

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

ORTHOSIE SYSTEMS, LLC,

Plaintiff,

v.

SPIREON, INC.;

Defendant.

CIVIL ACTION NO.: 4:16-cv-996

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

1. This is an action for patent infringement in which Orthosie Systems, LLC (“OS” or “Plaintiff”), makes the following allegations against Spireon, Inc. (“Spireon” or “Defendant”).

PARTIES

2. Plaintiff Orthosie Systems, LLC (“Plaintiff” or “OS”) is a Texas limited liability company with a principal place of business at 1333 W. McDermott Drive, Suite 200, Allen, Texas 75013. Plaintiff’s president is Daniel F. Perez.

3. On information and belief, Spireon is a Tennessee company having a principal place of business at 16802 Aston, Irvine, CA 92606-4832. Spireon’s Registered Agent for service of process in Texas is Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

JURISDICTION AND VENUE

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

5. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). Plaintiff’s principal place of business is within this district. On information and belief, Defendant has transacted business in this district, and has committed acts of patent infringement in this district.

6. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to their substantial business in 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.

7. On information and belief, Defendant maintains a Dallas regional office at 4929 Royal Lane West, Suite 100, Irving, Texas 75063.

8. On information and belief, Defendant has transacted or conducted business with Tuttle & Tuttle Trucking, which has several operation locations including Kilgore, Texas.

9. On information and belief, Defendant's infringing products and services have been used, operated or utilized within the Eastern District of Texas.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,430,471

10. Plaintiff is the owner by assignment of the valid and enforceable United States Patent No. 7,430,471 ("the '471 Patent") entitled "Method and System for Monitoring a Vehicle" – including all rights to recover for past and future acts of infringement. The '471 Patent issued on September 30, 2008. A true and correct copy of the '471 Patent is attached as Exhibit A.

11. Upon information and belief, the Defendant – either directly, or through agents including distributors, wholesalers, partners, contractors, retailers, employees, divisions, branches, subsidiaries, parents or suppliers – made, had made, used, operated, imported, provided, supplied, distributed, offered for sale, sold, or rented GPS tracking hardware or devices (collectively, "Tracking Devices").

12. Upon information and belief, the Defendant – either directly, or through agents including distributors, wholesalers, partners, contractors, retailers, employees, divisions, branches, subsidiaries, parents or suppliers – made, had made, used, operated, imported, provided, supplied, distributed, offered for sale, sold, or rented hand-held, tablet or mobile data terminal devices that function as, or in conjunction with, Tracking Devices.

13. Upon information and belief, the Defendant makes, had made, produces, provided, used, operated, supplies, supplied, distributes, or distributed the “FleetLocate” mobile application.

14. Upon information and belief, the FleetLocate mobile application is designed and produced to be installed on a mobile communication device, and must be installed on a mobile communication device to be operable.

15. Upon information and belief, the FleetLocate mobile application causes a mobile communication device to transmit and receive data via server computers owned, operated, controlled or maintained by Defendant, or for Defendant’s exclusive use (“Spireon Servers”).

16. Upon information and belief, the FleetLocate application causes a mobile communication device to exchange data with one or more of Defendant’s tracking or management applications via Spireon Servers.

17. Upon information and belief, the FleetLocate application commands operative control of a mobile communication device’s GPS and telecommunication systems – sending and receiving command and data signals to and from those systems.

18. Upon information and belief, the FleetLocate application requires a mobile communication device user to enter identification or login credentials through the FleetLocate application in order to access that application’s operational user interface.

19. Upon information and belief, the FleetLocate application – while operational – causes a mobile communication device to function as a Tracking Device.

20. Upon information and belief, the Defendant makes, had made, produces, provided, used, operated, supplies, supplied, distributes, distributed, offered for sale, sold, offered for subscription, licenses, licensed, or otherwise charges money for use of or access to cloud-based, software as a service (SaaS) and mobile device applications that include, but are not limited to, Spireon’s FleetLocate Standard, FleetLocate Advanced, and FleetLocate Compliance tracking management platform(s) (“Spireon Tracking Software”).

21. Upon information and belief, Spireon Tracking Software is software or other machine-readable code loaded onto or accessed by a mobile communications device or a Computing Device.

22. Upon information and belief, Spireon Tracking Software causes a Computing Device to transmit and receive signals and data via Spireon Servers.

23. Upon information and belief, once an end-user purchases or otherwise pays for access to Spireon Tracking Software, an account is established within Spireon Servers for that end-user.

24. Upon information and belief, Spireon Tracking Software requires an end-user to enter identification or login credentials, via Spireon Servers, in order to access account data or use Spireon Tracking Software.

25. Upon information and belief, Spireon Tracking Software requires an end-user to access or organize data using menus, fields, and forms preconfigured by Spireon.

26. Upon information and belief, Spireon Tracking Software prompts an end-user to enter data in a manner predefined by Spireon, using interactive prompts or instructions communicated to the end-user by an application user interface.

27. Upon information and belief, Spireon Tracking Software prompts an end-user to populate predefined data fields in a manner predefined by Spireon, using interactive prompts or instructions communicated to the end-user by the application user interface.

28. Upon information and belief, Spireon Tracking Software is accessed – via a Spireon Server – on a desktop computing device, laptop computing device, tablet computing device, or other mobile computing device (“Computing Device”) – rendering the device a management platform under the control of Spireon (“Spireon Management Platform”).

29. Upon information and belief, Spireon sends, receives and stores data for users of Spireon Management Platforms via Spireon Servers.

30. Upon information and belief, Spireon maintains data for a user of Spireon Management Platforms on Spireon Servers using an account number or customer identifier associated with that user (“Customer ID”).

31. Upon information and belief, a user of a Spireon Management Platform in conjunction with a Spireon Tracking Device: 1) pays Spireon for access to Spireon Tracking Software; 2) is associated with a Customer ID on Spireon Servers; 3) accesses Spireon Tracking Software via a Spireon Server; 4) accesses and enters data in a format predefined by Spireon; and

5) receives and sends data, via a Spireon Server, from and to a Spireon Tracking Device, which operates under the control of Spireon.

32. Upon information and belief, Spireon Management Platforms, Spireon Tracking Software, and Spireon Tracking devices (collectively, “Spireon Tracking Systems”) are all operated under the direction and control of Spireon.

33. Upon information and belief, a Spireon Tracking Device is disposed on, in or around a vehicle or other asset.

34. Upon information and belief, a Spireon Tracking Device wirelessly communicates signals indicating movement of an asset to a Spireon Management Platform via a Spireon Server.

35. Upon information and belief, a Spireon Tracking Device wirelessly communicates signals indicating idling or stopping of an asset to a Spireon Management Platform via a Spireon Server.

36. Upon information and belief, a Spireon Tracking Device wirelessly communicates signals indicating location of an asset to a Spireon Management Platform via a Spireon Server.

37. Upon information and belief, a Spireon Tracking Device wirelessly communicates signals indicating speed of an asset to a Spireon Management Platform via a Spireon Server.

38. Upon information and belief, a Spireon Tracking Device wirelessly communicates signals indicating operational information of an asset to a Spireon Management Platform via a Spireon Server.

39. Upon information and belief, a Spireon Tracking Device wirelessly communicates signals identifying an operator of an asset to a Spireon Management Platform via a Spireon Server.

40. Upon information and belief, a Spireon Tracking Device wirelessly communicates signals characterizing an operator’s use or operation of an asset to a Spireon Management Platform via a Spireon Server.

41. Upon information and belief, a Spireon Tracking Device requires an operator to provide identification information to a Spireon Management Platform via a Spireon Server.

42. Upon information and belief, Spireon Tracking Software causes a Spireon Management Platform user device to receive signals from a Spireon Tracking Device via a Spireon Server.

43. Upon information and belief, Spireon Tracking Software causes a Spireon Management Platform user device to transmit signals to a Spireon Tracking Device via a Spireon Server.

44. Upon information and belief, Spireon Tracking Software causes a Spireon Management Platform user device to receive signals from a Spireon Tracking Device indicating movement of an asset via a Spireon Server.

45. Upon information and belief, Spireon Tracking Software causes a Spireon Management Platform user device to receive signals from a Spireon Tracking Device indicating location of an asset, via a Spireon Server.

46. Upon information and belief, Spireon Tracking Software causes a Spireon Management Platform user device to receive signals from a Spireon Tracking Device indicating speed of an asset, via a Spireon Server.

47. Upon information and belief, Spireon Tracking Software causes a Spireon Management Platform user device to receive signals from a Spireon Tracking Device indicating operational information of an asset, via a Spireon Server.

48. Upon information and belief, Spireon Tracking Software causes a Spireon Management Platform user device to receive signals from a Spireon Tracking Device identifying an operator of an asset, via a Spireon Server.

49. Upon information and belief, Spireon Tracking Software causes a Spireon Management Platform user device to exchange landmark identification signals with a Spireon Tracking Device, via a Spireon Server.

50. Upon information and belief, Spireon Tracking Software causes a Spireon Management Platform user device to exchange alert signals with a Spireon Tracking Device, via a Spireon Server.

51. Upon information and belief, Spireon Tracking Software causes a Spireon Management Platform user device to exchange signals with a Spireon Tracking Device, indicating location of an asset in relation to a landmark, via a Spireon Server.

52. Upon information and belief, Spireon Tracking Systems – operating on and via Spireon Servers – cause a Spireon Management Platform user device to receive signals from a Spireon Tracking Device indicating movement of an asset, under the direction and control of Spireon.

53. Upon information and belief, Spireon Tracking Systems – operating on and via Spireon Servers – cause a Spireon Management Platform user device to receive signals from a Spireon Tracking Device indicating location of an asset, under the direction and control of Spireon.

54. Upon information and belief, Spireon Tracking Systems – operating on and via Spireon Servers – cause a Spireon Management Platform user device to receive signals from a Spireon Tracking Device indicating speed of an asset, under the direction and control of Spireon.

55. Upon information and belief, Spireon Tracking Systems – operating on and via Spireon Servers – cause a Spireon Management Platform user device to receive signals from a Spireon Tracking Device indicating operational information of an asset, under the direction and control of Spireon.

56. Upon information and belief, Spireon Tracking Systems – operating on and via Spireon Servers – cause a Spireon Management Platform user device to receive signals from a Spireon Tracking Device identifying an operator of an asset, under the direction and control of Spireon.

57. Upon information and belief, Spireon Tracking Systems – operating on and via Spireon Servers – cause a Spireon Management Platform user device to exchange landmark identification signals with Spireon Tracking Device, under the direction and control of Spireon.

58. Upon information and belief, Spireon Tracking Systems – operating on and via Spireon Servers – cause a Spireon Management Platform user device to exchange landmark location signals with a Spireon Tracking Device, under the direction and control of Spireon.

59. Upon information and belief, Spireon Tracking Systems – operating on and via Spireon Servers – cause a Spireon Management Platform user device to exchange alert signals with Spireon Tracking Device, under the direction and control of Spireon.

60. Upon information and belief, Spireon Tracking Systems – operating on and via Spireon Servers – cause a Spireon Management Platform user device to exchange signals with Spireon Tracking Device, indicating location of an asset in relation to a landmark, under the direction and control of Spireon.

61. Upon information and belief, Spireon Tracking Software provides a Spireon Management Platform user device with a central monitoring or control interface.

62. Upon information and belief, users, customers, subscribers, or operators of Spireon Tracking Devices and Spireon Tracking Software are under the direction and control of Spireon while operating Spireon Tracking Software and Spireon Tracking Devices, via Spireon Servers.

63. All steps of the claimed methods in the ‘471 Patent are performed by a Spireon Tracking System via a Spireon Server, under the direction and control of Spireon.

64. All steps of the claimed methods in the ‘471 Patent are attributable to Spireon by virtue of a Spireon Tracking System operating on Spireon Servers, under the direction and control of Spireon.

65. Upon information and belief, any Spireon Tracking Software is operable in conjunction with any Spireon Tracking Device, via a Spireon Server.

66. Upon information and belief, any Spireon Tracking Software is operable in conjunction or cooperation with any other Spireon Tracking Software.

67. Defendant has had actual knowledge of its infringement of the ‘471 Patent at least since the date Defendant was served with this complaint. All infringing activity since that date has been knowing and willful.

68. Upon information and belief, users, customers, subscribers, and/or operators of Spireon’s Tracking Systems are under the direction and control of Spireon while utilizing Spireon’s Tracking Systems.

DEMAND FOR JURY TRIAL

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

- a. A judgment in favor of Plaintiff that Defendant has directly infringed the '471 Patent;
- b. A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement of the '471 Patent;
- c. A judgment and order requiring Defendant to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest for Defendant's infringement of the '471 Patent as provided under 35 U.S.C. § 284;
- d. An award to Plaintiff for enhanced damages resulting from the knowing and deliberate nature of Defendant's prohibited conduct with notice being made at least as early as the service date of this complaint, as provided under 35 U.S.C. § 284;
- e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees; and
- f. Any and all other relief to which Plaintiff may show itself to be entitled.

Dated: March 15, 2017

Respectfully Submitted,

By: /s/ Ronald W. Burns
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