

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

<p>Inventergy LBS, LLC,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>Whistle Labs, Inc.,</p> <p style="text-align: center;">Defendant.</p>	<p>Case No. _____</p> <p>Patent Case</p> <p>Jury Trial Demanded</p>
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COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Inventergy LBS, LLC (“Inventergy”), through its attorney, Kenneth Matuszewski, complains of Whistle Labs, Inc., (“Whistle Labs”), and alleges the following:

PARTIES

1. Plaintiff Inventergy LBS, LLC is a corporation organized and existing under the laws of Delaware and maintains its principal place of business at 900 East Hamilton Avenue, Campbell, CA 95008.

2. Defendant Whistle Labs, Inc. is a corporation organized and existing under the laws of Delaware that maintains its principal place of business at 1355 Market Street, Suite 210, San Francisco, CA, 94103.

JURISDICTION

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

4. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Whistle Labs because it has engaged in systematic and continuous business activities in the District of Delaware. Specifically, Whistle Labs provides a full range of products to residents in this District. Whistle Labs is also incorporated in the State of Delaware. As described below, Whistle Labs has committed acts of patent infringement giving rise to this action within this District.

VENUE

6. Venue is proper in this District under 28 U.S.C. § 1400(b) because Whistle Labs has committed acts of patent infringement in this District and is incorporated in the State of Delaware. In addition, Inventergy has suffered harm in this district.

THE PATENT-IN-SUIT

7. Inventergy is the assignee of all right, title and interest in United States Patent No. 8,760,286 (the “8,760,286”) (hereafter, the “Patent-in-Suit”), including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patent-in-Suit. Accordingly, Inventergy possesses the exclusive right and standing to prosecute the present action for infringement of the Patent-in-Suit by Whistle Labs.

The '286 Patent

8. On June 24, 2014, the United States Patent and Trademark Office issued the '286 Patent. The '286 Patent is titled “System and Method for Communication with a Tracking Device.” The application leading to the '286 Patent was filed on April 10, 2012; which was a continuation of U.S. Application No. 12/322,941, that was filed on February 9, 2009; which claims priority from provisional application number 61/065,116, that was filed on February 8, 2008. A true and correct copy of the '286 Patent is attached hereto as Exhibit A and incorporated herein by reference.

9. The '286 Patent is valid and enforceable.

10. The inventors recognized that there was a need for a system and method for providing enhanced communication with tracking devices, while minimizing power consumption and network air time. Ex. A, 1:42–48.

11. The invention in the '286 Patent provides a tracking device with a location detector, communication device, memory processor and configuration routine. *Id.* at 1:65–67.

COUNT I: INFRINGEMENT OF THE '286 PATENT

12. Inventergy incorporates the above paragraphs herein by reference.

13. **Direct Infringement.** Whistle Labs has been and continues to directly infringe at least Claim 1 of the '286 Patent in this District and elsewhere in the United States by providing a system, for example, Whistle Labs' Whistle 3 Tracker, that satisfies the preamble of Claim 1: “[a] tracking device.” For example, Whistle Labs' Whistle 3 Tracker is a tracking device. *See* <https://www.whistle.com/>; Figure 1.

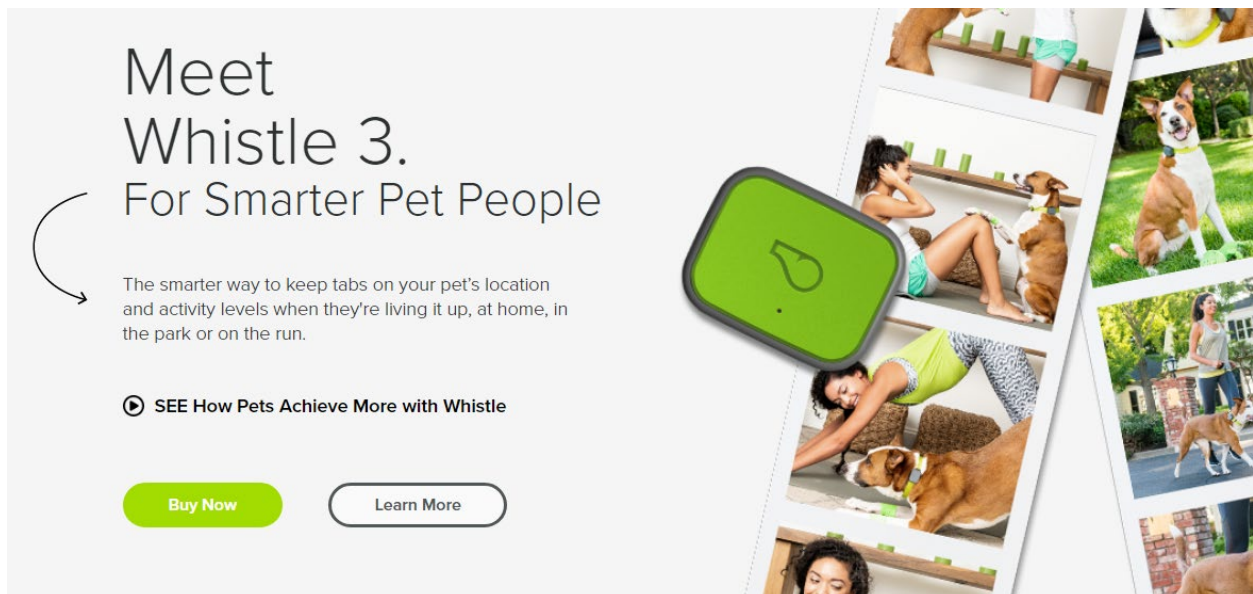


Figure 1. Whistle Labs' Whistle 3 Tracker is a tracking device.

14. Whistle Labs' Whistle 3 Tracker satisfies claim element 1(a): "a location detector operative to determine locations of said tracking device." For example, Whistle Labs' Whistle 3 Tracker tracks location using a built-in receiver supporting GPS and works digitally. *See* <https://www.whistle.com/how-whistle-3-works/>; Figure 2.



Figure 2. Whistle Labs' Whistle 3 Tracker tracks location using a built-in receiver supporting GPS and works digitally.

15. Whistle Labs' Whistle 3 Tracker satisfies claim element 1(b): "a communication device operative to communicate with a plurality of remote systems including a tracking service system associated with a tracking service provider and a device of a user associated with said tracking device." For example, Whistle Labs' Whistle 3 Tracker has a communication device, such as a built-in transceiver that is capable of cellular or satellite communication. *See* Figure 2; *See also* <https://www.whistle.com/faq/>; Figure 3.

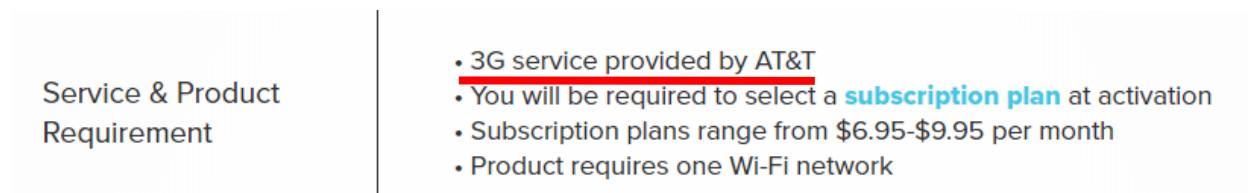



Figure 3. Whistle Labs' Whistle 3 Tracker has a communication device, such as a built-in transceiver that is capable of cellular or satellite communication.

	WHISTLE GPS	WHISTLE 3
 Device Size		50% smaller
 GPS Location Tracking		
 Activity & Rest Monitoring		
 Multiple Safe Zones/Places		
 Google Maps		
 Wi-Fi		
 Bluetooth		
 Trips		
 Waterproof		
 Custom Notifications		
 Multiple Caretakers		

Can I add family and friends to my Whistle 3 account?

Yes. You can invite family, friends, and other caretakers to view your pet's location and activity. Visit your pet's profile to send them an invitation to the free Whistle app.

Figure 4. Whistle Labs' Whistle 3 Tracker has a communication device, such as a built-in transceiver that is capable of cellular or satellite communication.

16. Whistle Labs' Whistle 3 Tracker satisfies claim element 1(c): "memory for storing data and code, said data including location data determined by said location detector and configuration data." For example, Whistle Labs' Whistle 3 Tracker has on-board memory capable of storing location data. *See* Figs. 1–4.

17. Whistle Labs' Whistle 3 Tracker satisfies claim element 1(d): "a processor operative to execute said code to impart functionality to said tracking device, said functionality of said tracking device depending at least in part on said configuration data." For example, Whistle Labs' Whistle 3 Tracker includes a processor that executes code to determine the location of the Whistle 3 Tracker and sends reports of its location over a set period of time. *See* Figs. 1–4.

18. Whistle Labs' Whistle 3 Tracker satisfies claim element 1(e): "a configuration routine operative to modify said configuration data responsive to a communication from said remote system." For example, Whistle Labs' Whistle 3 Tracker can be configured to various reporting plans which determine how frequently location is reported. *See* Figure 5.

What is Whistle 3 and how does it work?

Whistle 3 is a device that attaches to your pet's existing collar and allows you to track their location and activity from an app on your phone.

So, how does the technology work?

You will first set up a safe Place (i.e. home, vacation home, dog sitter, etc.) for your pet using Wi-Fi. Good news is, you can have multiple safe Places depending on where your pet spends most of their time. When your pet's Whistle is connected to Wi-Fi, it is in power save mode (using very little battery).

Whistle will then notify you each time your pet leaves and returns to their Place. Once your pet is beyond Wi-Fi range, the device uses cellular and GPS technology to allow you to enable tracking anywhere in the U.S. Whistle is the most advanced pet tracker since it uses GPS, Wi-Fi and cellular technology (on America's largest network) to locate your pet 24/7. Read below for more information on cellular coverage and subscription.

Why does Whistle 3 need a Wi-Fi connection?

Wi-Fi serves a few very important functions for Whistle 3 and is designed to give you the most comprehensive and accurate tracking:

- During activation, you will be required to setup a Wi-Fi network associated with your pets Place(s).
- It allows Whistle 3 to quickly upload activity and location data about your pet so you can view your pet's latest info with the app on your smartphone.
- When your pet's Whistle is connected to Wi-Fi, we know they are safe.
- When in Wi-Fi, Whistle 3 is in power save mode, preserving battery for when your pet leaves the safe Place. In power save mode, you are not able to track your pet as it is assumed they are safe when connected to Wi-Fi.

Figure 5. Whistle Labs' Whistle 3 Tracker can be configured to various reporting plans which determine how frequently location is reported.

19. Whistle Labs' Whistle 3 Tracker satisfies claim element 1(f): "wherein said configuration data modifiable responsive to said communication from any of said remote systems at least partially determines an interval for buffering said location data when said communication device is unable to communicate said location data to at least one of said remote systems." For example, Whistle Labs' Whistle 3 Tracker's capacity to configure various reporting plans partially determines when the location data is stored in the device's memory if it cannot communicate with Whistle Labs' server. *See* Figure 6.

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Figure 6. Whistle Labs' Whistle 3 Tracker's capacity to configure various reporting plans partially determines when the location data is stored in the device's memory if it cannot communicate with Whistle Labs' server.

20. Whistle Labs' Whistle 3 Tracker satisfies claim element 1(g): "wherein said interval for buffering at least partially controls how frequently newly acquired location data will be stored in said memory." For example, Whistle Labs' Whistle 3 Tracker's capacity to configure various reporting plans partially determines when the frequency the location data is stored in the device's memory if it cannot communicate with Whistle Labs' server. *See Fig. 6.*

21. Inventergy is entitled to recover damages adequate to compensate it for such infringement in an amount no less than a reasonable royalty under 35 U.S.C. § 284.

22. Inventergy will continue to be injured, and thereby caused irreparable harm, unless and until this Court enters an injunction prohibiting further infringement.

JURY DEMAND

Under Rule 38(b) of the Federal Rules of Civil Procedure, Inventergy respectfully requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Inventergy asks this Court to enter judgment against Whistle Labs, granting the following relief:

- A. A declaration that Whistle Labs has infringed the Patent-in-Suit;
- B. An award of damages to compensate Inventergy for Whistle Labs' direct infringement of the Patent-in-Suit;
- C. An order that Whistle Labs and its officers, directors, agents, servants, employees, successors, assigns, and all persons in active concert or participation with them, be preliminarily and permanently enjoined from infringing the Patent-in-Suit under 35 U.S.C. § 283;
- D. An award of damages, including trebling of all damages, sufficient to remedy Whistle Labs' willful infringement of the Patent-in-Suit under 35 U.S.C. § 284;
- E. A declaration that this case is exceptional, and an award to Inventergy of reasonable attorneys' fees, expenses and costs under 35 U.S.C. § 285;
- F. An accounting of all damages not presented at trial;
- G. An award of prejudgment and post-judgment interest; and
- H. Such other relief as this Court or jury may deem proper and just.

Dated: February 21, 2019

Respectfully submitted,

DEVLIN LAW FIRM LLC

/s/ Timothy Devlin

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