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U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

08-4364
SECT. S MAG 3

AXONN, L.L.C., SPOT, L.L.C.

CASE NO.

V.

JUDGE:

SORENSEN RESEARCH AND
DEVELOPMENT TRUST

MAGISTRATE

**COMPLAINT FOR DECLARATORY JUDGMENT
OF PATENT NON-INFRINGEMENT AND/OR INVALIDITY**

Plaintiffs Axonn, L.L.C. ("Axonn") and Spot, L.L.C. ("Spot") for their complaint against
Defendant Sorensen Research and Development Trust ("Sorensen") allege as follows:

NATURE OF THE ACTION

1. This is an action for Declaratory Judgment brought under the Federal Declaratory
Judgment Act, 28 U.S.C. §§ 2201-02, and other relief.

PARTIES

2. Plaintiff Axonn is a Louisiana limited liability corporation with its principal place
of business in St. Tammany Parish, Louisiana.

3. Axonn is a leading manufacturer of satellite-based tracking devices. These
devices are commonly used by trucking fleets, cargo companies, and other logistic service
providers for tracking and managing mobile and fixed assets such as tractor trailers, railcars,
containers, and heavy equipment.

4. Plaintiff Spot, L.L.C. is a Colorado limited liability company with its principal
place of business in the State of California. Spot is a subsidiary of Globalstar, Inc., a Delaware

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corporation with its principal place of business in the State of California.

5. Spot is a leading distributor of satellite-based tracking devices.

6. Defendant Sorensen is, upon information and belief, a trust entity organized, administered, and existing under the laws of the State of California, having a principal place of business at the offices of its attorneys, 9930 Mesa Rim Road, Suite 300, San Diego, California 92121.

7. On information and belief, Sorensen is in the business of acquiring and holding patents on inventions, including those purportedly invented by Mr. Jens O. Sorensen, and seeking licenses for such patents.

JURISDICTION AND VENUE

8. This action includes claims for declaratory relief for patent noninfringement and patent invalidity arising under the patent laws of the United States, including Title 25 of the United States Code.

9. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1338(a), and 2201. As set forth in more detail below, an actual controversy exists between Axonn and Sorensen regarding noninfringement and invalidity of the '184 Patent.

10. This Court has personal jurisdiction over Sorensen consistent with the principles underlying the U.S. Constitution and Louisiana's long-arm statute because, among other things, an injury caused to Plaintiff occurred in Louisiana as a result of Sorensen's actions.

11. Upon information and belief, Sorensen is doing business in this State and District, including, in particular, its business of seeking patent license.

12. Venue is proper in this judicial district under 28 U.S.C. § 1391 and/or 1400 because, among other things (a) this is an action arising out of allegations of patent infringement,

Axonon's principal place of business is in this judicial district, (c) upon information and belief, Sorensen is subject to personal jurisdiction in this judicial district.

FACTUAL ALLEGATIONS

13. Sorensen has alleged that it owns whatever rights may exist in U.S. Patent No. 4,935,184, entitled "Stabilized Injection Molding When Using a Common Mold Part With Separate Complementary Mold Parts" and issued on June 19, 1990 (the '184 Patent').

14. Plaintiff, Axonn manufactures the SPOT Satellite Personal Tracker ("SPOT Device"), a device used for tracking and managing mobile and fixed assets such as tractor trailers, railcars, containers, and heavy equipment.

15. The SPOT Device is distributed by Plaintiff, Spot, pursuant to an exclusive distribution agreement between Axonn and Spot.

16. Pursuant to the distribution agreement, Axonn has agreed to indemnify Spot against claims that arising from the use of certain intellectual property. Accordingly, Axonn, as indemnitor, is a proper plaintiff to this action.

17. In a letter sent to Spot¹ dated July 2, 2008 (the "July 2 letter"), Sorensen alleged the SPOT Device is "substantially likely . . .to have been produced through the use of a process, which infringed the '184 Patent."

18. In the July 2 letter, Sorensen stated as follows (emphasis in original): "**PLEASE**

¹ Initially incorrectly identified as "SPOT, Inc."

TAKE FURTHER NOTICE: This letter constitutes a notice of patent infringement in violation of 35 U.S.C. § 271.”

19. In the July 2 letter, Sorensen further stated that “failure to license its usage of the ‘184 patented technology can only lead to the risk and expense of litigation, an award of damages, and attorneys’ fees.”

20. In a letter dated August 14, 2008, after a diligent and reasonable investigation, Globalstar² responded to Sorensen’s allegations of infringement set forth in the July 2 letter. (the “August 14 letter”).

21. In its letter, Globalstar refuted Sorensen’s allegations of infringement.

22. In a letter dated August 20, 2008 (the “August 20 letter”), Sorensen refused to withdraw its allegations of infringement, demanded a royalty fee of \$240,000 as a lump sum or four percent of all gross revenues generated from the sales of the SPOT Device within the past six years, and insisted that Globalstar sign a declaration affirming the gross sales figures for the SPOT Device within the past six years.

23. In the August 20 letter, Sorensen stated that “[f]ailure to [agree to pay a licensing fee] within 14 days of the date of this letter will lead to the filing of a federal lawsuit for infringement of the ‘184 Patent.” Accordingly, Axonn and Spot have the reasonable apprehension of imminent suit.

² On behalf of Spot.

24. There is an actual and justiciable controversy between Plaintiffs and Sorensen, under all the circumstances, of whether Axonn's SPOT Device, distributed by Spot, infringes the '184 Patent and whether the patent is valid. Plaintiffs are entitled to a judgment declaring its rights as requested herein.

**COUNT ONE: DECLARATORY JUDGMENT
REGARDING ALLEGATIONS OF PATENT INFRINGEMENT**

25. Axonn and Spot incorporate herein by reference paragraphs 1 through and including 24 as if set forth fully herein.

26. There is an actual, substantial, and justiciable controversy between Plaintiffs and Sorensen concerning Sorensen's allegations that there has been infringement of the '184 Patent.

27. Sorensen's allegations place a cloud over Axonn's and Spot's business activities and will cause uncertainty among customers, prospective customers, suppliers, and others in the marketplace, likely leading Plaintiff to lose revenues and/or business opportunities.

28. As a direct and proximate result of Sorensen's allegations of patent infringement, Axonn and Spot are suffering irreparable harm to their reputation and goodwill in an amount that cannot presently be ascertained and cannot be compensated by monetary relief alone.

29. The SPOT Device and the fabrication process do not infringe on any enforceable rights of Sorensen in the '184 Patent because the Plaintiffs do not practice in the claimed invention.

30. Axonn and Spot are entitled to a judgment declaring that any and all making, using, selling, offering for sale, and/or importing into the United States of the SPOT Device or any product made by the process used to fabricate the SPOT Device, is and has been lawful, and otherwise declaring that Axonn and Spot have not infringed whatever rights, if any, Sorensen

may hold in the '184 Patent.

COUNT TWO: DECLARATORY JUDGMENT REGARDING PATENT INVALIDITY

31. Axonn and Spot incorporate herein by reference paragraphs 1 through and including 30 as if set forth fully herein.

32. Upon information and belief, Sorensen's broad assertion, construction, and/or interpretation of the '184 Patent renders one or more claims thereof invalid in view of the prior art and/or for failure to comply with the provisions of one or more sections of the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

33. As a direct and proximate result of its allegations of infringement of the '184 Patent, of which one or more claims are invalid, Axonn and Spot are suffering irreparable injury to their reputation and goodwill in an amount that cannot presently be ascertained and cannot be compensated adequately by monetary relief alone.

34. Axonn and Spot are entitled to a judgment declaring that the '184 Patent are invalid.

WHEREFORE, Plaintiffs, Axonn, L.L.C. and Spot, L.L.C. pray that this Court enter judgment:

(a) Declaring that Axonn and Spot have not infringed any purported patent rights of Sorensen in the '184 Patent, or otherwise violated any provision of the patent laws of the United States, in connection with the SPOT Device, the fabrication process therefor, or any other product made, using the fabrication process for the SPOT Device, that is made, used, imported, sold and/or offered for sale by Axonn or Spot, including but not limited to, the SPOT Device.

(b) Declaring that the '184 Patent is invalid pursuant to the patent laws of the United

States;

- (c) Permanently enjoining Sorensen, its successors, assigns, or any other related persons and/or entities from asserting the '184 Patent against Axonn or Spot in connection with the SPOT Device, the fabrication process therefore, or any other product made with the process used to fabricate the SPOT Device, that is made, used, imported, sold, and/or offered for sale by Axonn, Spot or their related companies, including, but not limited to the SPOT Device;
- (d) Finding in favor of Plaintiffs and declaring this case to be exceptional pursuant to 35 U.S.C. § 285;
- (e) Awarding Plaintiffs actual and treble damages, attorneys' fees and other costs and expenses;
- (f) Awarding interest to Plaintiffs to the extent permitted by law; and
- (g) Awarding to Plaintiffs such other and further relief as the Court deems just and proper.

Respectfully submitted:

ROBERT C. TUCKER, T.A. (La. Bar 2152)
BERNARD F. MERONEY (La. Bar 20522)
RYAN E. JOHNSON (La. Bar 26352)
Jones, Walker, Waechter, Poitevent,
Carrere, & Denegre
8555 United Plaza Boulevard, 5th Floor
Baton Rouge, Louisiana 70809
Telephone: (225) 248-2098



EMILY E. EAGAN (29166)
Jones, Walker, Waechter, Poitevent,

Carrère & Denègre, L.L.P.
201 St. Charles Avenue, 49th Floor
New Orleans, Louisiana 70170-5100
Telephone: (504) 582-8000
Fax: (504) 582-8011

Attorneys for Axonn, L.L.C. and Spot, L.L.C.