

1.3 Plaintiff Mark Alan Eberwine is a citizen of the United States residing in Texas.

1.4 Defendant United Parcel Service, Inc. ("UPS") is a Delaware corporation with its principal place of business in Georgia, which has already been served and has answered.

JURISDICTION AND VENUE

2.1 The Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) because the case arises under the federal patent laws, 35 U.S.C. § 1 et seq.

2.2 UPS is registered to do business in Wisconsin and regularly and systematically conducts business activities in this judicial district. Such business activities include regularly delivering packages in, and flying in and out of, this District.

2.3 UPS has committed acts of patent infringement (as described below) in this District.

2.4 This Court may properly exercise personal jurisdiction over UPS under Wisconsin's long arm statute, Wisconsin Statute § 801.05.

GENERAL ALLEGATIONS

3.1 WNS is the owner of duly issued U.S. Patent No. 6,314,366 (the '366 Patent) and U.S. Patent No. 5,351,194 (the '194 Patent).

3.2 ITI is the owner of duly issued U.S. Patent No. 6,405,132 (the '132 Patent) and 7,295,925 (the '925 Patent).

3.3 Mr. Eberwine is the owner of duly issued U.S. Patent No. 5,392,052 (the '052 Patent).

3.4 UPS sells products and provides parcel delivery services throughout the United States and abroad.

3.5 In connection with its business, UPS regularly operates aircraft throughout the United States and abroad.

3.6 UPS aircraft operated in the United States implement a functionality known as Automatic Dependent Surveillance-Broadcast (ADS-B).

3.7 UPS aircraft that implement ADS-B broadcast information from the aircraft to air traffic control facilities (“ATC”) and other aircraft.

3.8 UPS aircraft that implement ADS-B broadcast aircraft position information determined onboard the aircraft via a Global Positioning System (“GPS”) along with status information concerning the aircraft. This aspect of ADS-B is known as “ADS-B Out” functionality.

3.9 Upon information and belief, UPS aircraft that implement ADS-B functionality broadcast aircraft GPS position along with on-ground status information as determined onboard the aircraft from a landing gear switch and emergency status information determined onboard the aircraft from an emergency switch.

3.10 UPS aircraft that implement ADS-B functionality receive and use information broadcast by other aircraft. This aspect of ADS-B is known as “ADS-B In” functionality.

3.11 UPS aircraft that implement ADS-B functionality also implement an aircraft collision avoidance system known as the Traffic Collision Avoidance System (“TCAS”).

3.12 UPS aircraft operated in the United States and abroad implement functionality known as Automatic Dependent Surveillance-Contract (“ADS-C”) as part of an intercontinental air traffic control system.

3.13 UPS aircraft that implement ADS-C perform functionality known as “periodic contract” position reporting in which the aircraft broadcasts its position to ATC pursuant to interrogation. The position information is broadcast from the aircraft to ATC in time-spaced packets via a satellite communication link.

3.14 UPS aircraft that implement ADS-B functionality also implement functionality known as the Cockpit Display for Traffic Information for ADS-B (“CDTI for ADS-B”).

3.15 UPS aircraft that implement CDTI (or its equivalent) for ADS-B display an airport surface map and the locations of aircraft on the airport surface map, including the position of a host aircraft (i.e., the aircraft displaying the airport surface map) obtained via GPS and the positions of other aircraft obtained via ADS-B.

3.16 UPS aircraft that implement CDTI for ADS-B also generate and display collision alerts based on the aircraft position information and the airport surface map information.

3.17 UPS aircraft that implement CDTI for ADS-B also receive and display aircraft traffic information.

3.18 UPS aircraft that implement CDTI for ADS-B receive the aircraft traffic information from ATC via a communication link known as the Traffic Information Service Broadcast (“TIS-B”).

3.19 UPS aircraft that implement CDTI for ADS-B use the aircraft traffic information received from ATC via TIS-B to display the positions of aircraft on the airport surface map along with the position of the host aircraft obtained via GPS and the positions of other aircraft obtained via ADS-B.

3.20 On information and belief, UPS aircraft that implement CDTI for ADS-B use the aircraft traffic information obtained via TIS-B when generating and displaying collision alerts.

3.21 UPS aircraft that implement CDTI for ADS-B also receive traffic control information onboard the aircraft.

3.22 UPS aircraft that implement CDTI for ADS-B receive the traffic control information from ATC.

3.23 UPS aircraft that implement CDTI for ADS-B also receive weather information onboard the aircraft.

3.24 UPS aircraft that implement CDTI for ADS-B receive the weather information from ATC.

3.25 UPS aircraft that implement CDTI for ADS-B display the weather information obtained from ATC along with the airport surface map and aircraft positions including the position of the host aircraft obtained via GPS and the positions of other aircraft obtained via ADS-B.

3.26 On information and belief, UPS aircraft that implement CDTI for ADS-B use the map of the airport surface, the aircraft traffic information received from ATC via TIS-B, and the positions of other aircraft obtained via ADS-B when generating and displaying collision alerts.

3.27 UPS aircraft that implement CDTI for ADS-B determine and display when an aircraft enters a lane intersection on the airport surface.

3.28 UPS aircraft that implement CDTI for ADS-B determine when an aircraft enters a lane intersection on the airport surface, generate collision alerts, and display the collision alerts onboard the aircraft.

3.29 UPS aircraft that implement CDTI for ADS-B predict collisions between aircraft based on aircraft position information and airport surface map information.

3.30 On information and belief, UPS aircraft that implement CDTI for ADS-B receive aircraft velocity information from other aircraft via ADS-B.

3.31 On information and belief, UPS aircraft that implement CDTI for ADS-B use the aircraft velocity information when predicting collisions between aircraft.

CAUSES OF ACTION

4.1 Plaintiffs hereby restate the allegations set forth in all prior paragraphs and incorporate them herein by reference.

4.2 UPS uses the infringing equipment in various configurations, depending upon the specific aircraft, to infringe the patents. According to UPS, its various aircraft utilize the following equipment in conjunction with software:

ADS-B-in and ADS-B-out equipment: Garmin LDPU Model AT9011, AT9021, AT9051 P/N 430-6079-100-001 or 430-6079-500-001 727, 757 and 767.

Transponders: B727 - ACSS Transponder 7517800-1000X;
B747-100's and 200's - Collins Transponder 522-2703-XXX, 622-2224-XXX, or 787-6211-XXX;
B747-400 - ACSS Transponder 7517800-11009
B757 - Garmin AT Transponder P/N 430-6091-XXX-XXX or ACSS Transponder 751-7800-1000X
B767 - ACSS Transponder 7517800-1000X

A300 - ACSS Transponder 7517800-1000X

DC8 - Garmin AT Transponder P/N 430-6091-XXX-XXX
or ACSS Transponder 7517800-1000X

MD11 - ACSS Transponder 7517800-1000X

Ground Status Indicator: "Weight-on wheels" application;

TCAS: ACSS TCAS Model 2000 P/N 7517900-10004; TCAS software
version 7;

GPS: B727 - ACSS Transponder 7517800-1000X;

B747-100's and 200's- Garmin or Northrop Grummen stand alone
GPS

B747-400 - Rockwell Collins Multi-Mode Receiver

B757 - Garmin Unit.

B767 - Rockwell Collins Multi-Mode Receiver

A300 - Rockwell Collins Multi-Mode Receiver

DC8 - Northrop Grummen stand alone GPS

MD11 - Rockwell Collins Multi-Mode Receiver

ADS-C: ADS-C is a function of the flight management computer.

Count I - Infringement of the '194 Patent

4.3 UPS's operation of the aircraft utilizing the infringing equipment and related software in the United States and abroad that implement ADS-B, including at least "ADS-B Out" broadcast of aircraft position together with aircraft status information determined from one or more switches onboard the aircraft, such as on-ground status determined from a landing gear switch and emergency status determined from an emergency switch, infringes the '194 Patent.

4.4 UPS has infringed, and is continuing to infringe, claims 1, 6, 7, and 8 of the '194 Patent, directly, contributorily, and/or by inducement.

4.5 UPS has infringed, and is continuing to infringe, claims 1, 6, and 8 of the '194 Patent by and through the operation of aircraft implementing ADS-B Out.

4.6 UPS has infringed, and is continuing to infringe, claim 7 of the '194 Patent by and through the operation of aircraft implementing ADS-B Out with weight-on-wheels switch indicating ground status.

4.7 In the alternative, Plaintiffs have suffered irreparable injury that cannot be adequately compensated by a monetary award as a result of UPS's infringement of the '194 Patent, and Plaintiffs will continue to suffer irreparable injury as a result of the continued infringement, unless enjoined by this Court.

4.8 Upon information and belief, UPS's infringement of the '194 Patent is willful.

4.9 UPS's willful, systematic, extensive and/or continuing infringement of the '194 Patent render this an exceptional case pursuant to 35 U.S.C. § 285.

Count II - Infringement of the '366 Patent

4.10 UPS's operation of the aircraft utilizing the infringing equipment and related software in the United States and abroad that implement ADS-B, including at least "ADS-B Out" transmission of aircraft position and "ADS-B In" receipt of position information from other aircraft, in combination with TCAS, infringes the '366 Patent.

4.11 UPS has infringed, and is continuing to infringe, claim 1 of the '366 Patent, directly, contributorily, and/or by inducement.

4.12 UPS has infringed, and is continuing to infringe, claim 1 of the '366 Patent by and through the operation of aircraft implementing both TCAS and ADS-B In.

4.13 In the alternative, Plaintiffs have suffered irreparable injury that cannot be adequately compensated by a monetary award as a result of UPS's infringement of the '366 Patent, and Plaintiffs will continue to suffer irreparable injury as a result of the continued infringement, unless enjoined by this Court.

4.14 Upon information and belief, UPS's infringement of the '366 Patent is willful.

4.15 UPS's willful, systematic, extensive and/or continuing infringement of the '366 Patent render this an exceptional case pursuant to 35 U.S.C. § 285.

Count III - Infringement of the '052 Patent

4.16 UPS's operation of the aircraft utilizing the infringing equipment and related software in the United States and abroad that implement ADS-C, including at least the "periodic contract" position reporting functionality of ADS-C, infringes the '052 Patent.

4.17 UPS has infringed, and is continuing to infringe, claim 6 of the '052 Patent, directly, contributorily, and/or by inducement.

4.18 UPS has infringed, and is continuing to infringe, claim 6 of the '052 Patent by and through the operation of aircraft implementing ADS-C with periodic contract feature.

4.19 In the alternative, Plaintiffs have suffered irreparable injury that cannot be adequately compensated by a monetary award as a result of UPS's infringement of the '052 Patent, and Plaintiffs will continue to suffer irreparable injury as a result of the continued infringement, unless enjoined by this Court.

4.20 Upon information and belief, UPS's infringement of the '052 Patent is willful.

4.21 UPS's willful, systematic, extensive and/or continuing infringement of the '052 Patent render this an exceptional case pursuant to 35 U.S.C. § 285.

Count IV - Infringement of the '132 Patent

4.22 UPS's operation of the aircraft utilizing the infringing equipment and related software in the United States and abroad that implement CDTI for ADS-B, infringes the '132 Patent.

4.23 UPS has infringed, and is continuing to infringe, claims 28, 29, and 44 of the '132 Patent, directly, contributorily, and/or by inducement.

4.24 UPS has infringed, and is continuing to infringe, claim 28 of the '132 Patent by and through the operation of aircraft implementing CDTI for ADS-B.

4.25 UPS has infringed, and is continuing to infringe, claims 29 and 44 of the '132 Patent by and through the operation of aircraft implementing CDTI for ADS-B with potential collision warning feature.

4.26 In the alternative, Plaintiffs have suffered irreparable injury that cannot be adequately compensated by a monetary award as a result of UPS's infringement of the '132 Patent, and Plaintiffs will continue to suffer irreparable injury as a result of the continued infringement, unless enjoined by this Court.

4.27 Upon information and belief, UPS's infringement of the '132 Patent is willful.

4.28 UPS's willful, systematic, extensive and/or continuing infringement of the '132 Patent render this an exceptional case pursuant to 35 U.S.C. § 285.

Count V - Infringement of the '925 Patent

4.29 UPS's operation of the aircraft utilizing the infringing equipment and related software in the United States and abroad that implement CDTI for ADS-B, infringes the '925 Patent.

4.30 UPS has infringed, and is continuing to infringe, claims 46, 47, 48, 49, and 50 of the '925 Patent, directly, contributorily, and/or by inducement.

4.31 UPS has infringed, and is continuing to infringe, claims 46, 47, 48, 49, and 50 of the '925 Patent by and through the operation of aircraft implementing CDTI for ADS-B with potential collision warning feature.

4.32 In the alternative, Plaintiffs have suffered irreparable injury that cannot be adequately compensated by a monetary award as a result of UPS's infringement of the '925 Patent, and Plaintiffs will continue to suffer irreparable injury as a result of the continued infringement, unless enjoined by this Court.

4.33 Upon information and belief, UPS's infringement of the '925 Patent is willful.

4.34 UPS's willful, systematic, extensive and/or continuing infringement of the '925 Patent render this an exceptional case pursuant to 35 U.S.C. § 285.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs seek the following relief of the Court:

(a) Judgment that UPS has infringed, induced infringement, and committed acts of contributory infringement, with respect to valid claims of U.S. Patents Nos. 5,392,052, 5,351,194, 6,405,132, 6,314,366 and 7,295,925;

(b) An order permanently enjoining UPS and its affiliates, subsidiaries, officers, directors, agents, employees, representatives, licensees, successors, assigns, and all those acting for UPS and on its behalf, or acting in concert with it directly or indirectly, from using avionics equipment that infringes any of the patents identified herein;

(c) An award of damages to Plaintiffs in an amount adequate to compensate each for UPS's infringement of the Plaintiffs' Patents, but in no event less than a reasonable royalty, together with interest and costs pursuant to 35 U.S.C. § 284;

- (d) An order enhancing the foregoing damages due to UPS's willful infringement under 35 U.S.C. § 284;
- (e) An award of prejudgment and postjudgment interest on damages assessed;
- (f) A determination that this is an exceptional case and an award of attorneys' fees and costs incurred in prosecuting this action pursuant to 35 U.S.C. § 285; and
- (g) An award of such other and further relief as the Court deems just.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial jury of all issues so triable under the law as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: August 29, 2008

Respectfully submitted,

/s/ Richard D. Daly

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CERTIFICATE OF SERVICE

I hereby certify that on August 29, 2008, a true and correct copy of the foregoing document was forwarded by email to the following:

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