

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

Seed Spring LLC and
FineTrak, LLC,

Plaintiff,

v.

Microsoft Corporation,

Defendant.

Case No. 6:17-cv-427

Jury Trial Demanded

ORIGINAL COMPLAINT FOR INFRINGEMENT

Plaintiffs Seed Spring LLC and FineTrak, LLC (collectively, “Plaintiffs”) file suit against Defendant Microsoft Corporation alleging infringement of U.S. Patent No. 8,994,591 based on Microsoft’s use, operation, offering for sale, and sale of infringing wireless location determining, tracking, routing, and reporting products and services, including Azure Mobile Services and Device Management, Azure App Service, Azure Notification Hubs, Bing Maps for Enterprise (including the Fleet Management and Truck Routing services), Bing Spatial Data Services (including the geofencing service), and WNS (Windows Push Notification Services).

Plaintiffs

1. Plaintiff FineTrak, LLC (“FineTrak”) is an inventor-owned company that owns five patents, collectively reciting 451 claims, relating to systems, services, and applications for wireless location determination and tracking, location sharing, navigation and routing, and location-related notifications and geofencing: U.S. Patent Nos. 9,538,493, entitled “Locating a Mobile Station and Applications Therefor;” 8,994,591, “Locating a Mobile Station and Applications Therefor;” 7,812,766, “Locating a Mobile Station and Applications Therefor;”

6,952,181, “Locating a Mobile Station Using a Plurality of Wireless Networks and Applications Therefor,” and 6,236,365, entitled “Location of a Mobile Station using a Plurality of Commercial Wireless Infrastructures.” FineTrak is a limited liability company formed in 2015 under the laws of the State of Florida by co-inventors Dennis Dupray and Warren LeBlanc.

2. Plaintiff Seed Spring LLC (“Seed Spring”) is a limited liability company formed under the laws of the State of Texas, with members Terry Fokas and Warren LeBlanc. As of and since December 2015, Seed Spring has been and remains the exclusive licensee of each of the above-identified patents, with ownership of all substantial rights in the patents, including the right to exclude others from practicing, to enforce and bring suit for infringement of, and to recover past damages for the infringement of, each of the above-identified patents.

The Asserted ’591 Patent

3. U.S. Patent No. 8,994,591, entitled “Locating a Mobile Station and Applications Therefor,” issued on March 31, 2015, with 97 claims. The ’591 patent cites nearly 1,000 references on its face, including invalidity contentions and expert reports served by defendants in prior litigation brought by TracBeam, LLC (the prior owner of the ’591 patent). A copy of the ’591 patent is attached as exhibit A.

Defendant Microsoft and its Infringing Products and Services

4. Defendant Microsoft Corporation (“Microsoft”) is a Washington corporation with a place of business in Redmond, Washington, and with numerous places of business relevant to this case located throughout the country and in the State of Texas, including in this District.

5. Microsoft has and continues to develop, manufacture, import, offer for sale, sell, use, and operate numerous consumer and enterprise products and services that determine, collect,

evaluate, report, and make use of the location of wireless devices (including devices that run Microsoft developed operating systems, as well as devices that run operating systems developed by third parties), including (1) Microsoft's location services, systems, and software for Windows Phone devices and for Windows Embedded and Internet of Things (IoT) devices, and the associated APIs, databases, and applications used to determine, collect, analyze, report, or consume location information of the device or of transmitters (such as satellites, cell towers, WiFi access points, and Bluetooth beacons), (2) Azure Mobile Services and Device Management, Azure App Service, Azure Notification Hubs, Bing Maps (including Bing Maps for Enterprise), Bing Spatial Data Services, and WNS (Windows Push Notification Services); and (3) Microsoft applications and services that consume, make use of, or enable location determination, tracking, routing, geofencing, location sharing, or geo-targeted advertising for devices running on both Microsoft developed and non-Microsoft developed operating systems.

Jurisdiction and Venue

6. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271 and 281, *et seq.* The Court has original jurisdiction over this patent infringement action under 28 U.S.C. §§ 1331 and 1338(a).

7. Venue is proper in this district pursuant to 28 U.S.C. § 1400(b) because Microsoft has committed acts of infringement within the district and has a regular and established place of business within the district, including the Microsoft Store located at 2601 Preston Road, Frisco, Texas 75024. Furthermore, this district is more convenient to Seed Spring, which is located within the District, to FineTrak, and to several material third parties. Moreover, this District is no less convenient to Microsoft than any other district Microsoft may strategically prefer over this one, given the location of party and third party witnesses and sources of proof. In addition,

the '591 patent has a similar chain of priority and specification to other patents owned by TracBeam, LLC (the prior owner of the '591 patent) that were asserted in prior litigation by TracBeam in this Court and that are currently being asserted by TracBeam against Microsoft. *TracBeam, LLC v. T-Mobile US Inc., et al.*, case no. 6-14-cv-00678-RWS (E.D. Tex.); *TracBeam, LLC v. Apple Inc.*, case no. 6-14-cv-00680-RWS (E.D. Tex.); *TracBeam, LLC v. Microsoft Corporation*, case no. 6:17-cv-00426 (E.D. Tex.). Accordingly, this Court has substantial experience and institutional knowledge interpreting the shared portions of the specifications of the '591 patent and the TracBeam patents and in evaluating and deciding legal and factual issues that will be presented in this case.

COUNT I
Infringement of '591 patent

8. Plaintiffs incorporate by reference the allegations of the foregoing paragraphs of this Original Complaint and further allege as follows.

9. On March 31, 2015, the United States Patent and Trademark Office issued U.S. Patent No. 8,994,591, entitled "Locating a Mobile Station and Applications Therefor." Ex. A.

10. Plaintiff FineTrak is the owner of the '591 patent, and Plaintiff Seed Spring is the exclusive licensee of the '591 patent. Seed Spring owns all substantial rights in the '591 patent, including the right to exclude others, and to enforce, bring suit, and recover past damages for the infringement of the patent.

11. Each claim of the '591 patent is valid and enforceable and is patent-eligible. The claims recite novel and unconventional methods and systems for locating mobile telecommunication stations (and people, vehicles, and assets), evaluating the location in reference to geolocation defined conditions, events, boundaries, and needed resources, and

routing, navigating, or notifying such stations or other entities or devices when applicable. The claims are drawn to technical solutions for solving technical problems in the areas of wireless location, tracking, and device and resource management.

12. Microsoft has directly infringed the '591 patent, and continues to do so, including by performing the method of claim 9 (as an example) in locating, tracking, and providing geofencing determinations and notifications for mobile devices, including by operation and use of Bing Spatial Data Services, Azure Notification Hubs, and WNS (Windows Push Notification Services). Continuing with this example, Microsoft has performed and is performing each element of claim 9 itself when (a) Microsoft's employees and contractors are developing, testing, demonstrating, and using Windows Phone devices and Microsoft's location services (including Geofence core and Geofence software tracking) and associated APIs (including the Geolocation WinRT, Geocoordinate .NET, and Geofencing WinRT APIs,) and databases (including Microsoft's location positioning databases containing signal data and locations for WiFi access points and cell towers); and (b) the devices (and vehicles and assets) of Microsoft's enterprise customers are being located, tracked, managed, and routed by Microsoft.

13. Plaintiffs have been damaged by Microsoft's infringement of the '591 patent and are entitled to reasonable royalty damages due to Microsoft's infringement.

Demand for Jury Trial

Plaintiffs demand trial by jury on all claims and issues triable by jury.

Relief requested

Plaintiffs respectfully request the following relief from this Court:

A. A judgment in favor of Plaintiffs that (i) Microsoft has infringed U.S. Patent No.

8,994,591, and (ii) the '591 patent is valid, enforceable, and patent-eligible;

B. A judgment and order requiring Microsoft to pay Plaintiffs compensatory damages, costs, expenses, and pre- and post-judgment interest for Microsoft's infringement of the '591 patent, as provided under 35 U.S.C. §284;

C. Any and all other relief to which Plaintiffs may be entitled.

Date: July 24, 2017

Respectfully submitted,

By: /s/ Jeff Eichmann

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