

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

e-WATCH, INC.
Plaintiff

v.

COBAN TECHNOLOGIES, INC.
Defendant

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§

Civil Case No. 4:12-cv-1250

Magistrate Judge Hanks

Jury demanded

SECOND AMENDED COMPLAINT

Comes Now **e-WATCH, INC.**, pursuant to Federal Rule of Civil Procedure 15(a)(2), files this Second Amended Complaint against **COBAN TECHNOLOGIES, INC.**, and for cause of action respectfully shows as follows:

PARTIES

1. Plaintiff **e-WATCH, INC.** is a Nevada Corporation with its principal office in San Antonio, Texas.
2. Defendant **COBAN TECHNOLOGIES, INC.** is a Texas corporation with its principal office in Stafford, Texas and has previously made an appearance in this case.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), because Plaintiff's claims arise under federal laws relating to patents and unfair competition.
4. This Court has personal jurisdiction over the Defendant because its principal

office is located in Texas. Venue is proper in the Southern District of Texas pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because the Defendant subject to personal jurisdiction in this judicial district, the Defendant regularly conducts business in the state of Texas and within this judicial district, the Defendant has committed acts of infringement within this judicial district.

FACTS

5. e-Watch develops and markets hardware, software and services that are essential to modern professional surveillance systems, including systems with mobile digital video recording (DVR) capabilities.

6. Mobile DVR devices are commonly installed in law enforcement vehicles, public transit vehicles, buses, surveillance vehicles, airplanes, ambulances and other emergency response vehicles to provide a video and audio record of activities in proximity to the vehicle.

7. e-Watch has developed and marketed a mobile DVR system, which, among other things, has the capability of recording full motion video while simultaneously generating still frames. The multifunction remote controlled video recording, transmission and playback system includes a still frame generator adapted for selecting and generating still frames on the fly while a full motion video signal is being recorded, without interrupting the recording function. Audio and data signals as well as global positioning satellite and telemetry signals may also be incorporated in the recorded full motion video recording on a near real time synchronized basis.

8. e-Watch is the owner of United States Patent No. 7,197,228 filed on August 28, 1998 and issued on March 27, 2007 (the “228 Patent”) and United States Patent No. 7,428,368 filed on November 29, 2005 and issued on September 23, 2008 (the “368 Patent”).

9. On information and belief the Defendant, Coban Technologies, makes, uses and sells, or attempts to make, use or sell, or otherwise provides throughout the United States and within the geographical area covered by the United States District Court for the Southern District of Texas products and services which utilize the systems and methods described by claims in the '228 and '368 Patents.

CLAIM FOR INFRINGEMENT OF THE '228 PATENT

10. Plaintiff incorporates the foregoing paragraphs by reference as if fully set forth below.

11. The '228 Patent describes technology for a mobile DVR system with the capability of recording and transmitting high resolution still image and video signals.

12. The '228, Patent is valid and enforceable.

13. The Defendant has and continues to infringe, contributorily infringe or actively induce the infringement of the '228 Patent by using, selling and offering for use or sale products and services within this judicial district which incorporate e-Watch's patented technology. The Defendant is offering for sale or use, or selling or using these products without license or authority from e-Watch. The claims of the patent are either literally infringed or infringed under the doctrine of equivalents. These infringing acts of the Defendant are committed in violation of 35 U.S.C. § 271.

14. Upon information and belief, Plaintiff alleges that the acts of infringement by the Defendant is willful, making this an exceptional case under 35 U.S.C. § 285.

15. Upon information and belief, Plaintiff further alleges that the actions of the Defendant have resulted in substantial lost profits to the Plaintiff, and substantial unjust profits

and enrichment to the Defendant, all in amounts yet to be determined. Plaintiff at all times has been and is now willing to grant licenses to qualified parties, including the Defendant, for the use of its patented technology, at a reasonable royalty rate. Defendant's act of infringement has caused irreparable harm to the Plaintiff and will continue to do so unless enjoined by the Court.

CLAIM FOR INFRINGEMENT OF THE '368 PATENT

10. Plaintiff incorporates the foregoing paragraphs by reference as if fully set forth below.

11. The '368 Patent describes a Multifunction Remote Control System for Audio and Video Recording, Capture, Transmission and Playback of Full Motion and Still Images.

11.1. The '368, Patent is valid and enforceable.

12. The Defendant has and continues to infringe, contributorily infringe or actively induce the infringement of the '368 Patent by using, selling and offering for use or sale products and services within this judicial district which incorporate e-Watch's patented technology. The Defendant is offering for sale or use, or selling or using these products without license or authority from e-Watch. The claims of the patent are either literally infringed or infringed under the doctrine of equivalents. These infringing acts of the Defendant are committed in violation of 35 U.S.C. § 271.

13. Upon information and belief, Plaintiff alleges that the acts of infringement by the Defendant is willful, making this an exceptional case under 35 U.S.C. § 285.

14. Upon information and belief, Plaintiff further alleges that the actions of the Defendant have resulted in substantial lost profits to the Plaintiff, and substantial unjust profits and enrichment to the Defendant, all in amounts yet to be determined. Plaintiff at all times has

been and is now willing to grant licenses to qualified parties, including the Defendant, for the use of its patented technology, at a reasonable royalty rate. Defendant's act of infringement has caused irreparable harm to the Plaintiff and will continue to do so unless enjoined by the Court.

DAMAGES

15. As a result of Defendant's infringement, Plaintiff has suffered actual and consequential damages, however, Plaintiff does not yet know the full extent of such damages and such extent cannot be ascertained except through discovery and special accounting. To the fullest extent permitted by law, Plaintiff seeks recovery of damages for lost profits, reasonable royalties, unjust enrichment, and benefits received by the Defendant as a result of using the misappropriated technology. Plaintiff seeks any other damages to which it may be entitled in law or in equity.

16. Defendant's infringement was committed intentionally, knowingly, and with callous disregard of Plaintiff's legitimate rights. Plaintiff is therefore entitled to and now seeks to recover exemplary damages in an amount not less than the maximum amount permitted by law.

ATTORNEYS FEES

17. Plaintiff is entitled to recover reasonable and necessary attorneys fees under applicable law.

CONDITIONS PRECEDENT

18. All conditions precedent to Plaintiff's right to recover as requested herein have

occurred or been satisfied.

JURY DEMAND

19. Plaintiff demands a trial by jury pursuant to Fed. R. Civ. P. 38.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff e-Watch, Inc. asks that Defendant Coban Technologies, Inc. be cited to appear and answer and, on final trial, that Plaintiff have judgment against Defendant for the following:

- a. Actual economic damages;
- b. Exemplary treble damages as allowed by law;
- c. Permanent injunction;
- d. Attorney fees;
- e. Pre-judgment and post-judgment interest as allowed by law;
- f. Costs of suit; and
- g. All other relief in law or in equity to which Plaintiff may show itself justly entitled.

Respectfully submitted,

/s/ W. Shawn Staples

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CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2012 a true and correct copy of this document was filed via the Court's ECF system pursuant to Local Rule 5. The notice of electronic filing generated by the ECF system constitutes service of the document on counsel who are registered users of the system. Any other counsel of record will be served pursuant to FRCP 5(b) on this same date.

/s/ W. Shawn Staples

W. Shawn Staples