IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

K.MIZRA LLC, Plaintiff, v. GENERAL MOTORS LLC, Defendant.	Civil Action No.: **Jury Trial Demanded**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff K.Mizra LLC ("K.Mizra" or "Plaintiff"), for its Complaint with Jury Demand for patent infringement against Defendant General Motors LLC ("GM" or "Defendant"), alleges, based on its own knowledge as to itself and its own actions and based on information and belief as to all matters, as follows:

I. INTRODUCTION

1. This is a patent infringement action under 35 U.S.C. § 271 involving GM's connected vehicle services included in, at the very least, its Buick, Cadillac, GMC, and Chevrolet-branded vehicles that utilize GPS and cellular systems to provide emergency services, among other applications.

II. THE PARTIES

2. Plaintiff is a limited liability company organized and existing under the laws of the State of Delaware, and maintains its principal place of business at 777 Brickell Avenue, #500-96031, Miami, Florida 33131.

3. Upon information and belief, GM is a limited liability company organized and existing under the laws of the State of Delaware, with a place of business at 300 Renaissance Center L1, Detroit, Michigan 48243.

III. JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 101, *et seq*.

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this District pursuant to 28 U.S.C. § 1400(b) because, among other things, Defendant GM is subject to personal jurisdiction in this District, GM has regular and established places of business in Texas through its dealerships and facilities in this District, GM has purposely transacted business involving the Accused Products (as defined below) in this District, including sales to one or more customers in Texas, and certain infringing acts complained of herein occurred in this District.

7. The Court also has personal jurisdiction over GM through its regular, systematic, and continuous contacts in providing support and control over its dealers located in the Eastern District of Texas.

8. Specifically, with respect to venue and personal jurisdiction, upon information and belief, GM does business itself, or through its subsidiaries and affiliates, in the State of Texas and the Eastern District of Texas. Upon further information and belief, GM is the exclusive manufacturer, importer, and distributor of Buick, Cadillac, Chevrolet, and GMC-branded vehicles. Upon information and belief, GM manufactures and assembles, both in the United States and internationally, Buick, Cadillac, Chevrolet and GMC-branded vehicles, and distributes them

through Buick, Cadillac, Chevrolet and GMC dealers throughout the United States ("Dealers"). It is also believed that GM maintains an automobile factory in Arlington, Texas.

9. Upon information and belief, GM is registered to do business in Texas with the Secretary of State. The Texas Business Organizations Code (Bus. Org. § 9.001) requires all entities formed outside the State of Texas to complete such registration in order to "transact business" in Texas. Upon information and belief, GM is registered as a taxable entity with the Texas Comptroller of Public Accounts in connection with its marketing and distribution activities, and its sales of Buick, Cadillac, Chevrolet, and GMC-branded vehicles through its relationship with the Dealers.

10. According to its website, GM engages in sales and service of products that infringe the patent-in-suit through 321 dealers in the State of Texas. *See* https://www.gm.com/our-company/us/tx.html (last visited June 30, 2021). A number of those vehicle dealerships are in the Eastern District of Texas, including, for example, Gabriel/Jordan Buick GMC, Maverick Chevrolet, ORR Cadillac GMC, Sisk Buick, and Yates Buick GMC. These Dealers are located in Kilgore, Marshall, Longview, and Henderson, Texas.

11. Upon information and belief, GM manages the marketing, sales and service of Buick, Cadillac, Chevrolet, and GMC-branded products to customers and/or potential customers located in Texas and in the judicial Eastern District of Texas. Upon information and belief, each Dealer permitted to sell and service new GM vehicles in this District must be authorized by GM.

12. According to GM's website, it has 8,793 employees in the State of Texas, with $778 million in taxable wages. *Id*. Also, according to its website, GM has 13 facilities in Texas, which include: "Assembly, Battery, Die & Stamping, GPS, Components, Engineering, Office, CCA, GM Financial, GM IT, Sales Service and Marketing and Cruise offices." *Id*. at n.2. Those facilities

include an automobile factory located at 2525 E. Abram, Arlington, Texas. *See* https://media.gm.com/media/us/en/gm/company_info/facilities/assembly/arlington.html (last visited June 30, 2021)

13. Upon information and belief, GM employees work with Dealers in this District on issues related to sales, marketing, technical training, and the service of parts and accessories. Upon information and belief, GM reimburses these employees for travel and personal expenses related to their job responsibilities.

14. Upon information and belief, Dealers located within the Eastern District of Texas have executed dealer agreements with GM. Upon information and belief, these dealer agreements set forth standards and requirements enumerated by GM that Dealers are required to comply with. Upon information and belief, these standards and requirements are directed to at least the Dealers' facility, space, appearance, layout, and equipment.

15. Upon information and belief, GM regularly, continuously, and systematically provides support to and control over the Dealers located in the Eastern District of Texas. Upon information and belief, GM employees regularly and systematically work at Dealers in this District to educate Dealer employees regarding features of the accused products sold in this District, including but not limited to features regarding the OnStar and Connected Services. Upon information and belief, various positions at GM require working at the Dealers in this District.

16. Upon information and belief, GM employees regularly travel to the Dealers in this District to provide support and exercise control over the sales, marketing, and service of Buick, Cadillac, Chevrolet and GMC automobiles that utilize systems accused of infringing the asserted patent in this District. As examples of GM's support to and control over the Dealers, upon information and belief, GM employees travel to the Dealers located in this District to ensure

compliance with GM dealers' standards, ensure that advertising is consistent with GM corporate message and branding guidelines, train dealership personnel on new products, assist Dealers with problem solving, diagnose technical concerns, provide on-site assistance, assist Dealers with sales, marketing, business development and business plans, ensure Dealer orders meet market demand, manage monthly vehicle allocation, and review and analyze Dealer financial statements and consult with Dealers to improve their operations and retail business.

17. Upon information and belief, while GM employees are working at dealerships in this District, they have access to communication devices (cell phones, laptops, etc.) provided by GM on which they conduct business on behalf of GM. Upon information and belief, GM employees have access to their GM e-mail accounts while they are present in dealerships in this District.

18. Upon information and belief, the Buick, Cadillac, Chevrolet, and GMC dealerships located within this District are GM's exclusive agents, instrumentalities, and representatives within this District for the provision within this District of all new warranty service for Buick, Cadillac, Chevrolet, and GMC-branded vehicles sold both within the District and outside the District.

19. Upon information and belief, the Buick, Cadillac, Chevrolet, and GMC dealerships located within this District are GM's exclusive agents, instrumentalities, and representatives within this District for the sale and warranty repair of GM vehicles. It is also believed that GM regularly engages in marketing activities that promote the sale of Buick, Cadillac, Chevrolet, and GMC-branded products to customers and/or potential customers located in Texas and in the Eastern District of Texas. Upon information and belief, GM maintains interactive commercial websites, accessible to residents of Texas and the Eastern District of Texas, through which GM promotes their products that infringe the patent-in-suit. Upon information and belief, these interactive

commercial websites direct customers as to where to buy Buick, Cadillac, Chevrolet and GMC-branded vehicles with OnStar and Connected Services, including the Dealers within the Eastern District of Texas. GM's interactive commercial websites allow a customer to see available inventory and Dealer locations in this District through its Search Inventory and Locate a Dealer functions.

20. Venue is also proper in the State of Texas as, upon information and belief, at least the lead inventor on the patent-in-suit resides in Texas, with a listed address of 7436 Breckenridge Drive, Plano, Texas 75025.

21. In summary, this Court has personal jurisdiction over GM and venue is proper and most appropriate in the District.

IV. PATENT-IN-SUIT

22. On July 1, 2008, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 7,394,423 ("the '423 Patent" or the "Patent-in-Suit"), entitled "Internet Protocol Based 911 System." A true and correct copy of the '423 Patent is attached hereto as Exhibit A and is incorporated herein by reference.

23. K.Mizra is a patent licensing company run by experienced management. The company focuses on acquiring high value, high quality patents with a global reach and owns patent portfolios originating with a wide array of inventors, including portfolios developed by well-known multinationals such as IBM, Panasonic, Sharp and ZTE and from research institutes such as National Chiao Tung University and Nederlandse Organisatie voor Toegepast Natuurwetenschappelijk Onderzoek (Netherlands Organization for Applied Scientific Research). By focusing on high quality patents, K.Mizra provides a secondary market for inventors to recoup their research and development investments and to continue their innovations. K.Mizra offers

licenses to its patents on reasonable terms and in this way plays a part in the development of the technologies that make all our lives better.

24. K.Mizra was assigned and owns all right, title and interest to the '423 Patent and to pending application(s) claiming priority thereto, having the full and exclusive right to bring suit to enforce the '423 Patent, including the right to recover for past infringement.

V. FACTUAL ALLEGATIONS

A. Background of Connected Vehicle Services For Emergency Situations

25. In automobile accidents involving injury, there is often a need for safety and emergency help at the scene of the accident. During these accidents, there may be a problem with how to alert authorities or medical help, especially if the accident occurred in a remote area or if the individual(s) involved did not know their exact location or were incapacitated and unable to speak.

26. During the mid-1990s, services existed that allowed someone having an emergency to remotely alert authorities. These required either a traditional land-line telephone or analog cellular telephone that could contact either 911 or a third-party assistant. Once alerted, the service could obtain the location of the caller through a verbal exchange, or in some cases, network-based and/or cell tower triangulation techniques could be used.

27. The traditional 911 system was designed for landline telephones, transmitting a call and location instantly over a hard-wired connection. When 911 is called, it is directed to a call center known as a Public Safety Answering Point ("PSAP") where emergency calls (like police, fire brigade, ambulance) are handled. To automatically know where a call originates, the PSAP uses a national database for addresses. However, these databases and systems historically only work with landlines.

28. On the other hand, cellphone systems do not necessarily automatically send location data when 911 is dialed. When a cell phone call is made to 911, the system requests the phone's location from the carrier network, but the exchange can take seconds to minutes, or may never occur at all. Even when the data is sent and received, triangulation data requires the use of multiple nearby cell towers which may not work in rural areas, and the data is often inaccurate to hundreds of feet even when obtained.

29. The problem also exists if 911 is dialed from a commercial Voice over Internet Protocol ("VoIP") service from an Internet Protocol ("IP") enabled device. VoIP is the technology that converts sounds into a digital signal, allowing a user to make a voice call directly from a computer, a VoIP phone, or other data-driven devices. Simply put, it is a phone service delivered over the Internet.

30. VoIP calls typically use Session Initiation Protocol ("SIP") to initiate, maintain, and terminate multimedia communication sessions in VoIP applications. SIP is a protocol that was developed by IETF MMUSIC Working Group, a standard setting body, to create a robust standard to handle increasing demand on multimedia communications, such as video conferencing, unified messaging, and voice chatting, which are all implemented through the Internet. As a result, SIP enables a VoIP application to have the same high quality and reliability that a traditional telephone system can deliver, delivered at a low cost. Due to these benefits, SIP has now become a common and de facto standard for VoIP communications, *i.e.*, cellular telephone calls.

31. As is here relevant, when a 911 call is initiated from either a cell phone using a cell signal or using VoIP, it was the case that individual(s) experiencing an emergency or medical crisis occasionally could not communicate their exact location, resulting in significant time passing or

difficulty in emergency personnel locating an accident site, risking the health and safety of these individuals.

32. Automatically handling emergency or safety-critical events, particularly in vehicles, is one application in what is now often referred to as "connected vehicle services" and has been offered and included in vehicles. Indeed, these types of connected services usually mean that the vehicle has one or more systems that can communicate bidirectionally with other systems outside the car. These systems rely on mobile phone voice and data communications and gathering Global Positioning Systems ("GPS") data. With this information, the systems can perform a range of functions and provide to emergency personnel vehicle location, diagnostics, and activity data so they can provide roadside assistance and other services.

B. The '423 Patent and Its Innovations

33. In 2003, the inventor of the '423 Patent, Monica Martino[1], was an entrepreneur in the telecommunications industry and recognized problems then associated with placing emergency calls, etc., from vehicles. Ms. Martino graduated from Southern Illinois University with a Mass Communications degree, and Stanford University Graduate School of Business with a Masters in Entrepreneurial Studies.

34. Ms. Martino has founded two companies, including Accutech Data in 2002. Ms. Martino served as Accutech Data's Chief Technology Officer. Accutech Data designed new ways to use telecom data and telecom networks to insure verification and validation of individuals, networks, phone lines, and billing. While at Accutech Data, Ms. Martino developed and invented approximately 90% of the company's products. She also led the launch of new products. During her time at Accutech Data, Ms. Martino wrote, published, and advertised numerous iOS, Android,

[1] Allegations related to Ms. Martino are asserted upon information and belief.

Blackberry, and Symbian phone applications, including Privus Mobile, a caller name application to supply names of callers not in a user's contacts. Ms. Martino's accomplishments garnered her recognition in the telecommunication data community, including being awarded the 2014 CTO of the Year by the Metroplex Technology Business Council. Ms. Martino has also been granted roughly 60 U.S. patents.

35. In the early 2000s, Ms. Martino learned of an accident involving a motorcycle police officer from the news. That officer was unable to be timely located by emergency services and passed away from his injuries. Accordingly, Ms. Martino recognized a need in the telecommunication and telematics industries for a safety system for IP-based communication systems to automatically sense an emergency, be able to geo-locate the accident site, and then send an emergency request for 911 services.

36. In considering a solution for this problem, Ms. Martino recognized that GPS was an emerging and important technology, but that it was not then being fully implemented in automatic emergency communications. She also recognized that newer digital telephone systems designed to work in VoIP had no way to match location or addresses to an IP address. Ms. Martino also recognized that SIP might be an effective way to send the emergency request embedded with GPS coordinates, but that such an enabled safety communication system that needed to function would require significant study and testing to confirm efficiency and effectiveness, especially since the system needed to work flawlessly every time.

37. Ms. Martino came up with a solution, which led to the inventions disclosed in the '423 Patent, a continuation of U.S. Pat. App. 10/690,346 having a filing date of October 21, 2003, and a priority date of January 21, 2003. The '423 Patent generally describes a system, method, and apparatus for sensing an emergency event, and initiating and handling an emergency IP request

using an IP enabled device having GPS capability. The IP enabled device is described in the '423 Patent and has an emergency IP component that monitors for one or more emergency criteria, including a vehicle collision and that can obtain the vehicle's GPS location and send a location-focused emergency IP request.

C. Defendant General Motors LLC

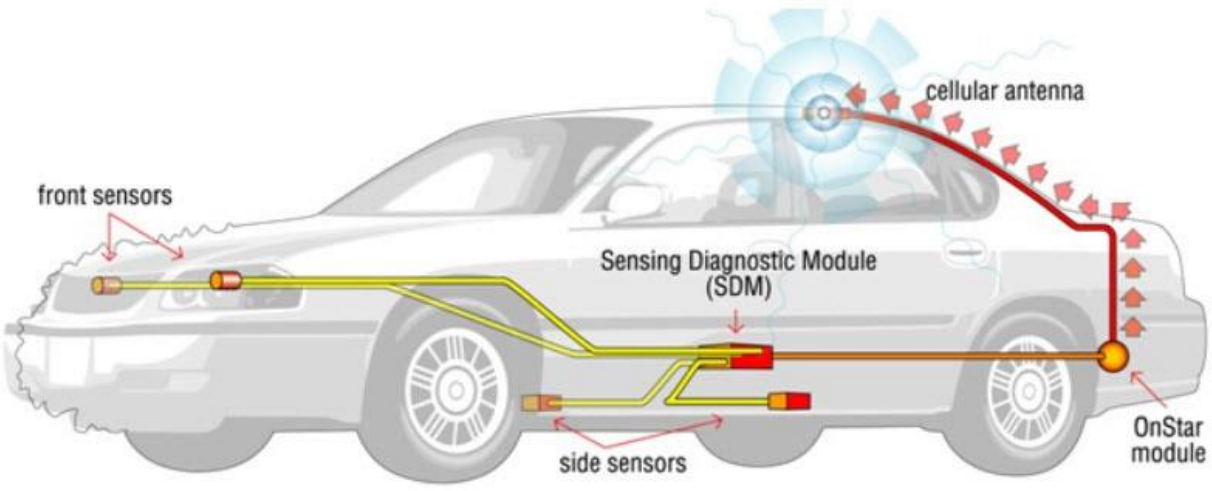
38. GM was founded in 1909 and is an American automobile manufacturer headquartered in Detroit, Michigan.[2] GM is the largest of all American car manufacturers and one of the largest U.S. companies in general. GM manufactures, markets, and sells numerous vehicle brands, including Chevrolet, Buick, GMC, and Cadillac. According to its annual Form 10-Ks, GM's annual sales revenue has ranged between $122.5 billion and $149.2 billion between 2016 and 2020.

39. GM, through its OnStar and Connected Services (hereafter "Connected Services"), designs and manufactures hardware products, enabled by paid subscription-based plans that offer vehicle wireless convenience, safety, and security services to GM's customers. These services include automatic crash response, emergency services, roadside assistance, hands free calling, crisis assist, stolen vehicle assistance, turn-by-turn navigation, remote diagnostic systems, and 4G LTE wireless connectivity. GM claims that it is among the industry leaders in delivering connectivity, safety, and security services through its Connected Services. Indeed, GM markets its Connected Services to consumers as an important safety feature of its vehicles. These Connected Services have been installed and enabled in more than 22 million connected GM vehicles globally.

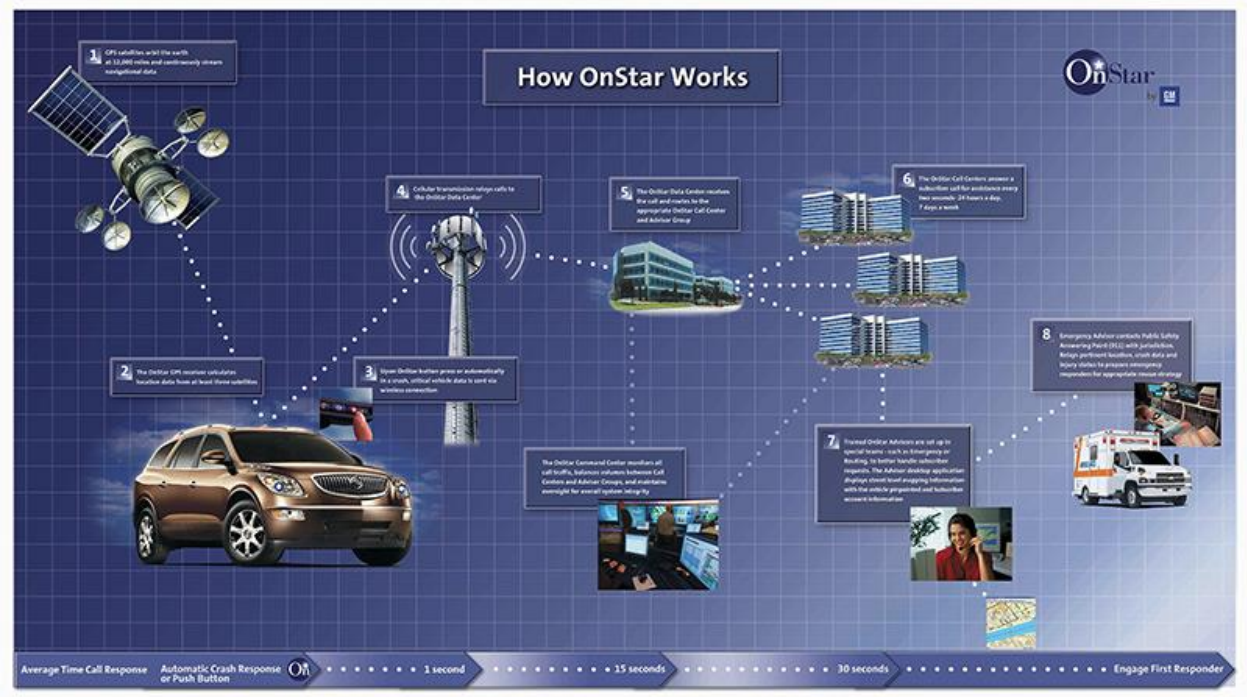
[2] Allegations related to GM are asserted upon information and belief.

40. GM's Connected Services come integrated on many of GM's Chevrolet, Buick, GMC, and Cadillac-branded vehicles. In particular, the Connected Services are offered and/or enabled through OnStar, including through a trial period for buyers as part of a vehicle's purchase price.

41. GM's Connected Services utilize wireless telecommunications, satellite, vehicular, and computer technologies to provide its services, and the calling services are routed on third-party cellular networks. One key feature of GM's Connected Services, and the one currently believed most relevant to GM's infringement, is its "Automatic Crash Response" system. This feature as implemented is shown in the graphics below:



See https://spark.adobe.com/page/1XtVu/ (last visited June 30, 2021).



See https://gmauthority.com/blog/2011/06/feature-spotlight-so-here-is-how-onstar-works-infographic/ (last visited June 30, 2021).

42. As shown above, the Connected Services apparatus in the vehicle senses a crash incident from built-in sensors located in the car. Once the crash is sensed, the Connected Service apparatus obtains the vehicle coordinates from the GPS enabled component, initiating a SIP-based emergency request communication that is embedded with both the incident and GPS coordinates information. That communication is received by an OnStar or other call center that can then relay the crash and location data to the appropriate PSAP.

D. <u>Infringement of the '423 Patent by General Motors LLC</u>

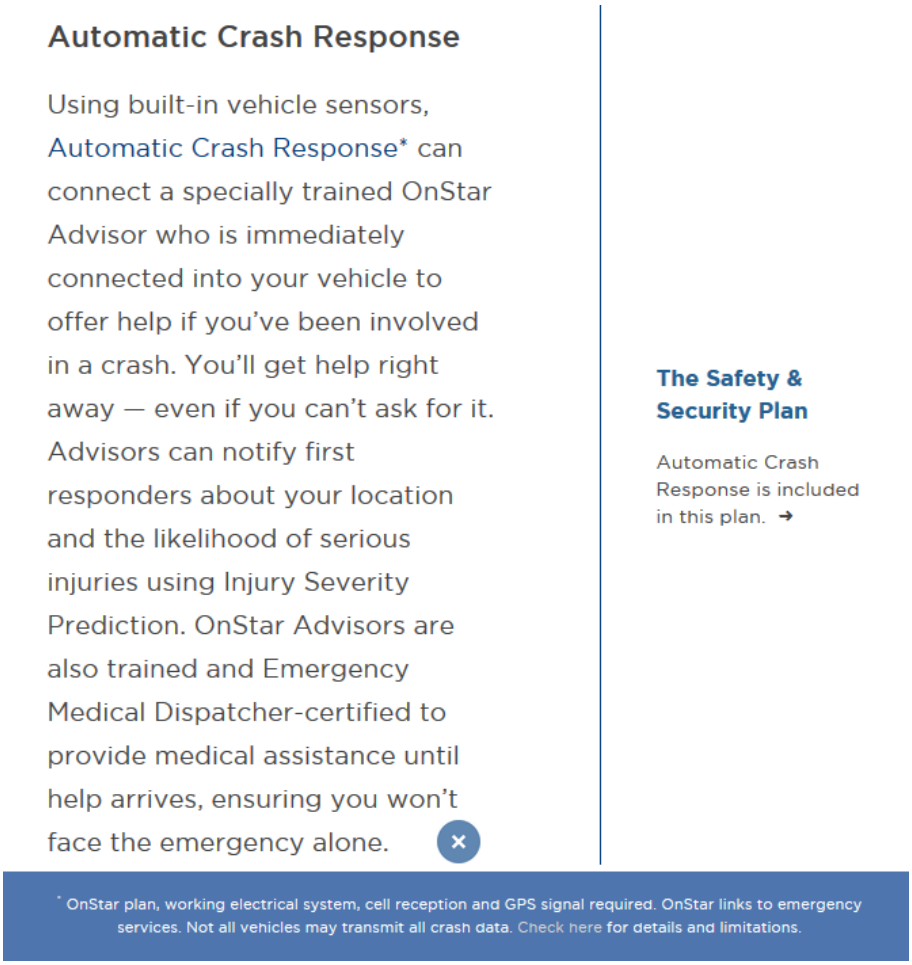
43. GM's Connected Services apparatus, whether sold individually or pre-installed in vehicles, infringes at least dependent Claim 17 of the '423 Patent, which is directed to an apparatus comprising:

> an Internet Protocol enabled device;
>
> a Global Positioning Systems component within the Internet Protocol enabled device; and
>
> an emergency Internet Protocol component within the Internet Protocol enabled device that monitors software on the Internet Protocol enabled device for at least one of: a collision, heat, smoke, and vital signs; obtains global positioning data from the Global Positioning Systems component and sends an emergency Internet Protocol request[,wherein the emergency Internet Protocol request comprises a Sessions Initiation Protocol request containing the global positioning data,] whenever one or more emergency criteria are satisfied.[3]

44. GM implements the patented technology through the sale of vehicles that have hardware which facilitates the use of the Connected Services, including "Automatic Crash Response," in those vehicles ("Accused Products"). These Accused Products are, upon information and belief, included and pre-installed in almost every Cadillac, Buick, GMC, and Chevrolet-branded vehicle sold, among others. More specifically, GM's Accused Products meet each claim limitation of Claim 17.

45. GM's Accused Products are configured to include "an Internet Protocol enabled device." Specifically, GM's Accused Products utilize packet switched based cellular wireless connectivity to use existing VoIP-to-PSAP infrastructure to communicate emergency requests. *See*, *e.g.*, https://www.public-safety.onstar.com/onstar-101/ (last visited June 30, 2021). GM's Accused Products, which are IP enabled devices, send data to emergency advisors via the cellular/wireless network, as explained below:

[3] Bracketed language is dependent Claim 17 inserted into Claim 12.



See also OnStar Automatic Crash Response available at https://www.OnStar.com/us/en/services/safety-security/automatic-crash-response/, press link in "Automatic Crash Response" hypertext (last visited June 30, 2021) ("OnStar plan, working electrical system, cell reception and GPS signal required. Not all vehicles may transmit all crash data.").

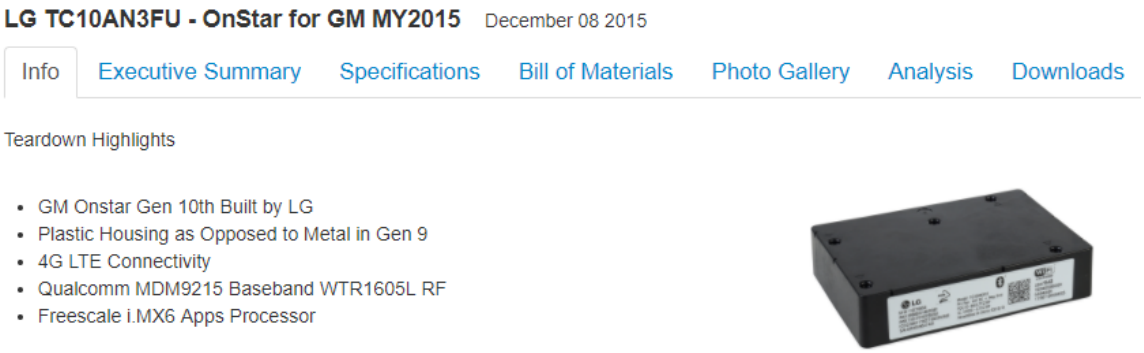
46. GM's OnStar and Connected Services material also state that: "In a crash, built-in sensors in your OnStar-equipped vehicle can detect when a collision has occurred and transmit that information to a specially trained OnStar Advisor, who can pinpoint your vehicle's location…" https://www.OnStar.com/us/en/articles/member-stories/a-life-changing-moment-automatic-crash-response/ (last visited June 30, 2021, emphasis added). "OnStar relies on our wireless carrier

partnerships and their cellular networks to provide coverage to our customers." https://www.OnStar.com/us/en/support/coverage/ (last visited June 30, 2021).

47. Upon information and belief, LG is and/or has been at relevant times a manufacturer of at least some of the components making the Accused Products an IP enabled device. *See* https://www.lgcorp.com/media/release/5412 (last visited June 30, 2021). Indeed, GM's Accused Products, including the GM OnStar Gen 10th Build by LG, have "4G LTE Connectivity."

> By bringing together its potent Mobile Communications technology with the insight of its Vehicle Components division, LG has made significant strides to solidify its telematics leadership in the smart car industry. LG is the exclusive supplier of vehicle telematics for GM's 4G LTE OnStar telematics system which has helped LG take the top position in automotive telematics with a market share of 30.1 per cent in 2013, 30.3 per cent in 2014 and 29.9 per cent in 2015, according to Strategy Analytics.

See https://www.lgcorp.com/media/release/5412 (last visited June 30, 2021).



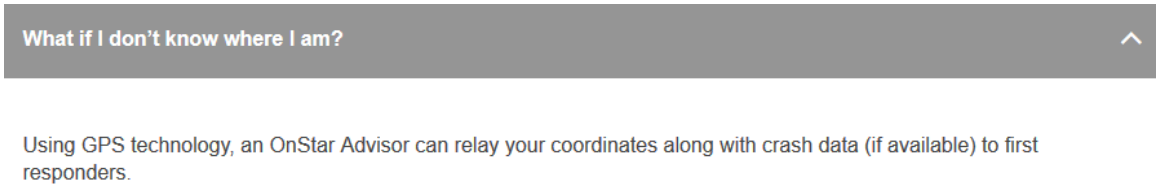
See Exhibit B (originally obtained from https://technology.ihs.com/Teardowns/Detail/549410_2842, now inactive).

48. The 4G LTE standard is for next-generation local- and wide-area mobile platforms supporting high peak data rates and uses Internet Protocol core and radio transport networks for voice, video and data services. *See* https://www.gartner.com/en/information-technology/glossary/4g-standard (last visited June 30, 2021); https://whatsag.com/4g-and-lte-standards/understanding_4g.php ("4G networks must be based on an all Internet protocol (IP)

packet switching instead of circuit-switched technology…") (last visited June 30, 2021). GM's Accused Products are thus configured and equipped to connect to the Internet through 4G LTE connectivity and must be considered IP enabled devices.

49. Additional examples of GM's Accused Products' connection to the Internet, through the use of Internet Protocols along the 4G LTE network, include the Accused Products acting as mobile Wi-Fi hotspots, mobile control of vehicle functions through smartphones, and syncing the web with vehicle navigation systems. *See* https://www.onstar.com/us/en/articles/tips/evolution-of-onstar-innovations/ (last visited June 30, 2021).

50. GM's Accused Products also include a GPS component that provides coordinates to be provided as part of an emergency request:



See https://my.gm.ca/gmc/en/how-to-support/onstar-connected/features/onstar-automatic-crash-response (last visited June 30, 2021).

51. Indeed, the GPS component is embedded within the Accused Products. *See, e.g.*, https://media.gm.com/media/us/en/gm/news.detail.html/content/Pages/news/us/en/2011/Aug/0825_onstar.html (last visited June 30, 2021) ("using OnStar's embedded cellular system and Global Positioning System (GPS) satellite technology"); *see also* https://my.chevrolet.com/content/dam/gmownercenter/gmna/dynamic/manuals/2019/Chevrolet/2019-chevrolet-infotainment-guide.pdf, at p. 19 (last visited June 30, 2021) ("The roof antenna is for OnStar … and GPS (Global Positioning System).").

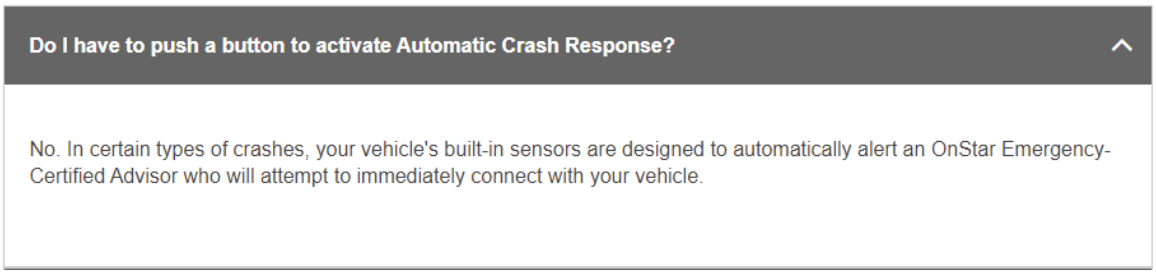
52. GM's Accused Products are also apparently configured to include "an emergency Internet Protocol component within the Internet Protocol enabled device that monitors software on the Internet Protocol enabled device for at least one of: a collision, heat, smoke, and vital signs." Upon information and belief, GM's Accused Products contain software that monitor other software for, among other things, an automobile collision.

53. Indeed, the Accused Products include various built-in vehicle sensors, which relay data to other components of the Accused Products in the event of a collision:

> In a crash, built-in sensors in your OnStar-equipped vehicle can detect when a collision has occurred and transmit that information to a specially trained OnStar Advisor, who can pinpoint your vehicle's location, call for help and provide medical treatment options until first responders arrive.
>
> In addition, Injury Severity Prediction, exclusive to OnStar, uses an algorithm to analyze the crash data collected by the sensors within the vehicle and determine the likelihood of severe injuries, so Advisors can alert first responders to send the appropriate help.

See https://www.OnStar.com/us/en/articles/member-stories/a-life-changing-moment-automatic-crash-response/ (last visited June 30, 2021).

54. Upon information and belief, aspects of the Accused Products are configured to monitor these sensors since it initiates a process for sending an emergency signal if it senses activation of the built-in sensors.



See https://my.gm.ca/gmc/en/how-to-support/onstar-connected/features/onstar-automatic-crash-response (last visited June 30, 2021).

55. When an emergency is sensed by the on-board sensors (e.g., vehicle collision), the Accused Products obtain the vehicle's location from its embedded GPS component and send it as part of an emergency request. *See* https://www.OnStar.com/us/en/articles/member-stories/a-life-changing-moment-automatic-crash-response/ ("In a crash, built-in sensors in your OnStar-equipped vehicle can detect when a collision has occurred and transmit that information to a specially trained OnStar Advisor, who can pinpoint your vehicle's location…") (last visited June 30, 2021).

56. As noted above, GM's Accused Products use existing VoIP-to-PSAP infrastructures. Upon information and belief, the Accused Products use SIP to convey the GPS data of the vehicle. *See also* https://docplayer.net/5219280-Priority-access-to-psaps-informational-packet.html (last visited June 30, 2021) (referring to the delivery of X,Y coordinates of the calling vehicle using SIP).

57. Through the manufacturing, marketing, advertising, sale, and offering for sale of the infringing Accused Products and/or vehicles that come equipped with them, GM has and is continuing to infringe the '423 Patent.

FIRST CLAIM FOR RELIEF
(Infringement of the '423 Patent)

58. Plaintiff realleges and incorporates by reference the allegations set forth in the foregoing paragraphs 1 through 57 as though fully set forth herein.

59. The '423 Patent includes 34 claims and Claim 17 has been identified as a representative claim infringed by GM. Plaintiff may identify additional infringed claims based on the results of discovery.

60. Defendant has infringed and is infringing, either literally or under the doctrine of equivalents, at least Claim 17 of the '423 Patent in violation of 35 U.S.C. § 271 *et seq.* directly and/or indirectly, by making, using, offering for sale, and/or selling in the United States, and/or importing into the United States without authority or license, the Accused Products.

61. Plaintiff has been damaged by Defendant's infringement of the '423 Patent. Defendant is liable to Plaintiff in an amount that adequately compensates it for Defendant's infringement in an amount that is not less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

62. Defendant has had notice of the '423 Patent through at least the filing of this Complaint and as such, Defendant's continued infringing conduct has been willful, thereby warranting this as an exceptional case under 35 U.S.C. § 285.

63. Plaintiff has been damaged and will suffer additional damages and irreparable harm.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff 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 the '423 Patent;

B. Entry of judgment declaring that Defendant's infringement of the '423 Patent has been willful and deliberate;

C. An accounting of all damages sustained by Plaintiff and an order awarding damages sufficient to compensate Plaintiff for Defendant's infringement of the '423 Patent, but in no event less than a reasonable royalty, together with interest and costs;

D. Entry of judgment declaring that this case is exceptional and awarding Plaintiff its costs and reasonable attorneys' fees under 35 U.S.C. § 285;

E. An award of enhanced damages pursuant to 35 U.S.C. § 284; and

F. Such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury for all issues so triable.

Respectfully submitted,

Dated: July 6, 2021

By: ***/s/ Michael C. Smith***

Michael C. Smith
Lead Counsel
Michael.Smith@solidcounsel.com
Scheef & Stone, LLP
113 East Austin Street
Marshall, Texas 75670
Telephone: 903-938-8900

Patricia Y. Ho
(to be admitted *pro hac vice*)
CO State Bar No. 38013
pho@sheridanross.com
Scott R. Bialecki
(to be admitted *pro hac vice*)
CO State Bar No. 23103
sbialecki@sheridanross.com
Matthew C. Miller
(to be admitted *pro hac vice*)
CO State Bar No. 41019
mmiller@sheridanross.com
SHERIDAN ROSS P.C.
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
Phone: (303) 863-9700
Fax: (303) 863-0223
E-mail: litigation@sheridanross.com

Attorneys for Plaintiff K.Mizra LLC