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8 *Attorneys for Plaintiff Sunset Licensing LLC*

9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

12 SUNSET LICENSING LLC,

13 *Plaintiff,*

14 v.

15 SMARTRAK USA INC.,

16 *Defendant.*

CASE NO.:

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

1 business contacts and other activities in the State of California and in this district; and
2 (5) Defendant has purposely availed itself of the privileges and benefits of the laws of
3 the State of California.

4 7. Defendant, directly and/or through intermediaries, ships, distributes, uses,
5 offers for sale, sells, and/or advertises products and services in the United States, the
6 State of California, and the Northern District of California including but not limited to
7 the products which contain the infringing '941 Patent systems and methods as detailed
8 below. Upon information and belief, Defendant has committed patent infringement in
9 the State of California and in this district; Defendant solicits and has solicited customers
10 in the State of California and in this district; and Defendant has paying customers who
11 are residents of the State of California and this district and who each use and have used
12 the Defendant's products and services in the State of California and in this district.

13 8. Venue is proper in the Northern District of California pursuant to 28
14 U.S.C. §§ 1400(b). Defendant has a regular and established place of business in this
15 district, has transacted business in this district, and has committed acts of patent
16 infringement in this district.

17 **PATENT-IN-SUIT**

18 9. Plaintiff incorporates the above paragraphs herein by reference.

19 10. On July 9, 2013, United States Patent No. 8,483,941 was duly and legally
20 issued by the United States Patent and Trademark Office. The '941 Patent is titled
21 "Vehicle Speed Monitor."

22 11. Sunset Licensing is the assignee of all right, title and interest in the '941
23 patent, including all rights to enforce and prosecute actions for infringement and to
24 collect damages for all relevant times against infringers of the '941 Patent.
25 Accordingly, Sunset Licensing possesses the exclusive right and standing to prosecute
26 the present action for infringement of the '941 Patent by Defendant.

27 12. The application leading to the '941 patent was filed on August 4, 2010.

28 13. The present invention relates to a vehicle speed monitor for monitoring

1 the speed of a moving vehicle. (Ex. A, Abstract.) More particularly, the present
2 invention relates to recording instantaneous accelerations of a vehicle along three axes
3 over time in order to monitor the speed of that vehicle. (Ex. A, Abstract.)

4 14. The inventions disclosed in the Patent-in-Suit were not well-understood,
5 routine, or conventional. At the time the Patent-in-Suit was filed, various problems
6 existed in monitoring a vehicle's speed. The Patent-in-Suit addressed these problems
7 by, for example, monitoring a vehicles speed monitor using an integrated circuit that
8 includes an accelerometer capable of measuring instantaneous accelerations of a
9 vehicle along three axes. (Ex. A at 1:17-28.)

10 15. The claims of the Patent-in-Suit do not merely recite the performance of a
11 familiar business practice with a requirement to perform it on the Internet. Instead, the
12 claims recite one or more inventive concepts that are rooted monitoring a vehicle's
13 speed.

14 16. Moreover, the inventions taught in the Patent-in-Suit cannot be performed
15 with pen and paper or in the human mind. One of ordinary skill in the art at the time
16 the Patent-in-Suit was filed would have understood that the inventions could not be
17 performed with pen and paper. Using a pen and paper would be a practical impossibility
18 running counter to the inventor's detailed description of the inventions and language of
19 the claims. Additionally, because the Patent-in-Suit addresses problems rooted in
20 monitoring a vehicle's speed through the use of an accelerometer, it teaches are not
21 merely drawn to longstanding human activities.

22 ACCUSED PRODUCTS

23 17. Defendant makes, uses, offers for sale and sells in the U.S. products,
24 systems, and/or services that infringe the Patent-in-Suit, including, but not limited to
25 its Automatic Vehicle Locator (AVI) system (collectively, the "Accused Product" or
26 "Accused Instrumentality").
27
28

COUNT I

(Direct Infringement of U.S. Patent No. 6,970,941 – 35 U.S.C. § 271(a))

1
2 18. Plaintiff incorporates the above paragraphs herein by reference.

3
4 19. The '941 Patent is valid, enforceable, and was duly and legally issued by
5 the United States Patent and Trademark Office (“USPTO”) on July 9, 2013. The '941
6 Patent is presumed valid and enforceable. *See* 35 U.S.C. § 282.

7 20. Plaintiff is the owner by assignment of the '941 patent and possesses all
8 rights of recovery under the '941 patent, including the exclusive right enforce the '941
9 patent and pursue lawsuits against infringers.

10 21. Without a license or permission from Plaintiff, Defendant has infringed
11 and continues to infringe on one or more claims of the '941 Patent by importing,
12 making, using, offering for sale, or selling products and devices that embody the
13 patented invention, including, without limitation, one or more of the patented '941
14 systems and methods, in violation of 35 U.S.C. § 271.

15 22. Without a license or permission from Plaintiff, Defendant has infringed
16 and continues to directly infringe on one or more claims of the '941 Patent by
17 importing, making, using, offering for sale, or selling products and devices that embody
18 the patented invention, including, without limitation, one or more of the patented '941
19 systems and methods, in violation of 35 U.S.C. § 271.

20 23. Defendant has been and now is directly infringing by, among other things,
21 practicing all of the steps of the '941 Patent, for example, internal testing, quality
22 assurance, research and development, and troubleshooting. *See Joy Techs., Inc. v. Flakt,*
23 *Inc.*, 6 F.3d 770, 775 (Fed. Cir. 1993); *see also* 35 U.S.C. § 271 (2006).

24 24. By way of example, Defendant has infringed and continues to infringe at
25 least one or more claims of the '941 Patent, including at least Claim 1. Attached hereto
26 as Exhibit B is an exemplary claim chart detailing representative infringement of Claim
27 1 of the '941 Patent.

28

REQUEST FOR RELIEF

1
2 25. Plaintiff incorporates each of the allegations in the paragraphs above and
3 respectfully asks the Court to:

- 4 (a) enter a judgment that Defendant has directly infringed one or more claims
5 of each of the '941 Patent either literally and/or under the doctrine of
6 equivalents;
- 7 (b) enter a judgment that Defendant account for and pay to Plaintiff all
8 damages to and costs incurred by Plaintiff because of Defendant's
9 infringing activities and other conduct complained of herein, and an
10 accounting of all infringements and damages not presented at trial;
- 11 (c) enter a judgment that Plaintiff be granted pre-judgment and post-judgment
12 interest on the damages caused by Defendant's infringing activities and
13 other conduct complained of herein; and
- 14 (d) award Sunset Licensing LLC all other relief that the Court may deem just
15 and proper.

16
17 Dated: March 30, 2020

Respectfully submitted,

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25 ***Licensing LLC***
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