

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK  
MANHATTAN DIVISION**

<p><b>Jewel Pathway LLC,</b>  Plaintiff,  v.  <b>Polar Electro Inc.,</b>  Defendant.</p>	<p>Case No. 1:20-cv-4108  Patent Case  Jury Trial Demanded</p>
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**SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Jewel Pathway LLC (“Plaintiff”), through its attorneys, complains of Polar Electro Inc. (“Defendant”), and alleges the following:

**PARTIES**

1. Plaintiff Jewel Pathway LLC is a corporation organized and existing under the laws of Texas that maintains its principal place of business at 5570 FM 423, Suite 250, #2008, Frisco, TX 75034.

2. Defendant Polar Electro Inc. is a corporation organized and existing under the laws of New York that maintains an established place of business at 15 Grumman Road West, Suite 1200, Bethpage, NY 11714.

**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 Defendant because it has engaged in systematic and continuous business activities in this District, and is incorporated in this District's state. As described below, Defendant 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 Defendant has committed acts of patent infringement in this District, has an established place of business in this District, and is incorporated in this District's state. In addition, Plaintiff has suffered harm in this district.

#### **PATENT-IN-SUIT**

7. Plaintiff is the assignee of all right, title and interest in United States Patent No. 8,818,711 (the "'711 Patent"); (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, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement of the Patent-in-Suit by Defendant.

#### **The '711 Patent**

8. The '711 Patent is entitled "3D path analysis for environmental modeling," and issued 8/26/2014. The application leading to the '711 Patent was filed on 12/18/2009. A true and correct copy of the '711 Patent is attached hereto as Exhibit 1 and incorporated herein by reference.

9. The '711 Patent is valid and enforceable.

**THE ASSERTED CLAIMS ADDRESS A SPECIFIC PROBLEM IN THE PRIOR ART WITH A TECHNICAL SOLUTION.**

10. Mapping applications in the prior art could not provide mapping capabilities that didn't follow existing roads. '711 patent, 1:21-24 ("Although mapping applications may be able to identify the location of a user using GPS technologies, they are unable to provide mapping capabilities that do not follow existing roads."). Instead, conventional mapping applications gave directions *solely* based on existing roadways. ("For example, consider a situation where a person is walking in a park. When asked for directions to the other side of the park, conventional mapping technologies are likely to provide directions that follow the roads. In other words, these mapping technologies provide directions that are based on existing roadways. Following directions based on existing roadways would likely lead the person around the outskirts of the park along the roads rather than identify a traversable path through the park.").

11. Attempts to solve this problem with satellite imagery only created new problems (poor resolution, outdated images), and ultimately failed to provide a traversable pathway for the user. '711 patent, 1:36-44 ("In addition, it is often difficult for a user to distinguish a traversable path in satellite imagery because satellite imagery is often out of date and at insufficient resolutions. Also, it is difficult for a user to distinguish between shadows, impassable water features, elevation changes, and the like in satellite imagery. In effect, there are many areas, such as parks and public walkways that are poorly mapped. Trying to traverse these areas using conventional mapping applications is often unreliable and frustrating.").

**THE CLAIM LANGUAGE ITSELF PROVIDES A TECHNICAL SOLUTION TO THE PROBLEM OF GENERATING A TRAVERSABLE PATH WITHOUT USING TRADITIONAL MAPS**

12. The claim language of the asserted claims—without even looking at the specification—provides a concrete method for solving this problem:

“generating, using a processor, a traversable path based on the first set of location data without using traditional maps, the traversable path following a non-predetermined path that at least partially does not adhere to predetermined paths identified in the traditional maps and including a portion that deviates from the first path traversed by the first mobile device, the portion of the traversable path that deviates from the first path traversed by the first mobile device determined based on differences between the first set of location data and one or more second sets of location data from one or more second mobile devices, the one or more second sets of location data comprising multiple data points of physical locations traversed by the one or more second mobile devices in the area traversed by the first mobile device;”

Claim 1 (emphasis added).

13. The specification elaborates upon how the claimed invention generates a traversable path “without using traditional maps” and “that at least partially does not adhere to predetermined paths identified in the traditional maps.” ’711 patent, 3:28-45 (“The location data 120 and 125 collected from the mobile devices 105 and 110 may include non-predetermined path data. In some instances, some of the location data 120 and 125 may correspond to both non-predetermined path data and to predetermined path data (such as when a user is crossing a road). This determination can be made by the mobile devices 105 and 110 themselves or by the server 170. However, the presence of location data that corresponds to predetermined path data (such as a road) in the location data 120 and 125 collected from the mobile devices 105 and 110 can be incorporated into the environmental modeling or mapping data that is generated from the location data 120 and 125, including the non-predetermined path data. For example, the predetermined path data may be combined with the non-predetermined path data to identify crosswalks (or other areas that may identify the intersection of predetermined path data with non-predetermined path data) that occur in the traversable paths generated from the location data 120 and 125.”).

**THE ASSERTED CLAIMS EMBODY AN INVENTIVE CONCEPT**

14. By providing a technical solution to the problem of generating a traversable path without using traditional maps, as demonstrated in the section above, the claims thereby embody an inventive concept. This technical solution and corresponding inventive concept are captured in the claim language at the “generating, using a processor, a traversable path . . .” limitation, as described above.

15. The claims are therefore directed to patent eligible subject matter.

**COUNT 1: INFRINGEMENT OF THE '711 PATENT**

16. Plaintiff incorporates the above paragraphs herein by reference.

17. **Direct Infringement.** Defendant has been and continues to directly infringe one or more claims of the '711 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, at least the Defendant products identified in the charts incorporated into this Count below (among the “Exemplary Defendant Products”) that infringe at least the exemplary claims of the '711 Patent also identified in the charts incorporated into this Count below (the “Exemplary '711 Patent Claims”) literally or by the doctrine of equivalents. On information and belief, numerous other devices that infringe the claims of the '711 Patent have been made, used, sold, imported, and offered for sale by Defendant and/or its customers.

18. Defendant also has and continues to directly infringe, literally or under the doctrine of equivalents, the Exemplary '711 Patent Claims, by having its employees internally test and use these Exemplary Products.

19. The service of the Original Complaint upon Defendant constitutes actual knowledge of infringement as alleged here.

20. Despite such actual knowledge, Defendant continues to make, use, test, sell, offer for sale, market, and/or import into the United States, products that infringe the '711 Patent. On information and belief, Defendant has also continued to sell the Exemplary Defendant Products and distribute product literature and website materials inducing end users and others to use its products in the customary and intended manner that infringes the '711 Patent. Thus, on information and belief, Defendant is contributing to and/or inducing the infringement of the '711 Patent.

21. **Induced Infringement.** Defendant actively, knowingly, and intentionally has been and continues to induce infringement of the '711 Patent, literally or by the doctrine of equivalents, by selling Exemplary Defendant Products to their customers for use in end-user products in a manner that infringes one or more claims of the '711 Patent.

22. **Contributory Infringement.** Defendant actively, knowingly, and intentionally has been and continues materially contribute to their own customers' infringement of the '711 Patent, literally or by the doctrine of equivalents, by selling Exemplary Defendant Products to their customers for use in end-user products in a manner that infringes one or more claims of the '711 Patent. Moreover, the Exemplary Defendant Products are not a staple article of commerce suitable for substantial noninfringing use.

23. Exhibit 2 includes charts comparing the Exemplary '711 Patent Claims to the Exemplary Defendant Products. As set forth in these charts, the Exemplary Defendant Products practice the technology claimed by the '711 Patent. Accordingly, the Exemplary Defendant Products incorporated in these charts satisfy all elements of the Exemplary '711 Patent Claims.

24. Plaintiff therefore incorporates by reference in its allegations herein the claim charts of Exhibit 2.

25. Plaintiff is entitled to recover damages adequate to compensate for Defendant's infringement.

**JURY DEMAND**

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

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. A judgment that the '711 Patent is valid and enforceable;
- B. A judgment that Defendant has infringed, contributorily infringed, and/or induced infringement of one or more claims of the '711 Patent;
- C. An accounting of all damages not presented at trial;
- D. A judgment that awards Plaintiff all appropriate damages under 35 U.S.C. § 284 for Defendant's past infringement and, with respect to the '711 patent, any continuing or future infringement, up until the date such judgment is entered including pre- or post-judgment interest, costs, and disbursements as justified under 35 U.S.C. § 284;
- E. And, if necessary, to adequately compensate Plaintiff for Defendant's infringement, an accounting:
  - i. that this case be declared exceptional within the meaning of 35 U.S.C. § 285 and that Plaintiff be awarded its reasonable attorneys' fees against Defendant that it incurs in prosecuting this action;
  - ii. that Plaintiff be awarded costs, and expenses that it incurs in prosecuting this action; and

iii. that Plaintiff be awarded such further relief at law or in equity as the Court deems just and proper.

Dated: October 23, 2020

Respectfully submitted,

*/s/ Isaac Rabicoff*  
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