

1 M. ELIZABETH DAY (SBN 177125)

2 eday@feinday.com

3 DAVID ALBERTI (SBN 220265)

4 dalberti@feinday.com

5 MARC BELLOLI (SBN 244290)

6 mbelloli@feinday.com

7 **FEINBERG DAY ALBERTI LIM &**

8 **BELLOLI LLP**

9 1600 El Camino Real, Suite 280

10 Menlo Park, CA 94025

11 Tel: 650.618.4360

12 Fax: 650.618.4368

13 HAO NI (*pro hac vice* forthcoming)

14 hni@nilawfirm.com

15 NEAL G. MASSAND (*pro hac vice* forthcoming)

16 nmassand@nilawfirm.com

17 **NI, WANG & MASSAND, PLLC**

18 8140 Walnut Hill Lane, Suite 500

19 Dallas, TX 75231

20 Telephone: (972) 331-4600

21 Facsimile: (972) 314-0900

22 *Attorneys for*

23 Location Based Services, LLC

24 UNITED STATES DISTRICT COURT

25 CENTRAL DISTRICT OF CALIFORNIA

26 LOCATION BASED SERVICES, LLC,

27 Plaintiff,

28 v.

29 THINKWARE SYSTEMS USA INC.,

30 Defendant.

CASE NO. 8:18-cv-00492

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

1 This is an action for patent infringement in which Location Based Services,
2 LLC (“Plaintiff”) accuses Thinkware Systems USA Inc. (“Defendant”) of
3 infringing U.S. Patent No. 8,311,733, (the “’733 Patent”), alleging as follows:

4 **PARTIES**

5 1. Plaintiff Location Based Services, LLC is a Texas limited liability
6 company, with a registered agent located at 719 Sawdust Rd., #204, The
7 Woodlands, TX 77380.

8 2. Upon information and belief, Defendant Thinkware Systems USA Inc.,
9 is a corporation organized and existing under the laws of the state of California,
10 with its principal place of business located at 18021 Sky Park Circle, Suite J2,
11 Irvine, CA 92614. Defendant may be served via its registered agent for service of
12 process: Jeoung Kyu Kang at the above address.

13 **JURISDICTION AND VENUE**

14 3. This is an action for infringement of the ’733 Patent arising under 35
15 U.S.C. §§ 271(a)-(b), 281, and 284 - 85. This Court has subject matter jurisdiction
16 over this action under 28 U.S.C. §1331 and §1338(a).

17 4. Venue is proper in this district under 28 U.S.C. § 1400(b). Upon
18 information and belief, Defendant is a California corporation.

19 5. Upon information and belief, Defendant is subject to this Court’s
20 specific and general personal jurisdiction pursuant to due process and/or the
21 California Long Arm Statute, due at least to its substantial business in this forum,
22 including: (i) at least a portion of the infringements alleged herein; and (ii) regularly
23 doing or soliciting business, engaging in other persistent courses of conduct, and/or
24 deriving substantial revenue from goods and services provided to individuals in
25 California and in this Judicial District.

26 **U.S. PATENT NO. 8,311,733**

27 6. On November 13, 2012, United States Patent No. 8,311,733 was duly
28 and legally issued by the United States Patent and Trademark Office for an

1 invention titled “Interactive Key Frame Image Mapping System and Method.” A
2 true and correct copy of the ’733 Patent is attached hereto as Exhibit A.

3 7. Edward K. Y. Jung, Robert W. Lord and Royce A. Levien *et al.*, are
4 the inventors of the ’733 Patent.

5 8. Plaintiff is the owner by assignment of the ’733 Patent with all rights
6 in and to that patent.

7 9. Upon information and belief, to the extent any marking was required
8 by 35 U.S.C. § 287, Plaintiff has complied with such requirements.

9 10. The ’733 Patent, filed on February 15, 2005, is directed to an
10 unconventional and innovative practice of combining a data store for organizing
11 multiple images according to map locations with a table associating meta data for
12 the images with a time line, image history, and a location. *See* Ex. A. In fact, it
13 wasn’t until August of 2008 that Nikon released one of the first cameras with built-
14 in GPS that had even the hardware necessary to add location meta data to pictures,
15 *i.e.*, the Coolpix P6000 camera. Thus, the invention claimed in the ’733 Patent—
16 which calls for the combination of location, time and image data—is clearly
17 directed to unconventional activity.

18 11. Defendant directly or through intermediaries, makes, uses, imports,
19 sells, and/or offers for sale products and or/systems (*i.e.*, DashCam Viewer for PC
20 and Mac, (the “Accused Instrumentalities”) that infringe one or more claims of the
21 ’733 Patent. When placed into operation, the Accused Instrumentalities infringe
22 claim 1 of the ’733 Patent. Additionally, Defendant induces the infringement of
23 claim 1 of the ’733 Patent by its customers using the Accused Instrumentalities.

24 **COUNT I**
25 **DIRECT INFRINGEMENT OF U.S. PATENT NO. 8,214,733**

26 12. Upon information and belief, Defendant has been and is now
27 infringing claim 1 of the ’733 Patent in the State of California, in this judicial
28 district, and elsewhere in the United States, by, among other things, directly or

1 through intermediaries, making, using, selling, and/or offering for sale the Accused
2 Instrumentalities to the injury of Plaintiff. Defendant is directly infringing, literally
3 infringing, and/or infringing the '733 Patent under the doctrine of equivalents.
4 Defendant is thus liable for direct infringement of the '733 Patent pursuant to 35
5 U.S.C. § 271(a).

6 13. For example, the use of the Accused Instrumentalities by Defendant,
7 its resellers, or end-user customers, directly infringes claim 1 of the '733 Patent.
8 When used, the Accused Instrumentalities comprise a computer system including a
9 processor, a memory coupled to the processor (*e.g.*, the Accused Instrumentalities
10 are computer programs operating on a Windows PC or Mac, which both include
11 processors and memory); and a mapping module coupled to the memory (*e.g.*, the
12 Accused Instrumentalities correlate video information with map data in the form of
13 GPS information), the mapping module including a data store which organizes
14 multiple images according to one or more locations on a map (*e.g.*, video frames are
15 organized based on the correlated map data), and a table coupled to the data store
16 which associates metadata for the multiple images with a time line, an image
17 history, and a location (*e.g.*, the meta data from multiple video frames is associated
18 with a time line, image history, and a location), the association to enable an
19 instantiation of time-related images from the multiple images at one or more
20 locations on the map in response to an instantiation of a cursor positioned at
21 different locations along an instantiation of the time line (*e.g.*, when a user clicks on
22 a location on the time line, the corresponding video frame along with map data is
23 displayed). *See* Ex. A-1, Figs. 1-7.

24 14. As a result of Defendant's direct infringement of the '733 Patent,
25 Plaintiff has suffered monetary damages and is entitled to a money judgment in an
26 amount adequate to compensate for Defendant's infringement, but in no event less
27 than a reasonable royalty for the use made of the invention by Defendant, together
28 with interest and costs as fixed by the court, and Plaintiff will continue to suffer

1 damages in the future unless Defendant's infringing activities are enjoined by this
2 Court.

3 15. Unless a permanent injunction is issued enjoining Defendant and its
4 agents, servants, employees, representatives, affiliates, and all others acting on and
5 in active concert therewith from infringing the '733 Patent, Plaintiff will be greatly
6 and irreparably harmed.

7 **COUNT II**
8 **INDUCED INFRINGEMENT OF U.S. PATENT NO. 8,311,733**

9 16. Upon information and belief, Defendant has been and is now inducing
10 the infringement by its resellers and end-user customers of claim 1 of the '733
11 Patent in the State of California, in this Judicial District, and elsewhere in the
12 United States, by, among other things, directly or through intermediaries, making,
13 using, importing, selling and/or offering for sale the Accused Instrumentalities to
14 the injury of Plaintiff. Defendant's resellers and end-use customers are directly
15 infringing, literally infringing, and/or infringing the '733 Patent under the doctrine
16 of equivalents. Defendant is thus liable for infringement of the '733 Patent
pursuant to 35 U.S.C. § 271(b).

17 17. As shown above, Defendant has and continues to indirectly infringe
18 the '733 Patent by inducing the infringement by its end-users and resellers of claim
19 1 of the '733 Patent in accordance with 35 U.S.C. 271(b).

20 18. As shown above, Defendant, its resellers, distributors, and end-users of
21 the Accused Instrumentalities have engaged in and currently engage in activities
22 that constitute direct infringement of claim 1 of the '733 Patent.

23 19. As shown above, the operation and use by Defendant, its resellers, or
24 end-user customers of the Accused Instrumentalities constitutes a direct
25 infringement of claims

26 20. Defendant's affirmative act of selling and/or offering for sale the
27 Accused Instrumentalities and providing instruction manuals, advertisement of the
28 infringing features, and support for the Accused Instrumentalities have induced and

1 continues to induce Defendant's resellers and end users to use the Accused
2 Instrumentalities in their normal and customary way to infringe claim 1 of the '733
3 Patent.

4 21. Through its making, selling, and/or offering for sale the Accused
5 Instrumentalities, Defendant specifically intends that its resellers and end-users
6 directly infringe claim 1 of the '733 Patent. Defendant has had knowledge of the
7 '733 Patent since at least the filing of this complaint and actually induces others,
8 such as resellers and end-user customers, to directly infringe by using, selling,
9 supplying, and or distributing the Accused Instrumentality within the United States.
10 Defendant is aware since at least the filing of this complaint that such actions would
11 induce actual infringement. Furthermore, Defendant remains aware that these
12 normal and customary activities would infringe the '733 Patent.

13 22. For example, in connection with the sale and/or offering for sale of the
14 Accused Instrumentalities, Defendant provides manuals and support to resellers and
15 end-user customers regarding the user and operation of the Accused
16 Instrumentalities. Specifically, Defendant provides manuals and support, see, *e.g.*,
17 <http://www.thinkware.com/Support/Download>. When end-users follow such
18 instructions and support, they directly infringe the '733 Patent. Defendant knows
19 or should have known that by providing such instructions and support, resellers and
20 end-user customers follow these instructions and support and directly infringe the
21 '733 Patent.

22 23. Accordingly, Defendant has performed and continues to perform acts
23 that constitute indirect infringement, and would induce actual infringement, with
24 the knowledge of the '733 Patent and with the knowledge or willful blindness to the
25 fact that the induced acts would constitute infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

1. A judgment in favor of Plaintiff that Defendant has infringed the '733 Patent;

2. A judgment in favor of Plaintiff that Defendant has induced its resellers and end-users to infringe the '733 Patent;

3. 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 or inducing the infringement of the '733 Patent, or such other equitable relief the Court determines is warranted;

4. A judgment and order requiring Defendant pay to Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's infringement of the '733 Patent as provided under 35 U.S.C. § 284, and an accounting of ongoing post-judgment infringement; and

5. any and all other relief, at law or equity, to which Plaintiff may show itself to be entitled.

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.

Dated: March 26, 2018

FEINBERG DAY ALBERTI LIM &
BELLOLI LLP

By: /s/ M. Elizabeth Day

M. Elizabeth Day

Attorneys for Plaintiff

Location Based Services, LLC