

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

SOCIAL POSITIONING INPUT
SYSTEMS, LLC,

Plaintiff,

vs.

MIDMARK CORPORATION,

Defendant.

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Case No: 3:20-cv-00414-WHR

JURY TRIAL DEMANDED

PATENT CASE

FIRST AMENDED COMPLAINT

Plaintiff Social Positioning Input Systems, LLC (“Plaintiff” or “SPIS”) files this First Amended Complaint against Midmark Corporation (“Defendant” or “Midmark”) for infringement of United States Patent No. 9,261,365 (hereinafter “the ‘365 Patent”).

PARTIES AND JURISDICTION

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Plaintiff is a Texas limited liability company with a virtual office located at 1801 NE 123 Street, Suite 314, Miami, FL 33181.

4. On information and belief, Defendant is an Ohio corporation with its principal office located at 60 Vista Dr., Versailles, OH 45380. On information and belief, Defendant may be served with process through its registered agent, Ct Corporation System, 4400 Easton

Commons Way, Suite 125, Columbus Oh 43219.

5. On information and belief, this Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. On information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in this District. Alternatively, Defendant has already appeared in this action and has not challenged *in personam* jurisdiction or venue, which are now waived by operation of law.

VENUE

7. On information and belief, venue is proper in this District under 28 U.S.C. § 1400(b) because Defendant is deemed to be a resident of this District.

COUNT I
(INFRINGEMENT OF UNITED STATES PATENT NO. 9,261,365)

8. Plaintiff incorporates paragraphs 1 through 7 herein by reference.

9. This cause of action arises under the patent laws of the United States and, in particular, under 35 U.S.C. §§ 271, *et seq.*

10. Plaintiff is the owner by assignment of the '365 Patent with sole rights to enforce the '044 Patent and sue infringers.

11. A copy of the '365 Patent, titled "Device, System and Method for Remotely Entering, Storing and Sharing Addresses for a Positional Information Device," is attached hereto as Exhibit A.

12. The '365 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

13. The '365 Patent teaches a method and apparatus for entering, storing and sharing addresses for a positional information device.

14. The '365 Patent recognized problems associated with then-existing devices and methods for route guidance and address entry into mobile devices. For example, then-existing devices required manual entry of information. '365 Patent, 1:25-2:25. Also, different devices had different interfaces and accepted address information differently. *Id.* Also, then-existing systems would not allow a user to enter route information while driving. *Id.* Also, if a user had multiple vehicles all going to a location, the address information had to be entered multiple times. *Id.*

15. The claimed invention of the '365 Patent addressed these and other problems by providing systems and methods that, at least in some embodiments, include a requesting positional information device, a sending positional information device, and a server. '365 Patent, Summary, and Claim 1. The requesting positional information device makes a request to a server for an address stored in the sending positional information device. *Id.* The request includes a first identifier associated with the requesting positional information device. *Id.* The server obtains the address from the sending positional information device. *Id.* This involves the server determining a second identifier for the sending positional information device based on the first identifier. *Id.*

16. The present invention solves problems that existed with then-existing navigation systems associate with having address information loaded onto a positional information device (such as a GPS-equipped mobile phone). Problems arose due to a number of different factors including: (1) disparate navigational devices; (2) navigational devices that required preprogramming of address information; (3) the use of different vehicles by one or more users

all going to the same address; and (4) users needing address information downloaded while driving. See, '365 Patent Specification, Background.

17. The systems embodied in the '365 Patent claims incorporate hardware and software components that operate in a way that was neither generic, nor well-known, at least at the time of the invention.

18. The '365 Patent solves problems with the art that are rooted in computer technology and that are associated with electronic transmission, loading, and storage of location information, as well as automatic provisioning of route guidance. The '365 Patent claims do not merely recite the performance of some business practice known from the pre-Internet world along with the requirement to perform it on the Internet.

19. The improvements of the '365 Patent and the features recited in the claims in the '365 Patent provide improvements to conventional hardware and software systems and methods. The improvements render the claimed invention of the '365 Patent non-generic in view of conventional components.

20. The improvements of the '365 Patent and the features recitations in the claims of the '365 Patent are not those that would be well-understood, routine or conventional to one of ordinary skill in the art at the time of the invention.

21. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including at least Claim 1, of the '365 Patent by making, using (at least by having its employees, or someone under Defendant's control, test the accused Product), importing, selling, and/or offering for sale associated hardware and software for determining medical asset locating services ("Product") covered by at least Claim 1 of the '365 Patent. Defendant has infringed and continues to infringe the '365 patent either directly or through acts

of contributory infringement or inducement in violation of 35 U.S.C. § 271.

22. The Product provides a vehicle tracking system for real-time GPS tracking of medical assets. A user can receive location information on a positional information device (e.g., mobile device or computer). Certain aspects of this element are illustrated in the screenshot(s) below and/or in those provided in connection with other allegations herein.

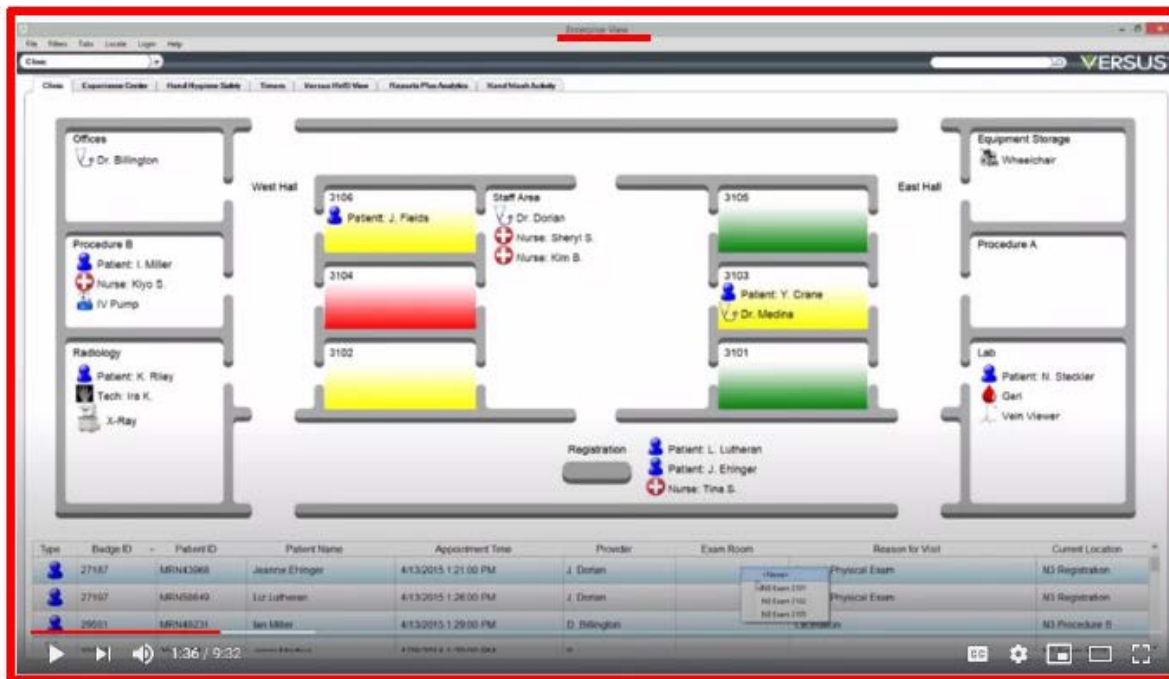


Real-Time Locating System

Formerly Versus Technology, the Midmark real-time locating system (RTLS) uses automated, accurate data to improve the experience between the patient and caregiver.

LEVERAGE WI-FI FOR ENTERPRISE VISIBILITY.

The Wi-Fi Asset Tag combines IR and Wi-Fi RTLS
for hospital-wide visibility, plus precision where
you need it.

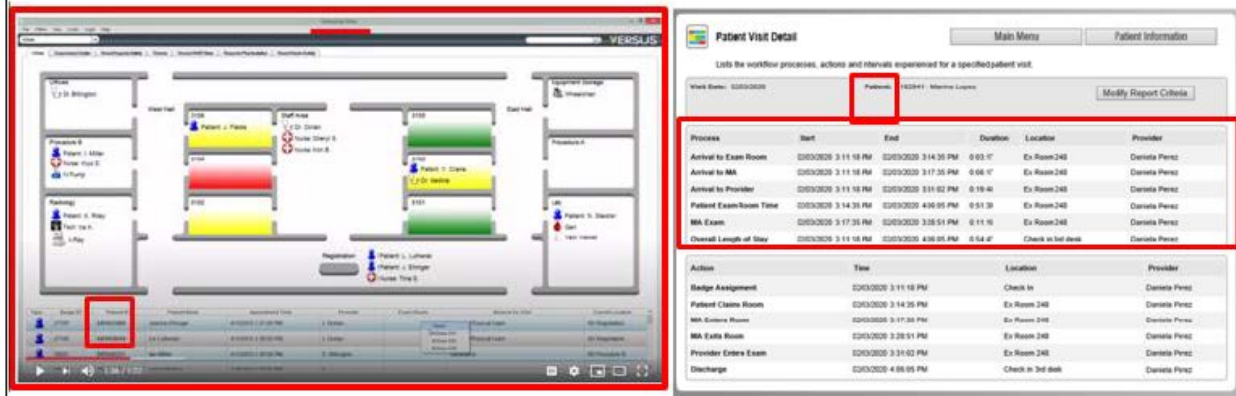


Source: <https://www.midmark.com/medical/products/rtls>

Source: <https://www.midmark.com/medical/products/rtls/rtls-detail/asset-tags>

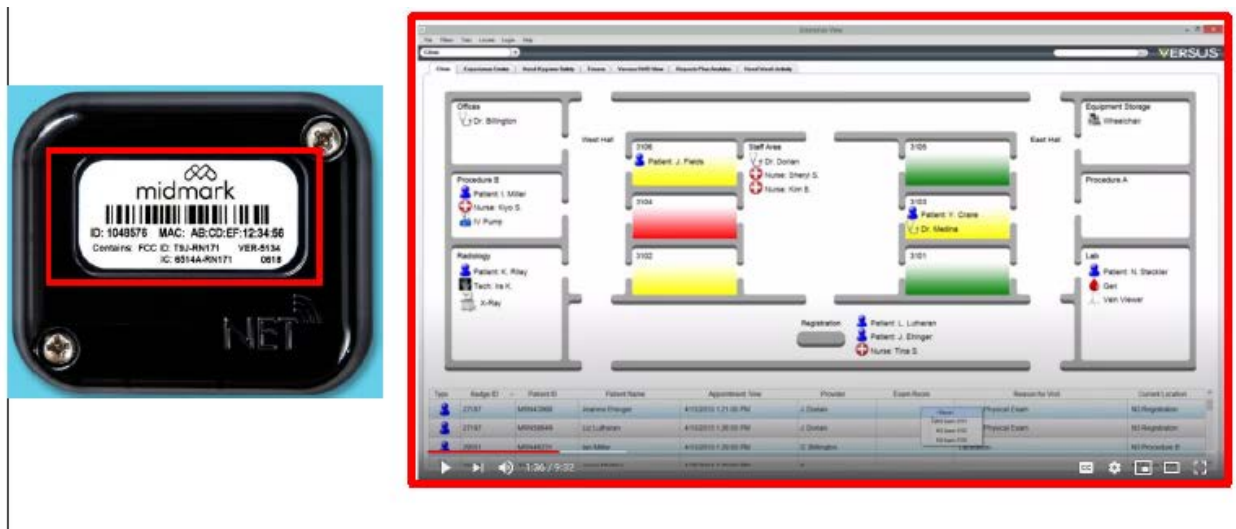
Source: <https://www.youtube.com/watch?v=vETQmeMzd8Q>

23. The Product software sends a request from a first positional information device (e.g., mobile device or desktop with software installed) to a server. The request is for an address (location) of an asset having a second positional information device (e.g., tracking device). The request includes a first identifier (e.g., login ID and password) of the first positional information device. Certain aspects of this element are illustrated in the screenshot(s) below and/or in those provided in connection with other allegations herein.



Source: <https://www.midmark.com/medical/products/rtls/rtls-detail/analytics>
 Source: <https://www.youtube.com/watch?v=vETQmeMzd8Q>

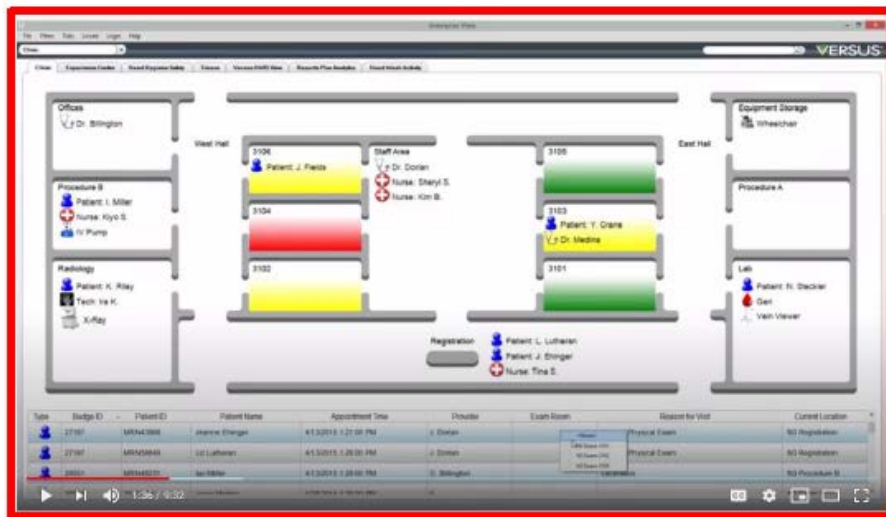
24. A second identifier for the second positional information device is determined based on the first identifier. For example, before activating the tracking device (i.e., second positional information device), a unique asset tracking device ID number (i.e., second identifier) is added to the user's account under the user login ID and password (i.e., the first identifier). Hence, the tracker's activation device ID number (i.e., second identifier) is mapped to the user's login ID (i.e., the first identifier) for tracking the assets. Certain aspects of this element are illustrated in the screenshot(s) below and/or in those provided in connection with other allegations herein.



Source: <https://www.youtube.com/watch?v=vETQmeMzd8Q>

Source: <https://www.midmark.com/medical/products/rtls>

25. The software provides the requesting positional information device the current location (i.e., the at least one address) of the asset having the tracking device (e.g., the second positional information device). Certain aspects of this element are illustrated in the screenshot(s) below and/or in those provided in connection with other allegations herein.



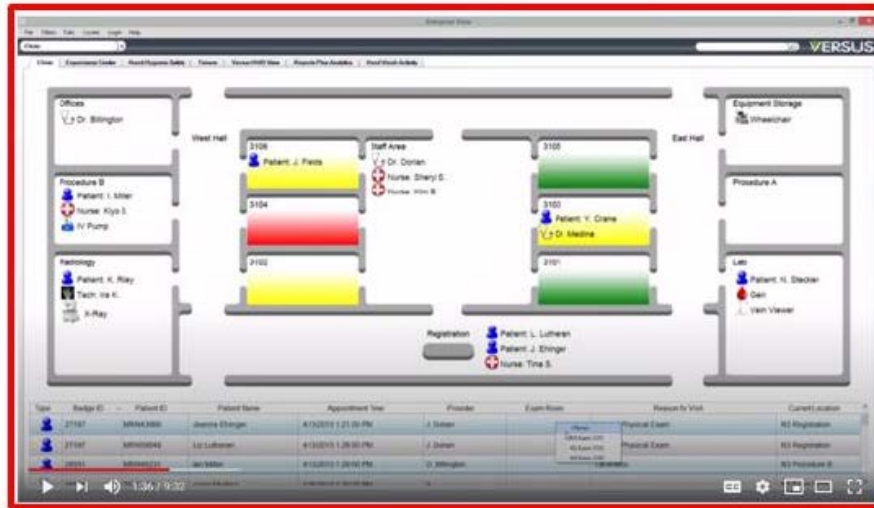
Real-Time Locating System

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Source: <https://www.youtube.com/watch?v=vETQmeMzd8Q>

Source: <https://www.midmark.com/medical/products/rtls/rtls-detail/asset-tags>

26. The Product transmits the tracking device position (e.g., at least one address) into the first positional information device (e.g., the mobile device). Certain aspects of this element are illustrated in the screenshot(s) below and/or in those provided in connection with other allegations herein.



**Real-Time
Locating
System**

Formerly Versus Technology, the Midmark real-time locating system (RTLS) uses automated, accurate data to improve the experience between the patient and caregiver.

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Source: <https://www.midmark.com/medical/products/rtls/rtls-detail/asset-tags>

27. Defendant's actions complained of herein will continue unless Defendant is enjoined by this court.

28. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

29. Plaintiff is in compliance with 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

(a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;

(b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receive notice of the order from further infringement of United States Patent No. 9,261,365 (or, in the alternative, awarding Plaintiff a running royalty from the time of judgment going forward);

- (c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;
- (d) Award Plaintiff pre-judgment and post-judgment interest and costs; and
- (e) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: December 23, 2020

Respectfully submitted,

/s/ Howard L. Wernow

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy has been electronically filed using the CM/ECF filing system, which automatically sends email notifications to all counsel of record and which will permit viewing and downloading of same from the CM/ECF system on December 23, 2020.

/s/ Howard L. Wernow
Howard L. Wernow