

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1, et seq. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

4. This Court has personal jurisdiction over Defendant. Defendant conducts business and has committed acts of patent infringement and/or has induced acts of patent infringement by others in this Judicial District and/or has contributed to patent infringement by others in this Judicial District, the State of Texas, and elsewhere in the United States.

5. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391 because, among other things, the Defendant is a foreign entity not resident in the United States, and thus venue may be laid in any Judicial District pursuant to 28 U.S.C. § 1391(c)(3).

6. Defendant is subject to this Court's jurisdiction pursuant to due process and/or the Texas Long Arm Statute due at least to its substantial business in the State of Texas and this Judicial District, including (a) at least part of their past infringing activities, (b) regularly doing or soliciting business in Texas, and/or (c) engaging in persistent conduct and/or deriving substantial revenue from goods and services provided to customers in Texas.

PATENTS-IN-SUIT

7. On November 14, 2017, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 9,820,123 (the "'123 Patent") entitled "Method to Provide Ad Hoc and Password Protected Digital and Voice Networks." A true and correct copy of the '123 Patent is attached hereto as Exhibit A.

8. On August 29, 2017, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 9,749,829 (the "'829 Patent") entitled "Method to Provide Ad Hoc

and Password Protected Digital and Voice Networks.” A true and correct copy of the ’829 Patent is attached hereto as Exhibit B.

FACTUAL ALLEGATIONS

9. Malcolm K. “Cap” Beyer, Jr., a graduate of the United States Naval Academy and a former U.S. Marine, is the CEO of AGIS Software and a named inventor of the AGIS patent portfolio. Mr. Beyer founded Advanced Ground Information Systems, Inc. (“AGIS, Inc.”) shortly after the September 11, 2001 terrorist attacks because he believed that many first-responder and civilian lives could have been saved through the implementation of a better communication system. He envisioned and developed a new communication system that would use integrated software and hardware components on mobile devices to give users situational awareness superior to systems provided by conventional military and first-responder radio systems.

10. AGIS, Inc. developed prototypes that matured into its LifeRing system. LifeRing provides first-responders, law enforcement, and military personnel with what is essentially a tactical operations center built into hand-held mobile devices. Using GPS-based location technology and existing or special-purpose cellular communication networks, LifeRing users can exchange location, heading, speed, and other information with other members of a group, view each other’s locations on maps and satellite images, and rapidly communicate and coordinate their efforts.

11. AGIS Software licenses its patent portfolio, including the ’123 and ’829 Patents, to AGIS, Inc. AGIS, Inc.’s LifeRing product practices one or more of the patents in the AGIS portfolio and AGIS, Inc. has marked its products accordingly.

12. AGIS Software and all previous assignees of the Patents-in-Suit have complied with the requirements of 35 U.S.C. § 287(a).

13. Defendant makes, uses, sells, offers for sale, distributes, and/or imports into the United States map-based communication applications and/or features such as Waze, among other relevant applications and/or features. The Accused Products include software including, but not limited to, the above-listed applications and/or features as components of its operating system and as downloads from a pre-installed application store, such as Google's Play Store or Apple's App Store. The Accused Products include functionality that allows users to view each other's locations on a map and engage in communication including text, voice, and multimedia-based communication. Additionally, the users may form groups that include their own devices in order to track their own lost or stolen devices, as shown below.

COUNT I
(Infringement of the '123 Patent)

14. Paragraphs 1 through 14 are incorporated herein by reference as if fully set forth in their entireties.

15. AGIS Software has not licensed or otherwise authorized Defendant to make, use, offer for sale, sell, or import any Accused Products and/or products that embody the inventions of the '123 Patent.

16. Defendant has and continues to directly infringe at least claim 1 of the '123 Patent, either literally or under the doctrine of equivalents, by making, using, offering to sell, selling and/or importing into the United States the Accused Products without authority and in violation of 35 U.S.C. § 271(a).

17. Defendant has and continues to indirectly infringe at least claim 1 of the '123 Patent by actively, knowingly, and intentionally inducing others to directly infringe, either

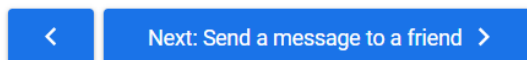
literally or under the doctrine of equivalents, by making, using, offering to sell, selling and/or importing into the United States the Accused Products and by instructing users of the Accused Products to perform methods claimed in the '123 Patent. For example, Defendant, with knowledge that the Accused Products infringe the '123 Patent at least as of the date of this Complaint, actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce direct infringement of the '123 Patent.

18. For example, Defendant has indirectly infringed and continues to indirectly infringe at least claim 1 of the '123 Patent in the United States because Defendant's customers use the Accused Products, in accordance with Defendant's instructions and thereby directly infringe at least one claim of the '123 Patent in violation of 35 U.S.C. § 271. Defendant directly and/or indirectly intentionally instructs its customers to infringe through training videos, demonstrations, brochures, installations and/or user guides such as those located at one or more of the following: <https://www.waze.com/> and <https://support.google.com/waze/>, and Waze agents and representatives located within this Judicial District. Defendant is thereby liable for infringement of the '123 Patent under 35 U.S.C. § 271(b).





19. For example, Defendant's Accused Products are downloaded onto mobile devices so that users can share their location and view other users' locations on a map and to communicate with those users via the Waze app (as shown below).

Communicate with friends in Waze

Send location



Send a location from your Favorites and History when you follow the steps below.

1. Tap Search .
2. Tap the three dots  on Android or  on iOS next to Favorite or address from your history.
3. Tap **Send location** .
 - a. To send within the app simply select the contact(s) you would like to share the drive with and tap **Send**.
 - b. To share your location as a text message, email or copy the link, tap **More**.


Communicate with friends in Waze

Send a message to a friend






Connect with Facebook and send a message or friendly Beep Beep to say hi to a friend in Waze.

To send a message to a friend:

1. Tap the Menu  and then tap your name for **My Waze**.
2. Tap **My friends**.
3. Tap the friend you'd like to message (friend has to be online).
4. Tap **Message**, type your message and tap **Send**.

To send a Beep Beep to a friend:

1. Tap the Menu  and then tap your name for **My Waze**.
2. Tap **My friends**.
3. Scroll down to the friend you'd like to beep.
4. To send a beep either:
 - a. Tap the friend's name and tap **Beep Beep** .
 - b. Swipe to the left over your friend's name and tap **Beep Beep** .

Source:

https://support.google.com/waze/answer/6285548?hl=en&ref_topic=6273020&visit_id=637050320806903246-2617070820&rd=1.

20. The Accused Products further facilitate participation in the groups by communicating with one or more servers and sending to and receiving location information, as depicted below. (See, e.g., https://wazeopedia.waze.com/wiki/USA/Routing_server).

Banks of servers

Waze uses at least three different banks of servers geo-located for best performance globally for all computing operations.

Contents [hide]

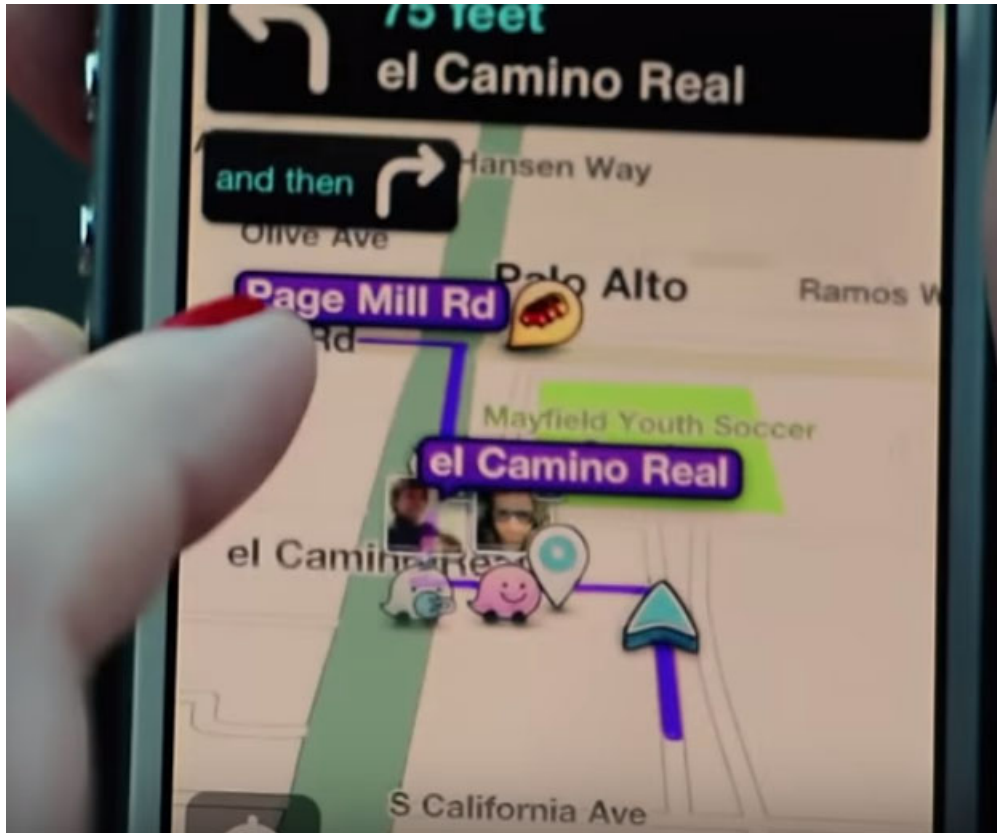
- 1 Overview
- 2 Changing server location
 - 2.1 Live Map
 - 2.2 Waze Map Editor
 - 2.3 Client Application

Overview

All maps for each region listed in the table below are separate. Anything reported or created on one of these servers will not be visible on the others. Note that you do have a login automatically created on the different servers, so you can mistakenly log into the wrong server and not realize it until you look for your points, groups or prior map changes.

You may find map changes in one server for an area covered by another. This might make you think you are on the right server, but that area is not kept in sync with the primary server. At this time, that area is not used by the client app and serves no purpose - so do not bother making any changes to it.

21. This location information is presented on interactive displays on the users' mobile devices through the Accused Product which includes interactive maps and a plurality of user selectable symbols corresponding to other devices. These symbols are positioned on the map at positions corresponding to the locations of the other devices, as depicted below. (e.g., <https://www.youtube.com/watch?v=ljyyVnSJukE>).



22. The exemplary Accused Products are further programmed to permit interaction with the display where a user may select one or more symbols, and where the exemplary Accused Products further permit data to be sent to other devices based on that interaction.

23. AGIS Software has suffered damages as a result of Defendant's direct and indirect infringement of the '123 Patent in an amount to be proved at trial.

24. AGIS Software has suffered, and will continue to suffer, irreparable harm as a result of Defendant's infringement of the '123 Patent for which there is no adequate remedy at law, unless Defendant's infringement is enjoined by this Court.

25. Defendant has committed and continues to commit acts of infringement that Defendant actually knew or should have known constituted an unjustifiably high risk of infringement of at least one valid and enforceable claim of the '123 Patent. Defendant's

infringement of the '123 Patent has been and continues to be willful, entitling AGIS Software to an award of treble damages, reasonable attorney fees, and costs in bringing this action.

COUNT II
(Infringement of the '829 Patent)

26. Paragraphs 1 through 14 are incorporated herein by reference as if fully set forth in their entireties.

27. AGIS Software has not licensed or otherwise authorized Defendant to make, use, offer for sale, sell, or import any Accused Products and/or products that embody the inventions of the '829 Patent.

28. Defendant has and continues to directly infringe at least claim 68 of the '829 Patent, either literally or under the doctrine of equivalents, by making, using, offering to sell, selling and/or importing into the United States the Accused Products without authority and in violation of 35 U.S.C. § 271(a).

29. Defendant has and continues to indirectly infringe at least claim 68 of the '829 Patent by actively, knowingly, and intentionally inducing others to directly infringe, either literally or under the doctrine of equivalents, by making, using, offering to sell, selling and/or importing into the United States the Accused Products and by instructing users of the Accused Products to perform methods claimed in the '829 Patent. For example, Defendant, with knowledge that the Accused Products infringe the '829 Patent at least as of the date of this Complaint, actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce direct infringement of the '829 Patent.

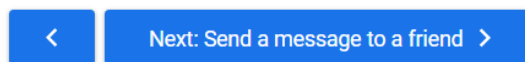
30. For example, Defendant has indirectly infringed and continues to indirectly infringe at least claim 68 of the '829 Patent in the United States because Defendant's customers use the Accused Products, in accordance with Defendant's instructions and thereby directly

infringe at least one claim of the '829 Patent in violation of 35 U.S.C. § 271. Defendant directly and/or indirectly intentionally instructs its customers to infringe through training videos, demonstrations, brochures, installations and/or user guides such as those located at one or more of the following: <https://www.waze.com/> and <https://support.google.com/waze/>, and Waze agents and representatives located within this Judicial District. Defendant is thereby liable for infringement of the '829 Patent under 35 U.S.C. § 271(b).





31. For example, Defendant's Accused Products are downloaded onto mobile devices, which allow users to perform remote control operations on other devices, share their location and view other users' locations on a map and to communicate with those users via the Waze app (as shown below).

Communicate with friends in Waze

Send location



Send a location from your Favorites and History when you follow the steps below.

1. Tap Search .
2. Tap the three dots  on Android or  on iOS next to Favorite or address from your history.
3. Tap **Send location** .
 - a. To send within the app simply select the contact(s) you would like to share the drive with and tap **Send**.
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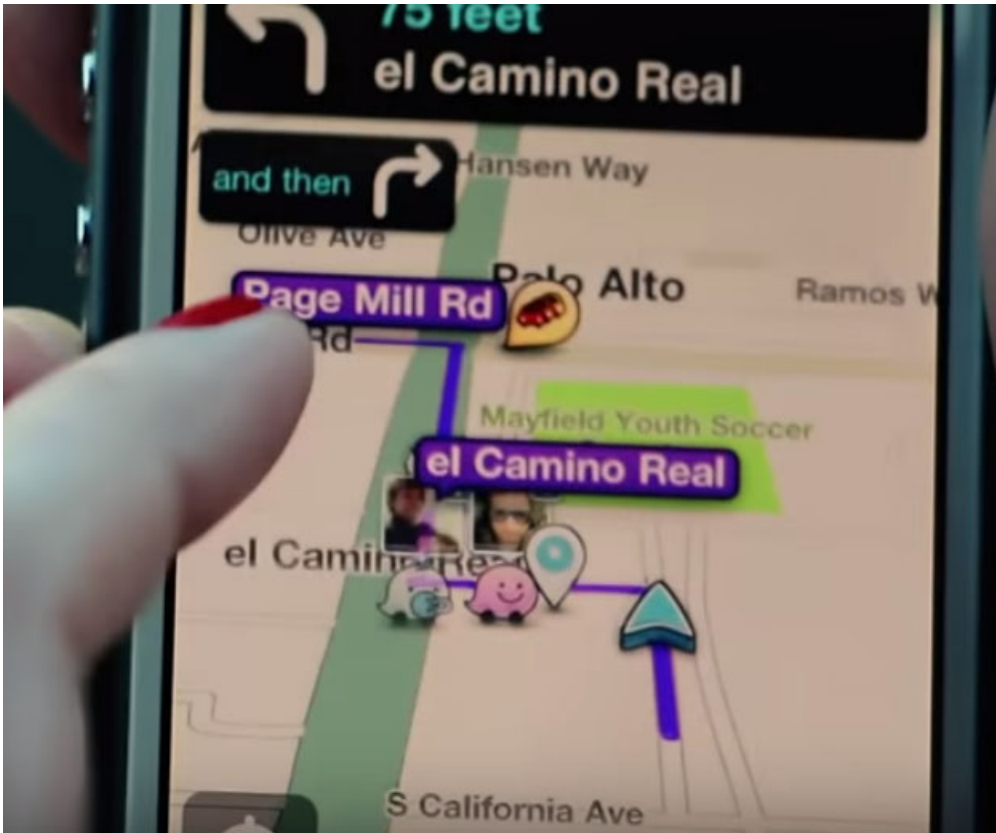
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 - a. Tap the friend's name and tap **Beep Beep** .
 - b. Swipe to the left over your friend's name and tap **Beep Beep** .

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32. This location information is presented on interactive displays on the users' mobile devices through the Accused Product which includes interactive maps and a plurality of user selectable symbols corresponding to other devices. These symbols are positioned on the map at positions corresponding to the locations of the other devices, as depicted below. (e.g., <https://www.youtube.com/watch?v=ljyyVnSJukE>.)



33. AGIS Software has suffered damages as a result of Defendant's direct and indirect infringement of the '829 Patent in an amount to be proved at trial.

34. AGIS Software has suffered, and will continue to suffer, irreparable harm as a result of Defendant's infringement of the '829 Patent for which there is no adequate remedy at law, unless Defendant's infringement is enjoined by this Court.

35. Defendant has committed and continues to commit acts of infringement that Defendant actually knew or should have known constituted an unjustifiably high risk of infringement of at least one valid and enforceable claim of the '829 Patent. Defendant's infringement of the '829 Patent has been and continues to be willful, entitling AGIS Software to an award of treble damages, reasonable attorney fees, and costs in bringing this action.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury for all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, AGIS Software prays for relief against Defendant as follows:

- a. Entry of judgment declaring that Defendant has directly and/or indirectly infringed one or more claims of each of the Patents-in-Suit;
- b. Entry of judgment declaring that Defendant's infringement of the Patents-in-Suit has been willful and deliberate;
- c. An order pursuant to 35 U.S.C. § 283 permanently enjoining Defendant, its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with it, from further acts of infringement of the Patents-in-Suit;
- d. An order awarding damages sufficient to compensate AGIS Software for Defendant's infringement of the Patents-in-Suit, but in no event less than a reasonable royalty, together with interest and costs;
- e. An order awarding AGIS Software treble damages under 35 U.S.C. § 284 as a result of Defendant's willful and deliberate infringement of the Patents-in-Suit;
- f. Entry of judgment declaring that this case is exceptional and awarding AGIS Software its costs and reasonable attorney fees under 35 U.S.C. § 285; and
- g. Such other and further relief as the Court deems just and proper.

Dated: November 4, 2019

Respectfully submitted,

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