

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

R+L CARRIERS, INC.
600 Gillam Road
Wilmington, Ohio 45177,

Plaintiff,

vs.

BERRY & SMITH TRUCKING LTD.
c/o Statutory Agent
Eric Beery
275 E. State Street
Columbus, Ohio 43215-4330,

Defendant.

CASE NO: 1:09cv531

JUDGE Spiegel

Jury Demand Endorsed Herein

COMPLAINT FOR PATENT INFRINGEMENT

R+L Carriers, Inc. ("R+L") states the following for its complaint against Berry & Smith Trucking Ltd. ("Berry & Smith")

Nature of the Action

1. This is an action for patent infringement in violation of 35 U.S.C. § 271(a).

Jurisdiction and Venue

2. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has general personal jurisdiction over Berry & Smith because of its continuous and systematic contacts with the State of Ohio. Berry & Smith is authorized to operate its trucking fleet within the State of Ohio and, upon information and belief, Berry & Smith's trucks regularly pass through, pick up freight, and make deliveries in the State of Ohio.

4. Upon information and belief, this Court has specific personal jurisdiction over Berry & Smith because it has used certain infringing shipping document transmission and processing systems from a motor vehicle both within and outside of Ohio and has caused R+L harm and tortuous injury in this judicial district.

5. Venue is appropriate in this judicial district pursuant to 28 U.S.C. §§ 1391(d) and 1400(b).

The Parties

6. R+L is a corporation organized and existing under the laws of the State of Ohio, and has its principal place of business at 600 Gillam Road, Wilmington, Ohio 45177.

7. Upon information and belief, Berry & Smith is a Canadian trucking company headquartered in Penticton, British Columbia. Berry & Smith has a statutory agent for service of process located in Columbus, Ohio.

The Infringed Patent

8. The United States Patent and Trademark Office duly and legally issued United States Patent No. 6,401,078 B1 (“the ‘078 Patent”) entitled “Bill of Lading Transmission and Processing System for Less Than a Load Carriers” on June 4, 2002. A copy of the ‘078 Patent is attached as Exhibit A.

9. The ‘078 Patent claims a process directed to the transfer of shipping documentation for a package (freight) to a remote processing center. In particular, documentation for a package is scanned and transmitted wirelessly to a remote processing center. The processing center then prepares a loading manifest that includes the package for further transportation of the package, prior to the package being removed from the transporting vehicle.

10. R+L owns all right, title and interest in the ‘078 Patent via assignment.

Actions Giving Rise to this Complaint

11. Berry & Smith is a trucking company that specializes in over-the-road transportation using dry vans and flat decks, intermodal transportation services and truckload brokerage services. Berry & Smith serves all of Canada and is licensed to operate in the continental United States.

12. In or around September 2007, a press-release announced that Berry & Smith was looking forward to using In-Cab Scanning offered by PeopleNet Communications Corporation (“PeopleNet”) in partnership with Microdea, Inc. (“Microdea”). According to Dorothy Vankoughnett, controller and IT manager for Berry & Smith, “We are looking to In-Cab Scanning to improve driver efficiency by expediting document flow to and from the vehicle, whether that be customer required documents, documents to assist cross-border travel or vehicle documents.”

13. The September 2007 press release described the In-Cab Scanning function as providing “the capability to scan and transmit documents directly from the cab of a truck using the advanced technology of Microdea and the bandwidth of PeopleNet mobile communications.”

14. According to the September 2007 press release, “In-Cab Scanning is designed to enable drivers to scan and transmit critical transportation documents, such as bills of lading and signed delivery receipts, immediately from virtually anywhere” (emphasis added). Furthermore, “with documents in hand, dispatch will be able to more quickly and surely dispatch loads and assign drivers” (emphasis added).

15. An article in the Penticton Herald on October 30, 2007 reported that on or around October 29, 2007, the first two prototypes of in-cab scanners were installed into Berry & Smith

Trucks. The article reported that “[e]ventually more than 120 of their trucks will be equipped with the devices.”

16. Thus, upon information and belief, Berry & Smith is directly infringing the ‘078 Patent by using PeopleNet and Microdea’s In-Cab Scanning to remotely transmit shipping documents from onboard a motor vehicle to a remote processing facility. There, a loading document is prepared that includes the further transport of goods on another vehicle. Berry & Smith does so without leave or license of R+L, and in violation of R+L’s rights.

COUNT I—DIRECT INFRINGEMENT

17. R+L repeats and realleges the allegations contained in paragraphs 1-16 above as if fully set forth herein.

18. Upon information and belief, Berry & Smith knowingly uses PeopleNet and Microdea’s In-Cab Scanning in a manner that infringes on the patented process claimed in the ‘078 Patent. Berry & Smith’s conduct amounts to direct infringement in violation of 35 U.S.C. § 271(a).

19. Upon information and belief, Berry & Smith has profited and will continue to profit from infringing the ‘078 Patent.

20. Berry & Smith’s infringement of the ‘078 Patent has caused and will continue to cause R+L substantial and irreparable injury, for which R+L is entitled to receive injunctive relief and adequate compensatory damages.

21. Further, the Berry & Smith’s actions with regard to infringing the ‘078 Patent are willful such that R+L is entitled to treble damages under 35 U.S.C. § 284.

Demand for Relief

WHEREFORE, R+L respectfully requests that this Court enter judgment as follows:

A. Declare that R+L is the owner of the '078 Patent and that the '078 Patent is valid and enforceable;

B. Preliminarily and permanently enjoin Berry & Smith, its employees and agents, and any others acting in concert with Berry & Smith, from infringing on the '078 Patent;

C. Award R+L its damages resulting from Berry & Smith's infringement of the '078 Patent;

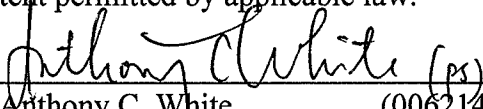
Award R+L treble damages pursuant to 35 U.S.C. § 284 as a result of Berry & Smith's willfulness in infringing the '078 Patent;

D. Declare that the nature of Berry & Smith's infringement is "exceptional" pursuant to 35 U.S.C. § 285 and award R+L its costs and attorney fees; and

E. Grant R+L such other relief as is just and proper.

Jury Demand

R+L demands a trial by jury to the extent permitted by applicable law.


Anthony C. White (0062146)

Respectfully submitted,


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