

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

ARRIVALSTAR S.A. and MELVINO
TECHNOLOGIES LIMITED,

Plaintiffs,

CASE NO. _____

vs.

SWISS INTERNATIONAL AIR
LINES LTD., INC., PODS
ENTERPRISES, INC., and
ABERCROMBIE & FITCH
STORES, INC.,

Defendants.

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, ArrivalStar S.A. and Melvino Technologies Limited (collectively "Plaintiffs"), by and through their undersigned counsel, as and for their Complaint for Patent Infringement against the above-named Defendants, hereby allege as follows:

NATURE OF THE LAWSUIT

1. This is an action for patent infringement of United States Patent Numbers: 6,714,859; 6,748,320; 6,952,645; 7,030,781; 7,400,970; 6,904,359; 6,317,060; 6,486,801; and, 5,657,010, arising under the patent laws of the United States, Title 35 of the United States Code.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331; 28 U.S.C. § 1338; and 35 U.S.C. § 271.

3. This Court has personal jurisdiction over each Defendant pursuant to, *inter alia*, Florida's long-arm statute, § 48.193, in that each Defendant: (a) operates, conducts, engages in,

and/or carries on a business or business adventure(s) in Florida and/or has an office or agency in Florida; (b) has committed one or more tortious acts within Florida; (c) was and/or is engaged in substantial and not isolated activity within Florida; (d) has purposely availed itself of Florida's laws, services and/or other benefits and therefore should reasonably anticipate being hailed into one or more courts within the State of Florida.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 1400.

THE PLAINTIFFS

5. ArrivalStar S.A. is a corporation organized under the laws of Luxembourg, having offices located at 67 Rue Michel, Welter L-2730, Luxembourg. ArrivalStar is the authorized licensee of the patents alleged as being infringed in this lawsuit, with the right to sub-license the patents at issue.

6. Melvino Technologies Limited is a corporation organized under the laws of the British Virgin Islands of Tortola, having offices located at P.O. Box 3174, Palm Chambers, 197 Main Street, Road Town, Tortola, British Virgin Islands. Melvino owns all rights, title and interests in the patents alleged as being infringed in this lawsuit.

PLAINTIFFS' PATENTS

7. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,714,859 ("the '859 patent"), entitled "System and Method for an Advance Notification System for Monitoring and Reporting Proximity of a Vehicle", issued March 30, 2004. A copy of the '859 patent is attached hereto as Exhibit 1.

8. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,748,320 ("the '320 patent"), entitled "Advance

Notification Systems and Methods Utilizing a Computer Network”, issued June 8, 2004. A copy of the ‘320 patent is attached hereto as Exhibit 2.

9. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,952,645 (“the ‘645 patent”), entitled “System and Method for Activation of an Advance Notification System for Monitoring and Reporting Status of Vehicle Travel”, issued October 4, 2005. A copy of the ‘645 patent is attached hereto as Exhibit 3.

10. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 7,030,781 (“the ‘781 patent”), entitled “Notification System and Method that Informs a Party of Vehicle Delay”, issued April 18, 2006. A copy of the ‘781 patent is attached hereto as Exhibit 4.

11. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 7,400,970 (“the ‘970 patent”), entitled “System and Method for an Advance Notification System for Monitoring and Reporting Proximity of a Vehicle”, issued July 15, 2008. A copy of the ‘970 patent is attached hereto as Exhibit 5.

12. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,904,359 (“the ‘359 patent”), entitled “Notification System and Methods with User-Defineable Notifications Based Upon Occurrence of Events”, issued June 7, 2005. A copy of the ‘359 patent is attached hereto as Exhibit 6.

13. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,317,060 (“the ‘060 patent”), entitled “Base Station System and Method for Monitoring Travel of Mobile Vehicles and Communicating

Notification Messages”, issued November 13, 2001. A copy of the ‘060 patent is attached hereto as Exhibit 7.

14. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,486,801 (“the ‘801 patent”), entitled “Base Station Apparatus and Method for Monitoring Travel of a Mobile Vehicle”, issued November 26, 2002. A copy of the ‘801 patent is attached hereto as Exhibit 8.

15. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 5,657,010 (“the ‘010 patent”), entitled “Advance Notification System and Method Utilizing Vehicle Progress Report Generator”, issued August 12, 1997. A copy of the ‘010 patent is attached hereto as Exhibit 9.

THE DEFENDANTS

16. Defendant Swiss International Air Lines Limited, Inc. (“Swiss Air”) is a Foreign Corporation with a principal place of business located at Malzgasse 15, Basel, Switzerland OC 00000 OC; a principal place of business in the United States located at 1640 Hempstead Turnpike, East Meadow, New York 11554; a registered agent located in Plantation, Florida; and, it also has locations and services customers within this Judicial District including at the Miami International Airport, West Palm Beach International Airport and Fort Lauderdale International Airport. Further, Swiss Air transacts business and has, at a minimum, offered to provide and/or has provided in this Judicial District and throughout the State of Florida services that infringe claims of the ‘859, ‘320, ‘645, ‘359, ‘060, ‘781, ‘801 and ‘970 patents.

17. Defendant PODS Enterprises, Inc. (“PODS”) is a Florida Corporation with a principal place of business located at 5585 Rio Vista Drive, Clearwater, Florida 33760. Its registered agent is located in Clearwater, Florida. And it has offices located at 9419 West

Commercial Boulevard, Fort Lauderdale, Florida 33354; 11401 NW 134th Street, Suite 103, Miami, Florida 33178; and, 5479 Leeper Drive, West Palm Beach, Florida 33407. Further, PODS transacts business and has, at a minimum, offered to provide and/or has provided in this Judicial District and throughout the State of Florida services that infringe claims of the '359, '320, '645, '801, '859, '060, '781 and '970 patents.

18. Defendant Abercrombie & Fitch Stores, Inc. ("Abercrombie") is an Ohio Corporation with a principal place of business located at 6301 Fitch Path, New Albany, Ohio 43054. Abercrombie has offices and stores throughout the State of Florida including within this Judicial District in Wellington, Florida; Palm Beach, Florida; Miami, Florida; Fort Lauderdale, Florida; Boca Raton, Florida; and Aventura, Florida. Abercrombie has a registered agent located in Plantation, Florida. Further, Abercrombie transacts business and has, at a minimum, offered to provide and/or has provided in this Judicial District and throughout the State of Florida services that infringe claims of the '359, '320, '970 and '645 patents.

COUNT 1 - SWISS AIR
DIRECT PATENT INFRINGEMENT

19. Plaintiffs hereby incorporate Paragraphs 1 through 18 set forth above as if fully set forth herein.

20. Pursuant to 35 U.S.C. § 271, Defendant Swiss Air has infringed claims of the '859, '320, '645, '359, '060, '781, '801 and '970 patents through, among other activities, the commercial sale, offer and/or use of its "Flight Notification by SMS and/or E-MAIL" programs/products/services/systems which utilize tracking and messaging technologies that are protected within the '859, '320, '645, '359, '060, '781, '801 and '970 patents.

21. Defendant Swiss Air's direct infringement has injured and will continue to injure Plaintiffs unless and until a monetary judgment is entered in favor of Plaintiffs and/or the Court

enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of the '859, '320, '645, '359, '060, '781, '801 and '970 patents.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against Swiss Air and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with Swiss Air, granting the following relief:

- A. An award of damages against Swiss Air adequate to compensate Plaintiffs for the infringement that has occurred with respect to Swiss Air, together with prejudgment interest from the date that Swiss Air's infringement of the patents at issue began;
- B. Increased damages as permitted pursuant to 35 U.S.C. § 284;
- C. A finding that this case is exceptional and award to Plaintiffs their attorneys' fees and costs as provided by 35 U.S.C. § 285;
- D. A permanent injunction against Swiss Air prohibiting further infringement of the patents at issue; and,
- E. All other relief as the Court or a jury may deem proper and just in this instance.

COUNT 2 - SWISS AIR
INDIRECT PATENT INFRINGEMENT

22. Plaintiffs hereby incorporate Paragraphs 1 through 21 set forth above as if fully set forth herein.

23. Defendant Swiss Air has infringed claims of the '859, '320, '645, '359, '060, '781, '801 and '970 patents through, among other activities, the commercial sale, offer and/or use of its "Flight Notification by SMS and/or E-MAIL" programs/products/services/systems

which utilize tracking and messaging technologies that are protected within the '859, '320, '645, '359, '060, '781, '801 and '970 patents.

24. Defendant Swiss Air's contributory infringement and/or inducement to infringe has injured and will continue to injure Plaintiffs unless and until a monetary judgment is entered in favor of Plaintiffs and/or the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of the '859, '320, '645, '359, '060, '781, '801 and '970 patents.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against Swiss Air and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with Swiss Air, granting the following relief:

A. An award of damages against Swiss Air adequate to compensate Plaintiffs for the infringement that has occurred with respect to Swiss Air, together with prejudgment interest from the date that Swiss Air's infringement of the patents at issue began;

B. Increased damages as permitted pursuant to 35 U.S.C. § 284;

C. A finding that this case is exceptional and award to Plaintiffs their attorneys' fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction against Swiss Air prohibiting further infringement of the patents at issue; and,

E. All other relief as the Court or a jury may deem proper and just in this instance.

COUNT 3 - PODS
DIRECT PATENT INFRINGEMENT

25. Plaintiffs hereby incorporate Paragraphs 1 through 18 set forth above as if fully set forth herein.

26. Defendant PODS has infringed claims of '859, '320, '645, '781, '359, '801, '060, '010 and '970 patents through, among other activities, the commercial sale, offer and/or use of its "Automated Call" informing customers of "Estimated Time of Arrival" as well as PODS' "GPS Tracking" and "Reporting/Messaging technologies" programs/products/services/systems which include tracking and messaging technologies that are protected within the '859, '320, '645, '781, '359, '801, '060, '010 and '970 patents.

27. Defendant PODs' direct infringement has injured and will continue to injure Plaintiffs unless and until a monetary judgment is entered in favor of Plaintiffs and/or the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of '859, '320, '645, '781, '359, '801, '060, '010 and '970 patents.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against PODS and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with PODS, granting the following relief:

- A. An award of damages against PODS adequate to compensate Plaintiffs for the infringement that has occurred with respect to PODS, together with prejudgment interest from the date that PODs' infringement of the patents at issue began;
- B. Increased damages as permitted pursuant to 35 U.S.C. § 284;
- C. A finding that this case is exceptional and award to Plaintiffs their attorneys' fees and costs as provided by 35 U.S.C. § 285;
- D. A permanent injunction against PODS prohibiting further infringement of the patents at issue; and,

E. All other relief as the Court or a jury may deem proper and just in this instance.

COUNT 4 - PODS
INDIRECT PATENT INFRINGEMENT

28. Plaintiffs hereby incorporate Paragraphs 1 through 18 and Paragraphs 25 through 27 set forth above as if fully set forth herein.

29. Defendant PODS has infringed claims of ‘859, ‘320, ‘645, ‘781, ‘359, ‘801, ‘060, ‘010 and ‘970 patents through, among other activities, the commercial sale, offer and/or use of its “Automated Call” informing customers of “Estimated Time of Arrival” as well as PODS’ “GPS Tracking” and “Reporting/Messaging technologies” programs/products/services/systems which include tracking and messaging technologies that are protected within the ‘859, ‘320, ‘645, ‘781, ‘359, ‘801, ‘060, ‘010 and ‘970 patents.

30. Defendant PODS’ contributory infringement and/or inducement to infringe has injured and will continue to injure Plaintiffs unless and until a monetary judgment is entered in favor of Plaintiffs and/or the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of ‘859, ‘320, ‘645, ‘781, ‘359, ‘060, ‘801, ‘010 and ‘970 patents.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against PODS and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with PODS, granting the following relief:

A. An award of damages against PODS adequate to compensate Plaintiffs for the infringement that has occurred with respect to PODS, together with prejudgment interest from the date that PODS’ infringement of the patents at issue began;

B. Increased damages as permitted pursuant to 35 U.S.C. § 284;

C. A finding that this case is exceptional and award to Plaintiffs their attorneys' fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction against PODS prohibiting further infringement of the patents at issue; and,

E. All other relief as the Court or a jury may deem proper and just in this instance.

COUNT 5 - ABERCROMBIE
DIRECT PATENT INFRINGEMENT

31. Plaintiffs hereby incorporate Paragraphs 1 through 18 set forth above as if fully set forth herein.

32. Defendant Abercrombie has infringed claims of the '359, '320, '645 and '970 patents through, among other activities, systems and methods, the use of tracking and messaging technologies within its "Advanced Shipment Notice" and "Email Shipment Confirmation" services that are protected by the '359, '320, '645 and '970 patents.

33. Defendant Abercrombie's direct infringement has injured and will continue to injure Plaintiffs until a monetary judgment is rendered in Plaintiffs' favor and/or unless and until the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of the '359, '320, '645 and '970 patents.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against Abercrombie and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with Abercrombie, granting the following relief:

A. An award of damages against Abercrombie adequate to compensate Plaintiffs for the infringement that has occurred with respect to Abercrombie, together with prejudgment interest from the date that Abercrombie's infringement of the patents at issue began;

B. Increased damages as permitted pursuant to 35 U.S.C. § 284;

C. A finding that this case is exceptional and award to Plaintiffs their attorneys' fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction against Abercrombie prohibiting further infringement of the patents at issue; and,

E. All other relief as the Court or a jury may deem proper and just in this instance.

COUNT 6 - ABERCROMBIE
INDIRECT PATENT INFRINGEMENT

34. Plaintiffs hereby incorporate Paragraphs 1 through 18 and Paragraphs 31 through 33 set forth above as if fully set forth herein.

35. Defendant Abercrombie has infringed claims of the '359, '320, '645, and '970 patents through, among other activities, systems and methods, the use of tracking and messaging technologies within its "Advanced Shipment Notice" and "Email Shipment Confirmation" services that are protected by the '359, '320, '645 and '970 patents.

36. Defendant Abercrombie's contributory infringement and/or inducement to infringe has injured and will continue to injure Plaintiffs until a monetary judgment is rendered in Plaintiffs' favor and/or unless and until the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of the '359, '320, '645 and '970 patents.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against Abercrombie and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with Abercrombie, granting the following relief:

A. An award of damages against Abercrombie adequate to compensate Plaintiffs for the infringement that has occurred with respect to Abercrombie, together with prejudgment interest from the date that Abercrombie's infringement of the patents at issue began;

B. Increased damages as permitted pursuant to 35 U.S.C. § 284;

C. A finding that this case is exceptional and award to Plaintiffs their attorneys' fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction against Abercrombie prohibiting further infringement of the patents at issue; and,

E. All other relief as the Court or a jury may deem proper and just in this instance.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: March 18, 2011.

Respectfully submitted,

/s/ William R. McMahon
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**Attorney for Plaintiffs ArrivalStar
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Limited**