

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

**Infogation Corporation,**

**Plaintiff,**

**v.**

**Ford Motor Company,**

**Defendant.**

**Case No. 2:23-cv-573-RWS-RSP**

**Jury Trial Demanded**

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Infogation Corporation (“Infogation” or “Plaintiff”) hereby files this First Amended Complaint for Patent Infringement against Ford Motor Company (“Ford” or “Defendant”), and alleges, upon information and belief, as follows:

**THE PARTIES**

1. Infogation Corporation is a corporation organized and existing under the laws of the State of Texas with its principal place of business at 1409 Constellation Drive, Allen, Texas 75013.
2. Upon information and belief, Ford Motor Company is a corporation organized under the laws of Delaware, with a principal place of business at One American Road, Dearborn, Michigan, whose Texas registered agent is CT Corp System, located at 1999 Bryan St., Ste. 900, Dallas, TX 75201.

**JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction over this case under 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant because Defendant conducts business in and has committed acts of patent infringement in this District and the State of Texas and has established minimum contacts with this forum state such that the exercise of jurisdiction over Defendant would not offend the traditional notions of fair play and substantial justice.
5. Defendant is subject to this Court's general and specific jurisdiction pursuant to due process and/or the Texas Long Arm Statute due at least to Defendant's substantial business in the State of Texas and this District, including through its past and ongoing infringing activities, because Defendant regularly does and solicits business herein, and/or because Defendant has engaged in persistent conduct and/or has derived substantial revenues from goods and services provided in the State of Texas and this District.
6. Defendant transacts substantial business with entities and individuals in the State of Texas and this District, by among other things, willfully using the infringing methods and systems throughout the State of Texas and this District. Defendant relies on the infringing methods and systems to introduce and sell millions of products into the stream of commerce with the knowledge and expectation that they will be sold in the State of Texas and this District.
7. Defendant maintains regular, physical, continuous, and established places of businesses in this District, which Defendant has established, ratified, and controlled and from which they have willfully infringed the Asserted Patents in order to benefit themselves in this District. Defendant commits acts of infringement in this District, including as explained further below by making and using the infringing systems in, and performing at least one step of the accused methods of the Asserted Patents, at their regular and established places of business in this District.
8. Upon information and belief, Defendant has authorized dealers/sales/customer service agents in the Eastern District of Texas (collectively "Customer Agents"). Defendant has a regular and

established place of business in this District through the Customer Agents acting as agents. Defendant manifests assent to the Customer Agents that they shall act on Defendant's behalf and subject to its control, and the Customer Agents manifest assent or otherwise consent to act. Defendant maintains "interim control" over the Customer Agents' work, in which they rely on interactions and Defendant's instructions within the scope of their work.

9. Upon information and belief, the contracts between Defendant and the Customer Agents establish (1) Defendant has the right to direct and control the Customer Agents, (2) Defendant has manifested consent that Customer Agents act on its behalf, and (3) the Customer Agents have consented to act on behalf of Defendant. The Customer Agents sell, monitor, train, oversee use, handle warranty issues and handle complaints and returns for automobiles obtained from and on behalf of Defendant for customers in this District. Those activities involve warranty issues, storage, transport, training, monitor and exchange of goods and services and are part of Defendant's business.
10. Upon information and belief, Defendant has established and ratified the Customer Agents' places of business because the contracts affect how they perform hospital set ups, approval of procedures to be performed at hospitals with Defendant products, sales, training, handling complaints, returns. Defendant also provides the Customer Agents with all information required to properly get products approved at hospitals.
11. The Customer Agents in this district have fixed geographical locations. They are "regular" and "established" because they operate in a "steady, uniform, orderly, and methodical manner" and are sufficiently permanent. These locations are "of the defendant" because Defendant has contractual rights with them—authorized distributors in the United States.

12. Defendant ratifies the Customer Agents' locations because it exercises interim control over the Customer Agents' activities and holds out to the public that Defendant's distribution, warehousing, marketing and sales of the products are being performed at and by Customer Agents' locations in this District. Indeed, Defendant controls specific warranty rejections when presented to a Customer Agent. Further, Defendant maintains multiple controls over advertising and warranty and repair work of Customer Agents.
13. Venue is proper in this District as to Defendant pursuant to at least 28 U.S.C. §§ 1391(c)(2) and 1400(b). As noted above, Defendant maintains a regular and established business presence in this District. *See In re Monolithic Power Sys., Inc.*, 50 F.4th 157, 160 (Fed. Cir. 2022); *see also AGIS Software Dev. LLC v. Google LLC*, No. 2:19-CV-00361-JRG, 2022 WL 1511757, at \*9 (E.D. Tex. May 12, 2022); *IOT INNOVATIONS LLC, Plaintiff, v. MONITRONICS INTERNATIONAL, INC., d/b/a BRINKS HOME*, Defendant., No. 2:22-CV-0432-JRG-RSP, 2023 WL 6318049, at \*5 (E.D. Tex. Sept. 11, 2023), *report and recommendation adopted sub nom. Iot Innovations LLC v. Monitronics Int'l, Inc.*, No. 222CV00432JRGRSP, 2023 WL 6300560 (E.D. Tex. Sept. 27, 2023).

#### **PATENTS-IN-SUIT**

14. Plaintiff is the sole and exclusive owner, by assignment, of U.S. Patent 10,107,628 (the "'628 Patent"), U.S. Patent 8,898,003 (the "'003 Patent"), U.S. Patent 8,406,994 (the "'994 Patent") and U.S. Patent 6,292,743 (the "'743 Patent") (hereinafter collectively referred to as the "Patents-in-Suit").
15. By written instruments executed, Plaintiff is assigned all rights, title, and interest in the Patents-in-Suit. As such, Plaintiff has sole and exclusive standing to assert the Patents-in-Suit and to bring these causes of action.

16. The Patents-in-Suit are valid, enforceable, and were duly issued in full compliance with Title 35 of the United States Code.
17. The Patents-in-Suit have been cited in over 200 patents issued to well-known industry leaders, including industry giants Toyota, Google, Microsoft, Garmin, Honda, TomTom, Aol, Mapquest, Facebook, Verizon, Sprint, Cisco, Samsung, NEC, Nokia, Alcatel, Pioneer, Phillips, Lucent, IBM, Intel, Motorola, Sony, Toshiba and Kaarta.
18. The Patents-in-Suit each include numerous claims defining distinct inventions. No single claim is representative of any other.
19. The priority date of the '628 Patent is at least as early as August 11, 2007. It generally relates to the area of Global Positioning System (GPS), and, in particular, to navigation on non-linearly scaled maps and how to display such non-linearly scaled maps with proper colors on a display screen. As of the priority dates, the inventions as claimed were novel, non-obvious, unconventional, and non-routine. Indeed, the Patents-in-Suit overcame a number of specific technological problems in the industry and provided specific technological solutions.
20. The priority date of the '003 Patent and the '994 Patent is at least as early as November 7, 2008. The '003 Patent and the '994 Patent generally relate to the area of Global Positioning System (GPS). In particular, the present invention is related to electronically generated map with one or more objects therein being realistic. As of the priority dates, the inventions as claimed were novel, non-obvious, unconventional, and non-routine. Indeed, the Patents-in-Suit overcame a number of specific technological problems in the industry and provided specific technological solutions.
21. The priority date of the '743 Patent is at least as early as January 6, 1999. It generally relates to a mobile navigation system and apparatus, and more particularly to a distributed navigation system having a wireless connection to a server for calculating optimal routes using real-time data. As of

the priority dates, the inventions as claimed were novel, non-obvious, unconventional, and non-routine. Indeed, the Patents-in-Suit overcame a number of specific technological problems in the industry and provided specific technological solutions.

22. The claims of the Patents-in-Suit are patent eligible under 35 U.S.C. § 101, 102, 103, and 112, as reflected by the fact that three different Patent Examiners all agreed and allowed the Patents-in-Suit over extensive prior art as disclosed and of record during the prosecution of the Patents-in-Suit. *See Stone Basket Innov.*, 892 F.3d at 1179 (“when prior art is listed on the face of a patent, the examiner is presumed to have considered it”) (citing *Shire LLC v. Amneal Pharm., LLC*, 802 F.3d 1301, 1307 (Fed. Cir. 2015)); *Exmark Mfg. v. Briggs & Stratton*, 879 F.3d 1332, 1342 (Fed. Cir. 2018).
23. After giving full proper credit to the prior art and having conducted a thorough search for all relevant art and having fully considered the most relevant art known at the time, the United States Patent Examiners allowed all of the claims of the Patents-in-Suit to issue. In so doing, it is presumed that Examiners used their knowledge of the art when examining the claims. *See K/S Himpp v. Hear-Wear Techs., LLC*, 751 F.3d 1362, 1369 (Fed. Cir. 2014). It is further presumed that Patent Examiners had experience in the field of the invention, and that the Patent Examiners properly acted in accordance with a person of ordinary skill. *In re Sang Su Lee*, 277 F.3d 1338, 1345 (Fed. Cir. 2002).
24. The claims of the Patents-in-Suit are novel and non-obvious, including over all non-cited art that is merely cumulative with the referenced and cited prior art. *See 37 C.F.R. § 1.56(b)* (information is material to patentability when it is not cumulative to information already of record in the application); *see also AbbVie Deutschland GmbH v. Janssen Biotech*, 759 F.3d 1285, 1304 (Fed. Cir. 2014); *In re DBC*, 545 F.3d 1373, 1382 (Fed. Cir. 2008). Likewise, the claims of the ’628

Patent are novel and non-obvious, including over all non-cited contemporaneous state of the art systems and methods, all of which would have been known to a person of ordinary skill in the art, and which were therefore presumptively also known and considered by the Examiners. *See, e.g., St. Clair I.P. Consultants v. Canon, Inc.*, 2011 WL 66166 at \*6 (Fed. Cir. 2011); *In re Sang Su Lee*, 277 F.3d 1338, 1345 (Fed. Cir. 2002); *In re Koninklijke Philips Patent Litigation*, 2020 WL 7392868 at \*19 (N.D. Cal. 2020); *Standard Oil v. American Cyanamid*, 774 F.2d 448, 454 (Fed. Cir. 1985) (persons of ordinary skill are presumed to be aware of all pertinent prior art).

### **THE ACCUSED INSTRUMENTALITIES**

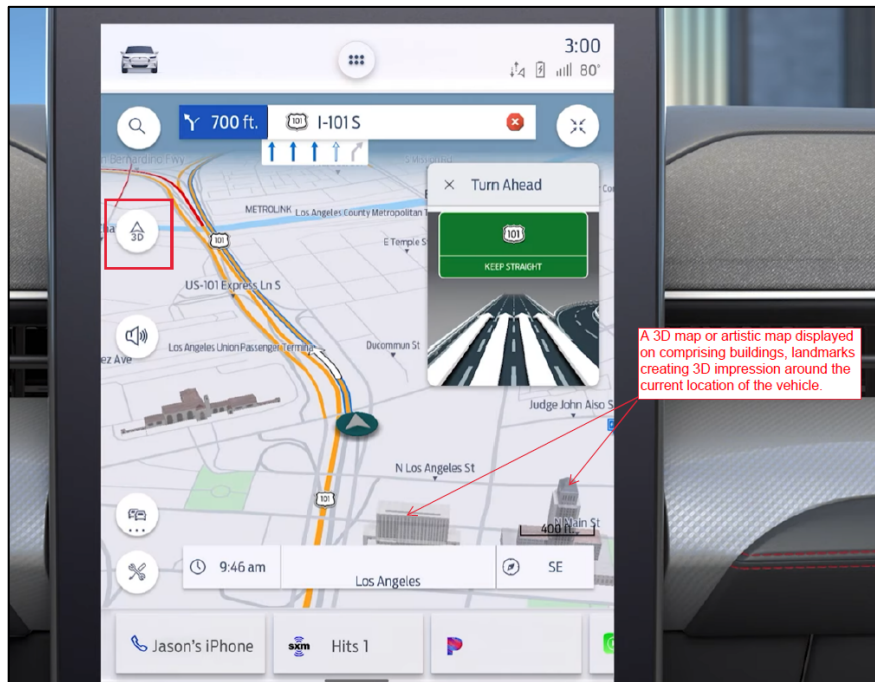
25. Upon information and belief, Defendant makes, sells, advertises, offers for sale, uses, or otherwise provides an apparatus and method for navigation systems covered by the Patents-in-Suit, including but not limited to, automobiles with the Ford Sync Technology navigation system and Ford connected services included in Ford's lineup of personal vehicles, including, but not limited to, the vehicles found here <https://shop.ford.com/showroom/?gnav=header-shop-bp&linktype=build#/>, among other vehicles, including all augmentations to these platforms or descriptions of platforms, including older models and discontinued models (collectively, all the foregoing is referred to herein as the "Accused Instrumentalities").
26. As shown in more detail in Exhibit 1–4 attached hereto and described in part in the video found at <https://youtu.be/2gMucmPhOfo>, Defendant's products include each and every limitation of at least, but not limited to, Claim 1 of each of Patents-in-Suit and therefore literally infringe these claims. Plaintiff reserves the right to assert additional claims and to assert infringement under the doctrine of equivalents in light of information learned during discovery or in view of this Court's claim construction order.

**COUNT I**  
**Infringement of U.S. Patent No. 10,107,628**

27. Plaintiff incorporates the above paragraphs by reference.
28. Defendant has been on actual notice of the '628 Patent at least as early as the date it received service of the Original Complaint in this litigation.
29. Plaintiff or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '628 patent, thus the damages period begins at least as early as six years prior to the date of service of the Original Complaint in this litigation.
30. Defendant manufactures, sells, offers for sale, owns, directs, and/or controls the operation of the Accused Instrumentalities and generates substantial financial revenues and benefits therefrom.
31. Defendant has directly infringed and continues to directly infringe the claims of the '628 Patent. As exemplary and shown in Ex. 1 and described in part in the video found at <https://youtu.be/2gMucmPhOfo>, Claim 1 is infringed by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities. Defendant directly makes and sells the infringing Accused Instrumentalities at least because it is solely responsible for putting the infringing systems into service by directing or controlling the systems as a whole and by obtaining the benefits therefrom.
32. As shown below, Defendant's Accused Instrumentalities clearly include an "artistic map being non-linearly scaled and including various objects being exaggeratedly shown." The map shown below taken the Accused Instrumentalities, although of a highway and road system and not a zoo, is very similar to Fig. 1 used as an example in the '628 Patent where the map 100



is “artistic and non-linearly scaled, where points of interests are exaggeratedly displayed to assist.” See ’628 Patent at Col. 4, ll. 3-5.



See, [https://www.youtube.com/watch?v=aVLWD\\_2EsXQ](https://www.youtube.com/watch?v=aVLWD_2EsXQ) (runtime 0:56) (Annotated)

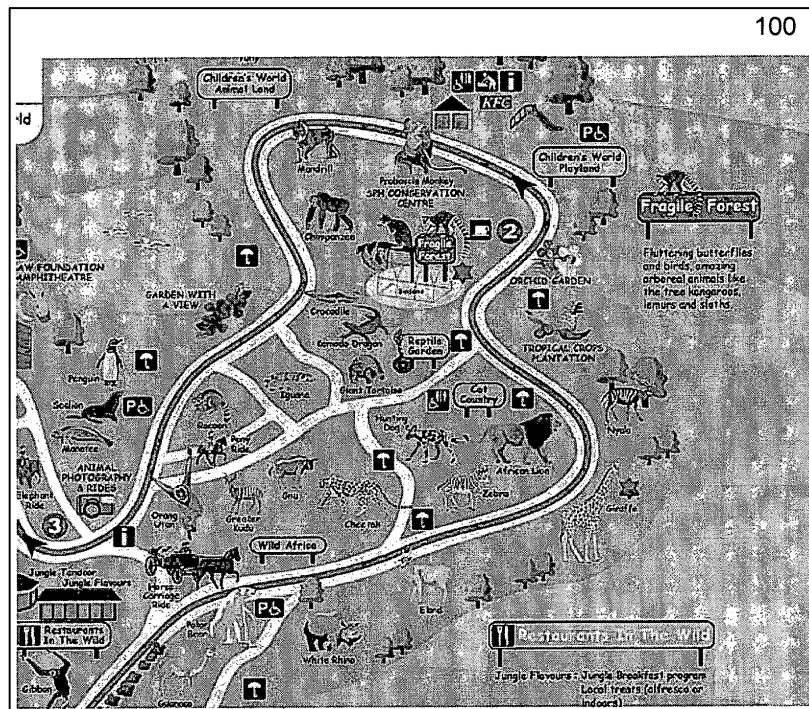


Fig. 1 of '628 Patent

33. Further on information and belief, Defendant directly uses the infringing Accused Instrumentalities at least because it assembled the combined infringing elements and makes them collectively available in the United States, including via its Internet domain web pages and/or software applications, as well as via its internal systems and interfaces. Further, and on information and belief, Defendant has directly infringed by using the infringing Accused Instrumentalities as part of its ongoing and regular testing and/or internal legal compliance activities. Such testing and/or legal compliance necessarily requires Defendant to make and use the Accused Instrumentalities in an infringing manner. Still further, Defendant is a direct infringer by virtue of its branding and marketing activities, which collectively comprise the sale and offering for sale of the infringing Accused Instrumentalities.
34. As shown above, Defendant is making, using, and offering for sale the Accused Instrumentalities.
35. Additionally, upon information and belief, Defendant owns, directs, and/or controls the infringing method operation of the Accused Instrumentalities.
36. On information and belief, the infringement of the '628 Patent by Defendant will now be willful through the filing and service of this Complaint. The '628 Patent is not expected to expire before July 26, 2033.
37. In addition or in the alternative, on information and belief, Defendant has a policy or practice against investigating third party patent rights, and its willful blindness qualifies for requisite knowledge of the '743 Patent. *See Estech Sys. IP, LLC v. Carvana, LLC*, No. 2:21-CV-0482-JRG-RSP, 2022 WL 17727752, at \*2 (E.D. Tex. Sept. 26, 2022) (noting such an allegation is sufficient “because it provides fair notice of the allegation and the grounds upon which it rests”).

38. In addition or in the alternative, Defendant now has knowledge and continues these actions and it indirectly infringes by way of inducing direct infringement by others and/or contributing to the infringement by others of the '628 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, infringing services for use in systems that fall within the scope of the claims of the '628 Patent. This includes without limitation, one or more of the Accused Instrumentalities by making, using, importing offering for sale, and/or selling such services, Defendant injured Plaintiff and is thus liable to Plaintiff for infringement of the '628 Patent under 35 U.S.C. § 271.
39. Now with knowledge of the '628 Patent, Defendant induces infringement under Title 35 U.S.C. § 271(b). Defendant will have performed actions that induced infringing acts that Defendant knew or should have known would induce actual infringements. *See Manville Sales Corp. v. Paramount Sys., Inc.*, 917 F.2d 544, 553 (Fed.Cir.1990), quoted in *DSU Med. Corp. v. JMS Co.*, 471 F.3d 1293, 1306 (Fed.Cir.2006) (*en banc* in relevant part). “[A] finding of inducement requires a threshold finding of direct infringement—either a finding of specific instances of direct infringement or a finding that the accused products necessarily infringe.” *Ricoh*, 550 F.3d at 1341 (citing *ACCO Brands, Inc. v. ABA Locks Manufacturer Co.*, 501 F.3d 1307, 1313, (Fed. Cir. 2007).
40. Plaintiff will rely on direct and/or circumstantial evidence to prove the intent element. *See Fuji Photo Film Co. v. Jazz Photo Corp.*, 394 F.3d 1368, 1377 (Fed. Cir. 2005) (“A patentee may prove intent through circumstantial evidence.”); *Water Techs. Corp. v. Calco, Ltd.*, 850 F.2d 660, 668 (Fed. Cir. 1988) (“While proof of intent is necessary, direct evidence is not required; rather, circumstantial evidence may suffice.”).

41. As one non-limiting example, Defendant, with knowledge that the accused automotive vehicles and components thereof infringe at least as of the date of the Original Complaint, knowingly and intentionally induced, and continues to knowingly and intentionally induce, direct infringement of the '628 Patent by providing product manuals that instruct end users how to use the Defendant navigation system, including specifically how to initiate such functions. Defendant has induced infringement by others, including end users, with the intent to cause infringing acts by others or, in the alternative, with the belief that there is a high probability that others, including end users, infringe the '628 Patent, but while remaining willfully blind to the infringement. See <https://www.ford.com/support/owner-manuals/> (link to download Defendant's Owner Manuals, including how to use the Accused Instrumentalities).
42. Defendant has taken active steps to induce infringement, such as advertising an infringing use, which supports a finding of an intention for the accused product to be used in an infringing manner. See *Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913, 932, 125 S. Ct. 2764, 162 L. Ed. 2d 781 (2005) (explaining that the contributory infringement doctrine "was devised to identify instances in which it may be presumed from distribution of an article in commerce that the distributor intended the article to be used to infringe another's patent, and so may justly be held liable for that infringement").
43. In addition, on information and belief, and based in part upon the clear infringement by the Accused Instrumentalities, Defendant has a practice of not performing a review of the patent rights of others first for clearance or to assess infringement thereof prior to launching products and services. As such, Defendant has been willfully blind to the patent rights of Plaintiff.

44. The foregoing infringement on the part of Defendant has caused past and ongoing injury to Plaintiff. The specific dollar amount of damages adequate to compensate for the infringement shall be determined at trial but is in no event less than a reasonable royalty from the date of first infringement to the expiration of the '628 Patent.
45. Each of Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

**COUNT II**  
**Infringement of U.S. Patent No. 8,898,003**

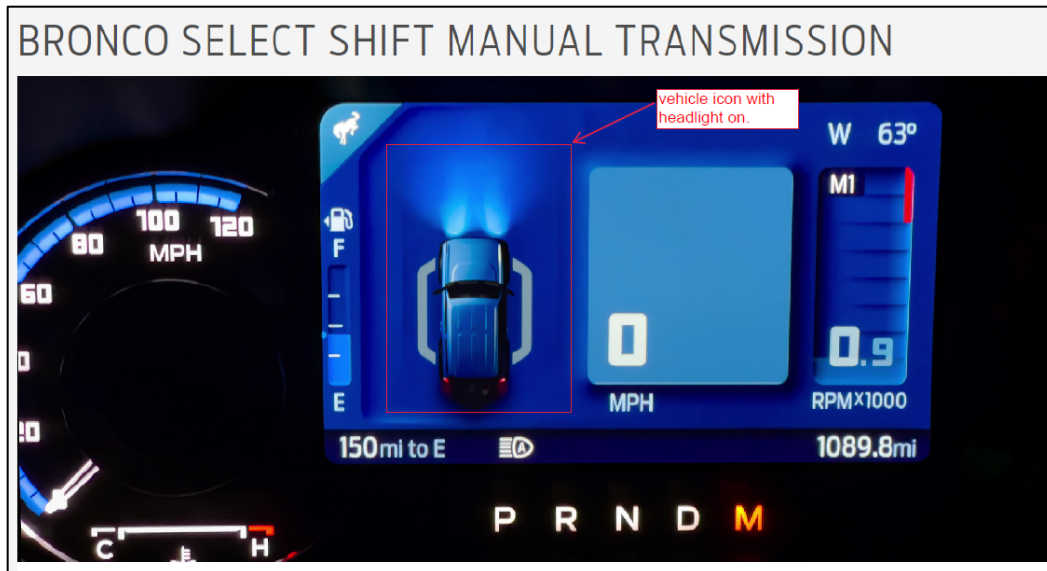
46. Plaintiff incorporates the above paragraphs by reference.
47. Defendant has been on actual notice of the '003 Patent at least as early as the date it received service of the Original Complaint in this litigation.
48. Plaintiff or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '003 patent, thus the damages period begins at least as early as six years prior to the date of service of the Original Complaint in this litigation.
49. Defendant manufactures, sells, offers for sale, owns, directs, and/or controls the operation of the Accused Instrumentalities and generates substantial financial revenues and benefits therefrom.
50. Defendant has directly infringed and continues to directly infringe the claims of the '003 Patent. As exemplary and shown in Ex. 2 and described in part in the video found at <https://www.youtube.com/watch?v=pRE0lOHndeM>, Claim 1 is infringed by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities. Defendant directly makes and sells the infringing Accused Instrumentalities at least because it is solely

responsible for putting the infringing systems into service by directing or controlling the systems as a whole and by obtaining the benefits therefrom.

51. More specifically, the Accused Instrumentalities, as shown below, change the images with different color effects based on real-time data based on the time of day, or other relevant inputs. Based on this information, the images on the map are modified with different color effects to reflect the corresponding conditions. For example, if it is a day or nighttime, the colors are adjusted to reflect daytime or nighttime. As shown, the Accused Instrumentalities also include an icon of a vehicle that shows that headlights are on when the vehicle is supposed to turn on its headlights.



See <https://www.youtube.com/watch?v=CseNfljqzwQ> (runtime 33:15) (Annotated)



See <https://www.ford.com/support/vehicle/bronco/2023/how-to-videos/video-library/quick-tips/6320331057112?name=bronco-select-shift-manual-transmission/> (annotated)

52. Further on information and belief, Defendant directly uses the infringing Accused Instrumentalities at least because it assembled the combined infringing elements and makes them collectively available in the United States, including via its Internet domain web pages and/or software applications, as well as via its internal systems and interfaces. Further, and on information and belief, Defendant has directly infringed by using the infringing Accused Instrumentalities as part of its ongoing and regular testing and/or internal legal compliance activities. Such testing and/or legal compliance necessarily requires Defendant to make and use the Accused Instrumentalities in an infringing manner. Still further, Defendant is a direct infringer by virtue of its branding and marketing activities, which collectively comprise the sale and offering for sale of the infringing Accused Instrumentalities.
53. As shown above, Defendant is making, using, and offering for sale the Accused Instrumentalities.
54. Additionally, upon information and belief, Defendant owns, directs, and/or controls the infringing method operation of the Accused Instrumentalities.

55. On information and belief, the infringement of the '003 Patent by Defendant will now be willful through the filing and service of this Complaint. The '003 Patent does not expire before February 2, 2030.
56. In addition or in the alternative, on information and belief, Defendant has a policy or practice against investigating third party patent rights, and its willful blindness qualifies for requisite knowledge of the '743 Patent. *See Estech Sys. IP, LLC v. Carvana, LLC*, No. 2:21-CV-0482-JRG-RSP, 2022 WL 17727752, at \*2 (E.D. Tex. Sept. 26, 2022) (noting such an allegation is sufficient “because it provides fair notice of the allegation and the grounds upon which it rests”).
57. In addition or in the alternative, Defendant now has knowledge and continues these actions and it indirectly infringes by way of inducing direct infringement by others and/or contributing to the infringement by others of the '003 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, infringing services for use in systems that fall within the scope of the claims of the '003 Patent. This includes without limitation, one or more of the Accused Instrumentalities by making, using, importing offering for sale, and/or selling such services, Defendant injured Plaintiff and is thus liable to Plaintiff for infringement of the '003 Patent under 35 U.S.C. § 271.
58. Now with knowledge of the '003 Patent, Defendant induces infringement under Title 35 U.S.C. § 271(b). Defendant will have performed actions that induced infringing acts that Defendant knew or should have known would induce actual infringements. *See Manville Sales Corp. v. Paramount Sys., Inc.*, 917 F.2d 544, 553 (Fed.Cir.1990), quoted in *DSU Med. Corp. v. JMS Co.*, 471 F.3d 1293, 1306 (Fed.Cir.2006) (*en banc* in relevant part). “[A] finding of



inducement requires a threshold finding of direct infringement—either a finding of specific instances of direct infringement or a finding that the accused products necessarily infringe.” *Ricoh*, 550 F.3d at 1341 (citing *ACCO Brands, Inc. v. ABA Locks Manufacturer Co.*, 501 F.3d 1307, 1313, (Fed. Cir. 2007)).

59. Plaintiff will rely on direct and/or circumstantial evidence to prove the intent element. *See Fuji Photo Film Co. v. Jazz Photo Corp.*, 394 F.3d 1368, 1377 (Fed. Cir. 2005) (“A patentee may prove intent through circumstantial evidence.”); *Water Techs. Corp. v. Calco, Ltd.*, 850 F.2d 660, 668 (Fed. Cir. 1988) (“While proof of intent is necessary, direct evidence is not required; rather, circumstantial evidence may suffice.”).
60. As one non-limiting example, Defendant, with knowledge that the accused automotive vehicles and components thereof infringe at least as of the date of the Original Complaint, knowingly and intentionally induced, and continues to knowingly and intentionally induce, direct infringement of the ’003 Patent by providing product manuals that instruct end users how to use the Defendant navigation system, including specifically how to initiate such functions. Defendant has induced infringement by others, including end users, with the intent to cause infringing acts by others or, in the alternative, with the belief that there is a high probability that others, including end users, infringe the ’003 Patent, but while remaining willfully blind to the infringement. *See* <https://www.ford.com/support/owner-manuals/> (link to download Defendant’s Owner Manuals, including how to use the Accused Instrumentalities).
61. Defendant has taken active steps to induce infringement, such as advertising an infringing use, which supports a finding of an intention for the accused product to be used in an infringing manner. *See Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913,

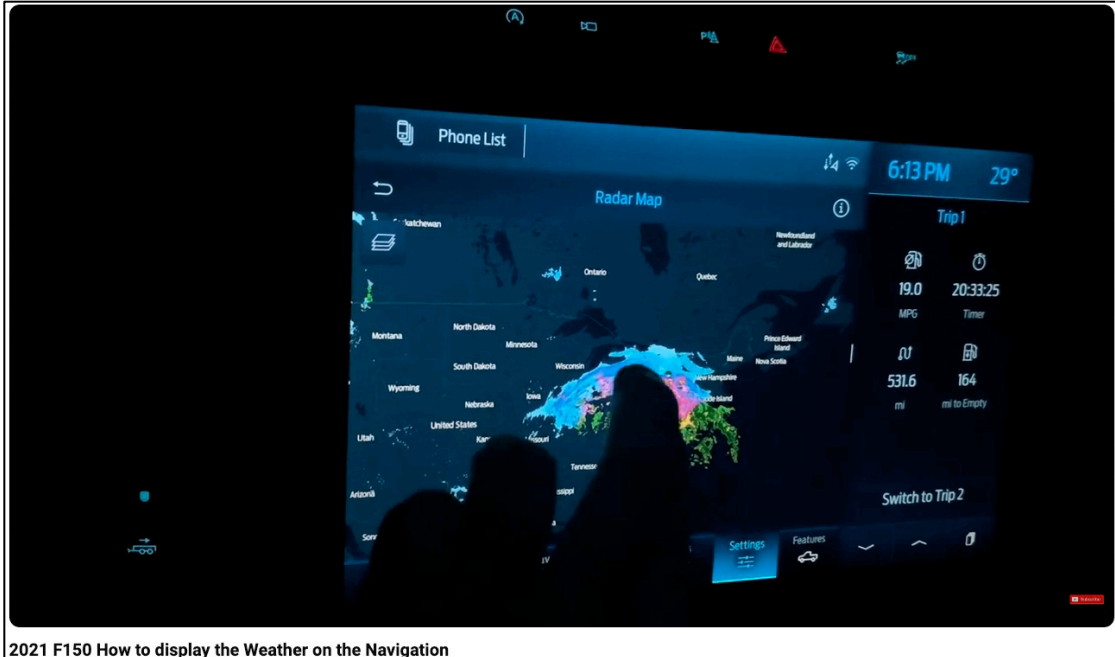
932, 125 S. Ct. 2764, 162 L. Ed. 2d 781 (2005) (explaining that the contributory infringement doctrine “was devised to identify instances in which it may be presumed from distribution of an article in commerce that the distributor intended the article to be used to infringe another’s patent, and so may justly be held liable for that infringement”).

62. In addition, on information and belief, and based in part upon the clear infringement by the Accused Instrumentalities, Defendant has a practice of not performing a review of the patent rights of others first for clearance or to assess infringement thereof prior to launching products and services. As such, Defendant has been willfully blind to the patent rights of Plaintiff.
63. The foregoing infringement on the part of Defendant has caused past and ongoing injury to Plaintiff. The specific dollar amount of damages adequate to compensate for the infringement shall be determined at trial but is in no event less than a reasonable royalty from the date of first infringement to the expiration of the ’003 Patent.
64. Each of Defendant’s aforesaid activities have been without authority and/or license from Plaintiff.

**COUNT III**  
**Infringement of U.S. Patent No. 8,406,994**

65. Plaintiff incorporates the above paragraphs by reference.
66. Defendant has been on actual notice of the ’994 Patent at least as early as the date it received service of the Original Complaint in this litigation.
67. Plaintiff or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the ’994 patent, thus the damages period begins at least as early as six years prior to the date of service of the Original Complaint in this litigation.

68. Defendant manufactures, sells, offers for sale, owns, directs, and/or controls the operation of the Accused Instrumentalities and generates substantial financial revenues and benefits therefrom.
69. Defendant has directly infringed and continues to directly infringe the claims of the '994 Patent. As exemplary and shown in Ex. 3 and described in part in the video found at <https://www.youtube.com/watch?v=H2lNXy7GA7k>, Claim 1 is infringed by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities. Defendant directly makes and sells the infringing Accused Instrumentalities at least because it is solely responsible for putting the infringing systems into service by directing or controlling the systems as a whole and by obtaining the benefits therefrom.
70. More specifically, the Accused Instrumentalities, as shown below, change the images with different color effects based on real-time data based on the time of day, or other relevant inputs. Based on this information, the images on the map are modified with different color effects to reflect the corresponding conditions. For example, making the map with a certain level of realism in accordance with surrounding of the location of the GPS at the time of the day, wherein the color effects are in respective tones pertaining to different times of the day. As shown, the Accused Instrumentalities also include a raining sensor, and the map shows a raining effect when raining happens.



2021 F150 How to display the Weather on the Navigation

See <https://www.youtube.com/watch?v=H2INXy7GA7k> (screenshot of video showing rain sensor (radar) and raining effect).

71. Further on information and belief, Defendant directly uses the infringing Accused Instrumentalities at least because it assembled the combined infringing elements and makes them collectively available in the United States, including via its Internet domain web pages and/or software applications, as well as via its internal systems and interfaces. Further, and on information and belief, Defendant has directly infringed by using the infringing Accused Instrumentalities as part of its ongoing and regular testing and/or internal legal compliance activities. Such testing and/or legal compliance necessarily requires Defendant to make and use the Accused Instrumentalities in an infringing manner. Still further, Defendant is a direct infringer by virtue of its branding and marketing activities, which collectively comprise the sale and offering for sale of the infringing Accused Instrumentalities.
72. As shown above, Defendant is making, using, and offering for sale the Accused Instrumentalities.

73. Additionally, upon information and belief, Defendant owns, directs, and/or controls the infringing method operation of the Accused Instrumentalities.
74. On information and belief, the infringement of the '994 Patent by Defendant will now be willful through the filing and service of this Complaint. The '994 Patent does not expire before May 11, 2031.
75. In addition or in the alternative, on information and belief, Defendant has a policy or practice against investigating third party patent rights, and its willful blindness qualifies for requisite knowledge of the '743 Patent. *See Estech Sys. IP, LLC v. Carvana, LLC*, No. 2:21-CV-0482-JRG-RSP, 2022 WL 17727752, at \*2 (E.D. Tex. Sept. 26, 2022) (noting such an allegation is sufficient “because it provides fair notice of the allegation and the grounds upon which it rests”).
76. In addition or in the alternative, Defendant now has knowledge and continues these actions and it indirectly infringes by way of inducing direct infringement by others and/or contributing to the infringement by others of the '994 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, infringing services for use in systems that fall within the scope of the claims of the '994 Patent. This includes without limitation, one or more of the Accused Instrumentalities by making, using, importing offering for sale, and/or selling such services, Defendant injured Plaintiff and is thus liable to Plaintiff for infringement of the '003 Patent under 35 U.S.C. § 271.
77. Now with knowledge of the '994 Patent, Defendant induces infringement under Title 35 U.S.C. § 271(b). Defendant will have performed actions that induced infringing acts that Defendant knew or should have known would induce actual infringements. *See Manville Sales*

*Corp. v. Paramount Sys., Inc.*, 917 F.2d 544, 553 (Fed.Cir.1990), quoted in *DSU Med. Corp. v. JMS Co.*, 471 F.3d 1293, 1306 (Fed.Cir.2006) (*en banc* in relevant part). “[A] finding of inducement requires a threshold finding of direct infringement—either a finding of specific instances of direct infringement or a finding that the accused products necessarily infringe.” *Ricoh*, 550 F.3d at 1341 (citing *ACCO Brands, Inc. v. ABA Locks Manufacturer Co.*, 501 F.3d 1307, 1313, (Fed. Cir. 2007)).

78. Plaintiff will rely on direct and/or circumstantial evidence to prove the intent element. *See Fuji Photo Film Co. v. Jazz Photo Corp.*, 394 F.3d 1368, 1377 (Fed. Cir. 2005) (“A patentee may prove intent through circumstantial evidence.”); *Water Techs. Corp. v. Calco, Ltd.*, 850 F.2d 660, 668 (Fed. Cir. 1988) (“While proof of intent is necessary, direct evidence is not required; rather, circumstantial evidence may suffice.”).
79. As one non-limiting example, Defendant, with knowledge that the accused automotive vehicles and components thereof infringe at least as of the date of the Original Complaint, knowingly and intentionally induced, and continues to knowingly and intentionally induce, direct infringement of the ’994 Patent by providing product manuals that instruct end users how to use the Defendant navigation system, including specifically how to initiate such functions. Defendant has induced infringement by others, including end users, with the intent to cause infringing acts by others or, in the alternative, with the belief that there is a high probability that others, including end users, infringe the ’994 Patent, but while remaining willfully blind to the infringement. *See* <https://www.ford.com/support/owner-manuals/> (link to download Defendant’s Owner Manuals, including how to use the Accused Instrumentalities).

80. Defendant has taken active steps to induce infringement, such as advertising an infringing use, which supports a finding of an intention for the accused product to be used in an infringing manner. *See Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913, 932, 125 S. Ct. 2764, 162 L. Ed. 2d 781 (2005) (explaining that the contributory infringement doctrine “was devised to identify instances in which it may be presumed from distribution of an article in commerce that the distributor intended the article to be used to infringe another’s patent, and so may justly be held liable for that infringement”).
81. In addition, on information and belief, and based in part upon the clear infringement by the Accused Instrumentalities, Defendant has a practice of not performing a review of the patent rights of others first for clearance or to assess infringement thereof prior to launching products and services. As such, Defendant has been willfully blind to the patent rights of Plaintiff.
82. The foregoing infringement on the part of Defendant has caused past and ongoing injury to Plaintiff. The specific dollar amount of damages adequate to compensate for the infringement shall be determined at trial but is in no event less than a reasonable royalty from the date of first infringement to the expiration of the ’994 Patent.
83. Each of Defendant’s aforesaid activities have been without authority and/or license from Plaintiff.

**COUNT IV**  
**Infringement of U.S. Patent No. 6,292,743**

84. Plaintiff incorporates the above paragraphs by reference.
85. Defendant has been on actual notice of the ’743 Patent at least as early as the date it received service of the Original Complaint in this litigation.
86. Plaintiff or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the ’743

patent, thus the damages period begins at least as early as six years prior to the date of service of the Original Complaint in this litigation, and up to its expiration on January 6, 2019.

87. Defendant manufactures, sells, offers for sale, owns, directs, and/or controls the operation of the Accused Instrumentalities and generates substantial financial revenues and benefits therefrom.
88. Defendant has directly infringed and continues to directly infringe the claims of the '743 Patent. As exemplary and shown in Ex. 4 and described in part in the video found at <https://youtu.be/2gMucmPhOfo>, Claim 1 is infringed by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities. Defendant directly makes and sells the infringing Accused Instrumentalities at least because it is solely responsible for putting the infringing systems into service by directing or controlling the systems as a whole and by obtaining the benefits therefrom.
89. As shown below, by example, the Accused Instrumentalities clearly provide “formatting,” “downloading” and “reconstructing” by a “server” when it describes how the “cloud” (i.e., server) provides “updates” and “download[s]” to the customers vehicle (which requires “formatting,” “downloading” and “reconstructing” to the “client”).





## Introducing SYNC<sup>®</sup> 4 Technologies

This unique, customer-driven technology combines conversational voice recognition and cloud-based connectivity, software update capabilities and so much more to bring you a seamless and personalized driving experience. And with the effortless integration of your smartphone, virtually everything's in sync.

See <https://www.ford.com/technology/sync/> (emphasis added)

### What are SYNC<sup>®\*</sup> 4A and SYNC 4?

SYNC 4A and SYNC 4 bring new levels of connectivity, voice recognition, and fewer cords to make life on the go easy.

#### SYNC 4A And SYNC 4 Key Features

- [Larger screen options, from 8 inches to 15.5 inches](#)
- [Cord-free access to phone connection](#), including Apple CarPlay<sup>®</sup> and Android Auto<sup>™\*\*</sup> compatibility, and SYNC<sup>®</sup> AppLink<sup>®†</sup>
- [Available Connected Navigation<sup>††</sup> options](#), providing real-time traffic, weather, construction, and more
- Available Enhanced Voice Recognition, which allows access to cloud-based conversational voice commands
- Available SiriusXM<sup>®†</sup> with 360L, the widest variety of ad-free music, sports, talk, news, and more
- [Ford Power-Up software updates using software downloaded from the cloud](#)
- Easy-to-search cloud-based digital Owner's Manual

See <https://www.ford.com/support/how-tos/sync/getting-started-with-sync/what-are-sync-4-and-sync-4a/> (emphasis added)

90. Further on information and belief, Defendant directly uses the infringing Accused Instrumentalities at least because it assembled the combined infringing elements and makes them collectively available in the United States, including via its Internet domain web pages and/or software applications, as well as via its internal systems and interfaces. Further, and on information and belief, Defendant has directly infringed by using the infringing Accused Instrumentalities as part of its ongoing and regular testing and/or internal legal compliance activities. Such testing and/or legal compliance necessarily requires Defendant to make and use the Accused Instrumentalities in an infringing manner. Still further, Defendant is a direct infringer by virtue of its branding and marketing activities, which collectively comprise the sale and offering for sale of the infringing Accused Instrumentalities.
91. As shown above, Defendant is making, using, and offering for sale the Accused Instrumentalities.
92. Additionally, upon information and belief, Defendant owns, directs, and/or controls the infringing method operation of the Accused Instrumentalities.
93. On information and belief, the infringement of the '743 Patent by Defendant has been willful since 2012 when Defendant partnered with Microsoft for its Sync system of the Accused Instrumentalities. See <https://news.microsoft.com/2012/11/05/ford-microsoft-mark-five-year-anniversary-of-ford-sync/>. As shown below, Microsoft was aware of the '743 Patent as early as 2002 in its application for its own patent, US20020116528A1. Upon information and belief, Defendant also conducts due diligence of its own systems and products to avoid infringing others' patent rights, and would have discovered the '743 Patent in its due diligence to integrate Microsoft navigational technologies.

Cited By (214)				
Publication number	Priority date	Publication date	Assignee	Title
<a href="#">US20010034239A1</a> *	2000-04-25	2001-10-25	Kabushiki Kaisha Toshiba	Method and system for radio communications using mobile terminal moving route prediction
<a href="#">US20020002438A1</a> *	2000-06-28	2002-01-03	Hiroshi Ohmura	Information service system, server and in-vehicle unit for use in information service system, and record medium on which program readable by in-vehicle unit or computer is recorded
<a href="#">US20020000999A1</a> *	2000-03-30	2002-01-03	Mccarty John M.	Address presentation system interface
<a href="#">US20020002047A1</a> *	2000-06-29	2002-01-03	Nec Corporation	Communication system capable of reducing communication load
<a href="#">US20020007321A1</a> *	2000-03-22	2002-01-17	Burton Peter A.	Methods and apparatus for on-line ordering
<a href="#">US20020032853A1</a> *	2000-04-17	2002-03-14	Preston Dan A.	Secure dynamic link allocation system for mobile data communication
<a href="#">US20020102989A1</a> *	2001-01-26	2002-08-01	Calvert Brian Edward	Method and apparatus for accurately locating a communication device in a wireless communication system
<a href="#">US6438488B2</a> *	2000-05-26	2002-08-20	Samsung Electronics Co., Ltd.	Navigation system for processing information about adjacent position and method thereof
<a href="#">US20020116528A1</a> *	2001-02-16	2002-08-22	Microsoft Corporation	Method for text entry in an electronic device

### Screenshot of Google Patent search result for patent citations to the '743 Patent

94. In addition or in the alternative, on information and belief, Defendant has a policy or practice against investigating third party patent rights, and its willful blindness qualifies for requisite knowledge of the '743 Patent. *See Estech Sys. IP, LLC v. Carvana, LLC*, No. 2:21-CV-0482-JRG-RSP, 2022 WL 17727752, at \*2 (E.D. Tex. Sept. 26, 2022) (noting such an allegation is sufficient “because it provides fair notice of the allegation and the grounds upon which it rests”).
95. Now with knowledge of the '743 Patent, Defendant induces infringement under Title 35 U.S.C. § 271(b). Defendant will have performed actions that induced infringing acts that Defendant knew or should have known would induce actual infringements. *See Manville Sales Corp. v. Paramount Sys., Inc.*, 917 F.2d 544, 553 (Fed.Cir.1990), quoted in *DSU Med. Corp. v. JMS Co.*, 471 F.3d 1293, 1306 (Fed.Cir.2006) (*en banc* in relevant part). “[A] finding of inducement requires a threshold finding of direct infringement—either a finding of specific instances of direct infringement or a finding that the accused products necessarily infringe.” *Ricoh*, 550 F.3d at 1341 (citing *ACCO Brands, Inc. v. ABA Locks Manufacturer Co.*, 501 F.3d 1307, 1313, (Fed. Cir. 2007)).

96. Plaintiff will rely on direct and/or circumstantial evidence to prove the intent element. *See Fuji Photo Film Co. v. Jazz Photo Corp.*, 394 F.3d 1368, 1377 (Fed. Cir. 2005) (“A patentee may prove intent through circumstantial evidence.”); *Water Techs. Corp. v. Calco, Ltd.*, 850 F.2d 660, 668 (Fed. Cir. 1988) (“While proof of intent is necessary, direct evidence is not required; rather, circumstantial evidence may suffice.”).
97. As one non-limiting example, Defendant, with knowledge that the accused automotive vehicles and components thereof infringe at least as of the date of the Original Complaint, knowingly and intentionally induced, and continues to knowingly and intentionally induce, direct infringement of the ’743 Patent by providing product manuals that instruct end users how to use the Defendant navigation system, including specifically how to initiate such functions. Defendant has induced infringement by others, including end users, with the intent to cause infringing acts by others or, in the alternative, with the belief that there is a high probability that others, including end users, infringe the ’743 Patent, but while remaining willfully blind to the infringement. *See* <https://www.ford.com/support/owner-manuals/> (link to download Defendant’s Owner Manuals, including how to use the Accused Instrumentalities).
98. Defendant has taken active steps to induce infringement, such as advertising an infringing use, which supports a finding of an intention for the accused product to be used in an infringing manner. *See Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913, 932, 125 S. Ct. 2764, 162 L. Ed. 2d 781 (2005) (explaining that the contributory infringement doctrine “was devised to identify instances in which it may be presumed from distribution of an article in commerce that the distributor intended the article to be used to infringe another’s patent, and so may justly be held liable for that infringement”).

99. In addition, on information and belief, and based in part upon the clear infringement by the Accused Instrumentalities, Defendant has a practice of not performing a review of the patent rights of others first for clearance or to assess infringement thereof prior to launching products and services. As such, Defendant has been willfully blind to the patent rights of Plaintiff.
100. The foregoing infringement on the part of Defendant has caused past and ongoing injury to Plaintiff. The specific dollar amount of damages adequate to compensate for the infringement shall be determined at trial but is in no event less than a reasonable royalty from the date of first infringement to the expiration of the '743 Patent.
101. Each of Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against Defendant as follows:

1. Declaring that Defendant has infringed the Patents-in-Suit;
2. Awarding Plaintiff its damages suffered because of Defendant's infringement of the Patents-in-Suit;
3. Enter a judgment awarding treble damages pursuant to 35 U.S.C. §284 for Defendant's willful infringement of the Patents-in-Suit;
4. Awarding Plaintiff its costs, reasonable attorneys' fees, expenses, and interest; and
5. Granting Plaintiff such further relief as the Court finds appropriate.

**JURY DEMAND**

Plaintiff demands trial by jury, under Fed. R. Civ. P. 38.

Respectfully Submitted,

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