

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

JOSEPH SMITH,

*Plaintiff,*

v.

ARGO TRACKER CORPORATION,

*Defendant.*

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CASE NO. 2:07-cv-179

JURY TRIAL REQUESTED

**PLAINTIFF'S ORIGINAL COMPLAINT**

Plaintiff, Joseph D. Smith ("Smith") files this Original Complaint and would show the court the following:

**PARTIES**

1 Plaintiff Smith is an individual, who resides at 15211 County Rd. 4255 South, Henderson, Texas 75654-6148. All pleadings may be served on Smith through his attorney-in-charge, David K. Anderson, Anderson & Cunningham, P.C., 270 First City Tower, 1001 Fannin, Houston, Texas 77002-6799.

2. Defendant Argo Tracker Corporation ("Argo Tracker") is a Delaware company doing business in the State of Texas. It is a subsidiary of Argo Tech Corporation. Argo Tracker may be served with process through its registered agent for service of process, CT Corporation System, 350 North St. Paul St., Dallas, TX 75201.

### **JURISDICTION AND VENUE**

1 This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338 because this is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 271, *et seq.*

2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§§ 1391(b), (c) and 1400(b).

### **PATENTS IN SUIT**

1 On August 26, 2003, United States Letters Patent No. 6,611,686 B1, entitled "Tracking Control and Logistics System and Method" ("the '686 Patent"), issued.

2. On April 12, 2005, United States Letters Patent No. 6,879,962, entitled "Logistics System and Method" ("the '962 Patent"), issued

3. Smith is the lawful owner and holder of the '686 and '962 patents.

### **FACTUAL BACKGROUND**

1 Argo Tracker is a provider of real-time asset tracking and cargo monitoring. Using Global Positioning technology, and the Iridium Satellite Solutions® Network, Argo Tracker enables its customers to monitor their assets from virtually anywhere via the Internet, and report their positions worldwide with precise accuracy. The asset's real-time location data is collected and displayed on a web browser via maps and tabular reports.

2. Argo Tracker's system consists of in-field data collection units and Web-based applications that continuously monitor and track the location and status of shipments via GPS and satellite technology from origin to destination, whether transported by surface, air or marine. Argo Tracker's customers can monitor the

information gathered by the in-field data collection units through the Agro Tracker "Customer Web Portal" using a standard Internet web browser. "ARGO Tracker serves as the application service provider (ASP) providing all data capture and collection on their own servers which are fully accessible by the customer using a unique password/identifier to monitor the assets and access the data."

3. According to its website, Argo Tracker offers three "business solutions"- Argo Sentinel ("ARGO Tracker's externally managed, *subscription-based* business solution"), Argo Enterprise ("ARGO Tracker's internally managed, *hardware/software-combined* business solution"), and Argo Fusion ("ARGO Tracker's most flexible business solution offering specific, customized options unique to each ARGO client").

4. All of Argo Tracker's "business solutions" use two types of tracking devices -- the Agro Falcon and the Argo Eagle. The Argo Falcon uses GPS and the Iridium satellite network. Argo Eagle transmits data via ground-based cellular wireless towers. "All of ARGO Tracker's business solutions can be configured and customized to meet each client's unique set of needs, from real time mapping; to alert monitoring as a result of cargo breaches; to establishing a predetermined path through geo-fencing measures; to report referencing and print out."

5. Argo Tracker describes its business solutions as follows:

Argo Sentinel--"Simply put, the ARGO Sentinel is a subscription-based business/ information technology model".

Argo Enterprise—"ARGO Enterprise has been designed for companies looking to buy IT applications and install them on their own internal infrastructure, maintaining direct control over the company's existing IT platform. Doing so also allows them to fully self-manage their IT functions without undue external interference and multi-platform compatibility issues. Under this business solution, companies are able to maintain, analyze and print data reports directly from within their own customized

systems via any standard internet web browser. It also allows them to integrate with existing legacy logistics system.”

Argo Fusion—“As a means of offering its customers the greatest levels of flexibility in meeting their financial and/or technical infrastructure needs, ARGO Tracker, through its customer web portal, offers a service package that utilizes features of both the ARGO Sentinel and ARGO Enterprise business solutions.”

Argo Tracker currently provides these products and services to customers in Texas as well as customers throughout the United States.

#### **CAUSE OF ACTION FOR PATENT INFRINGEMENT**

1 Smith incorporates by reference each and every allegation contained within the paragraphs above as if fully set forth herein

2. Defendants have directly infringed, and are directly infringing, the ‘686 and ‘926 patents by making, using, offering for sale, and/or selling these products and services. Defendants have also infringed, and are also infringing, these patents under the doctrine of equivalents by making, using, offering for sale, and/or selling these products, methods and services. Defendants have induced others to infringe Smith’s patents. Defendants have engaged in these activities within this judicial district and elsewhere in the United States, without the consent of Smith. For example, last year Argo Tracker announced that it is providing its GPS-based, real-time tracking solutions to Texas Freight Services, Inc.

3. Argo Tracker’ unlawful infringement of these patents has caused immediate and irreparable injury, and unless they are enjoined, their continued infringement will cause Smith injury for which there is no adequate remedy at law.

4. Smith also requests compensation for Argo Tracker’ past infringement and for any future infringement.

**JURY TRIAL**

1. Pursuant to Fed. R. Civ. P. 38 and 39, Smith hereby demands a trial by jury.

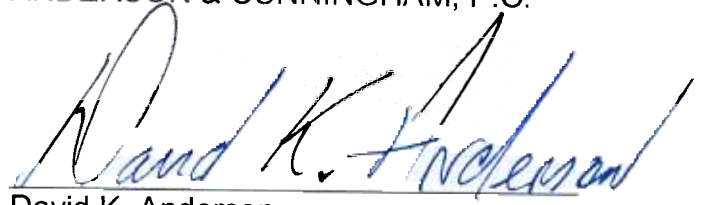
**PRAYER**

WHEREFORE, Plaintiff Smith prays that the Court grant the following relief against Argo Tracker:

- A. Judgment in favor of Plaintiff Smith and against Argo Tracker;
- B. Preliminary and permanent injunctions, enjoining Argo Tracker and those in privity with or acting in concert with them from further infringement of the Smith patents during the remainder of the term for which the patents have been granted;
- C. Damages against Argo Tracker adequate to compensate Smith for such acts of infringement;
- D. Reasonable attorneys' fees in accordance with 35 U.S.C. § 285;
- E. Award of Interest and costs; and
- F. Such other and further relief as is just and proper.

Respectfully submitted

ANDERSON & CUNNINGHAM, P.C.



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