

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

Case No. _____

ARRIVALSTAR S.A. and MELVINO
TECHNOLOGIES LIMITED,

Plaintiffs,

vs.

DEMAND FOR JURY TRIAL

JOSEPH SMITH CUSTOMS
HOUSE BROKER, INC., d/b/a
JOSEPH SMITH INTERNATIONAL
LOGISTICS,

Defendant.

_____ /

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, ArrivalStar S.A. and Melvino Technologies Limited (collectively "Plaintiffs"), by and through their undersigned counsel, hereby sue JOSEPH SMITH CUSTOMS HOUSE BROKER, INC., d/b/a JOSEPH SMITH INTERNATIONAL LOGISTICS ("JS"), for patent infringement, and in support, allege as follows:

NATURE OF THE LAWSUIT

1. This is an action for patent infringement of United States Patent Numbers: 6,714,859; 6,952,645; 7,030,781; 7,400,970; 6,904,359; and, 6,486,801 arising under the patent laws of the United States, Title 35 of the United States Code.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331; 28 U.S.C. § 1338; and 35 U.S.C. § 271.

3. This Court has personal jurisdiction over JS pursuant to, *inter alia*, Florida's long-arm statute, § 48.193, in that, upon information and belief, JS: (a) operates, conducts, engages in, and/or carries on a business or business adventure(s) in Florida and/or has an office or agency in Florida; (b) has committed one or more tortious acts within Florida; (c) was and/or is engaged in substantial and not isolated activity within Florida; and/or (d) has purposely availed itself of Florida's laws, services and/or other benefits and therefore should reasonably anticipate being hailed into one or more of the courts within the State of Florida.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 1400.

THE PLAINTIFFS

5. ArrivalStar S.A. is a corporation organized under the laws of Luxembourg, having offices located at 67 Rue Michel, Welter L-2730, Luxembourg. ArrivalStar is the authorized licensee of the patents alleged as being infringed in this lawsuit, with the right to sub-license the patents at issue.

6. Melvino Technologies Limited is a corporation organized under the laws of the British Virgin Islands of Tortola, having offices located at P.O. Box 3174, Palm Chambers, 197 Main Street, Road Town, Tortola, British Virgin Islands. Melvino owns all rights, title and interests in the patents alleged as being infringed in this lawsuit.

THE DEFENDANT

7. Defendant JS is a New York Corporation with a principal place of business located at 210 East Sunrise Highway, Valley Stream, New York, 11581. Upon information and belief, JS transacts business and has, at a minimum, offered to provide and/or has provided to customers within this Judicial District and throughout the State of Florida services and/or products that infringe claims of the '359, '801, '859, '645, '781 and '970 patents.

THE PLAINTIFFS' PATENTS

8. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,714,859 (“the ‘859 patent”), entitled “System and Method for an Advance Notification System for Monitoring and Reporting Proximity of a Vehicle”, issued March 30, 2004. A copy of the ‘859 patent is attached hereto as Exhibit 1.

9. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,952,645 (“the ‘645 patent”), entitled “System and Method for Activation of an Advance Notification System for Monitoring and Reporting Status of Vehicle Travel”, issued October 4, 2005. A copy of the ‘645 patent is attached hereto as Exhibit 2.

10. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 7,030,781 (“the ‘781 patent”), entitled “Notification System and Method that Informs a Party of Vehicle Delay”, issued April 18, 2006. A copy of the ‘781 patent is attached hereto as Exhibit 3.

11. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 7,400,970 (“the ‘970 patent”), entitled “System and Method for an Advance Notification System for Monitoring and Reporting Proximity of a Vehicle”, issued July 15, 2008. A copy of the ‘970 patent is attached hereto as Exhibit 4.

12. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,904,359 (“the ‘359 patent”), entitled “Notification System and Methods with User-Defineable Notifications Based Upon Occurrence of Events”, issued June 7, 2005. A copy of the ‘359 patent is attached hereto as Exhibit 5.

13. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,486,801 (“the ‘801 patent”), entitled “Base Station Apparatus and Method for Monitoring Travel of a Mobile Vehicle”, issued November 26, 2002. A copy of the ‘801 patent is attached hereto as Exhibit 6.

14. The ‘359 patent referenced in Paragraph 12 above was the subject of an Inter Partes reexamination at the United States Patent and Trademark Office. A Reexamination Certificate was issued on May 25, 2010 and is attached hereto as Exhibit 7.

COUNT I
DIRECT PATENT INFRINGEMENT

15. Plaintiffs hereby incorporate Paragraphs 1 through 14 set forth above as if fully set forth herein.

16. Pursuant to 35 U.S.C. § 271(a), JS has directly infringed claims of the ‘359, ‘801, ‘859, ‘645, ‘781 and ‘970 patents through, among other activities, the commercial manufacture, sale, offer for sale, and/or use of its "Shipment Tracing" and “Electronic Notification System” functions, applications, solutions, devices, programs, products, services, methods and/or systems which utilize tracking and messaging technologies enabling JS to "trigger [and send] an automated email or fax message based on important shipment occurrences as defined by JS'S individual clients"¹ that are protected within the ‘359, ‘801, ‘859, ‘645, ‘781 and ‘970 patents, as every claim limitation, or its equivalent, is found in these functions, applications, solutions, devices, programs, products, services, methods and/or systems.

¹ "Our Electronic Notification System triggers an automated email or fax message based on important shipment occurrences as defined by our individual clients. For example, an importer can obtain an email message whenever a shipment arrives or clears – or receive automatic POD information or copies of US Customs duty bills as they are generated. These messages can be customized to include your proprietary shipment or order numbers, your supplier reference numbers, or both. We also use this system to automatically dispatch cargo the moment it becomes available - day or night - to ensure that your shipments never remain motionless." <http://www.jsmithco.com/it/event.html>

17. JS'S direct infringement has injured and will continue to injure Plaintiffs unless and until a monetary judgment is entered in favor of Plaintiffs and/or the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of the '359, '801, '859, '645, '781 and '970 patents.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against JS and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with JS, granting the following relief:

A. An award of damages against JS adequate to compensate Plaintiffs for the infringement that has occurred with respect to JS, together with prejudgment interest from the date that JS'S infringement of the patents at issue began;

B. Increased damages as permitted pursuant to 35 U.S.C. § 284;

C. A finding that this case is exceptional and award to Plaintiffs their attorneys' fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction against JS prohibiting further infringement of the patents at issue; and,

E. All other relief as the Court or a jury may deem proper and just in this instance.

COUNT II
INDIRECT PATENT INFRINGEMENT

18. Plaintiffs hereby incorporate Paragraphs 1 through 17 set forth above as if fully set forth herein.

19. Pursuant to 35 U.S.C. §§ 271(b) and (c), JS has indirectly infringed claims of the '359, '801, '859, '645, '781 and '970 patents through, among other activities, the commercial manufacture, sale, offer for sale and/or use of its "Shipment Tracing" and "Electronic

Notification System" functions, applications, solutions, devices, programs, products, services, methods and/or systems which utilize tracking and messaging technologies enabling JS to "trigger [and send] an automated email or fax message based on important shipment occurrences as defined by JS'S individual clients"² that are protected within the '359, '801, '859, '645, '781 and '970 patents, as JS actively and intentionally induced infringement with knowledge that the induced acts constituted infringement, or acted with willful blindness; and/or contributed to infringement by one or more third parties as JS had knowledge, rather than intent, that its activity caused such infringement.

20. JS'S contributory infringement and/or inducement to infringe has injured and will continue to injure Plaintiffs unless and until a monetary judgment is entered in favor of Plaintiffs and/or the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of the '359, '801, '859, '645, '781 and '970 patents.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against JS and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with JS, granting the following relief:

A. An award of damages against JS adequate to compensate Plaintiffs for the infringement that has occurred with respect to JS, together with prejudgment interest from the date that JS'S infringement of the patents at issue began;

² "Our Electronic Notification System triggers an automated email or fax message based on important shipment occurrences as defined by our individual clients. For example, an importer can obtain an email message whenever a shipment arrives or clears – or receive automatic POD information or copies of US Customs duty bills as they are generated. These messages can be customized to include your proprietary shipment or order numbers, your supplier reference numbers, or both. We also use this system to automatically dispatch cargo the moment it becomes available - day or night - to ensure that your shipments never remain motionless." <http://www.jsmithco.com/it/event.html>

- B. Increased damages as permitted pursuant to 35 U.S.C. § 284;
- C. A finding that this case is exceptional and award to Plaintiffs their attorneys' fees and costs as provided by 35 U.S.C. § 285;
- D. A permanent injunction against JS prohibiting further infringement of the patents at issue; and,
- E. All other relief as the Court or a jury may deem proper and just in this instance.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: March 7, 2013.

Respectfully submitted,

/s/ William R. McMahon
William R. McMahon, Esquire
Florida Bar Number: 39044
McMahon Law Firm, LLC
21070 Sweetwater Lane North
Boca Raton, Florida 33428
Telephone: 561-470-7604
Facsimile: 561-807-5900
Email: bill@mlfllc.com
Counsel for Plaintiffs