

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Travel Sentry, Inc.

Plaintiff

v.

David Tropp

Defendant

and

Safe Skies, LLC

Defendant

Civil Docket No. 06-cv-118

**AMENDED COMPLAINT FOR DECLARATORY JUDGMENT OF
PATENT NONINFRINGEMENT, INVALIDITY, AND NON-LIABILITY**

Plaintiff, Travel Sentry, Inc. (“Travel Sentry”), through its undersigned counsel, brings this Amended Complaint¹ against David Tropp and Safe Skies, LLC (“Defendants”) and respectfully states and alleges as follows:

PARTIES

1. Plaintiff, Travel Sentry, Inc., is a Florida corporation, having its principal place of business at 19 Deer Meadow Road, Durham, NH 03824.
2. Upon information and belief, Defendant Safe Skies, LLC (“Safe Skies”) is a New York limited liability corporation with its principal place of business at 954 Third Avenue, Suite 504, New York, NY 10022.
3. Upon information and belief, David Tropp (“Tropp”) is a citizen of New York.

¹ The Defendants have not yet filed a responsive pleading to Travel Sentry’s original complaint and, therefore, Travel Sentry files this Amended Complaint as a matter of right under Fed. R. Civ. P 15(a).

JURISDICTION AND VENUE

4. This is an action for declaratory judgment. There is an actual controversy between the parties with regard to the invalidity, noninfringement, and non-liability of United States Patent Nos. 7,021,537 (the “‘537 Patent”) and 7,036,728 (the “‘728 Patent”). Defendants or those acting for Defendants have created a reasonable apprehension of a suit for infringement of the ‘537 and ‘728 Patents with respect to Plaintiff’s ability to license or to make, use, or sell at least some of its technology, products and/or services. Defendants’ position as to Travel Sentry’s alleged infringement of the ‘537 and ‘728 Patents is outlined in a letter from Steve Horowitz, Esq. to Travel Sentry dated November 17, 2003, which is attached as **Exhibit A**. This Court has subject matter jurisdiction in accordance with 28 U.S.C. § 2201, 2202, and 1338.

5. Defendants do business within this district. Accordingly, venue is proper under 28 U.S.C. § 1391(b) and (c) and personal jurisdiction is proper under N.H. Rev. Stat. Ann. 510:4(I).

6. Upon information and belief, Tropp is the named inventor of the ‘537 Patent entitled “Method of Improving Airline Luggage Inspection;” issued April 4, 2006. The ‘537 Patent is attached as **Exhibit B**.

7. Upon information and belief, Tropp is also the named inventor of the ‘728 Patent entitled “Method of Improving Airline Luggage Inspection;” issued May 2, 2006. The ‘728 Patent is attached as **Exhibit C**.

8. Travel Sentry’s business includes the licensing of its travel lock technology for luggage which uses a dual lock system that allows access only by the luggage owner and by TSA baggage screeners through a set of standard, proprietary keys developed by Travel Sentry for TSA use.

COUNT I

DECLARATION OF INVALIDITY
UNITED STATES PATENT NOS. 7,021,537 and 7,036,728

9. The '537 and '728 Patents are invalid, at least for failure to comply with the provisions of 35 U.S.C. § 101, 102, 103, and/or 112.

COUNT II

DECLARATION OF NON-LIABILITY
UNITED STATES PATENT NOS. 7,021,537 and 7,036,728

10. Travel Sentry is not liable for infringement of the '537 and '728 Patents to the extent that Defendants' threatened suit for infringement is barred by the doctrines of laches, estoppel, acquiescence, license and waiver, inequitable conduct before the U.S. Patent and Trademark Office, intervening rights, and/or a statute of limitations.

11. Travel Sentry is further immune from liability for infringement of the '537 and '728 Patents because one or more steps in the use of Travel Sentry's technology are performed by an agency of the U.S. Government, the TSA. Accordingly, under 28 U.S.C. § 1498, Defendants' sole remedy for any claim of infringement lies against the United States Government and not Travel Sentry.

COUNT III

DECLARATION OF NONINFRINGEMENT
UNITED STATES PATENT NOS. 7,021,537 and 7,036,728

12. Travel Sentry's licensed technology for dual locking systems for use in TSA baggage screening processes does not infringe any valid claim of the '537 or '728 Patents. Moreover, Travel Sentry does not make, use or sell the technology which Defendants claim infringes the '537 or '728 Patents.

13. Accordingly, Travel Sentry has not infringed, and has not contributorily infringed, or induced infringement of the '537 or '728 Patents.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b) Travel Sentry requests a trial by Jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. Declaratory judgment stating that:
 - a. United States Patent Nos. 7,021,537 and 7,036,728 are not infringed, contributorily infringed, or infringed through inducement by Travel Sentry;
 - b. United States Patent Nos. 7,021,537 and 7,036,728 are invalid;
 - c. Defendants are without the right or authority to threaten or maintain suit against Travel Sentry for the alleged infringement of United States Patent Nos. 7,021,537 or 7,036,728; and
 - d. Defendants, and those in active concert or participation with Defendants who receive actual notice thereof, are permanently enjoined from initiating patent infringement litigation against Travel Sentry, or threatening Travel Sentry or any of its customers, dealers, licensees, agents, servants, or employees, or any prospective or present sellers, dealers, licensees, distributors, customers, or users of Travel Sentry's technology (other than the U.S. Government), with patent infringement litigation based on U.S. Patent Nos. 7,021,537 or 7,036,728 charging any of them either verbally or in writing with infringement of U.S. Patent Nos. 7,021,537 or 7,036,728.

2. An order awarding Travel Sentry its costs in addition to its attorneys' fees, in accordance with 35 U.S.C. § 285, and otherwise according to law.

3. Such other and further relief as this Court may deem just and equitable.

**PRETI, FLAHERTY, BELIVEAU, PACHIOS &
HALEY, PLLP**

Dated: May 2, 2006

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Dated: May 2, 2006

/s/ William L. Prickett
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