

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

BACKERTOP LICENSING LLC,

Plaintiff,

v.

JAMF SOFTWARE LLC,

Defendant.

CIVIL ACTION NO.: 6:22-cv-1015

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

1. This is an action under the patent laws of the United States, Title 35 of the United States Code, for patent infringement in which Backertop Licensing LLC (“Backertop” or “Plaintiff”) makes the following allegations against JAMF Software LLC (“JAMF” or “Defendant”).

PARTIES

2. Plaintiff is a Texas limited liability company, having its primary office at 2100 14th St., Suite 107 (PMB 1044), Plano, TX 75074 located in Collin County, Texas – within the Eastern District of Texas.

3. Defendant is registered as a limited liability company in the state of Minnesota, and has a principal place of business at 100 Washington Ave S., Suite 1100, Minneapolis, MN 55401. Defendant also has a regular and established place of business at 9442 N Capital of Texas Highway, Building II, Suite 140, Austin, TX 78759. Defendant’s Registered Agent for service of process in Texas appears to be C T Corporation System, 1999 Bryan St., Suite 900, Dallas, TX 75201.

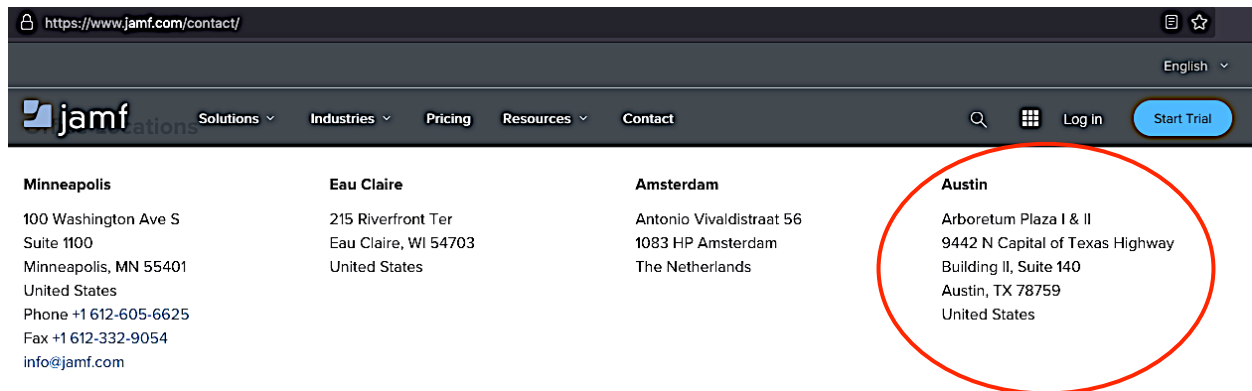
JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this district under 28 U.S.C. §§ 1391(c), generally, and under 1400(b), specifically. Defendant has a regular and established place of business in this Judicial District, and Defendant has also committed acts of patent infringement in this Judicial District.

6. Defendant is subject to this Court’s specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to their substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

7. Defendant’s website lists its office locations, including its office in Austin, TX:



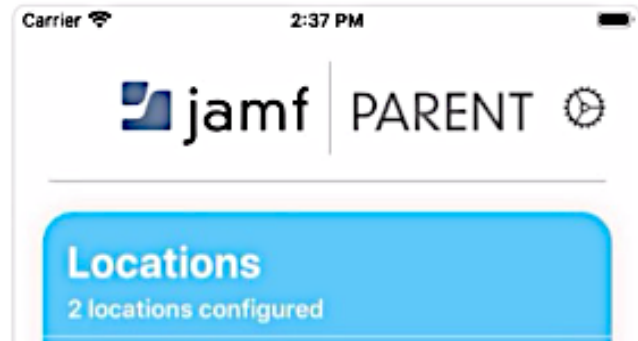
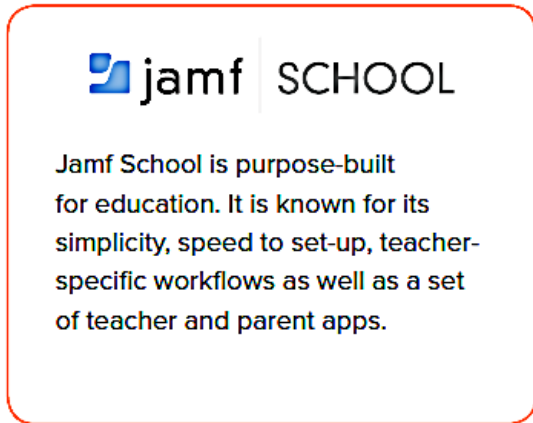
8. Defendant has infringed, and does infringe, by operating, transacting, and conducting business within the Western District of Texas.

9. Defendant’s office in Austin, TX is a regular and established place of business in this Judicial District, and Defendant has committed acts of infringement within this District. Venue is therefore proper in this District under 28 U.S.C. § 1400(b).

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 9,332,385

10. Plaintiff is the owner by assignment of the valid and enforceable United States Patent No. 9,332,385 (“the ‘385 Patent”) entitled “Selectively Providing Content to Users Located Within a Virtual Perimeter” – including all rights to recover for past, present and future acts of infringement. The ‘385 Patent issued on May 3, 2016, and has a priority date of February 13, 2015. A true and correct copy of the ‘385 Patent is attached as Exhibit A.

11. Defendant produces, sells, and offers for sale, software systems – including, but not limited to, Defendant’s mobile device management systems and apps, particularly Defendant’s jamf | SCHOOL and jamf | Parent software systems and apps (“JAMF Systems”).

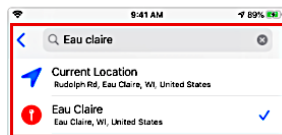


12. More specifically, the JAMF Systems that Defendant directly makes, uses, sells and offers for sale, are the infringing instrumentalities (“Defendant’s Infringing Instrumentalities” or “Infringing Instrumentalities”).

13. The Defendant’s Infringing Instrumentalities operate based on wireless communication between a mobile device (e.g., child’s mobile device with the JAMF Student app installed) and at least one beacon (e.g., iBeacon), to identify a present physical location of a mobile device (e.g., identifying current location of child’s mobile device with the JAMF Student app installed.).

If the locations feature is supported on your Jamf Parent app, you can use it to see the approximate location of your child’s device and set Device Rules based on the location. You can view the location of your child’s device on the Jamf Parent mobile app by tapping their profile icon from the dashboard, and then tapping the **Locations** tab, or by clicking **Locations** in the sidebar of the web application. You cannot set locations using the Apple Watch app.

1. In Jamf Parent, tap or click **Locations**.
2. Create a new location by doing one of the following:
 - (Mobile device app) Tap the child’s device you want to configure a location for, and then tap **Create location**.
 - (Web application) Click **Add Location**.
3. Enter a name for the location, such as “Sports Practice”, “School”, or “Home”.
4. Set the Radius of location. The radius determines how far your child’s device can be from the location and still report as being at that location.
5. Touch and hold the map, and then drag the map to find the location.
6. Tap the map to set the location.



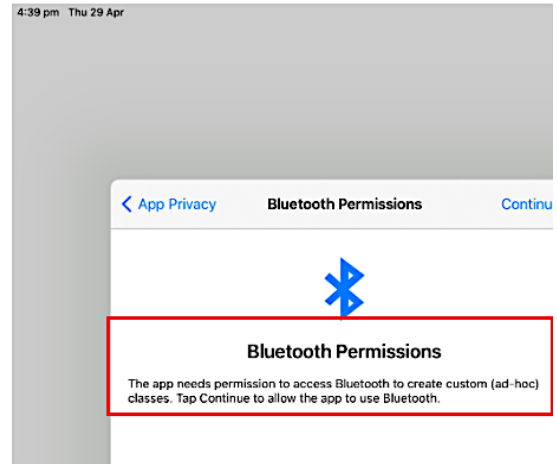
14. The Defendant's Infringing Instrumentalities create profiles for user devices that configure those devices' access to WiFi and network resources.

Wi-Fi

Using Jamf School, you can create a profile that configures Wi-Fi and networks for mobile devices and computers.

Note: If you want computers to maintain a constant connection to your active directory service, it is recommended that you create and distribute a computer profile with 802.1x ethernet configured.

3. This app requires Bluetooth to properly function. Press Continue.

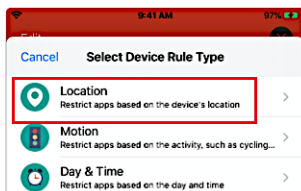


15. The infringing instrumentalities determine that the mobile device (*i.e.*, child's mobile device with the JAMF Student app installed) is located at a particular physical location (*e.g.*, home), and communicate to the mobile device at least a first message (*e.g.*, a policy restriction message according to a location of a JAMF student app).

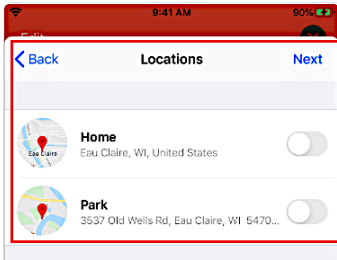
Setting Device Rules

If the Device Rules feature is supported on your Jamf Parent app, you can use it to schedule app restrictions on your child's device. This allows you to schedule homework time or bedtime. You cannot set Device Rules using the Apple Watch app.

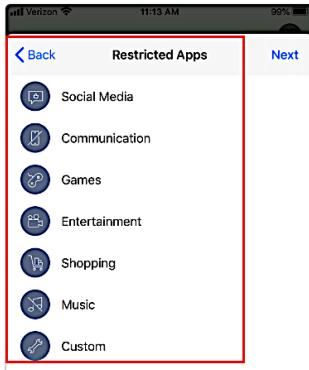
1. In Jamf Parent, tap or click the child device you want to configure the Device Rule for.
2. Tap the **Device Rules** tab.
3. Tap **Create Device Rules** on the mobile app or click **Add** on the web application.
4. Tap or click the type of Device Rule you want to set.



5. (Location type only) Use the toggles to select the locations where this Device Rule should be active and tap or click **Next**.



7. Select the category of apps you want to restrict and tap or click **Next**.

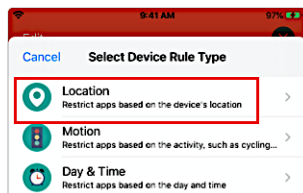


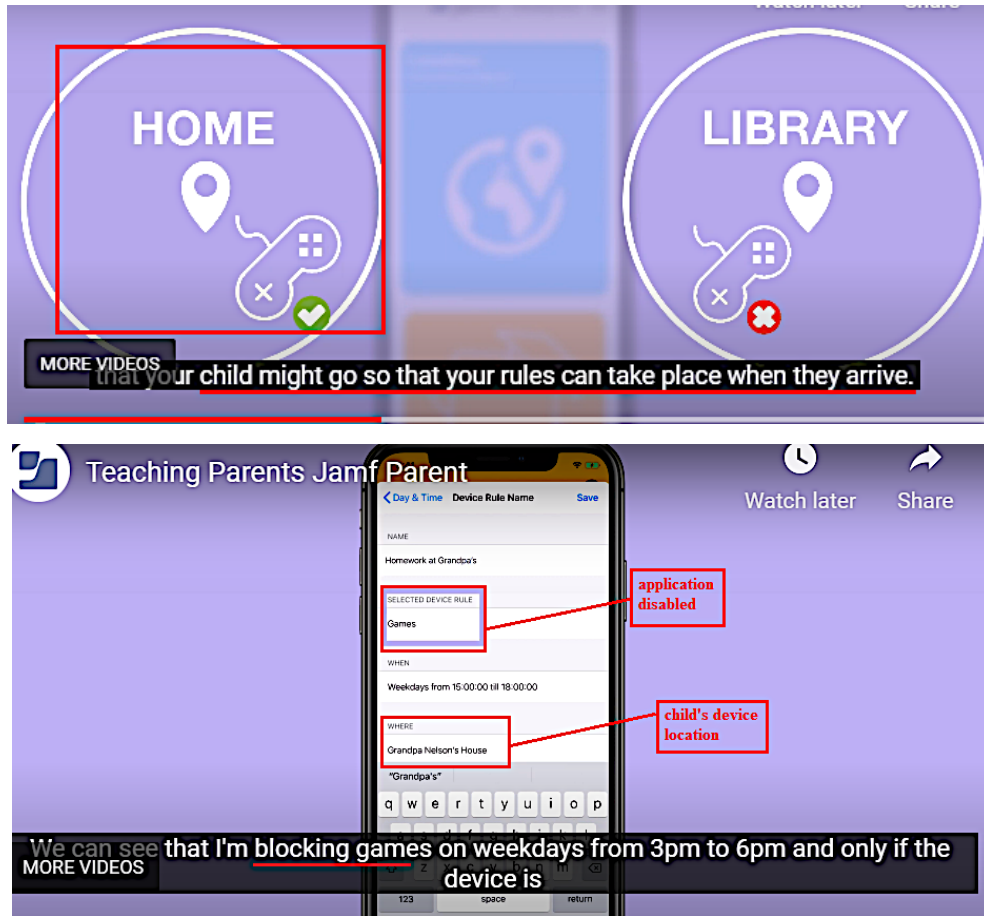
16. The first message communicated by the infringing instrumentalities specifies at least one application to be disabled (*e.g.*, disabling games application) while the mobile device is present at the physical location (*e.g.*, home).

Setting Device Rules

If the Device Rules feature is supported on your Jamf Parent app, you can use it to schedule app restrictions on your child's device. This allows you to schedule homework time or bedtime. You cannot set Device Rules using the Apple Watch app.

1. In Jamf Parent, tap or click the child device you want to configure the Device Rule for.
2. Tap the **Device Rules** tab.
3. Tap **Create Device Rules** on the mobile app or click **Add** on the web application.
4. Tap or click the type of Device Rule you want to set.





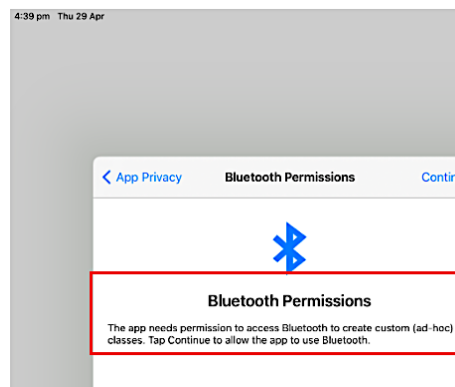
17. The Defendant's Infringing Instrumentalities operate apply different policies according to the mobile device location – such as authorizing Wi-Fi or other network connections (e.g., a school's network) for the mobile device at the current location.

Wi-Fi

Using Jamf School, you can create a profile that configures Wi-Fi and networks for mobile devices and computers.

Note: If you want computers to maintain a constant connection to your active directory service, it is recommended that you create and distribute a computer profile with 802.1x ethernet configured.

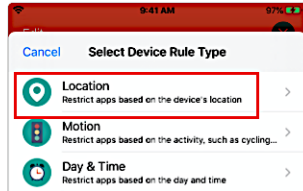
3. This app requires Bluetooth to properly function. Press Continue.



Setting Device Rules

If the Device Rules feature is supported on your Jamf Parent app, you can use it to schedule app restrictions on your child's device. This allows you to schedule homework time or bedtime. You cannot set Device Rules using the Apple Watch app.

1. In Jamf Parent, tap or click the child device you want to configure the Device Rule for.
2. Tap the Device Rules tab.
3. Tap **Create Device Rules** on the mobile app or click **Add** on the web application.
4. Tap or click the type of Device Rule you want to set.



18. The Defendant's Infringing Instrumentalities using memory on the mobile device by storing the program code for the Infringing Instrumentalities in that memory. That program code is then executed by a processor associated with the mobile device to operate as described herein.

19. Plaintiff herein restates and incorporates by reference paragraphs 11 – 18, above.

20. All recited elements of – at least – claims 1 and 8 of the '385 Patent are present within the structure and/or operation of Defendant's infringing instrumentalities.

21. Defendant's infringing instrumentalities comprise systems that identify a present physical location of a mobile device, based upon wireless communication between the mobile device and at least one beacon.

22. Defendant's infringing instrumentalities determine that the mobile device is located at a particular physical location.

23. Defendant's infringing instrumentalities communicate at least a first message to the mobile device, responsive to determining that the mobile device is located at the particular physical location.

24. Defendant's infringing instrumentalities communicate at least a first message to the mobile device that specifies at least one application to be disabled while the mobile device is present at the physical location.

25. Defendant's infringing instrumentalities receive a response to the first message from the mobile device, indicating that the at least one application is disabled.

26. Defendant's infringing instrumentalities authorize, using a processor, the mobile device to establish presence on a network maintained for the physical location, responsive to the response to the first message.

27. Defendant's infringing instrumentalities infringe – at least – claims 1 and 8 of the '385 Patent.

28. Defendant's infringing instrumentalities literally and directly infringe – at least – claims 1 and 8 of the '385 Patent.

29. Defendant's infringing instrumentalities perform or comprise all required elements of – at least – claims 1 and 8 of the '385 Patent.

30. In the alternative, Defendant's infringing instrumentalities infringe – at least – claims 1 and 8 of the '385 Patent under the doctrine of equivalents. Defendant's infringing instrumentalities perform substantially the same functions in substantially the same manner with substantially the same structures, obtaining substantially the same results, as the required elements of – at least – claims 1 and 8 of the '385 Patent. Any differences between Defendant's infringing instrumentalities and the claims of the '385 Patent are insubstantial.

31. All recited elements of – at least – claims 1 and 8 of the '385 Patent are present within, or performed by, Defendant's infringing instrumentalities.

32. Defendant's infringing instrumentalities, when used and/or operated in their intended manner or as designed, infringe – at least – claims 1 and 8 of the '385 Patent, and Defendant is therefore liable for infringement of the '385 Patent.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 9,654,617

33. Plaintiff is the owner by assignment of the valid and enforceable United States Patent No. 9,654,617 (“the ‘617 Patent”) entitled “Selectively Providing Content to Users Located Within a Virtual Perimeter” – including all rights to recover for past, present and future

acts of infringement. The '617 Patent issued on May 16, 2017, and has a priority date of February 13, 2015. A true and correct copy of the '617 Patent is attached as Exhibit B.

34. Plaintiff herein restates and incorporates by reference paragraphs 11 – 18, above.

35. All recited elements of – at least – claim 1 of the '617 Patent are present within the structure and/or operation of Defendant's infringing instrumentalities.

36. Defendant's infringing instrumentalities comprise a computer program product that comprises a computer readable storage medium having program code stored thereon. That program code is executable by a processor to perform certain operations, as described hereinafter.

37. Defendant's infringing instrumentalities comprise operations that identify a present physical location of a mobile device, based upon wireless communication between the mobile device and at least one beacon.

38. Defendant's infringing instrumentalities determine that the mobile device is located at a particular physical location.

39. Defendant's infringing instrumentalities communicate at least a first message to the mobile device, responsive to determining that the mobile device is located at the particular physical location.

40. Defendant's infringing instrumentalities communicate at least a first message to the mobile device that specifies at least one application to be disabled while the mobile device is present at the physical location.

41. Defendant's infringing instrumentalities receive a response to the first message from the mobile device, indicating that the at least one application is disabled.

42. Defendant's infringing instrumentalities authorize, using a processor, the mobile device to establish presence on a network maintained for the physical location, responsive to the response to the first message.

43. Defendant's infringing instrumentalities infringe – at least – claim 1 of the '617 Patent.

44. Defendant's infringing instrumentalities literally and directly infringe – at least – claim 1 of the '617 Patent.

45. Defendant's infringing instrumentalities perform or comprise all required elements of – at least – claim 1 of the '617 Patent.

46. In the alternative, Defendant's infringing instrumentalities infringe – at least – claim 1 of the '617 Patent under the doctrine of equivalents. Defendant's infringing instrumentalities perform substantially the same functions in substantially the same manner with substantially the same structures, obtaining substantially the same results, as the required elements of – at least – claim 1 of the '617 Patent. Any differences between Defendant's infringing instrumentalities and the claims of the '617 Patent are insubstantial.

47. All recited elements of – at least – claim 1 of the '617 Patent are present within, or performed by, Defendant's infringing instrumentalities.

48. Defendant's infringing instrumentalities, when used and/or operated in their intended manner or as designed, infringe – at least – claim 1 of the '617 Patent, and Defendant is therefore liable for infringement of the '617 Patent.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

a. A judgment in favor of Plaintiff that Defendant has infringed the '385 and '617 Patents;

b. A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith, from infringement of the '385 and '617 Patents;

c. A judgment and order requiring Defendant to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest for Defendant's infringement of the '385 and '617 Patents, as provided under 35 U.S.C. § 284;

d. An award to Plaintiff for enhanced damages resulting from the knowing and

deliberate nature of Defendant's prohibited conduct with notice being made at least as early as the service date of this complaint, as provided under 35 U.S.C. § 284;

e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees; and

f. Any and all other relief to which Plaintiff may show itself to be entitled.

September 29, 2022

Respectfully Submitted,

By: /s/ Ronald W. Burns

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**ATTORNEY FOR PLAINTIFF
BACKERTOP LICENSING LLC**