx Custom Critical is a wholly owned subsidiary of Defendant FedEx Freight.

11. FedEx Office is a wholly owned subsidiary of FedEx Corporate Services, Inc., which is a wholly owned subsidiary of Defendant FedEx Corporation.

12. GENCO is a subsidiary of FedEx Corporation.

NATURE OF THE ACTION

13. This is a civil action for the infringement of United States Patent Nos. 6,633,900 (attached as Exhibit A), 6,909,356 (attached as Exhibit B), 7,199,715 (attached as Exhibit C), 8,494,581 (attached as Exhibit D), and 9,047,586 (attached as Exhibit E) (collectively, the “Patents-in-Suit”) under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

JURISDICTION AND VENUE

14. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.*

15. This Court has personal jurisdiction over FedEx because, among other things, FedEx has committed, aided, abetted, contributed to, and/or participated in acts of patent infringement in violation of 35 U.S.C. § 271 in this District that led to foreseeable harm and injury to plaintiff Intellectual Ventures II within this District.

16. This Court also has personal jurisdiction over FedEx because, among other things, FedEx has established minimum contacts within the forum such that the exercise of jurisdiction over FedEx will not offend traditional notions of fair play and substantial justice. For example, FedEx has placed infringing products and services (e.g., SenseAware and/or FedEx Ship Manager software) into the stream of commerce with the reasonable knowledge, expectation, and/or understanding that such products and services are used and sold in this District. Those acts have caused and continue to cause injury to Intellectual Ventures II within the District. As a second example, defendant FedEx Office is incorporated in the State of Texas, headquartered in Plano, Texas, and employs over 1,200 employees at that Plano, Texas location. As a third

example, FedEx operates at least 50 FedEx Office Print and Ship Centers in the State of Texas (including at least 17 locations in the Eastern District of Texas), which centers provide services—including infringing services—on behalf of FedEx Office, FedEx Express, and FedEx Ground. As a fourth example, FedEx operates at least 20 FedEx Ship Centers in Texas (including at least 8 in the Eastern District of Texas), which centers provide services—including infringing services—on behalf of FedEx Express and FedEx Ground. As a fifth example, FedEx Freight operates 28 service centers in Texas, including at least 6 in the Eastern District of Texas (one in each of Beaumont, Longview, Lufkin, Paris, Sherman, and Tyler) which services centers provide infringing services.

17. In addition, FedEx has used, sold, advertised, marketed, and distributed products and services in this District that practice the claimed inventions of the Patents-in-Suit. FedEx derives substantial revenue from the sale of infringing services within the District, and/or expects or should reasonably expect its actions to have consequences within the District, and derive substantial revenue from interstate and international commerce.

18. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b), because FedEx resides in this District, is subject to personal jurisdiction in this District, and has committed acts of infringement in this District. In addition, defendant FedEx Office is headquartered in the Eastern District of Texas and employs over 1,200 people in this District. Moreover, Intellectual Ventures II is asserting the '900 patent against another defendant in this District in *Intellectual Ventures I LLC and Intellectual Ventures II LLC v. FTD Companies, Inc.*, C.A. No. 6:16-cv-00195-JRG.

THE PATENTS-IN-SUIT

19. On October 14, 2003, U.S. Patent No. 6,633,900 (“the ’900 patent”), titled “Mobile Crew Management System For Distributing Work Order Assignments To Mobile Field Crew Units,” was duly and lawfully issued by the United States Patent and Trademark Office (hereinafter “PTO”).

20. Plaintiff Intellectual Ventures II is the owner and assignee of all rights, title, and interest in and to the ’900 patent, and holds the right to sue and recover damages for infringement thereof, including current and past infringement.

21. On June 21, 2005, U.S. Patent No. 6,909,356 (“the ’356 patent”), titled “Method And Apparatus For Associating The Movement Of Goods With The Identity Of An Individual Moving The Goods,” was duly and lawfully issued by the PTO.

22. Plaintiff Intellectual Ventures II is the owner and assignee of all rights, title, and interest in and to the ’356 patent, and holds the right to sue and recover damages for infringement thereof, including current and past infringement.

23. On April 3, 2007, U.S. Patent No. 7,199,715 (“the ’715 patent”), titled “System And Method For Tracking ID Tags Using A Data Structure Of Tag Reads,” was duly and lawfully issued by the PTO.

24. Plaintiff Intellectual Ventures II is the owner and assignee of all rights, title, and interest in and to the ’715 patent, and holds the right to sue and recover damages for infringement thereof, including current and past infringement.

25. On July 23, 2013, U.S. Patent No. 8,494,581 (“the ’581 patent”), titled “Systems and Methods for Management of Mobile Field Assets Via Wireless Handheld Devices,” was duly and lawfully issued by the PTO.

26. Plaintiff Intellectual Ventures II is the owner and assignee of all rights, title, and interest in and to the '581 patent, and holds the right to sue and recover damages for infringement thereof, including current and past infringement.

27. On June 2, 2015, U.S. Patent No. 9,047,586 (“the '586 patent”), titled “Systems For Tagged Bar Code Data Interchange,” was duly and lawfully issued by the PTO.

28. Plaintiff Intellectual Ventures II is the owner and assignee of all rights, title, and interest in and to the '586 patent, and holds the right to sue and recover damages for infringement thereof, including current and past infringement.

FACTUAL BACKGROUND

29. Intellectual Ventures Management, LLC (“Intellectual Ventures”) was founded in 2000. Since its founding, Intellectual Ventures has been deeply involved in the business of invention. Intellectual Ventures creates inventions and files patent applications for those inventions; collaborates with others to develop and patent inventions; and acquires and licenses patents from individual inventors, universities, and other institutions. A significant aspect of Intellectual Ventures’ business is managing the plaintiff in this case, Intellectual Ventures II.

30. Intellectual Ventures also develops its own inventions. Intellectual Ventures has a staff of scientists and engineers who develop ideas in a broad range of fields, including agriculture, computer hardware, life sciences, medical devices, semiconductors, and software. Intellectual Ventures has invested millions of dollars developing such ideas and has filed a plethora of patent applications on its inventions every year, making it one of the top patent filers in the world. Intellectual Ventures also has invested in laboratory facilities to assist with the development and testing of new ideas.

31. Intellectual Ventures also develops inventions by collaborating with inventors and research institutions around the world. For example, Intellectual Ventures has developed inventions by selecting a technical challenge, requesting proposals for inventions to solve the challenge from inventors and institutions, selecting the most promising ideas, rewarding the inventors and institutions for their contributions, and filing patent applications on the ideas.

32. FedEx provides solutions for a wide range of logistics needs worldwide, including throughout the United States and in Texas. Such logistics services include, but are not limited to, overnight shipping, ground shipping, freight shipping, temperature controlled shipping, and shipping with tracking services. FedEx also provides solutions for office applications, including, but not limited to, designing, copying, and printing documents through FedEx Office Print & Ship Center locations throughout the United States including in Texas.

33. Intellectual Ventures approached FedEx in April 2016 about taking a license to Intellectual Ventures' patents. To date, FedEx has not agreed to pay Intellectual Ventures for a license to any of its patents despite using Intellectual Ventures' patented technology.

COUNT I
(FedEx's Infringement of the '900 Patent)

34. Paragraphs 1-33 are incorporated by reference as if fully restated herein.

35. The '900 patent is valid and enforceable.

36. The '900 patent invention addresses a need in the art for "advanced two way data communication between field personnel and a central office" "to field personnel dispersed over a wide geographic area" "with little or no dispatcher intervention" using an enterprise computing system with a mobile field unit. (Ex. A at col. 2:5-10; col. 3:34-37; col. 3:55-60; col. 4:13-34.) As one non-limiting example, in one embodiment of the '900 patent invention, an application program assigning work orders may command a database to generate map related data

corresponding to a work order, thereby assisting a server in monitoring the status of that work order. (Ex. A at col. 7:25-8:53.) As another non-limiting example, an embodiment of the '900 patent invention may include monitoring work order assignments by listening at specified internet protocol addresses for electronic packets comprising the status of a transmission of a work order to a mobile field unit. (Ex. A at col. 14:8-12.) The '900 patent claims generally relate to novel methods of communication incorporating aspects of these new systems for advanced two way data communication.

37. FedEx is in the logistics business, including picking up and delivering packages. To provide real-time package tracking for each shipment, FedEx uses one of the world's largest computer and telecommunication networks. That computer network runs Customer Operations Service Master On-line System ("COSMOS"), FedEx's computerized package-tracking system that monitors every phase of the delivery cycle at FedEx. The COSMOS system has evolved since its original inception.

38. Today, FedEx couriers are each given a handheld mobile device to (1) receive information concerning their assigned package pickup and deliveries and (2) communicate information back to the COSMOS system concerning the status of those pick up and deliveries. While FedEx provided handheld devices to its couriers for several years, in more recent years, FedEx upgraded its handheld devices to include features including GPS, cellular and wireless connectivity, and Bluetooth technology, among others. In 2003, FedEx began distributing the PowerPad, a handheld device it designed with Motorola, Inc., to its couriers. In 2011, FedEx began distributing the Zebra Technologies MC9500-K handheld computer to its couriers. FedEx couriers continue to use the MC9500-K computers today. Both the PowerPad and the MC9500-K allow FedEx couriers to wirelessly receive information concerning their assigned package

pickup and deliveries and communicate information concerning those transactions back to the FedEx computer servers with little to no dispatcher intervention.

39. FedEx has infringed, and continues to infringe, one or more claims of the '900 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, offering to sell, and/or importing in or into the United States without authority systems having an enterprise computing system and at least one mobile field unit, e.g., a FedEx PowerPad, a Zebra Technologies MC9500-K mobile computer, or other wireless handheld device, to distribute work order assignment data to a field crew, and to schedule, route, locate, and track deliveries.

40. FedEx has infringed and continues to infringe at least claim 1 of the '900 patent.

41. As one non-limiting example, FedEx infringes claim 1 of the '900 patent at least because FedEx uses a method for distributing work order assignment data (e.g., work order assignment data regarding package deliveries and package pickups) to a field crew (e.g., FedEx couriers) using a system having an enterprise computing system (e.g., a back-end computer system running FedEx Customer Operations Service Master On-line System ("COSMOS")) and at least one mobile field unit (e.g., a FedEx PowerPad or a Zebra Technologies MC9500-K mobile computer) comprising the following steps: (a) FedEx updates a database on the enterprise computing system (e.g., COSMOS) to indicate an assignment has been assigned to the field crew; (b) FedEx notifies the field crew of the assignment; (c) in response to the input of field crew login data, FedEx verifies field crew identity; (d) FedEx notifies the field crew of successful login; (e) FedEx retrieves and presents a list of assignments to the field crew; (f) in response to field crew input selecting an assignment from the list of assignments, FedEx retrieves detailed assignment data for the selected assignment; (g) FedEx displays the detailed

assignment data to the field crew; and (h) in response to field crew input identifying an action was taken with regard to the assignment, FedEx updates the detailed assignment data.

42. FedEx has had knowledge of the '900 patent and its infringement of that patent as late as August 30, 2016 because of a letter Intellectual Ventures II sent on that date to FedEx providing notice of the patent and detailing FedEx's infringement.

43. Intellectual Ventures II has been and continues to be damaged by FedEx's infringement of the '900 patent.

44. FedEx's conduct in infringing the '900 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT II
(FedEx's Infringement of the '356 Patent)

45. Paragraphs 1-44 are incorporated by reference as if fully restated herein.

46. The '356 patent is valid and enforceable.

47. At the time the application resulting in the '356 patent was filed in 2001, accurate inventory accounting was of growing importance to businesses. (Ex. B at col. 1:21-24.) Even with the advent of active and passive RFID tags and other wireless devices, limitations in inventory accounting still existed. The '356 patent addresses a need in the art for improved inventory accounting by disclosing a novel system of associating the movement of inventory with a particular person or entity based on data provided to a system concerning that inventory. (Ex. B at col 1:56-60.)

48. In 2009, FedEx launched its SenseAware technology. FedEx's SenseAware is a cost-effective, sensor-based logistics technology that monitors a shipment's location and environmental conditions, including temperature, light, humidity, barometric pressure, and shock. FedEx launched the second generation SenseAware device, SenseAware 2000, in 2013.

49. FedEx has infringed, and continues to infringe, one or more claims of the '356 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, offering to sell, and/or importing in or into the United States without authority FedEx's SenseAware devices and systems using those devices.

50. FedEx has infringed and continues to infringe at least claim 1 of the '356 patent.

51. As one non-limiting example, FedEx infringes claim 1 of the '356 patent through its SenseAware services. When FedEx provides SenseAware services to its customers, FedEx uses a method comprising: (a) obtaining identity information (e.g., a device ID of a SenseAware device) regarding an entity (e.g., a SenseAware device) which enters a controlled space (e.g., an area delineated by a geofence); (b) monitoring, using a wireless tracking system communicatively coupled to a computer system (e.g., that FedEx performs either using a web-based application at SenseAware.com or FedEx Custom Critical ShipmentWatch), locations and movements of the entity (e.g., the SenseAware device) and objects (e.g., items being shipped using SenseAware) within the controlled space; (c) automatically associating, using the computer system, the identity information regarding the entity (e.g., a SenseAware device ID) with status information regarding additions, removals, returns, defective status, or movements of the objects to/from/within the controlled space (e.g., with status information concerning the removal of goods from the area delineated by a geofence); and (d) transmitting the status information and the associated identity information (e.g., a SenseAware device ID) to a server communicatively coupled to the computer system (a FedEx server) and configured to automatically notify a user of the status information (e.g., by an email or other electronic alert), wherein at least one of the objects is automatically returned or picked up as a result of such notification (e.g., when FedEx automatically picks up and/or returns objects that improperly moved from the controlled space).

52. FedEx has had knowledge of the '356 patent and its infringement of that patent as late as August 30, 2016 because of a letter Intellectual Ventures II sent on that date to FedEx providing notice of the patent and detailing FedEx's infringement.

53. Intellectual Ventures II has been and continues to be damaged by FedEx's infringement of the '356 patent.

54. FedEx's conduct in infringing the '356 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT III
(FedEx's Infringement of the '715 Patent)

55. Paragraphs 1-54 are incorporated by reference as if fully restated herein.

56. The '715 patent is valid and enforceable.

57. The '715 patent addresses a need in the prior art for increasing precision in RFID systems. (Ex. C at col. 1:33-41.) The '715 patent invention is generally directed to an improved system of using tracking RFID information to modify information in a database to adjust the supply chain as a function of that modified information or to use that modified information to improve RFID tracking. (Ex. C at col. 2:8-28.)

58. In 2015, FedEx Corporation purchased GENCO. GENCO is now a FedEx company that specializes in supply chain management, including reverse logistics. GENCO's advanced warehouse management systems track the movements of individual units to provide real-time data that can be used to improve procurement and freight management. GENCO uses a variety of warehouse management systems including ones that incorporate RFID technology.

59. FedEx has infringed, and continues to infringe, one or more claims of the '715 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by

making, using, selling, offering to sell, and/or importing in or into the United States without authority GENCO's Warehouse Management System to track RFID tags.

60. FedEx has infringed and continues to infringe at least claim 1 of the '715 patent.

61. As one non-limiting example, FedEx infringes claim 1 of the '715 patent at least because GENCO uses a method of tracking tags (e.g., RFID tags) at several successive points of a business process (e.g., sequential points of a process warehousing products) that comprises: (a) attempting to read each tag at each successive point; (b) populating a database with information corresponding to the reading of each tag (e.g., the identity of a tag/item) at each successive point and the time of each reading (e.g., the arrival time or the load time); (c) modifying part of the information in the database (e.g., the contents of the pallet and/or location of specific products) as a function of the other information in the database (e.g., expected information concerning the contents of the pallet and specific products); and (d) using the modified information to track the tags through the business process.

62. FedEx has had knowledge of the '715 patent and its infringement of that patent as late as August 30, 2016 because of a letter Intellectual Ventures II sent on that date to FedEx providing notice of the patent and detailing FedEx's infringement.

63. Intellectual Ventures II has been and continues to be damaged by FedEx's infringement of the '715 patent.

64. FedEx's conduct in infringing the '715 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT IV
(FedEx's Infringement of the '581 Patent)

65. Paragraphs 1-64 are incorporated by reference as if fully restated herein.

66. The '581 patent is valid and enforceable.

67. The '581 patent addresses a need for improved systems and methods for remotely managing assets in the field. (Ex. D at col. 1:25-41.) The '581 patent generally relates to novel systems and methods for bi-directional data delivery from enterprise-based servers over wireless data networks using capabilities resident in handheld personal computing devices to facilitate real-time access to remote programs and assistance relating to field operations and asset resource management. (Ex. D at abstract.)

68. As discussed above, since 2011, FedEx couriers have used MC9500-K handheld computers to assist in tasks including tracking package pickup and delivery. The MC9500-K was the first handheld device that FedEx couriers used that includes GPS capability for bi-directional communications (from courier to headquarters and vice versa) concerning precise locations of people and packages in the field.

69. FedEx has infringed, and continues to infringe, one or more claims of the '581 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, offering to sell, and/or importing in or into the United States without authority MC9500-K handheld devices.

70. FedEx has infringed and continues to infringe at least claim 1 of the '581 patent.

71. As one non-limiting example, FedEx infringes claim 1 of the '581 patent at least because FedEx uses a method comprising: (a) using a handheld device (e.g., the MC9500-K handheld computer) to access an assessment program stored in a memory of a computing device located geographically remote from the handheld device (e.g., package tracking software, including at least COSMOS, stored in the memory of FedEx's computers), the assessment program being configured to enable a field assessment (e.g., the status of a package delivery, return, or pickup) in a specific industry (e.g., the logistics industry); (b) collecting field data (e.g.,

data concerning package status including, for example, signature confirmation) associated with the field assessment using the handheld device in response to the assessment program; (c) using the handheld device to determine a geographical location of the handheld device (e.g., via GPS); and (d) communicating the field data collected using the handheld device and the geographical location of the handheld device to the computing device.

72. FedEx has had knowledge of the '581 patent and its infringement of that patent as late as August 30, 2016 because of a letter Intellectual Ventures II sent on that date to FedEx providing notice of the patent and detailing FedEx's infringement.

73. Intellectual Ventures II has been and continues to be damaged by FedEx's infringement of the '581 patent.

74. FedEx's conduct in infringing the '581 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT V
(FedEx's Infringement of the '586 Patent)

75. Paragraphs 1-74 are incorporated by reference as if fully restated herein.

76. The '586 patent is valid and enforceable.

77. The '586 patent addressed a need for an improved system for bar code data interchange between computers with different hardware and/or software. (Ex. E at col. 2:20-29.) The '586 patent invention generally relates to bar code technology, and in particular, to methods and apparatuses for creating electronic and printed documents with tagged bar code information, capturing and decoding bar code information from a variety of video displays and printed media, caching the tagged bar coded information, parsing the bar coded tags, stripping the data tags, and inputting the bar coded information into a variety of applications. (Ex. E at col. 1:19-27.)

78. FedEx Ship Manager is software that provides FedEx's customers with various shipping functions, including creating electronic shipping labels with a plurality of bar codes, allowing them to handle large volumes and automate the shipping process.

79. FedEx has indirectly infringed, and continues to indirectly infringe, one or more claims of the '586 patent under 35 U.S.C. § 271(b), either literally and/or under the doctrine of equivalents, because FedEx actively induces its customers to use FedEx Ship Manager to directly infringe the '586 patent.

80. FedEx has contributed to the infringement of, and continues to contribute to the infringement of, one or more claims of the '586 patent under 35 U.S.C. § 271(c), either literally and/or under the doctrine of equivalents, because FedEx sells, offers to sell and/or imports within or into the United States FedEx Ship Manager, which constitutes a material part of the invention of the '586 patent, knowing FedEx Ship Manager to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

81. FedEx and its customers using FedEx Ship Manager have directly infringed, and continue to directly infringe, one or more claims of the '586 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, offering to sell, and/or importing in or into the United States without authority FedEx's Ship Manager.

82. FedEx has had knowledge of the '586 patent and its customers' infringement of that patent as late as August 30, 2016 because of a letter Intellectual Ventures II sent on that date to FedEx providing notice of the patent, detailing FedEx's customers' infringement, and explaining that FedEx Ship Manager is especially made or especially adapted for use in an infringement of the '586 patent. Thus, FedEx knew of the '586 patent, knew that its

activities would lead to infringement of the '586 patent, and knows that FedEx Ship Manager is especially made or especially adapted for use in an infringement of the '586 patent.

83. FedEx and its customers using FedEx Ship Manager have infringed and continue to infringe at least claim 7 of the '586 patent.

84. As one non-limiting example, FedEx and its customers using FedEx Ship Manager infringe claim 7 of the '586 patent at least because FedEx and its customers use a computer-readable storage device storing computer executable instructions that are executable by a computer system to cause the computer system to perform operations for data interchange (e.g., a computer running FedEx Ship Manager), the operations comprising: (a) creating an electronic document having a plurality of bar codes (e.g., a FedEx Ground label), wherein the plurality of bar codes (e.g., a FedEx 1D barcode and a FedEx PDF-417 Two Dimensional ("2D") bar code), encode respective data tags (e.g., for the 1D barcode, numerical values in certain positions and, e.g., for the 2D barcode, format headers) and data items (e.g., for the 1D barcode, the FedEx entity responsible for tracking, and, e.g., for the 2D barcode, formatted transportation and/or trading partner data), wherein at least one of the data tags includes an identifier identifying one of the data items; and sending the electronic document for decoding of a first one of the plurality of bar codes to recover a first data tag and a first data item (e.g., sending to a printer to be affixed on to a package for shipping and decoding of the barcodes).

85. FedEx Ship Manager is software (a[n] apparatus) for use in practicing a patented process (the '586 patented process).

86. FedEx Ship Manager constitutes a material part of the '586 patent invention. For example, the '586 patent is directed to, among other things, "a method and apparatus for bar code data interchange", including "creating electronic and/or printed documents with tagged bar

coded information”, “capturing and decoding the tagged bar coded information from a variety of video displays and/or printed media”, and “inputting the bar coded information into a variety of applications.” (Ex. E at col 3:20-28.) FedEx Ship Manager is an apparatus for bar code data interchange, which allows for FedEx and its customers to create electronic and/or printed documents with tagged bar code information. FedEx ultimately decodes that tagged bar code information from video displays (e.g., electronic shipping labels) and/or printed media (e.g., printed shipping labels) and inputs that bar coded information into various applications to track package pickups, deliveries, and returns.

87. FedEx Ship Manager is not a staple article or commodity of commerce suitable for substantial noninfringing use. FedEx Ship Manager is software intended to generate electronic labels in the way in which the '586 patent claims.

88. Intellectual Ventures II has been and continues to be damaged by FedEx's infringement of the '586 patent.

89. FedEx's conduct in infringing the '586 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Intellectual Ventures II respectfully requests the following relief:

- a) A judgment that FedEx has infringed the '900 patent;
- b) A judgment that FedEx has infringed the '356 patent;
- c) A judgment that FedEx has infringed the '715 patent;
- d) A judgment that FedEx has infringed the '581 patent;
- e) A judgment that FedEx has infringed the '586 patent;

f) A judgment that Intellectual Ventures II be awarded all appropriate damages under 35 U.S.C. § 284 for FedEx's past infringement and any continuing or future infringement of the '900, '356, '715, '581, and '586 patents up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Intellectual Ventures II for FedEx's infringement, an accounting;

g) A judgment that Intellectual Ventures II be awarded the attorney fees, costs, and expenses that it incurs in prosecuting this action;

h) A judgment that Intellectual Ventures II be awarded such further relief at law or in equity as the Court deems just and proper; and

i) A judgment that this case is exceptional pursuant to 35 U.S.C. § 285.

DEMAND FOR JURY TRIAL

Intellectual Ventures II hereby demands a trial by jury on all claims and issues so triable.

Dated: August 31, 2016

Respectfully submitted,

By: /s/ William E. Davis, III
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