

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MOBILE LOGISTICS, LLC,	§	
	§	Civil Action No. 1:12-00885-SLR
Plaintiff,	§	
	§	
v.	§	
	§	
FEDEX FREIGHT, INC., FEDEX CORPORATION and TRANSCORE, LP,	§	
	§	
	§	
Defendants.	§	JURY TRIAL DEMANDED
	§	

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Mobile Logistics, LLC ("Mobile Logistics"), by way of its Complaint against Defendants FedEx Freight, Inc. and FedEx Corporation and TransCore, LP (collectively, "Defendants"), hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement of United States Patent No. 5,999,091 arising under 35 U.S.C § 271(a).

THE PARTIES

2. Plaintiff Mobile Logistics is a limited liability company organized under the laws of Delaware with a place of business at 1209 Orange Street, Wilmington, Delaware 19801.

3. Defendant FedEx Freight, Inc. is a corporation organized under the laws of Arkansas with its principal place of business at 2200 Forward Drive, Harrison, Arkansas 72601.

4. Defendant FedEx Corporation is a corporation organized under the laws of Delaware with its principal place of business at 942 South Shady Grove Road, Memphis, Tennessee 38120.

5. Upon information and belief, FedEx Corporation is the parent holding company of FedEx Freight and provides strategic direction to FedEx Freight.

6. Defendant TransCore, LP is a Limited Partnership organized under the laws of Delaware with a principal place of business at 8158 Adams Drive, Hummelstown, Pennsylvania 17036.

JURISDICTION AND VENUE

7. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

8. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

9. Upon information and belief, Defendants regularly conduct business in this judicial district and have committed acts of patent infringement in this judicial district including, *inter alia*, using products and services and using infringing methods and instrumentalities in this judicial district.

10. Upon information and belief, Defendants have ongoing and systematic contacts with this judicial district and the United States.

11. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400.

JOINDER

12. Joinder of Defendants is proper pursuant to 35 U.S.C. § 299. The allegations of patent infringement contained herein arise out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, offering for sale, and/or sale within the United States, and/or importing into the United States, of products and/or services for

management of trailers, including TransCore's RFID technology used to track and/or monitor trailers.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 5,999,091

13. Mobile Logistics repeats and realleges the allegations of paragraphs 1 through 12 as though fully set forth herein.

14. On December 7, 1999, United States Patent No. 5,999,091 ("the '091 Patent"), entitled "TRAILER COMMUNICATION SYSTEM," was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '091 Patent is attached as Exhibit A to this Complaint.

15. Mobile Logistics is the assignee and owner of the right, title, and interest in and to the '091 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

16. Upon information and belief, Defendants FedEx Freight, Inc. and FedEx Corporation are and have been directly infringing the '091 Patent in the United States at least by using infringing Radio Frequency Identification ("RFID") tag units for location on a trailer. Defendants FedEx Freight, Inc. and FedEx Corporation have infringed and continue to infringe one or more claims of the '091 Patent in this judicial district and elsewhere by using products that infringe and/or perform methods that infringe one or more claims of the '091 Patent ("Defendants' Accused Products"). In particular, upon information and belief, Defendants FedEx Freight, Inc. and FedEx Corporation use at least one infringing system, including, but not limited to, a yard management system provided by TransCore which includes tags for location on a trailer. The use of such systems constitutes direct infringement under at least 35 U.S.C. § 271(a) of one or more claims of the '091 Patent.

17. Because of Defendants FedEx Freight, Inc. and FedEx Corporation's infringement of the '091 Patent, Mobile Logistics has suffered damages and will continue to suffer damages in the future.

18. Defendants FedEx Freight, Inc. and FedEx Corporation will be deemed to have knowledge of the '091 patent and their infringement of the '091 patent at least as of the filing date of this Complaint.

19. Upon information and belief, Defendants FedEx Freight, Inc. and FedEx Corporation have not altered their infringing conduct after receiving this Complaint.

20. Upon information and belief, Defendants' FedEx Freight, Inc. and FedEx Corporation continued infringement despite their knowledge of the '091 Patent and Mobile Logistics' accusations of infringement has been objectively reckless and willful.

21. Defendant TransCore has and is continuing to infringe one or more claims of the '091 Patent under 35 U.S.C. § 271 by making, using, selling, offering for sell, and/or importing systems that include Radio Frequency Identification ("RFID") tag units to monitor and/or track trailers and by contributing to and/or inducing others to use such systems and/or methods associated with the operation of such systems.

22. Specifically Defendant TransCore has infringed and/or continues to infringe the '091 Patent by making, using, selling, offering for sale, and/or importing at least the following products: SmartPass 4 Readers, AI1611 SmartPass Readers, Encompass 4 Readers, Encompass 1d Handheld Readers, Encompass 1i Handheld Readers, AI1620 SmartPass Readers, AI1601 Readers, AT5910 Transportation Tags, AT5412 Transportation Tags, AT5114 Transportation Tags, AT5118 Tags, AT5133 High-Temperature Transportation Tags, AT5414 Tags, AT5415

Hardened Transportation Tags, AT5510 Tags, and AT5110 Tags (collectively, "TransCore Accused Products and Services").

23. TransCore has had actual knowledge of the '091 Patent since at least October 8, 2012, the date that counsel for TransCore filed a motion to be admitted *pro hac vice* in this case.

24. Upon information and belief, TransCore has committed and continues to commit acts of contributory infringement of the '091 Patent under 35 U.S.C. § 271(c) by selling, offering to sell, and/or importing products including the TransCore Accused Products and Services, knowing or willfully blind to the fact that these products and services constitute a material part of the invention, were especially made or especially adapted for use in an infringement of the '091 Patent, and have no substantial non-infringing uses.

25. In particular, the TransCore Accused Products and Services constitute a material part of the claimed invention at least because the products include RFID tags for location on a trailer. The TransCore Accused Products and Services were made or especially adapted for use in an infringement of the '091 Patent and have no substantial non-infringing uses at least because they contain components whose only purpose is to monitor the location of trailers in a trucking yard through the use of RFID-tracking technology.

26. Upon information and belief, since at least the date it received notice that the TransCore Accused Products and Services infringed the '091 Patent, Defendant has induced and continues to induce others to infringe the '091 Patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent, actively and knowingly aiding and abetting others to infringe, including, but not limited to, TransCore's customers whose use of the TransCore Accused Products and Services constitutes direct infringement of the '091 Patent. In particular, TransCore acted with specific intent to make others, such as its customers, infringe by advertising and

selling the products and providing information and/or materials demonstrating infringing uses of the products or services. On information and belief, TransCore engaged in such actions with specific intent to cause infringement, or with willful blindness to the resulting infringement, because TransCore has had actual knowledge of the '091 Patent and its acts were inducing its customers to infringe the '091 Patent since at least October 8, 2012.

27. Because of TransCore's infringement of the '091 Patent, Mobile Logistics has suffered damages and will continue to suffer damages in the future.

28. TransCore has had knowledge of the '091 patent and its infringement of the '091 patent at least as of October 8, 2012.

29. Upon information and belief, TransCore has not altered its infringing conduct after receiving notice of the '091 Patent and Mobile Logistics' accusations of infringement.

30. Upon information and belief, TransCore's continued infringement, despite its knowledge of the '091 Patent and Mobile Logistics' accusations of infringement, has been objectively reckless and willful.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Mobile Logistics demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Mobile Logistics respectfully demands judgment for itself and against Defendants as follows:

- A. An adjudication that Defendants have infringed the '091 Patent;
- B. An award of damages to be paid by Defendants adequate to compensate Mobile Logistics for their past infringement of the '091 Patent and any continuing or future infringement

of the '091 Patent through the date such judgment is entered, including pre-judgment and post-judgment interest, costs and expenses as justified under 35 U.S.C. § 284;

C. To the extent the Defendants' conduct subsequent to the date of their notice of the '091 patent is found to be objectively reckless, enhanced damages pursuant to 35 U.S.C. § 284 for Defendants' willful infringement of the '091 Patent;

D. An accounting of all infringing acts including, but not limited to, those acts not presented at trial and an award for Mobile Logistics' damages for any such acts;

E. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Mobile Logistics' reasonable attorneys' fees; and

F. Such other and further relief at law or in equity as the Court deems just and proper.

Dated: January 7, 2013

STAMOULIS & WEINBLATT LLC

/s/ Richard C. Weinblatt

Stamatios Stamoulis #4606

stamoulis@swdelaw.com

Richard C. Weinblatt #5080

weinblatt@swdelaw.com

Two Fox Point Centre

6 Denny Road, Suite 307

Wilmington, DE 19809

Telephone: (302) 999-1540

Attorneys for Plaintiff

Mobile Logistics, LLC