

**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.

**NEW BREED LOGISTICS, INC.,
PRECISION SOFTWARE, a Division
of QAD, INC., TARGET
CORPORATION, and BARNES &
NOBLE, INC.,**

DEMAND FOR JURY TRIAL

Defendants.

_____ /

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, Jurisdiction and Venue

1. This action involves claims for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has jurisdiction over the subject matter of this Complaint pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1338(a), and 35 U.S.C. § 271.

2. This Court has personal jurisdiction over each Defendant.

3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 28 U.S. C. § 1400(b).

The Plaintiffs

4. 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.

5. 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

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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

15. Defendant Precision Software is a Division of QAD, Inc (collectively “Precision Software”). QAD, Inc. is a Delaware Corporation with a principal place of business located at 100 Innovation Place, Santa Barbara, California 93108. Precision Software’s principal place of business is located at 222 South Riverside Plaza, 29th Floor, Chicago, Illinois 60606. Both Precision Software and QAD have partners and clients throughout the State of Florida and within this Judicial District. Further, Precision Software and QAD transact business and have, at a minimum, offered to provide and/or have provided in this Judicial District and throughout the State of Florida services that infringe claims of the ‘010, ‘859, ‘320, ‘645, ‘781, ‘359 and ‘970 patents.

16. Defendant New Breed Logistics, Inc. (“New Breed”) is a North Carolina Corporation with a principal place of business located at 4043 Piedmont Parkway, High Point North, Carolina 27265. New Breed 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 ‘010, ‘859, ‘320, ‘645, ‘359, ‘060, ‘781, ‘801 and ‘970 patents.

17. Furthermore, Defendant New Breed belongs to the Florida Messenger Association whose mission is to improve and advance the common business interests of messengers, couriers and transportation services, and their companies in the State of Florida for the benefit of the people of Florida. New Breed’s chief executive officer recently spoke as the keynote speaker at a tradeshow in Fort Lauderdale, Florida; and New Breed had a booth set up at that trade show (and others) actively promoting its products which Plaintiffs contend infringe the ‘010, ‘859,

'320, '645, '359, '060, '781, '801 and '970 patents. New Breed also has clients throughout the State of Florida and within this Judicial District. And, finally, New Breed recently opened a new, major facility in Clearwater, Florida which is utilizing technologies that infringe claims of the '010, '859, '320, '645, '359, '060, '781, '801 and '970 patents. New Breed is also actively seeking (within the State of Florida) a Distribution Center Operations Manager for that new location.

18. Defendant Target Corporation ("Target") is a Minnesota Corporation with a principal place of business located at 1000 Nicollet Mall, Minneapolis, Minnesota 55403. Target has offices, stores and locations throughout the State of Florida including within this Judicial District. Further, Target 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, and '970 patents.

19. Defendant Barnes & Noble, Inc. ("Barnes & Noble") is a Delaware Corporation with its principal place of business located at 122 Fifth Avenue, New York, New York 10019. Barnes & Noble has offices, stores and locations throughout the State of Florida including within this Judicial District. Furthermore, Barnes & Noble 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 and '970 patents.

Count 1
New Breed
Direct Patent Infringement

20. Defendant New Breed has infringed claims of the '010, '859, '320, '645, '359, '060, '781, '801 and '970 patents through, among other activities, the sale and use of its "Customized Freight and Warehouse Management Services"

programs/products/services/systems which provide “shipment status and tracking and captures and reports in-transit status, ETA’s, and POD’s on an easy-to-use web tool”, real-time alerting and notification, and other tracking and messaging technologies that are protected within the ‘010, ‘859, ‘320, ‘645, ‘359, ‘060, ‘781, ‘801 and ‘970 patents.

21. Defendant New Breed’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 ‘010, ‘859, ‘320, ‘645, ‘359, ‘060, ‘781, ‘801 and ‘970 patents.

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

- A. An award of damages against New Breed adequate to compensate Plaintiffs for the infringement that has occurred with respect to New Breed, together with prejudgment interest from the date that New Breed’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 New Breed 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
New Breed
Indirect Patent Infringement

22. Defendant New Breed has infringed claims of the '010, '859, '320, '645, '781 and '970 patents through, among other activities, the sale and use of its "Customized Freight and Warehouse Management Services" programs/products/services/systems which provide "shipment status and tracking and captures and reports in-transit status, ETA's, and POD's on an easy-to-use web tool", real-time alerting and notification, and other technologies that are protected within the '010, '859, '320, '645, '781 and '970 patents.

23. Defendant New Breed'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 '010, '859, '320, '645, '781 and '970 patents.

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

A. An award of damages against New Breed adequate to compensate Plaintiffs for the infringement that has occurred with respect to New Breed, together with prejudgment interest from the date that New Breed'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 New Breed 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
Precision Software
Direct Patent Infringement

24. Defendant Precision Software has infringed claims of '010, '859, '320, '645, '781, '359 and '970 patents through, among other activities, the sale and use of its "Integrated Solutions", "Global Visibility", and "Transportation Management" programs/products/services/systems which include tracking and messaging technologies, along with other technologies, that are protected within the '010, '859, '320, '645, '781, '359 and '970 patents.

25. Defendant Precision Software'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 '010, '859, '320, '645, '781, '359 and '970 patents.

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

A. An award of damages against Precision Software adequate to compensate Plaintiffs for the infringement that has occurred with respect to Precision Software, together with prejudgment interest from the date that Precision Software'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 Precision Software 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
Precision Software
Indirect Patent Infringement

26. Defendant Precision Software has infringed claims of '010, '859, '320, '645, '781, '359 and '970 patents through, among other activities, the sale and use of its "Integrated Solutions", "Global Visibility", and "Transportation Management" programs/products/services/systems which include tracking and messaging technologies, along with other technologies, that are protected within the '010, '859, '320, '645, '781, '359 and '970 patents.

27. Defendant Precision Software'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 '010, '859, '320, '645, '781, '359 and '970 patents.

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

A. An award of damages against Precision Software adequate to compensate Plaintiffs for the infringement that has occurred with respect to Precision Software, together with prejudgment interest from the date that Precision Software'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 Precision Software 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
Target
Direct Patent Infringement

28. Defendant Target 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.

29. Defendant Target'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.

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

- A. An award of damages against Target adequate to compensate Plaintiffs for the infringement that has occurred with respect to Target, together with prejudgment interest from the date that Target'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 Target 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
Target
Indirect Patent Infringement

30. Defendant Target 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.

31. Defendant Target'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.

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

- A. An award of damages against Target adequate to compensate Plaintiffs for the infringement that has occurred with respect to Target, together with prejudgment interest from the date that Target'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 Target 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 7
Barnes & Noble
Direct Patent Infringement

32. Defendant Barnes & Noble has infringed claims of the '359, '320 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 and '970 patents.

33. Defendant Barnes & Noble'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 and '970 patents.

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

A. An award of damages against Barnes & Noble adequate to compensate Plaintiffs for the infringement that has occurred with respect to Barnes & Noble, together with prejudgment interest from the date that Barnes & Noble'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 Barnes & Noble 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 8
Barnes & Noble
Indirect Patent Infringement

34. Defendant Barnes & Noble 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 and '970 patents.

35. Defendant Barnes & Noble'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 and '970 patents.

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

A. An award of damages against Barnes & Noble adequate to compensate Plaintiffs for the infringement that has occurred with respect to Barnes & Noble, together with prejudgment interest from the date that Barnes & Noble'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 Barnes & Noble 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: January 20, 2011.

Respectfully submitted,

/s/ William R. McMahon
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