

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**NOVELPOINT TRACKING LLC**

Plaintiff,

v.

**TRACK WHAT MATTERS, L.L.C.,  
DYNAMEX INC., E.J. WARD, INC.,  
ALAMO INDUSTRIES, INC., GEOMOTO,  
LLC, LASSO TECHNOLOGIES, LLC,  
MEGAHERTZ TECHNOLOGY, INC.,  
MIX TELEMATICS NORTH AMERICA,  
INC., SAGEPLAN INC, and X5 GPS  
TRACKING LLC**

Defendants.

**Case No. 4:12-cv-191**

**PATENT CASE**

**JURY TRIAL DEMANDED**

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**COMPLAINT**

NovelPoint Tracking LLC files this Complaint against Track What Matters, L.L.C., Dynamex Inc., E.J. Ward, Inc., Alamo Industries, Inc., Geomoto, LLC, Lasso Technologies, LLC, Megahertz Technology, Inc., MiX Telematics North America, Inc., Sageplan Inc., and X5 GPS Tracking LLC (collectively “Defendants”) for infringement of United States Patent No. 6,442,485 (hereinafter referred to as “the ‘485 patent”).

**THE PARTIES**

1. Plaintiff NovelPoint Tracking LLC is a Texas limited liability company with its principal place of business at 1300 Ballantrae Dr., Allen TX, 75013.

2. Defendant Track What Matters, L.L.C. is a Texas Limited Liability Company with its principal place of business at 2652 FM 407, Suite 215, Argyle, TX 76226.

3. Defendant Dynamex Inc. is a Delaware company with its principal place of business located at 5429 LBJ Freeway Suite 1000, Dallas, TX 75240.

4. Defendant E.J. Ward, Inc. is a Texas corporation with its principal place of business located at 8801 Tradeway, San Antonio, TX 78217.

5. Defendant Alamo Industries, Inc., which also does business under the name Fleetsat, is a Texas corporation with its principal place of business located at 5923 Gateway Blvd West, El Paso, TX 79925.

6. Defendant Geomoto, LLC is a Texas Limited Liability Company with its principal place of business at 14185 Dallas Parkway, Suite 550, Dallas, Texas 75254.

7. Defendant Lasso Technologies, LLC is a Texas Limited Liability Company with its principal place of business at 8111 Lyndon B Johnson Freeway, Suite 900, Dallas, TX 75251.

8. Defendant Megahertz Technology, Inc. is a Texas corporation with its principal place of business at 5622 E. University, Dallas, TX 75206.

9. Defendant MiX Telematics North America, Inc. is a Texas corporation with its US office at 401 E. Corporate Dr., Ste 146, Lewisville, TX 75057; and is a wholly-owned subsidiary of MiX Telematics, a South African company.

10. Defendant Sageplan, Inc. is a Texas corporation with its principal place of business at 12871 Research Blvd, Suite 204; Austin, TX 78750.

11. Defendant X5 GPS Tracking LLC is a Texas Limited Liability Company with its principal place of business at 4007 Meadow Bluff Way, Round Rock, TX 78665.

#### **NATURE OF THE ACTION**

12. This is a civil action for infringement of United States Patent No. 6,442,485, arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

**JURISDICTION AND VENUE**

13. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents).

14. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and 1400(b) because Defendants have committed acts of infringement in this district and/or are deemed to reside in this district for purposes of this action.

15. This Court has personal jurisdiction over Defendants and venue is proper in this district because Defendants have committed, and continue to commit, acts of infringement in the State of Texas, including in this district and/or have engaged in continuous and systematic activities in the State of Texas, including in this district.

16. Upon information and belief, based on the information presently available to NPT, and absent discovery, NPT contends the acts of infringement arise out of the same transactions and occurrences relating to the making, using, importing, offering for sale, or selling of the same accused products and processes and are based on common questions of fact.

**THE PATENT-IN-SUIT**

17. United States Patent No. 6,442,485 (the ‘485 patent”), entitled “Method and Apparatus for an Automatic Vehicle Location, Collision Notification, and Synthetic Voice,” was duly and legally issued by the United States Patent and Trademark Office on August 27, 2002. A copy of the ’485 patent is attached hereto as Exhibit A.

18. NPT is the exclusive owner of all rights, title, and interest in the patent-in-suit, including the right to exclude others and to enforce, sue and recover damages for past and future infringement thereof.

**INFRINGEMENT OF THE '485 PATENT**

19. NPT incorporates paragraphs 1 through 18 by reference as if fully stated herein.

20. The '485 patent is valid and enforceable.

21. Defendants have directly infringed, and continue to directly infringe, one or more claims of the '485 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, offering for sale, and/or importing products and/or methods encompassed by those claims.

22. Third parties, including Defendants' customers, have infringed, and continue to infringe, one or more claims of the '485 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by using, selling, and/or offering for sale in the United States, and/or importing into the United States, products supplied by Defendants.

23. Upon information and belief, based on the information presently available to NPT, absent discovery, and in the alternative to direct infringement, NPT contends that each Defendant has induced infringement, and continues to induce infringement, of one or more claims of the '485 patent under 35 U.S.C. § 271(b). Each defendant has actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the '485 patent by making, using, importing, and selling or otherwise supplying products to third parties, including at a minimum its customers, with the knowledge and intent that such third parties will use, sell, offer for sale, and/or import, products supplied by such Defendant to infringe the '485 patent; and with the knowledge and intent to encourage and facilitate the infringement through the dissemination of the products and/or the creation and dissemination of promotional and marketing materials, supporting materials, instructions, product manuals, and/or technical information related to such products.

24. Upon information and belief, based on the information presently available to NPT, absent discovery, and in the alternative to direct infringement, NPT contends that each Defendant has contributed, and continues to contribute, to the infringement by third parties (including its customers) of one or more claims of the '485 patent under 35 U.S.C. § 271(c) by selling, offering for sale, and/or importing such Defendant's products, knowing that those products constitute a material part of the inventions of the '485 patent, knowing that those products are especially made or adapted to infringe the '485 patent, and knowing that those products are not staple articles of commerce suitable for substantial noninfringing use.

25. Track What Matters' Theft Recovery Devices are examples of infringing products and/or methods.

26. Dynamex's dxNow or Dynamex Enterprise Computer System is an example of an infringing product and/or method.

27. E.J. Ward's Ward Fleet View is an example of an infringing product and/or method.

28. Alamo Industries' AT282-LP Asset Tracking Device is an example of an infringing product and/or method.

29. Geomoto's Fleet Tracking Unit is an example of an infringing product and/or method.

30. Lasso Technologies' Telemetry Solutions for Asset Management, Location Monitoring and Control are examples of infringing products and/or methods.

31. Megahertz Technology's GPS Fleet Tracking is an example of an infringing product and/or method.

32. MiX Telematics' Vehicle Tracking Solutions are examples of infringing products and/or methods.

33. Sageplan's ST Advisor GPS Tracking Device is an example of an infringing product and/or method.

34. X5 GPS Tracking's FT-X5 Live Real Time GPS Tracking Unit is an example of an infringing product and/or method.

35. NPT put each Defendant on notice of the '485 patent and such Defendant's infringement thereof at least as early as the date of filing of this complaint.

36. NPT has been and continues to be damaged by each Defendant's infringement of the '369 patent.

37. Defendants' actions complained of herein are causing irreparable harm and damages to NPT and will continue to do so unless and until Defendants are enjoined and restrained by the Court.

38. Each Defendant's conduct in infringing the '485 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

**JURY DEMAND**

39. Plaintiff NPT hereby demands a trial by jury on all issues so triable

**PRAYER FOR RELIEF**

WHEREFORE, NPT prays for judgment as follows:

- A. That Defendants have infringed one or more claims of the patent-in-suit;
- B. That Defendants account for and pay all damages necessary to adequately compensate NPT for infringement of the patent-in-suit, such damages to be determined by a jury,

and that such damages be trebled and awarded to NPT with pre-judgment and post-judgment interest;

C. That Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or actively participating with them, be permanently enjoined from directly or indirectly infringing the patent-in-suit; or, in the alternative, judgment that each Defendant account for and pay to NPT an ongoing post-judgment royalty reflecting Defendants' deliberate continuing infringement;

D. That this case be declared an exceptional case within the meaning of 35 U.S.C. § 285 and that NPT be awarded the attorney fees, costs, and expenses that it incurs prosecuting this action; and

E. That NPT be awarded such other and further relief as this Court deems just and proper.

DATED: April 2, 2012

Respectfully submitted,

/s/ Everett Upshaw  
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**ATTORNEY FOR PLAINTIFF**