

3. Upon information and belief, Defendant is a company organized and existing under the laws of the state of Delaware, with a principal place of business at 2297 Saint Francis Drive, Palo Alto, CA 94303. Upon information and belief, Defendant can be served with process at VCORP Services, LLC, 1013 Centre Road Suite 403-B, Wilmington, DE 19805.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the Patent Laws of the United States, 35 U.S.C. §§ 1 et seq.

5. Defendant is subject to this Court's personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business and purposeful availment of this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this judicial district. Upon information and belief, Defendant, directly and/or through its employees or agents, and/or its customers, uses accused products, as defined below, with the knowledge and/or understanding that such accused products are used or will be used in this District. For example, Defendant offers the accused products in Texas through its website.¹ Upon information and belief, Defendant has engaged in substantial and not isolated activity within this District. Therefore, exercise of jurisdiction over Defendant will not offend traditional notions of fair play and substantial justice. Such an exercise is consistent with the Texas long-arm statute.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b) because Defendant is subject to personal jurisdiction in this district, has regularly conducted

¹ <http://www.mygeotracking.com/>

business in this judicial district and certain of the acts complained of herein occurred in this judicial district.

FACTUAL ALLEGATIONS

The '872 Patent

7. On November 25, 2008, the United States Patent and Trademark Office (“USPTO”) duly and legally issued the ‘872 patent, entitled “Device and method for embedding and retrieving information in digital images” after a full and fair examination. (Exhibit A).

8. RDC is presently the owner of the patent, having received all right, title and interest in and to the ‘872 patent from the previous assignee of record. RDC possesses all rights of recovery under the ‘872 patent, including the exclusive right to recover for past infringement.

9. The ‘872 patent contains two independent claims and thirty-seven dependent claims.

10. The ‘872 patent claims locational image devices and methods for verifying an assignment of a user.

11. Defendant commercializes, inter alia, locational image software for devices that include each and every element and/or performs each and every step of at least one claim of the ‘872 patent.

Defendant’s Products

12. The accused products include, but are not limited to, the “MyGeoTracking mobile application” (the “Accused Product”). At least during testing, the Accused Product comprises a (a mobile device installed with myGeoTracking app, enabled with location services such as GPS) for verifying an assignment of a user (e.g. the job assigned to the user from the back office).²

² <https://play.google.com/store/apps/details?id=net.abacus.mygeotracking.deviceagent&hl=en>

13. At least during testing, the Accused Product includes a user verification module (e.g. the myGeoTracking app on the mobile device) for verifying an identity of a user of the device (e.g. the login details required that verifies the identity of the user using the myGeoTracking app).

14. At least during testing of the Accused Product, and upon verification (e.g. after providing the login details), the user verification module (e.g. the myGeoTracking app on the mobile device) enables operation of the device and provides an assignment to the user (e.g. the job assigned to the user from the back office).

15. At least during testing, the Accused Product includes a capture module (camera of the mobile device) for capturing an image (e.g. photo or image captured) relating to the assignment (e.g. capturing additional information related to task execution) and creating a digital image file; wherein the user verification module (e.g. the myGeoTracking app on the mobile device) verifies the identity of the user of the device at a time of the image capture (e.g. the identity of the technician is associated with the captured image and the job ID).³

16. At least during testing, the Accused Product includes a locational information module (e.g. GPS provided in the mobile device running myGeoTracking) for determining a location of the device when capturing the image (e.g. the mobile device uses the location services for determining the location of the technician's device).⁴ Furthermore, the Accused Product includes a date and time module (e.g. the myGeoTracking mobile app) for determining a date and time of the image capture (e.g. the image captured is tagged with a valid time, date and GPS stamp and sent to the back-office).⁵

³ <http://www.mygeotracking.com/blog/proof-of-delivery-without-an-app/>

⁴ *Id.*

⁵ *Id.*

17. At least during testing, the Accused Product includes a processing module (e.g. the processor of the mobile device or backend) for associating the assignment (e.g. Job assigned to the driver), the user identity, location information, and the time and date to the digital image file (e.g. photo or image captured by the driver will be associated, i.e., tagged with the driver identity, GPS, date and time).

18. The Accused Product includes an encryption module (e.g. the encryption module of myGeoTracking which encrypts the data before sending to back office) for encrypting the digital image file and associated information upon image capture.⁶

19. The elements described in paragraphs 12-18 are covered by at least claim 1 of the '872 patent. Such combination of elements can only be used in a way that infringes the '872 patent. Thus, Defendant's use of the Accused Product is enabled by the device described in the '872 patent.

INFRINGEMENT OF THE '872 PATENT

20. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1 to 19.

21. In violation of 35 U.S.C. § 271, Defendant is now, and has been directly and indirectly infringing the '872 patent.

22. Defendant has had knowledge of infringement of the '872 patent at least as of the service of the present complaint.

23. Defendant has directly infringed and continues to directly infringe at least claim 1 of the '872 patent by using, at least during internal testing, the Accused Product without authority in the United States, and will continue to do so unless enjoined by this Court. As a

⁶ <https://www.topadvisor.com/time-and-attendance/mygeotracking-profile>

direct and proximate result of Defendant's direct infringement of the '872 patent, Plaintiff has been and continues to be damaged.

24. Defendant has indirectly infringed and continues to indirectly infringe at least claim 1 of the '872 patent by actively inducing its respective customers, users, and/or licensees to directly infringe by using the Accused Product. Defendant engaged or will have engaged in such inducement having knowledge of the '872 patent. Furthermore, Defendant knew or should have known that its action would induce direct infringement by others and intended that its actions would induce direct infringement by others. For example, Defendant sells, offers to sell and advertises the Accused Product through websites or digital distribution platforms that are available in Texas, specifically intending that its customers use it on mobile devices.⁷ Furthermore, Defendant's customers' use of the Accused Product is facilitated by the use of the device and method described in the '872 patent. As a direct and proximate result of Defendant's indirect infringement by inducement of the '872 patent, Plaintiff has been and continues to be damaged.

25. By engaging in the conduct described herein, Defendant has injured RDC and is thus liable for infringement of the '872 patent, pursuant to 35 U.S.C. § 271.

26. Defendant has committed these acts of infringement without license or authorization.

27. As a result of Defendant's infringement of the '872 patent, RDC has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

⁷ <http://www.mygeotracking.com/>
<https://play.google.com/store/apps/details?id=net.abacus.mygeotracking.deviceagent&hl=en>

28. RDC will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, RDC is entitled to compensation for any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

DEMAND FOR JURY TRIAL

29. RDC demands a trial by jury of any and all causes of action.

PRAYER FOR RELIEF

WHEREFORE, RDC prays for the following relief:

1. That Defendant be adjudged to have infringed the '872 patent, directly and/or indirectly, by way of inducement, literally and/or under the doctrine of equivalents;
2. That Defendant, its officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with any of them, be permanently restrained and enjoined from directly and/or indirectly infringing the '872 patent;
3. An award of damages pursuant to 35 U.S.C. §284 sufficient to compensate RDC for the Defendant's past infringement and any continuing or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement, including compensatory damages;
4. An assessment of pre-judgment and post-judgment interest and costs against Defendant, together with an award of such interest and costs, in accordance with 35 U.S.C. §284;
5. That Defendant be directed to pay enhanced damages, including RDC's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. §285; and

6. That RDC have such other and further relief as this Court may deem just and proper.

Dated: December 29, 2016

Respectfully Submitted,

By: /s/Eugenio J. Torres-Oyola

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