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10
11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**

14 WIRELESSWERX IP, LLC.,

15
16 Plaintiff,

17 v.

18 ONFLEET, INC.,

19 Defendant.

Case No.: 3:23-cv-06724

**PLAINTIFF’S ORIGINAL
COMPLAINT PATENT
INFRINGEMENT**

(35 U.S.C. § 271)

JURY TRIAL DEMANDED

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22 **COMPLAINT FOR PATENT INFRINGEMENT**

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24 TO THE HONORABLE JUDGE OF SAID COURT:

25 Plaintiff WirelessWerx IP LLC (“WirelessWerx” or “Plaintiff”), files this
26 Complaint for Patent Infringement against Onfleet, Inc. (“Onfleet” or “Defendant”),
27 and would respectfully show the Court as follows:
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PARTIES

1. Plaintiff is a Texas limited liability company having an address located at 5900 Balcones Dr., Suite 100, Austin, Texas 78731.
2. On information and belief, Defendant is a California corporation with a principal address of *268 Bush Street #4305. San Francisco, CA 94104*, and has regular and established places of business throughout this District, including at least at *268 Bush Street #4305. San Francisco, CA 94104*. Defendant is registered to do business in California and may be served via its registered agent, CSC-Lawyers Incorporating Service, 2710 Gateway Oaks Drive, Sacramento, California 95833, at its place or business, or wherever else they may be found.
3. On information and belief, Defendant directly and/or indirectly develops, designs, manufactures, distributes, markets, offers to sell and/or sells infringing products and services in the United States, including in the Northern District of California, and otherwise directs infringing activities to this District in connection with its products and services.

JURISDICTION

4. This civil action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including without limitation 35 U.S.C. §§ 271, 281, 283, 284, and 285 based on Defendant's unauthorized commercial manufacture, use, importation, offer for sale, and sale of the Accused Products in the United States. This is a

1 patent infringement lawsuit over which this Court has subject matter
2 jurisdiction under, *inter alia*, 28 U.S.C. §§ 1331, 1332, and 1338(a).

3
4 5. This United States District Court for the Northern District of California has
5 general and specific personal jurisdiction over Defendant because, directly or
6 through intermediaries, Defendant has committed acts within the District
7 giving rise to this action and are present in and transact and conduct business
8 in and with residents of this District and the State of California.

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10 6. Plaintiff's causes of action arise, at least in part, from Defendant's contacts with
11 and activities in this District and the State of California.

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13 7. Defendant has committed acts of infringing the Patent-in-Suit within this
14 District and the State of California by making, using, selling, offering for sale,
15 and/or importing in or into this District and elsewhere in the State of California,
16 products claimed by the Patent-in-Suit, including without limitation products
17 made by practicing the claimed methods of the Patent-in-Suit. Defendant,
18 directly and through intermediaries, makes, uses, sells, offers for sale, imports,
19 ships, distributes, advertises, promotes, and/or otherwise commercializes such
20 infringing products into this District and the State of California. Defendant
21 regularly conducts and solicits business in, engages in other persistent courses
22 of conduct in, and/or derives substantial revenue from goods and services
23 provided to residents of this District and the State of California.
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1 8. This Court has personal jurisdiction over Defendant. Personal jurisdiction
2 exists over Defendant because Defendant has minimum contacts with this
3 forum as a result of business regularly conducted within the State of California
4 and within this district, and, on information and belief, specifically as a result
5 of, at least, committing the tort of patent infringement within California and
6 this District. This Court has personal jurisdiction over Defendant, in part,
7 because Defendant does continuous and systematic business in this District,
8 including by providing infringing products and services to the residents of the
9 Western District of California that Defendant knew would be used within this
10 District, and by soliciting business from the residents of the Northern District
11 of California. For example, Defendant is subject to personal jurisdiction in this
12 Court because, *inter alia*, Defendant has regular and established places of
13 business throughout this District, including at least at *268 Bush Street #4305*.
14 *San Francisco, CA 94104*, and directly and through agents regularly does,
15 solicits, and transacts business in the Northern District of California. Also,
16 Defendant has hired and is hiring within this District for positions that, on
17 information and belief, relate to infringement of the Patent-in-Suit.
18 Accordingly, this Court's jurisdiction over the Defendant comports with the
19 constitutional standards of fair play and substantial justice and arises directly
20 from the Defendant's purposeful minimum contacts with the State of
21 California.
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1 9. This Court also has personal jurisdiction over Defendant, because in addition
2 to Defendant’s own online website and advertising within this District,
3 Defendant has also made its products available within this judicial district and
4 advertised to residents within the District to hire employees to be located in this
5 District.
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8 10. The amount in controversy exceeds \$75,000 exclusive of interests and costs.

9 11. Venue is proper in this Court under 28 U.S.C. § 1400(b) based on information
10 set forth herein, which is hereby repeated and incorporated by reference.
11 Further, upon information and belief, Defendant has committed or induced acts
12 of infringement, and/or advertise, market, sell, and/or offer to sell products,
13 including infringing products, in this District. In addition, and without
14 limitation, Defendant has regular and established places of business throughout
15 this District, including at least at *268 Bush Street #4305. San Francisco, CA*
16 *94104.*
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20 **THE PATENT-IN-SUIT**

21 12. On January 8, 2008, United States Patent No. 7,317,927 (“the ’927 Patent”),
22 entitled “Methods and Systems to Monitor Persons Utilizing Wireless Media”
23 was duly and legally issued by the United States Patent and Trademark Office
24 (“USPTO”). The ’927 Patent claims patent-eligible subject matter and is valid
25 and enforceable. WirelessWerx is the exclusive owner by assignment of all
26 rights, title, and interest in the ’927 Patent, including the right to bring this suit
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1 for damages, and including the right to sue and recover all past, present, and
2 future damages for infringement of the '927 Patent. Defendant is not licensed
3 to the '927 Patent, either expressly or implicitly, nor do they enjoy or benefit
4 from any rights in or to the '927 patent whatsoever. A true and correct copy of
5 the '927 patent is attached hereto as **Exhibit A**.
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8 13. The '927 Patent is referred to herein as the "Patent-in-Suit."

9 14. Plaintiff WirelessWerx is the owner of the entire right, title, and interest in and
10 to the Patent-in-Suit. The Patent-in-Suit are presumed valid under 35 U.S.C. §
11 282.
12

13 **ACCUSED INSTRUMENTALITIES**

14 15. The term "Accused Instrumentalities" or "Accused Products" refers to, by way
15 of example and without limitation, ONFLEET's products and technology
16 platform for connecting consumers with restaurants and other merchants (*see*,
17 *e.g.*, www.favordelivery.com).
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19
20 **COUNT I**
21 **PATENT INFRINGEMENT OF THE '927 PATENT**

22 16. Plaintiff restates and realleges the preceding paragraphs of this Complaint as if
23 fully set forth herein.
24

25 17. Defendant has, under 35 U.S.C. §271(a), directly infringed, and continues to
26 directly infringe, literally and/or under the doctrine of equivalents, one or more
27 of claims 1-16, including without limitation at least claim 1 of the '927 Patent,
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1 by making, using, testing, selling, offering for sale and/or importing into the
2 United States Defendant's Accused Products.

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4 18. On information and belief, Defendant has made no attempt to design around
5 the claims of the '927 Patent.

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7 19. On information and belief, Defendant did not have a reasonable basis for
8 believing that the claims of the '927 Patent were invalid.

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10 20. On information and belief, Defendant's Accused Products are available to
11 businesses and individuals throughout the United States and in the State of
12 California, including in this District.

13 21. WirelessWerx has been damaged as the result of Defendant's infringement.

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15 22. The claim chart attached hereto as **Exhibit B** describes how the elements of an
16 exemplary claim 1 and 2 from the '927 Patent are infringed by the Accused
17 Products. This provides details regarding only one example of Defendant's
18 infringement, and only as to a single patent claim. Plaintiff reserves its right to
19 amend and fully provide its infringement arguments and evidence thereof until
20 its Preliminary and Final Infringement Contentions are later produced
21 according to the court's scheduling order in this case.
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24 23. Defendant has and continues to induce infringement from at least the filing date
25 of the lawsuit. Defendant has actively encouraged or instructed others (e.g., its
26 customers and/or the customers of its related companies), and continues to do
27 so, on how to use its products and services (e.g., Onfleet delivery services) and
28

1 related services that provide question and answer services across the Internet
2 such as to cause infringement of one or more of claims 1-16 of the '927 patent,
3 literally or under the doctrine of equivalents. Defendant, from at least the filing
4 date of the lawsuit, has continued to encourage and instruct others on how to
5 use the products showing specific intent. Moreover, Defendant has known of
6 the '927 patent and the technology underlying it from at least the filing date of
7 the lawsuit.¹ For clarity, direct infringement is previously alleged in this
8 complaint.
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12 24. Defendant has and continues to contributorily infringe from at least the filing
13 date of the lawsuit. Defendant has actively encouraged or instructed others
14 (e.g., its customers and/or the customers of its related companies), and
15 continues to do so, on how to use its products and services (e.g., Onfleet
16 delivery services) and related services that provide question and answer
17 services across the Internet such as to cause infringement of one or more of
18 claims 1-16 of the '927 patent, literally or under the doctrine of equivalents.
19 Defendant, from at least the filing date of the lawsuit, has continued to
20 encourage and instruct others on how to use the products showing specific
21 intent. Further, there are no substantial noninfringing uses for Defendant's
22 products and services. Moreover, Defendant has known of the '927 patent and
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28 ¹ Plaintiff reserves the right to amend and add an earlier date of notice if discovered.

1 the technology underlying it from at least the filing date of the lawsuit.² For
2 clarity, direct infringement is previously alleged in this complaint.

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4 25. Defendant has caused and will continue to cause Plaintiff damage by direct and
5 indirect infringement of (including inducing infringement of) the claims of the
6 '927 patent.

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8 **CONDITIONS PRECEDENT**

9 26. Plaintiff is a non-practicing entity, with no products to mark. Plaintiff has pled
10 all statutory requirements to obtain pre-suit damages. Further, all conditions
11 precedent to recovery are met.

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14 **JURY TRIAL DEMANDED**

15 27. Pursuant to FED. R. CIV. P. 38, Plaintiff WirelessWerx hereby demands a trial
16 by jury on all issues so triable.

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18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff prays for relief as follows:

- 20 a. enter judgment that Defendant has infringed the claims of the Patent-in-Suit;
21
22 b. award Plaintiff damages in an amount sufficient to compensate it for
23 Defendant's infringement of the claims of the Patents-in-Suit in an amount no
24 less than a reasonable royalty or lost profits, together with pre-judgment and
25 post-judgment interest and costs under 35 U.S.C. § 284;
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27
28 ² Plaintiff reserves the right to amend and an earlier date of knowledge if discovered.

- 1 c. award Plaintiff an accounting for acts of infringement not presented at trial and
2 an award by the Court of additional damage for any such acts of infringement;
3
4 d. declare this case to be “exceptional” under 35 U.S.C. § 285 and award Plaintiff
5 its attorneys’ fees, expenses, and costs incurred in this action;
6
7 e. declare Defendant’s infringement to be willful and treble the damages,
8 including attorneys’ fees, expenses, and costs incurred in this action and an
9 increase in the damage award pursuant to 35 U.S.C. § 284;
10
11 f. a decree addressing future infringement that either (i) awards a permanent
12 injunction enjoining Defendant and its agents, servants, employees, affiliates,
13 divisions, and subsidiaries, and those in association with Defendant from
14 infringing the claims of the Patents-in-Suit, or (ii) awards damages for future
15 infringement in lieu of an injunction in an amount consistent with the fact that
16 for future infringement the Defendant will be an adjudicated infringer of a valid
17 patent, and trebles that amount in view of the fact that the future infringement
18 will be willful as a matter of law; and
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21 g. award Plaintiff such other and further relief as this Court deems just and proper.
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Respectfully submitted,

Ramey LLP

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DEMAND FOR JURY TRIAL

Plaintiff hereby requests a trial by jury on issues so triable by right.

Dated: December 30, 2023

Respectfully submitted,

RAMEY LLP

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