

Bruce D. Vargo, Esq.  
SCARPONE & VARGO LLC  
50 Park Place, Suite 1003  
Newark, New Jersey 07102  
Tel: (973) 623-4101  
Fax: (973) 623-4181  
bvargo@scarponevargo.com  
*Attorneys for Plaintiff Cuozzo Speed Technologies LLC*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

CUOZZO SPEED TECHNOLOGIES LLC,

Plaintiff,

v.

GENERAL MOTORS LLC,

Defendant.

Civil Action No. 12-3624 (CCC)(JAD)

**JURY TRIAL DEMANDED**

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Cuozzo Speed Technologies LLC, for its Complaint against Defendant General Motors LLC states and alleges:

**PARTIES**

1. Plaintiff Cuozzo Speed Technologies LLC (“CST”) is a limited liability company organized under New Jersey law with a principal place of business at 14 Ver Valen St., Closter, New Jersey 07624.

2. Defendant General Motors LLC (“GM”) is a Delaware limited liability company with its principal place of business at 300 Renaissance Center, Detroit, Michigan 48265. GM may be served with process through its registered agent, The Corporation Trust Company, 820 Bear Tavern Road, West Trenton, New Jersey 08628.

### **JURISDICTION AND VENUE**

3. This action arises under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, including § 271. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

4. Venue is proper in this District under 28 U.S.C. § 1391 (b)-(c) and § 1400 (b) because (1) GM regularly conduct business in this District and is subject to personal jurisdiction here; (2) a substantial part of the events giving rise to CST's claims occurred in this District; (3) GM has committed and continues to commit acts of infringement in this District; and (4) GM has harmed and continues to cause harm to CST in this District.

### **GENERAL ALLEGATIONS**

5. On August 17, 2004, the United States Patent and Trademark Office issued United States Patent No. 6,778,074 (the '074 Patent) after a full and fair examination. The '074 Patent is titled "Speed Limit Indicator and Method for Displaying Speed and the Relevant Speed Limit" and issued to the sole inventor, Giuseppe A. Cuozzo. A true and correct copy of the '074 Patent is attached as Exhibit A.

6. The '074 Patent is presumed valid and enforceable under 35 U.S.C. § 282.

7. Since the '074 Patent issued, mobile device manufacturers, software developers, GPS navigation system manufacturers, and automakers, including GM, have recognized the value of Mr. Cuozzo's invention and developed and sold products and services meeting each and every claim element or practicing each and every step of the claims of the '074 Patent.

8. Less than one month after the Patent Office granted Mr. Cuozzo the '074 Patent, Mr. Cuozzo submitted a September 21, 2004 "Request to Consider Submission" to GM, requesting that GM consider Mr. Cuozzo's patented invention. Included in Mr. Cuozzo's

submission was a copy of the '074 Patent. GM assigned Mr. Cuozzo's submission New Devices File #272858.

9. In August 2006, almost two years after Mr. Cuozzo wrote to GM, the Acting Director of GM's New Devices Section, T.J. Schafer, responded that GM "has no interest" in Mr. Cuozzo's patented invention.

10. In 2008, GM announced that certain 2009 Cadillac models, including the Cadillac DTS model, would include a new feature called "Speed Limit Advisor with Speed Alert."

11. Regarding the 2009 Cadillac DTS model, GM announced "A host of customer-focused enhancements and revisions have been made to the 2009 DTS interior. They include: A speed limit advisor with speed alert feature on the driver information center, via the navigation radio."

12. GM manufactures, sells, offers to sell, and distributes vehicles with GPS-based navigation systems for providing speed limit warnings including, without limitation, the Cadillac DTS and STS model vehicles.

13. CST owns all right, title, and interest to the '074 Patent including the exclusive right to enforce the '074 Patent, the exclusive right to license the '074 Patent, and the exclusive right to seek and collect all past and future monetary or injunctive relief for infringement of the '074 Patent.

**INFRINGEMENT OF U.S. PATENT NO. 6,778,074**

14. CST incorporates each of the preceding paragraphs as if fully set forth herein.

15. GM has been and is infringing literally and/or under the doctrine of equivalents, directly, contributorily, or by inducement, the '074 Patent.

16. GM directly infringes, and will continue to infringe, the '074 patent in violation of 35 U.S.C. § 271 by making, using, selling, offering for sale, and/or importing, without authority, products embodying one or more claims of the '074 Patent.

17. Infringing GM products that embody at least claims 1, 2, 6, 7, 8, 9, 10, 11, 12, 13, 18, 19, and 20 of the '074 Patent include, without limitation, the navigation systems with Speed Limit Advisor with Speed Alert installed in Cadillac DTS and STS vehicles.

18. GM has had knowledge of the '074 Patent since at least as early as GM's receipt of Mr. Cuozzo's September 12, 2004 submission.

19. GM has contributed and continues to contribute to direct infringement of the '074 Patent by others, including consumers, in violation of 35 U.S.C. § 271(c) because navigation systems with Speed Limit Advisor with Speed Alert in GM's products, including without limitation the Cadillac DTS and STS model vehicles, are not staple articles of commerce suitable for substantial non-infringing use, are specially adapted for an infringing use of the '074 Patent, and embody a material part of the inventions claimed in the '074 Patent.

20. With knowledge of the '074 Patent, GM actively induces consumers and others to directly infringe the '074 Patent, in violation of 35 U.S.C. § 271(b), by providing products such as the Cadillac DTS and STS model vehicles equipped with navigation systems with Speed Limit Advisor with Speed Alert, along with instructions, user manuals, or technical assistance, actively and directly, assisting, and encouraging infringement of the '074 Patent, and/or by providing navigation systems having a core and common feature leading to third-party infringement of the '074 Patent.

21. Despite having knowledge of the '074 Patent based upon Mr. Cuozzo's submission, GM has engaged in infringing conduct. Accordingly, GM's infringement is willful.

22. As a result of Defendant's infringement, CST has been damaged in an amount not presently known.

23. CST has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute create an exceptional case within the meaning of 35 U.S.C. § 285, and CST is entitled to recover its reasonable and necessary fees and expenses.

**NOTICE OF REQUIREMENT OF LITIGATION HOLD**

24. GM is hereby notified that it is legally obligated to locate, preserve, and maintain all records, notes, drawings, documents, data, communications, materials, electronic recordings, audio/video/photographic recordings, and digital files, including edited and unedited or "raw" source material, and other information and tangible things that GM knows, or reasonably should know, may be relevant to actual or potential claims, counterclaims, defenses, and/or damages by any party or potential party in this lawsuit, whether created or residing in hard copy form or in the form of electronically stored information (hereafter collectively referred to as "Potential Evidence").

25. As used above, the phrase "electronically stored information" includes without limitation: computer files (and file fragments), e-mail (both sent and received, whether internally or externally), information concerning e-mail (including but not limited to logs of e-mail history and usage, header information, and deleted but recoverable e-mails), text files (including drafts, revisions, and active or deleted word processing documents), instant messages, audio recordings and files, video footage and files, audio files, photographic footage and files, spreadsheets, databases, calendars, telephone logs, contact manager information, internet usage files, and all other information created, received, or maintained on any and all electronic and/or digital forms, sources and media, including, without limitation, any and all hard disks, removable media,

peripheral computer or electronic storage devices, laptop computers, mobile phones, personal data assistant devices, Blackberry devices, iPhones, video cameras and still cameras, and any and all other locations where electronic data is stored. These sources may also include any personal electronic, digital, and storage devices of any and all of GM's agents or employees if GM's electronically stored information resides there.

26. GM is hereby further notified and forewarned that any alteration, destruction, negligent loss, or unavailability, by act or omission, of any Potential Evidence may result in damages or a legal presumption by the Court and/or jury that the Potential Evidence is not favorable to GM's claims and/or defenses. To avoid such a result, GM's preservation duties include, but are not limited to, the requirement that GM immediately notify its agents and employees to halt and/or supervise the auto-delete functions of GM's electronic systems and refrain from deleting Potential Evidence, either manually or through a policy of periodic deletion.

**PRAYER FOR RELIEF**

Cuozzo Speed Technologies LLC requests that judgment be entered in its favor and against Defendant, and that the Court award the following relief:

- A. Judgment that GM has infringed one or more claims of the '074 Patent either literally or under the doctrine of equivalents;
- B. Damages pursuant to 35 U.S.C. § 284 sufficient to compensate CST for GM's past infringement and any continuing or future infringement and in no event less than a reasonable royalty;
- C. Increased damages in an amount three times the damages found by the jury or assessed by the Court for GM's willful infringement of the '074 Patent pursuant to 35 U.S.C. § 284;

- D. Judgment and order requiring GM provide an accounting and pay supplemental damages to CST, including without limitation, pre-judgment and post-judgment interest;
- E. Judgment and order finding this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to CST its reasonable attorneys' fees against GM; and
- F. Any and all other relief to which CST may show itself to be entitled or to which this Court may deem is just and proper.

**DEMAND FOR JURY TRIAL**

Cuozzo Speed Technologies LLC demands a trial by jury on all issues so triable.

OF COUNSEL

Cabrach J. Connor  
Jason W. Deats  
REED & SCARDINO LLP  
301 Congress Avenue, Suite 1250  
Austin, TX 78701  
Tel: (512) 474-2449  
Fax: (512) 474-2622  
*cconnor@reedscardino.com*  
*jdeats@reedscardino.com*

SCARPONE & VARGO LLC  
50 Park Place, Suite 1003  
Newark, New Jersey 07102  
Tel: (973) 623-4101  
Fax: (973) 623-4181  
*bvargo@scarponevargo.com*

By: /s/ Bruce D. Vargo  
Bruce D. Vargo

Ed Goldstein  
Alisa Lipski  
GOLDSTEIN & LIPSKI PLLC  
1177 West Loop South, Suite 400  
Houston, TX 77027  
Tel: (713) 877-1515  
Fax: (713) 877-1145  
*egoldstein@gliplaw.com*  
*alipski@gliplaw.com*

Attorneys for Plaintiff Cuozzo Speed Technologies LLC

DATED: August 7, 2012