

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

FLEET CONNECT SOLUTIONS LLC,
a Texas limited liability company,

Plaintiff,

v.

SOUTHERN GLAZER’S WINE AND
SPIRITS, LLC, a Delaware company,

SOUTHERN GLAZER’S WINE AND
SPIRITS OF TEXAS, LLC, a Texas
company,

SOUTHERN GLAZER’S WINE AND
SPIRITS OF TEXAS II, LLC, a Texas
company, and

SOUTHERN GLAZER’S SERVICES, LLC,
a Texas company,

Defendants.

CIVIL ACTION FILE NO.

6:20-cv-01097

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement under 35 U.S.C. § 271, et seq., in which Plaintiff Fleet Connect Solutions LLC (“Fleet Connect”), makes the following allegations against Defendants Southern Glazer’s Wine and Spirits, LLC, Southern Glazer’s Wine and Spirits of Texas, LLC, Southern Glazer’s Wine and Spirits of Texas II, LLC, and Southern Glazer’s Services, LLC (collectively “Southern”):

Parties

1. Fleet Connect is a limited liability company formed under the laws of Texas with its registered office address located in Austin, Texas.

2. Upon information and belief, Southern Glazer's Wine and Spirits, LLC is a Delaware company with offices and a registered agent for service in this district. It may be served through its registered agent, Corporation Service Company (CSC), at its registered office location at 211 E. 7th St., Suite 620, Austin, Texas 78701-3218.

3. Southern Glazer's Wine and Spirits of Texas, LLC is a Texas company with offices and a registered agent for service in this district. It may be served through its registered agent, Corporation Service Company (CSC), at its registered office location at 211 E. 7th St., Suite 620, Austin, Texas 78701-3218.

4. Southern Glazer's Wine and Spirits of Texas II, LLC is a Texas company with offices and a registered agent for service in this district. It may be served through its registered agent, Corporation Service Company (CSC), at its registered office location at 211 E. 7th St., Suite 620, Austin, Texas 78701-3218.

5. Southern Glazer's Services, LLC is a Texas company with offices and a registered agent for service in this district. It may be served through its registered agent, Corporation Service Company (CSC), at its registered office location at 211 E. 7th St., Suite 620, Austin, Texas 78701-3218.

6. These Southern Glazer's companies provide a coordinated wine and spirits distribution in the United States, more specifically, in Texas. They maintain and utilize offices at 8119 Exchange Drive, Austin, TX 78754-5238 and 1002 S Callaghan Rd at Hwy 151, San Antonio, TX 78227 for this purpose.

Nature of the Action

7. Southern have consistently utilized Omnitracs for route tracking. After some time, they began looking for a mobile solution to work in conjunction with Omnitracs Routing that would help them manage an issue specific to many beverage distributors — delivery shortages.

8. Southern knew if they did not find a solution that could help manage short deliveries, customer service would suffer.

9. Southern took advantage of Omnitracs mobile solutions, which connected their drivers, back-office, and customers through near-real time updates regarding delivery loads, times, overages, and shortages. By utilizing Omnitracs mobile solutions alongside Omnitracs Routing, Southern have achieved greater growth by providing excellent customer service through greater visibility for clients.

10. Southern have been complimentary in their public statements about their use of Omnitracs technology, including the following statements by Mark Booth:



This proves to our customers that we are aware of the latest technology and we invest in it to provide better customer service.

Mark Booth, Project Lead,
Southern Glazer's

11. Positive results owing to Southern's use of Omnitrac's technology include: \$250,000 less in paid out overtime; a 2% decrease in driver payroll; a 5% reduction in total routes; and 7% annual business growth.

12. The mobile solution employed by Southern is called Omnitrac's XRS ("XRS"), which provides flexible, mobile electronic logging device (ELD) and telematics functionality for fleets of any size.

13. At a high level, XRS works as follows:



14. XRS is complimented by a back-office customer portal that Southern uses. The portal includes a cloud-based software functionality for logging hours of service, driver vehicle inspection reports, performance reports and driver scorecards, among other things.

What makes the Omnitrac's XRS solution different?

- 10-minute installation with no modifications to the truck
- Driver application runs on both Android and Windows Mobile devices
- Supported by Omnitrac's, the industry pioneer, you can be confident you are working with the most reliable and proven provider in the industry

Features

- **Electronic Hours of Service:** 395.15 Compliant Electronic Driver Logs
- **Time Clock:** Time tracking for HOS and non-HOS drivers
- **Asset Tracking:** Near real-time vehicle location
- **Driver Vehicle Inspection Report (DVIR):** Automated, compliant vehicle inspections
- **International Fuel Tax Agreement:** Automated fuel tax reporting makes IFTA as easy as "Print, Sign, Send"
- **Performance Reporting:** Capture and analyze vehicle and driver data
- **Driver Scorecards:** Rank drivers on speed, MPG, idle, and safety scores
- **Proof of Delivery:** Image, signature, and barcode capture for capturing delivery information

Benefits

- Improve safety and compliance
- Reduce paperwork with automated HOS, IFTA, and DVIR
- Improve route planning
- Provide better customer service
- Drive efficiency and profitability with vehicle performance monitoring
- Streamline your operations with customizable forms
- Retain your best drivers



https://www.omnitrac.com/sites/default/files/Omnitrac_XRS_Platform_Overview%205.22.2017.pdf

15. This is a civil action for the infringement of U.S. Patent No. 7,463,896 (attached as **Exhibit A**, the "896 Patent") and U.S. Patent No. 7,536,189 (attached as **Exhibit B**, the "189 Patent"). These patents are referred to collectively as the "Patents-In-Suit".

16. Fleet Connect is the owner by assignment of the Patents-In-Suit, including the right to recover damages for past and ongoing infringement of the Patents-in-Suit.

Jurisdiction and Venue

17. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271, *et seq.*

18. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b). Southern maintain a regular and established place of business in this District, have transacted business in this District, and committed acts of patent infringement in this District.

19. Southern are subject to this Court's specific and general personal jurisdiction pursuant to due process, due at least to their substantial business in this forum, including (i) certain of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

The Patents-in-Suit

20. The 896 Patent (Exhibit A) lawfully issued on December 9, 2008. The 896 Patent claims priority to Application No. 11/524,850, filed on September 20, 2006. The 896 Patent is titled "System and Method for Enforcing a Vehicle Code".

21. The 896 Patent is valid and enforceable.

22. The 189 Patent (Exhibit B) lawfully issued on May 19, 2009. The 189 Patent claims priority to Provisional Application No. 60/153,424, filed on September 10, 1999. The 189 Patent is titled "System and Method for Sending Broadcasts in a Social Network".

23. The 189 Patent is valid and enforceable.

24. Claim charts, incorporated hereby by reference, are attached as **Exhibits C-D**, demonstrating on an element-by-element basis the claims of infringement of at least one claim of each of the Patents-in-Suit.

Count 1: Infringement of U.S. Patent No. 7,463,896 (896 Patent)

25. Fleet Connect herein incorporates the contents of the preceding paragraphs 1-24 as if restated fully herein.

26. As shown by **Exhibit C** (incorporated by reference), Southern have infringed and continue to infringe one or more claims of the 896 Patent under 35 U.S.C. § 271(a).

27. As a result of the continuing infringement of the 896 Patent, Fleet Connect has suffered damages, and is entitled, at a minimum, to recover a reasonable royalty from Southern to compensate for the infringement.

Count 2:
Infringement of U.S. Patent No. 7,536,189 (189 Patent)

28. Fleet Connect herein incorporates the contents of the preceding paragraphs 1-24 as if restated fully herein.

29. As shown by **Exhibit D** (incorporated by reference), Southern have infringed and continue to infringe one or more claims of the 189 Patent under 35 U.S.C. § 271(a).

30. As a result of the continuing infringement of the 189 Patent, Fleet Connect has suffered damages, and is entitled, at a minimum, to recover a reasonable royalty from Southern to compensate for the infringement.

Prayer for Relief

Wherefore, Fleet Connect respectfully requests that this Court enter judgment against Southern as follows:

- a) Southern infringes each of the Patents-in-Suit, literally or, alternatively, under the Doctrine of Equivalents;
- b) Fleet Connect is entitled to its damages resulting from these infringements in the amount that is no lower than a reasonable royalty, together with prejudgment and post-judgment interest thereon, and to a trebling of such damages due to willful infringement;
- c) Fleet Connect be awarded an accounting for any post-verdict infringement; and

- d) The Court grant Fleet Connect such other and additional relief as the Court determines to be just and proper.

Demand for Jury Trial

Fleet Connect hereby demands a trial by jury on all claims and issues so triable.

Dated: December 1, 2020

RESPECTFULLY SUBMITTED,

/s/ John A. "Andy" Powell

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