

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

TOMTOM GLOBAL ASSETS B.V.,

Plaintiff,

v.

AISIN AW CO., LTD., and AW TECHNICAL
CENTER U.S.A., INC.

Defendants.

Case No. 2:08-CV-063

DEMAND FOR JURY TRIAL

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff TomTom Global Assets B.V. (“TomTom”) alleges as follows:

PARTIES

1. TomTom is a private limited liability company incorporated under the laws of the Netherlands with its principal place of business in Amsterdam, The Netherlands. TomTom and its related companies are the world’s largest providers of portable navigation devices. The TomTom companies combine innovative, cutting-edge designs that focus on quality, ease of use, and value with their industry-leading software and hardware technology.

2. On information and belief, defendant Aisin AW Co., Ltd. (“Aisin AW”), is a corporation organized under the laws of Japan, with its principal place of business at 10, Takane, Fujii-cho, Anjo-shi, Aichi-ken, Japan. On information and belief, Aisin AW manufactures vehicle navigation systems and parts thereof and directs those products to the United States, including the Eastern District of Texas, through established distribution channels involving various third parties, knowing that these third parties will use their respective nationwide contacts and distribution channels to import into, sell, offer for sale, and/or use these vehicle navigation systems and parts thereof in the Eastern District of Texas and elsewhere in the United States.

3. On information and belief, defendant AW Technical Center U.S.A., Inc., (“AW Tech”) is a corporation organized under the laws of Michigan, with a principal place of business at 1203 Woodridge, Ann Arbor, Michigan 48105. AW Tech is a direct or indirect subsidiary of Aisin AW and either directly or indirectly imports into, sells, and/or offers for sale vehicle navigation systems and parts thereof in the Eastern District of Texas and elsewhere in the United States.

JURISDICTION

4. This is an action for patent infringement arising under the patent laws of the United States of America, 35 U.S.C. § 1, *et seq.*, including 35 U.S.C. § 271. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) in that this is a civil action arising under the patent laws of the United States of America.

VENUE

5. Venue in the Eastern District of Texas is proper pursuant to 28 U.S.C. Sections 1391(b), (c) and (d) and 1400(b) because Aisin AW and AW Tech are doing business in the State of Texas, including this District, and have committed acts of infringement in this District; because Aisin AW and AW Tech are subject to personal jurisdiction of this Court; and because Aisin AW is an alien.

COUNT ONE **(Patent Infringement)**

6. TomTom incorporates by reference paragraphs 1 through 5 of this Complaint and realleges them as though fully set forth herein.

7. On April 16, 1996, the United States Patent and Trademark Office issued U.S. Patent No. 5,508,931, entitled “Route Guidance On/Off-Route State Filter” (the “931 patent”).

8. TomTom is the owner of all rights, title and interest in and to the '931 patent, including the right to recover for past infringements thereof.

9. On information and belief, Aisin AW and AW Tech have infringed and are infringing the '931 Patent under 35 U.S.C. § 271. For example, without limitation, Aisin AW and AW Tech have been and are now infringing, contributorily infringing and/or actively inducing infringement of the '931 patent by making, using, offering to sell, selling, causing to be sold, causing to be imported and/or importing in the United States of America vehicle navigation systems and parts thereof that fall within the scope of one or more claims of the '931 patent. Defendants' infringement was and is literal and/or under the doctrine of equivalents.

10. On information and belief, defendants' infringement of the '931 patent was and is willful.

11. As a consequence of defendants' infringement, TomTom is entitled to recover damages adequate to compensate it for the infringement complained of herein, but in no event less than a reasonable royalty.

COUNT TWO
(Patent Infringement)

12. TomTom incorporates by reference paragraphs 1 through 5 of this Complaint and realleges them as though fully set forth herein.

13. On May 7, 1996, the United States Patent and Trademark Office issued U.S. Patent No. 5,515,283, entitled "Method for Identifying Highway Access Ramps for Route Calculation in an Vehicle Navigation System" (the "283 patent").

14. TomTom is the owner of all rights, title and interest in and to the '283 patent, including the right to recover for past infringements thereof.

15. On information and belief, Aisin AW and AW Tech have been and are now infringing the `283 patent under 35 U.S.C. § 271. For example, without limitation, Aisin AW and AW Tech have been and are now infringing, contributorily infringing and/or actively inducing infringement of the `283 patent by making, using, offering to sell, selling, causing to be sold, causing to be imported and/or importing in the United States of America vehicle navigation

systems and parts thereof falling within the scope of one or more claims of the '283 patent.

Defendants' infringement was and is literal and/or under the doctrine of equivalents.

16. On information and belief, defendants' infringement of the '283 patent was and is willful.

17. As a consequence of defendants' infringement, TomTom is entitled to recover damages adequate to compensate it for the infringement complained of herein, but in no event less than a reasonable royalty.

18. Defendants' infringement has irreparably injured and will continue to irreparably injure TomTom, unless and until such infringement is enjoined by this Court.

COUNT THREE
(Patent Infringement)

19. TomTom incorporates by reference paragraphs 1 through 5 of this Complaint and realleges them as though fully set forth herein.

20. On May 11, 1999, the United States Patent and Trademark Office issued U.S. Patent No. 5,902,350, entitled "Generating a Maneuver at the Intersection Through a Turn Lane" (the "350 patent").

21. TomTom is the owner of all rights, title and interest in and to the '350 patent, including the right to recover for past infringements thereof.

22. On information and belief, Aisin AW and AW Tech have been and are now infringing the '350 patent under 35 U.S.C. § 271. For example, without limitation, Aisin AW and AW Tech have been and are now infringing, contributorily infringing and/or actively inducing infringement of the '350 patent by making, using, offering to sell, selling, causing to be sold, causing to be imported and/or importing in the United States of America vehicle navigation systems and parts thereof falling within the scope of one or more claims of the '350 patent. Defendants' infringement was and is literal and/or under the doctrine of equivalents.

23. On information and belief, defendants' infringement of the '350 patent was and is willful.

24. As a consequence of defendants' infringement, TomTom is entitled to recover damages adequate to compensate it for the infringement complained of herein, but in no event less than a reasonable royalty.

25. Defendants' infringement has irreparably injured and will continue to irreparably injure TomTom, unless and until such infringement is enjoined by this Court.

COUNT FOUR
(Patent Infringement)

26. TomTom incorporates by reference paragraphs 1 through 5 of this Complaint and realleges them as though fully set forth herein.

27. On April 1, 2003, the United States Patent and Trademark Office issued U.S. Patent No. 6,542,814, entitled "Methods and Apparatus for Dynamic Point of Interest Display" ("the '814 patent").

28. TomTom is the owner of all rights, title and interest in and to the '814 patent, including the right to recover for past infringements thereof.

29. On information and belief, Aisin AW and AW Tech have been and are now infringing the '814 patent under 35 U.S.C. § 271. For example, without limitation, Aisin AW and AW Tech have been and are now infringing, contributorily infringing and/or actively inducing infringement of the '814 patent by making, using, offering to sell, selling, causing to be sold, causing to be imported and/or importing in the United States of America vehicle navigation systems and parts thereof falling within the scope of one or more claims of the '814 patent. Defendants' infringement was and is literal and/or under the doctrine of equivalents.

30. On information and belief, defendants' infringement of the '814 patent was and is willful.

31. As a consequence of defendants' infringement, TomTom is entitled to recover damages adequate to compensate it for the infringement complained of herein, but in no event less than a reasonable royalty.

32. Defendants' infringement has irreparably injured and will continue to irreparably injure TomTom, unless and until such infringement is enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, TomTom requests that the Court:

- A. Adjudge that the '931, '283, '350 and '814 patents are valid and enforceable;
- B. Adjudge that Aisin AW and AW Tech are infringing and/or has infringed, and are or have been contributing to and/or inducing infringement of, the '931, '283, '350 and '814 patents, and that such infringement is willful and deliberate;
- C. Enjoin Aisin AW, AW Tech and their affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns and all those acting for it and on its behalf, or acting in concert with them, from further infringement of the '931, '283, '350 and '814 patents;
- D. Award compensatory damages to TomTom, including but not limited to lost profits, but in no event less than a reasonable royalty, together with interest;
- E. Declare this to be an exceptional case and award treble damages to TomTom for defendants' willful infringement of the '931, '283, '350, and/or '814 patents;
- F. Award TomTom its costs and attorneys' fees pursuant to 35 U.S.C. § 285;
- G. Award TomTom such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff TomTom hereby demands a jury trial on all issues so triable.

Dated: February 14, 2008

/s/ Otis Carroll
Otis Carroll, Lead Counsel
Texas State Bar No. 03895700
IRELAND, CARROLL & KELLEY, P.C.
6101 S. Broadway, Suite 500
Tyler, Texas 75703
Tel: (903) 561-1600
Fax: (903) 581-1071
Email: Fedserv@icklaw.com

Of Counsel:

S. Calvin Capshaw
State Bar No. 03783900
ccapshaw@mailbmc.com
Elizabeth L. DeRieux
State Bar No. 05770585
ederieux@mailbmc.com
BROWN MCCARROLL, L.L.P.
1127 Judson Road, Suite 220
P.O. Box 3999
Longview, Texas 75601-5157
Telephone: (903) 236-9800
Facsimile: (903) 236-8787

Barry E. Bretschneider
John P. Corrado
John A. Trocki, III
MORRISON & FOERSTER LLP
1650 Tysons Boulevard, Suite 400
McLean, Virginia 22102
Tel: (703) 760-7700
Fax: (703) 760-7777