

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

PerDiemCo LLC,

Plaintiff,

v.

J. J. KELLER & ASSOCIATES, INC.,
and J. J. KELLER SERVICES, LLC

Defendants.

Civil Action No.: 23-CV-1303

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff PerDiemCo LLC (“PerDiemCo” or “Plaintiff”), for its Complaint against Defendants J. J. Keller & Associates, Inc. and J. J. Keller Services LLC (Collectively “J. J. Keller” or “Defendants”), alleges the following:

NATURE OF THE ACTION

This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, involving infringement of certain claims of patents identified by United States Patent Nos. 9,680,941 (“the ’941 patent”, Exhibit A); 9,871,874 (“the ’874 patent”, Exhibit B); 10,021,198 (“the ’198 patent”, Exhibit C); 10,397,789 (“the ’789 patent”, Exhibit D); 10,602,364 (“the ’364 patent”, Exhibit E); 10,819,809 (the ’809 patent, Exhibit F); 11,064,038 (the ’038 patent, Exhibit G), 11,316,937 (“the ’937 patent”, Exhibit H); 11,622,237 (“the ’237 patent”, Exhibit I); 10,284,662 (the ’662 patent, Exhibit J); 10,277,689 (the ’689 patent, Exhibit K); 10,382,966, (the ’966 patent, Exhibit L); and 11,716,595 (the ’595 patent, Exhibit M) (collectively “the Patents-in-Suit”). Herein, the asserted claims of the Patents-in-Suit are called “Asserted Claims.”

THE PARTIES

1. Plaintiff PerDiemCo is a limited liability company organized under the laws of the State of Texas with a place of business at 505 East Travis Street, Suite 205, Marshall, Texas 75670.
2. PerDiemCo is the current assignee of all the Patents-in-Suit.
3. On information and belief, Defendant J. J. Keller & Associates, Inc. is incorporated and existing under the laws of the State of Wisconsin, with their principal place of business at 3003 Breezewood Lane, Neenah, WI 54956-9611.
4. On information and belief, Defendant J. J. Keller Services, LLC, is a limited liability company organized and existing under the laws of the State of Wisconsin, with their principal place of business at 3003 Breezewood Lane, Neenah, WI 54956-9611.
5. Defendants do business in the Eastern District of Wisconsin and nationally through the sale and servicing of its mobile communications products and technology in the transportation industry.
6. Defendants conduct business in this District at their corporate headquarters, located at 3003 Breezewood Lane, Neenah, WI 54956-9611 ("Defendants' Physical Location").
7. Defendants' Physical Location is a fixed physical location within this District.
8. Defendants' Physical Location is a location that represents a regular and established place of business for Defendants.
9. Upon information and belief, Defendants are in possession of and have control over Defendants' Physical Location.
10. Upon information and belief, Defendants have employees in Wisconsin and employ Wisconsin residents within the Eastern District of Wisconsin.

11. Defendants also do business in the Eastern District of Wisconsin and nationally through their website—www.jjkeller.com (J. J. Keller website).

JURISDICTION AND VENUE

12. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

13. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

14. This Court has personal jurisdiction over Defendants. Defendants' actions establish such minimum contacts that jurisdiction comports with the Wisconsin longarm statute, Wis. Stat. § 801.05, and the United States Constitution.

15. Upon information and belief, Defendants have conducted and conduct business within the State of Wisconsin and maintain a regular and established place of business in the Eastern District of Wisconsin, including but not limited to Defendants' Physical Location.

16. Upon information and belief, Defendants, directly and/or through subsidiaries or intermediaries, ship, distribute, offer for sale, sell, and advertise (including through the J. J. Keller website) its products and services (including infringing products and services) described herein within this District.

17. Upon information and belief, Defendants have committed acts of patent infringement within this District.

18. Upon information and belief, Defendants have contributed to or induced (e.g., instructing and supplying others with infringing products and instructions for use) patent infringement by others in this District.

19. Defendants have purposefully and voluntarily placed one or more infringing products into the stream of commerce with the expectation that consumers will purchase and use them in the Eastern District of Wisconsin.

20. The venue is proper within this District under 28 U.S.C. § 1400(b) because, on information and belief, Defendants maintain their corporate headquarters in this District and have committed infringing acts in this District. These infringing acts include at least its sales of the Accused Instrumentalities in this District and also under 28 U.S.C. § 1391(b)(2) because Defendants sell and offer to sell products and services throughout the United States, including in this District, and introduces its products and services into the stream of commerce and effectuates these sales knowing that the products and services would be sold and used in this District and elsewhere in the United States.

21. The venue is also proper in this District because it is the most convenient forum for the parties.

THE TECHNOLOGY AND THE PATENTS-IN-SUIT

22. Darrell Diem, the inventor of the Patents-in-Suit, served in the Air Force for four years as an electronics technician. After being honorably discharged, Mr. Diem worked his way through college to earn degrees in physics and mathematics from Marquette University. Mr. Diem also obtained a Master of Business Administration from Michigan State University and a Master of Arts in Pastoral Ministries from St. Thomas University, Miami, Florida. Mr. Diem has worked for Motorola, Harris Corporation, Time Domain, and other leading technology companies.

23. Mr. Diem conceived the inventions in the Patents-in-Suit when his daughter's car broke down on a long road trip. Mr. Diem wanted to convey location information for his daughter in an efficient way that would still protect her privacy. In connection with conceiving the patented inventions, Mr. Diem built and deployed a working system that provided location information while providing his daughter administrative control over who was allowed access to certain

information. Mr. Diem's inventions have a broad range of significant applications and are widely used today.

24. Each of the asserted patents is valid and enforceable.

25. PerDiemCo is the exclusive owner of all rights, titles, and interests in each asserted patent. PerDiemCo has the right to bring this action to recover damages for any current or past infringement of these patents. PerDiemCo has never granted Defendants a license to practice any of the Patents-in-Suit.

26. The '941 patent, entitled "Location Tracking System Conveying Event Information Based on Administrator Authorizations," was duly and legally issued by the United States Patent and Trademark Office on June 13, 2017. A copy of the '941 patent is attached hereto as Exhibit A.

27. The '874 patent, entitled "A Multi-Level Database Management System and Method for an Object Tracking Service That Protects User Privacy," was duly and legally issued by the United States Patent and Trademark Office on January 16, 2018. A copy of the '874 patent is attached hereto as Exhibit B.

28. The '198 patent, entitled "Software-Based Mobile Tracking Service with Video Streaming When Events Occur," was duly and legally issued by the United States Patent and Trademark Office on July 10, 2018. A copy of the '198 patent is attached hereto as Exhibit C.

29. The '789 patent, entitled, "Method for Controlling Conveyance of Event Information About Carriers of Mobile Device Based on Location Information Received from Location Information Sources Used by the Mobile Devices," was duly and legally issued by the United States Patent and Trademark Office on August 27, 2019. A copy of the '789 patent is attached hereto as Exhibit D.

30. The '364 patent, entitled "Method for Conveyance of Event Information to Individuals Interested Devices Having Phone Numbers," was duly and legally issued by the United States Patent and Trademark Office on March 24, 2020. A copy of the '364 patent is attached hereto as Exhibit E.

31. The '809 patent, entitled "Method for Controlling Conveyance Of Event Notifications in Sub-Groups Defined Within Groups Based on Multiple Levels Of Administrative Privilege," was duly and legally issued by the United States Patent and Trademark Office on October 27, 2020. A copy of the '809 patent is attached hereto as Exhibit F.

32. The '038 patent, entitled "Method for Tracking Mobile Objects Based on Event Conditions Met at Mobile Object Locations," was duly and legally issued by the United States Patent and Trademark Office on July 13, 2021. A copy of the '038 patent is attached hereto as Exhibit G.

33. The '937 patent, entitled "Method for Tracking Mobile Objects Based on Event Conditions Met at Mobile Object Locations," was duly and legally issued by the United States Patent and Trademark Office on April 26, 2022. A copy of the '937 patent is attached hereto as Exhibit H.

34. The '237 patent, entitled "A Method That Logs Locations of a Mobile Computing Device in a Log File," was duly and legally issued by the United States Patent and Trademark Office on April 4, 2023. A copy of the '237 patent is attached hereto as Exhibit I.

35. The '662 patent entitled "An Electronic Logging Device (ELD) For Tracking Driver of a Vehicle in Different Tracking Modes" was duly and legally issued by the United States Patent and Trademark Office on May 7, 2019. A copy of the '662 patent is attached hereto as Exhibit J.

36. The '689 patent entitled "Method For Controlling Conveyance of Event Information by An Administrator of a Plurality of Electronic Logging Devices (ELDs)" was duly and legally issued by the United States Patent and Trademark Office on April 30, 2019. A copy of the '689 patent is attached hereto as Exhibit K.

37. The '966 patent entitled "A Computing Device Carried by A Vehicle for Tracking Driving Events in a Zone Using Location and Event Log Files" was duly and legally issued by the United States Patent and Trademark Office on August 13, 2019. A copy of the '966 patent is attached hereto as Exhibit L.

38. The '595 Patent entitled "A Method For Conveying Event Information Based on Roles Assigned to Users of a Location Tracking Service" was duly and legally issued by the United States Patent and Trademark Office on August 1, 2023. A copy of the '595 patent is attached hereto as Exhibit M.

39. The Asserted Claims are patentable under 35 U.S.C. §§ 101, 102, 103, and 112, as confirmed by the United States Patent and Trademark Office where multiple Patent Examiners agreed and allowed the Patents-in-Suit over extensive prior art as disclosed and of record during the prosecution of the Patents-in-Suit.

40. After giving full proper credit to the prior art, having conducted a thorough search for all relevant art, and having fully considered the most pertinent art known at the time, the United States Patent Examiners allowed all of the claims of the Patents-in-Suit to issue. Through the process of examination, it is presumed that Examiners used their knowledge of the art when examining the claims. In addition to the diligence used by the Patent Examiners, each claim of the Asserted Patents carries a statutory presumption of validity under the Patent Laws of the United States. 35 U.S.C. § 282(a).

PERDIEM'S GEOFENCING PATENTS

41. The inventions claimed in at least the '941, '874, '198, '789, '364, '809, '038, '937, '237, and '595 patents (collectively, the "geofencing patents") represent improvements to location tracking systems. More specifically, the claims of the geofencing patents are directed to, in part, improved location tracking systems and related methods. The systems may track the locations of a plurality of mobile objects or devices in a network employed to provide a tracking service that sends notifications or alerts after group event conditions based on locations of grouped tracked objects are met.

42. Group event conditions may relate to mobile object/device locations and a zone where the occurrence of an event causes an alert/notification to be sent when grouped vehicles equipped with GPS devices cross a boundary.

43. The claimed inventions improve conventional networks by providing a reliable and efficient way for service subscribers to track objects and convey notifications to authorized recipients. The claimed inventions offer these benefits, in part, by creating multiple levels of administrative privileges and applying multiple levels of access control.

44. In one embodiment, the multiple levels of administrative privileges include a first level of administrative privilege used by a system administrator of the tracking service for controlling user membership in groups specified by the administrator and a second level of privilege being assigned to a second administrator, e.g., a service subscriber, in each group by the system administrator for controlling conveyance of the notifications in the corresponding group such that the administrator having the first level of administrative privilege does not exercise the second level of administrative privilege.

45. Under this structure, the second administrator has control over who receives the notifications in the group independent of the system administrator and the second administrators of other groups. Interfaces may be provided to the second administrator to set event conditions and alert/notifications for the group.

46. As this embodiment is claimed, a first level of access control is used to allow the second administrator to specify an event condition, i.e., a geo-fence, for the group and specify an access list such that only identified authorized users on the access list can receive the notification information, thereby providing enhanced privacy. A second level of access control is used to allow authorized recipients to access the notifications/alerts.

PERDIEM'S ELECTRONIC LOGGING DEVICE ("ELD") PATENTS

47. The inventions claimed in at least the '662, '689, '789, and '966 patents (collectively the "ELD patents") are directed to, for example, improved computing devices such as electronic logging devices ("ELDs") carried in a vehicle and that execute location tracking applications (LTAs). More specifically, the claims of the ELD patents are directed to, in part, devices, systems, and improved methods for controlling the conveyance of driving event information in a tracking service. The tracking service may have a system administrator that manages the privileges of the authorized users who log into user accounts as subscribers in a database management system application (DBMSA) executed in a server.

48. In one embodiment, the claimed improvements in the ELD-type claims are directed to using multiple levels of privileges that allow driver access to recorded event log files for driving events. The driving events may occur after detecting that the vehicles are powered on. This detection can cause locating the drivers that are moving at different rates. After detection, this can

cause the recording of driving events, based on the driver's movement and/or non-movement, into the event log files.

49. The claimed ELD-type inventions provide benefits, in part, by allowing the drivers to use the LTAs to log into driver user accounts over a wireless interface provided by the ELD computing devices. The ELD devices may also permit a user to edit, write or enter information into the event log files and send notifications to one or more recipients whom a driver administrator authorizes to receive the recorded driving event information.

PERDIEM'S CLAIMS ARE PATENT ELIGIBLE

50. The claims in the Patents-in-Suit are directed to patent-eligible subject matter.

51. The inventions claimed in the Patents-in-Suit represent improvements to location tracking systems. More specifically, the claims of the geofencing patents are directed to, in part, improved location tracking systems and related methods. The system may track the locations of a plurality of mobile objects or devices in a network employed to provide a tracking service that sends notifications or alerts after group event conditions based on locations of grouped tracked objects are met.

52. Group event conditions may relate to mobile object/device locations and a zone where the occurrence of an event causes an alert/notification to be sent when grouped vehicles equipped with GPS devices cross a boundary.

53. The claimed inventions improve conventional networks by providing a reliable and efficient way for service subscribers to track objects and convey notifications to authorized recipients. The claimed inventions offer these benefits, in part, by creating multiple levels of administrative privileges and applying multiple levels of access control.

54. In some embodiments, the multiple levels of administrative privileges include a first level of administrative privilege used by a system administrator of the tracking service for controlling user membership in groups specified by the administrator and a second level of privilege being assigned to a second administrator, e.g., a service subscriber, in each group by the system administrator for controlling conveyance of the notifications in the corresponding group such that the administrator having the first level of administrative privilege does not exercise the second level of administrative privilege.

55. Under this structure, the second administrator has control over who receives the notifications in the group independent of the system administrator and the second administrators of other groups. Interfaces may be provided to the second administrator to set the group's event conditions and alerts/notifications.

56. As claimed in some embodiments, a first level of access control is used to allow the second administrator to specify an event condition, i.e., a geo-fence, for the group and specify an access list such that only identified authorized users on the access list can receive the notification information, thereby providing enhanced privacy. A second level of access control is used to allow authorized recipients to access the notifications/alerts.

57. The Patents-in-Suit are directed to providing unconventional computing solutions that address problems particular to computerized location tracking systems, in particular enhanced security and privacy.

58. The systems, devices, and methods of the Patents-in-Suit claim establish object location events that may be defined at an application or user level. (*See, e.g.*, '941 patent at 2:11-15.) The systems, devices, and methods of the Asserted Claims are also directed to conveying information

relating to the object location events to one or more computing devices which may be associated with corresponding identification codes of one or more users. (*Id.* at 2:16-19.)

59. According to one embodiment, an object location event can relate to information about a location of an object and information about a zone that a user defines. (*Id.* at 2:23-25.) In another embodiment, information about a location can be derived from a location information source associated with an object, and the object location event may occur by satisfaction of a defined relationship or condition between an object location information and user-defined zone information. (*Id.* at 2:26-31.)

60. Providing computerized location tracking systems with systems, devices, and methods in the manner claimed in the Patents-in-Suit solved challenges over the techniques and systems known in the art at the time. Thus, the claims of the Patents-in-Suit contain inventive concepts that are both novel and unconventional, which are sufficient to render the Asserted Claims to be patent eligible.

61. In particular, before the priority date of the Patents-in-Suit, in systems, such as traditional location tracking systems, information about the mere location of a device might be conveyed but without the correlation of events with the location of objects and the conveyance of information about such events to computing devices. (*Id.* at 1:55-60.)

62. The Patents-in-Suit overcame these disadvantages by, for example, describing and enabling systems, devices, and methods for delivering information about a location that is derived from a location information source that is associated with an object and the object location event that may occur by the satisfaction of a defined relationship or condition between an object location information and user-defined zone information (*Id.* at 2:26-31) and conveying information relating

to the object location events to one or more computing devices which may be associated with corresponding identification codes of one or more users (*Id.* at 2:16-19).

63. The inventions of the Patents-in-Suit resolve technical problems related to interactive location-tracking technology. For example, the inventions allow remotely located parties to interact in a computerized environment in real-time with one or more users, which, based on information and belief, is exclusively implemented using computer technology. (*Id.* at 17:9-57).

64. The claims of the Patents-in-Suit do not merely recite the performance of some method known from the pre-Internet world along with the requirement to perform it on the Internet. Instead, the claims of the Patents-in-Suit recite inventive concepts rooted in computerized location tracking system technology and overcome problems specifically arising in the realm of computerized location tracking system technologies. (*Id.* at 1:21-59).

65. The technology claimed in the Patents-in-Suit does not preempt all ways of using location tracking system technology, nor preempt the use of any well-known location tracking technology, nor preempt any other well-known or prior art technology.

66. The Asserted Claims are not directed to any general or well-known “method of organizing human activity,” “fundamental economic practice long prevalent in our system of commerce,” nor are any of the claims “a building block of the modern economy.”

67. The Patents-in-Suits do not apply a well-known or established business method or process to a general-purpose computer. Instead, the specific systems and processes described in the Patents-in-Suit have no direct corollary to a process that predates Mr. Diem’s conception of the claimed inventions and effective filing date of the Asserted Claims.

68. The Asserted Claims are directed toward a solution rooted in computer technology and uses technology unique to computers and networks to overcome problems specifically arising in computerized location tracking technologies.

69. The Asserted Claims are not directed at a mere mathematical relationship or formula.

70. The Asserted Claims cannot be performed by a human, in the human mind, or by pen and paper.

71. Accordingly, each claim of the Patents-in-Suit recites a combination of elements sufficient to ensure that each claim, in practice, amounts to significantly more than a claim on an ineligible concept.

PERDIEM'S PATENT LITIGATION HISTORY

72. The patents asserted here each claim priority to U.S. Provisional Patent Application No. 60/752,879, filed on December 23, 2005.

73. PerDiemCo owns other, non-asserted related patents that share a patent specification with the asserted patents and claim priority to the same provisional application No. 60/752,879. Several related PerDiemCo patents, both asserted and non-asserted, have been subject to extensive federal court litigations in various districts.

74. Several of the non-asserted related PerDiemCo patents have been subject to extensive federal court litigations in the Eastern District of Texas ("the EDTX Litigations") against eleven companies, each of which licensed the claimed PerDiemCo technology after the filing of thirteen *Inter Partes* Review (IPR) petitions ("the EDTX-related IPRs") challenging the validity of various of PerDiem's patent claims. All of the EDTX Litigations resulted in licensing agreements in which PerDiemCo was compensated. Furthermore, all the prior art that has been recited in an asserted

ground in any of the thirteen EDTX-related IPRs was submitted for consideration by the USPTO in the continued prosecution history of the Patents-in-Suit.

75. PerDiemCo owns all rights, titles, and interests in the Patents-in-Suit, including the right to bring patent enforcement actions for damages. The assignment to PerDiemCo of ownership of the Patents-in-Suit was recorded with the United States Patent & Trademark Office (“USPTO”) at Reel 035620, Frame 0087 of the USPTO assignment records. The recorded assignment references all subsequent related applications of the parent patents listed on the recorded assignment, thereby encompassing the Patents-in-Suit.

76. During one EDTX Litigation, the court issued a Claim Construction Memorandum and Order attached hereto as Exhibit N construing several terms that are at issue in this action. *PerDiemCo LLC v. Industrack LLC et al.*, No. 2:15-cv-727-JRG-RSP (July 7, 2016,) at Dkt. 107. The Patents-in-Suit in this action have the same ownership and specification as those at issue in the EDTX.

77. In the EDTX Litigation, the court adopted the R&R attached hereto as Exhibit O, confirming that the claims at issue contain eligible subject matter under 35 U.S.C. §101 and that the specification supports the claims under 35 U.S.C. §112. *PerDiemCo LLC v. Industrack LLC et al.*, No. 2:15-cv-727-JRG-RSP (September 21, 2016) at DKT 233.

78. During this EDTX Litigation, the court issued an R&R attached as Exhibit P holding the specification satisfies the written description and enablement requirement. *PerDiemCo LLC v. Industrack LLC et al.*, No. 2:15-cv-727-JRG-RSP (October 28, 2016) at Dkt. 272. .

79. During another EDTX Litigation, the court issued a Claim Construction Memorandum and Order attached hereto as Exhibit Q construing several terms that are at issue in this action.

PerDiemCo LLC v GPS LOGIC, LLC, et al., No. 2:15-cv-1216-JRG-RSP (July 7, 2016) at Dkt. 155.

80. Defendants' Accused Instrumentalities infringe one or more claims of the Patents-in-Suit (Exhibits A through M) at least as set forth in the attached claim charts (Exhibits A-1 through M-1) as indicated below.

THE ACCUSED INSTRUMENTALITIES

81. Defendants offer tracking products and services (the Accused Instrumentalities), including but not limited to Encompass® Fleet Management System (<https://eld.kellerencompass.com/>) for use in various platforms and solutions that support:

- J. J. Keller® Encompass® Vehicle Tracking Solution;¹
- J. J. Keller® Elogs with Encompass® Fleet Management System;²
- J. J. Keller® ELogs;³
- J. J. Keller Mobile®;⁴
- J. J. Keller ELD - iOS 2.0/iOS 2.5;⁵
- J. J. Keller® ELD- Android BYOD 2.0 and Compliance Tablet;⁶
- Encompass® Video Event Management with Dash Cam Pro;⁷

82. More specifically, Defendants make, use, sell, offer for sale, and/or import at least the Accused Instrumentalities, each of which supports the ability to monitor and report vehicle fleet activity.

¹ <https://eld.kellerencompass.com/vehicle/vehicle-tracking>

² <https://www.jjkeller.com/shop/Product/J-J-Keller-Encompass-with-ELogs-Fleet-Management-System>

³ <https://www.jjkeller.com/shop/Product/J-J-Keller-ELogs-Solution>

⁴ https://www.youtube.com/watch?v=eJTeW_BvxyI;
<https://www.youtube.com/watch?v=U3dvUAGmBTE>

⁵ <https://www.youtube.com/watch?v=OPkJe6aLZXM>

⁶ https://www.youtube.com/watch?v=eJTeW_BvxyI; <https://www.jjkeller.com/shop/Product/J-J-Keller-Compliance-Tablet>; <https://www.jjkeller.com/shop/Product/J-J-Keller-Compliance-Network>

⁷ <https://eld.kellerencompass.com/dash-cam-pro>

83. On information and belief, Defendants, their employees, and/or agents make, use, sell, offer to sell, import, and/or provide and/or cause to be used the Accused Instrumentalities for Defendants' partners and customers, leading to direct or indirect revenues and profit. On information and belief, without the availability of infringing tools such as the Accused Instrumentalities, Defendants would be at a disadvantage in the marketplace. They would generate less revenue and profit overall.

84. On information and belief, Defendants disseminate user guides documentation and technical information to customers and prospective customers related to the Accused Products and Services as well as provide instruction materials, training, and services regarding the Accused Instrumentalities, including the following (herein referred to as the J. J. Keller User Guides):

- Encompass® Vehicle Tracking:
https://www.jjkeller.com/infoform_10151_-1_10551_60794?PromoCode=208566
https://www.jjkeller.com/infoform_10151_-1_10551_68812?PromoCode=203479
- J. J. Keller® Elogs with Encompass® Fleet Management System:
<https://www.jjkeller.com/shop/Product/J-J-Keller-Encompass-with-ELogs-Fleet-Management-System?PromoCode=206154>
- J. J. Keller® Compliance Tablet™
<https://www.jjkeller.com/shop/Product/J-J-Keller-Compliance-Tablet>
- J. J. Keller® Encompass® Fleet Management System
<https://www.jjkeller.com/shop/Product/J-J-Keller-Encompass-Fleet-Management-System?PromoCode=206165>
- J. J. Keller® Dash Cam PRO
https://www.jjkeller.com/infoform_10151_-1_10551_60010?PromoCode=206162
- J.J. Keller ELD Quick Start Guide
<https://cdn.jjkeller.com/wcsstore/CVCatalogAssetStore/references/miscellaneous/ELD/ELD-Quick-Start-Guide.pdf>
- J. J. KELLER® ENCOMPASS & ELD USER GUIDE - ELD MANDATE EDITION FOR ANDROID (Copyright © 2017 J. J. Keller & Associates, Inc.)

COUNT I – INFRINGEMENT OF THE '941 Patent

85. The allegations of the preceding paragraphs are incorporated by reference as if fully set forth herein.

86. Defendants directly infringe and continue to directly infringe under 35 U.S.C. § 271(a) at least one or more claims of the '941 patent either literally and/or under the doctrine of equivalents, by, among other things, making, using, importing, selling, offering for sale and/or providing and/or causing to be used in the United States the Accused Instrumentalities. An exemplary claim chart attached hereto as Exhibit A-1 and incorporated by reference details the correspondence of every element of each identified claim of the '941 patent in Exhibit A-1 with features of the Accused Instrumentalities.

87. Third parties, including Defendants' customers, have directly infringed, and continue to directly infringe under 35 U.S.C. § 271(a), one or more claims of the '941 patent, either literally and/or under the doctrine of equivalents, by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities in the United States so as to infringe one or more claims of the '941 patent.

88. Defendants were made aware of the '941 patent and its infringement through at least the filing and service or notice of the filing of this Complaint.

89. Upon information and belief, since at least the time Defendants received notice, Defendants have induced infringement and continue to induce infringement under 35 U.S.C. § 271(b). Defendants have actively, knowingly, and intentionally induced, and with specific intent or conscious blindness, actively aided and abetted others to infringe and continue to actively, knowingly, and intentionally induce others to infringe, including but not limited to each of

Defendants' partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '941 patent.

90. Defendants induce infringement by selling or otherwise supplying and supporting the Accused Instrumentalities in the United States with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States the Accused Instrumentalities, for their intended purpose to infringe the '941 patent, with instructions as to the use of the Accused Instrumentalities and guidance, including the J. J. Keller User Guides reference above, as to the specific steps that must be taken to utilize the Accused Instrumentalities, all with the knowledge and intent to encourage and facilitate infringement through the dissemination of the Accused Instrumentalities and/or the creation and dissemination of documentation and technical information to customers and prospective customers related to the Accused Instrumentalities, including the product literature described in Exhibit A-1, attached hereto.

91. In particular, Defendants' actions that aid and abet others to infringe include advertising and/or providing support services to partners contracted by Defendants or providing instruction materials, training, and services regarding the Accused Instrumentalities, which actively induce a user of Defendants system to infringe the Asserted Claims. For example, using the J. J. Keller User Guides referenced above; Defendants provide potential users with detailed instruction materials on how to utilize the Accused Instrumentalities in a way that infringes at least one claim of the '941 patent.

92. Upon information and belief, since at least the time Defendants received notice, Defendants have contributed to, and continue to contribute to, the infringement by third parties, including their customers, of one or more claims of the '941 patent, including at least claims 1, 3, 4, 11, and 12 identified in Exhibit A-1 under 35 U.S.C. § 271(c), by, for example, selling and/or

offering for sale the Accused Instrumentalities in the United States, including Defendants' platforms, systems, hardware, and software knowing that those products constitute a material part of the inventions of the '941 patent, knowing that those products are especially made or adapted to infringe the '941 patent, and knowing that those products are not staple articles of commerce suitable for substantial non-infringing use.

93. PerDiemCo has been and continues to be damaged by Defendants' infringement of the '941 patent.

94. From the time of notice, Defendants have willfully infringed the '941 patent.

95. The conduct by Defendants in infringing the '941 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

PERDIEMCO COUNT II – INFRINGEMENT OF THE '874 PATENT

96. The allegations of the preceding paragraphs are incorporated by reference as if fully set forth herein.

97. Defendants directly infringe and continue to directly infringe under 35 U.S.C. § 271(a) at least one or more claims of the '874 patent either literally and/or under the doctrine of equivalents, by, among other things, making, using, importing, selling, offering for sale and/or providing and/or causing to be used in the United States the Accused Instrumentalities. An exemplary claim chart attached hereto as Exhibit B-1 and incorporated by reference details the correspondence of every element of each identified claim of the '874 patent in Exhibit B-1 with features of the Accused Instrumentalities.

98. Third parties, including Defendants' customers, have directly infringed, and continue to directly infringe under 35 U.S.C. § 271(a), one or more claims of the '874 patent, either literally and/or under the doctrine of equivalents, by making, using, importing, selling, and/or offering for

sale the Accused Instrumentalities in the United States so as to infringe one or more claims of the '874 patent.

99. Defendants were made aware of the '874 patent and its infringement through at least the filing and service or notice of the filing of this Complaint.

100. Upon information and belief, since at least the time Defendants received notice, Defendants have induced infringement and continue to induce infringement under 35 U.S.C. § 271(b). Defendants have actively, knowingly, and intentionally induced, and with specific intent or conscious blindness, actively aided and abetted others to infringe and continue to actively, knowingly, and intentionally induce others to infringe, including but not limited to each of Defendants' partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '874 patent.

101. Defendants induce infringement by selling or otherwise supplying and supporting the Accused Instrumentalities in the United States with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States the Accused Instrumentalities, for their intended purpose to infringe the '874 patent, with instructions as to the use of the Accused Instrumentalities and guidance, including the J. J. Keller User Guides reference above, as to the specific steps that must be taken to utilize the Accused Instrumentalities, all with the knowledge and intent to encourage and facilitate infringement through the dissemination of the Accused Instrumentalities and/or the creation and dissemination of documentation and technical information to customers and prospective customers related to the Accused Instrumentalities, including the product literature described in Exhibit B-1, attached hereto.

102. In particular, Defendants' actions that aid and abet others to infringe include advertising and/or providing support services to partners contracted by Defendants or providing instruction

materials, training, and services regarding the Accused Instrumentalities, which actively induce a user of Defendants' system to infringe the Asserted Claims. For example, using the J. J. Keller User Guides referenced above; Defendants provide potential users with detailed instruction materials on how to utilize the Accused Instrumentalities in a way that infringes at least one claim of the '874 patent.

103. Upon information and belief, since at least the time Defendants received notice, Defendants have contributed to, and continue to contribute to, the infringement by third parties, including their customers, of one or more claims of the '874 patent, including at least claims 1, 11, 44, and 45 that are identified in Exhibit B-1, under 35 U.S.C. § 271(c), by, for example, selling and/or offering for sale the Accused Instrumentalities in the United States, including Defendants' platforms, systems, hardware, and software knowing that those products constitute a material part of the inventions to infringe the '874 patent, knowing that those products are especially made or adapted to infringe the '874 patent, and knowing that those products are not staple articles of commerce suitable for substantial non-infringing use.

104. PerDiemCo has been and continues to be damaged by Defendants' infringement of the '874 patent.

105. From the time of notice, Defendants have willfully infringed the '874 patent.

106. The conduct by Defendants in infringing the '874 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT III – INFRINGEMENT OF THE '198 PATENT

107. The allegations of the preceding paragraphs are incorporated by reference as if fully set forth herein.

108. Defendants directly infringe and continue to directly infringe under 35 U.S.C. § 271(a) at least one or more claims of the '198 patent either literally and/or under the doctrine of

equivalents, by, among other things, making, using, importing, selling, offering for sale and/or providing and/or causing to be used in the United States the Accused Instrumentalities. An exemplary claim chart attached hereto as Exhibit C-1 and incorporated by reference details the correspondence of every element of each identified claim of the '198 patent in Exhibit C-1 with features of the Accused Instrumentalities.

109. Third parties, including Defendants' customers, have directly infringed, and continue to directly infringe under 35 U.S.C. § 271(a), one or more claims of the '198 patent, either literally and/or under the doctrine of equivalents, by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities in the United States so as to infringe one or more claims of the '198 patent.

110. Defendants were made aware of the '198 patent and its infringement through at least the filing and service or notice of the filing of this Complaint.

111. Upon information and belief, since at least the time Defendants received notice, Defendants have induced infringement and continue to induce infringement under 35 U.S.C. § 271(b). Defendants have actively, knowingly, and intentionally induced, and with specific intent or conscious blindness, actively aided and abetted others to infringe and continue to actively, knowingly, and intentionally induce others to infringe, including but not limited to each of Defendants' partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '198 patent.

112. Defendants induce infringement by selling or otherwise supplying and supporting the Accused Instrumentalities in the United States with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States the Accused Instrumentalities, for their intended purpose to infringe the '198 patent, with instructions as to the use of the Accused Instrumentalities

and guidance, including the J. J. Keller User Guides reference above, as to the specific steps that must be taken to utilize the Accused Instrumentalities, all with the knowledge and intent to encourage and facilitate infringement through the dissemination of the Accused Instrumentalities and/or the creation and dissemination of documentation and technical information to customers and prospective customers related to the Accused Instrumentalities, including the product literature described in Exhibit C-1, attached hereto.

113. In particular, Defendants' actions that aid and abet others to infringe include advertising and/or providing support services to partners contracted by Defendants or providing instruction materials, training, and services regarding the Accused Instrumentalities, which actively induce a user of Defendants system to infringe the Asserted Claims. For example, using the J. J. Keller User Guides referenced above; Defendants provide potential users with detailed instruction materials on how to utilize the Accused Instrumentalities in a way that infringes at least one claim of the '198 patent.

114. Upon information and belief, since at least the time Defendants received notice, Defendants have contributed to and continue to contribute to, the infringement by third parties, including their customers, of one or more claims of the '198 patent, including at least claims 1, 4, and 7 that are identified in Exhibit C-1, under 35 U.S.C. § 271(c), by, for example, selling and/or offering for sale the Accused Instrumentalities in the United States, including Defendants' platforms, systems, hardware, and software knowing that those products constitute a material part of the inventions of the '198 patent, knowing that those products are specially made or adapted to infringe the '198 patent, and knowing that those products are not staple articles of commerce suitable for substantial non-infringing use.

115. PerDiemCo has been and continues to be damaged by Defendants' infringement of the '198 patent.

116. From the time of notice, Defendants have willfully infringed the '198 patent.

117. The conduct by Defendants in infringing the '198 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT IV – INFRINGEMENT OF THE '789 PATENT

118. The allegations of the preceding paragraphs are incorporated by reference as if fully set forth herein.

119. Defendants directly infringe and continue to directly infringe under 35 U.S.C. § 271(a) at least one or more claims of the '789 patent either literally and/or under the doctrine of equivalents, by, among other things, making, using, importing, selling, offering for sale and/or providing and/or causing to be used in the United States the Accused Instrumentalities. An exemplary claim chart attached hereto as Exhibit D-1 and incorporated by reference details the correspondence of every element of each identified claim of the '789 patent in Exhibit D-1 with features of the Accused Instrumentalities.

120. Third parties, including Defendants' customers, have directly infringed, and continue to directly infringe under 35 U.S.C. § 271(a), one or more claims of the '789 patent, either literally and/or under the doctrine of equivalents, by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities in the United States so as to infringe one or more claims of the '789 patent.

121. Defendants were made aware of the '789 patent and its infringement through at least the filing and service or notice of the filing of this Complaint.

122. Upon information and belief, since at least the time Defendants received notice, Defendants have induced infringement and continue to induce infringement under 35 U.S.C.

§ 271(b). Defendants have actively, knowingly, and intentionally induced, and with specific intent or conscious blindness, actively aided and abetted others to infringe and continue to actively, knowingly, and intentionally induce others to infringe, including but not limited to each of Defendants' partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '789 patent.

123. Defendants induce infringement by selling or otherwise supplying and supporting the Accused Instrumentalities in the United States with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States the Accused Instrumentalities, for their intended purpose to infringe the '789 patent, with instructions as to the use of the Accused Instrumentalities and guidance, including the J. J. Keller User Guides reference above, as to the specific steps that must be taken to utilize the Accused Instrumentalities, all with the knowledge and intent to encourage and facilitate infringement through the dissemination of the Accused Instrumentalities and/or the creation and dissemination of documentation and technical information to customers and prospective customers related to the Accused Instrumentalities, including the product literature described in Exhibit D-1, attached hereto.

124. In particular, Defendants' actions that aid and abet others to infringe include advertising and/or providing support services to partners contracted by Defendants or providing instruction materials, training, and services regarding the Accused Instrumentalities, which actively induce a user of Defendants system to infringe the Asserted Claims. For example, using the J. J. Keller User Guides referenced above; Defendants provide potential users with detailed instruction materials on how to utilize the Accused Instrumentalities in a way that infringes at least one claim of the '789 patent.

125. Upon information and belief, since at least the time Defendants received notice, Defendants have contributed to, and continue to contribute to, the infringement by third parties, including their customers, of one or more claims of the '789 patent, including at least claim 1 that are identified in Exhibit D-1, under 35 U.S.C. § 271(c), by, for example, selling and/or offering for sale the Accused Instrumentalities in the United States, including Defendants' platforms, systems, hardware, and software knowing that those products constitute a material part of the inventions of the '789 patent, knowing that those products are specially made or adapted to infringe the '789 patent, and knowing that those products are not staple articles of commerce suitable for substantial non-infringing use.

126. PerDiemCo has been and continues to be damaged by Defendants' infringement of the '789 patent.

127. From the time of notice, Defendants have willfully infringed the '789 patent.

128. The conduct by Defendants in infringing the '789 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT V – INFRINGEMENT OF THE '364 PATENT

129. The allegations of the preceding paragraphs are incorporated by reference as if fully set forth herein.

130. Defendants directly infringe and continue to directly infringe under 35 U.S.C. § 271(a) at least one or more claims of the '364 patent either literally and/or under the doctrine of equivalents, by, among other things, making, using, importing, selling, offering for sale and/or providing and/or causing to be used in the United States the Accused Instrumentalities. An exemplary claim chart attached hereto as Exhibit A-1 and incorporated by reference details the correspondence of every element of each identified claim of the '364 patent in Exhibit E-1 with features of the Accused Instrumentalities.

131. Third parties, including Defendants' customers, have directly infringed, and continue to directly infringe under 35 U.S.C. § 271(a), one or more claims of the '364 patent, either literally and/or under the doctrine of equivalents, by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities in the United States so as to infringe one or more claims of the '364 patent.

132. Defendants were made aware of the '364 patent and its infringement through at least the filing and service or notice of the filing of this Complaint.

133. Upon information and belief, since at least the time Defendants received notice, Defendants have induced infringement and continue to induce infringement under 35 U.S.C. § 271(b). Defendants have actively, knowingly, and intentionally induced, and with specific intent or conscious blindness, actively aided and abetted others to infringe and continue to actively, knowingly, and intentionally induce others to infringe, including but not limited to each of Defendants' partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '364 patent.

134. Defendants induce infringement by selling or otherwise supplying and supporting the Accused Instrumentalities in the United States with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States the Accused Instrumentalities, for their intended purpose to infringe the '364 patent, with instructions as to the use of the Accused Instrumentalities and guidance, including the J. J. Keller User Guides reference above, as to the specific steps that must be taken to utilize the Accused Instrumentalities, all with the knowledge and intent to encourage and facilitate infringement through the dissemination of the Accused Instrumentalities and/or the creation and dissemination of documentation and technical information to customers

and prospective customers related to the Accused Instrumentalities, including the product literature described in Exhibit E-1, attached hereto.

135. In particular, Defendants' actions that aid and abet others to infringe include advertising and/or providing support services to partners contracted by Defendants or providing instruction materials, training, and services regarding the Accused Instrumentalities, which actively induce a user of Defendants system to infringe the Asserted Claims. For example, using the J. J. Keller User Guides referenced above; Defendants provide potential users with detailed instruction materials on how to utilize the Accused Instrumentalities in a way that infringes at least one claim of the '364 patent.

136. Upon information and belief, since at least the time Defendants received notice, Defendants have contributed to, and continue to contribute to, the infringement by third parties, including their customers, of one or more claims of the '364 patent, including at least claim 3 identified in Exhibit E-1 under 35 U.S.C. § 271(c), by, for example, selling and/or offering for sale the Accused Instrumentalities in the United States, including Defendants' platforms, systems, hardware, and software knowing that those products constitute a material part of the inventions of the '364 patent, knowing that those products are especially made or adapted to infringe the '364 patent, and knowing that those products are not staple articles of commerce suitable for substantial non-infringing use.

137. PerDiemCo has been and continues to be damaged by Defendants' infringement of the '364 patent.

138. Defendants were made aware of the '364 patent and its infringement thereof at least as early as the filing of this Complaint.

139. From the time of notice, Defendants have willfully infringed the '364 patent.

140. The conduct by Defendants in infringing the '364 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT VI – INFRINGEMENT OF THE '809 PATENT

141. The allegations of the preceding paragraphs are incorporated by reference as if fully set forth herein.

142. Defendants directly infringe and continue to directly infringe under 35 U.S.C. § 271(a) at least one or more claims of the '809 patent either literally and/or under the doctrine of equivalents, by, among other things, making, using, importing, selling, offering for sale and/or providing and/or causing to be used in the United States the Accused Instrumentalities. An exemplary claim chart attached hereto as Exhibit F-1 and incorporated by reference details the correspondence of every element of each identified claim of the '809 patent in Exhibit F-1 with features of the Accused Instrumentalities.

143. Third parties, including Defendants' customers, have directly infringed, and continue to directly infringe under 35 U.S.C. § 271(a), one or more claims of the '809 patent, either literally and/or under the doctrine of equivalents, by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities in the United States so as to infringe one or more claims of the '809 patent.

144. Defendants were made aware of the '809 patent and its infringement through at least the filing and service or notice of the filing of this Complaint.

145. Upon information and belief, since at least the time Defendants received notice, Defendants have induced infringement and continue to induce infringement under 35 U.S.C. § 271(b). Defendants have actively, knowingly, and intentionally induced, and with specific intent or conscious blindness, actively aided and abetted others to infringe and continue to actively, knowingly, and intentionally induce others to infringe, including but not limited to each of

Defendants' partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '809 patent.

146. Defendants induce infringement by selling or otherwise supplying and supporting the Accused Instrumentalities in the United States with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States the Accused Instrumentalities, for their intended purpose to infringe the '809 patent, with instructions as to the use of the Accused Instrumentalities and guidance, including the J. J. Keller User Guides reference above, as to the specific steps that must be taken to utilize the Accused Instrumentalities, all with the knowledge and intent to encourage and facilitate infringement through the dissemination of the Accused Instrumentalities and/or the creation and dissemination of documentation and technical information to customers and prospective customers related to the Accused Instrumentalities, including the product literature described in Exhibit F-1, attached hereto.

147. In particular, Defendants' actions that aid and abet others to infringe include advertising and/or providing support services to partners contracted by Defendants or providing instruction materials, training, and services regarding the Accused Instrumentalities, which actively induce a user of Defendants system to infringe the Asserted Claims. For example, using the J. J. Keller User Guides referenced above; Defendants provide potential users with detailed instruction materials on how to utilize the Accused Instrumentalities in a way that infringes at least one claim of the '809 patent.

148. Upon information and belief, since at least the time Defendants received notice, Defendants have contributed to, and continue to contribute to, the infringement by third parties, including their customers, of one or more claims of the '809 patent, including at least claim 1 identified in Exhibit F-1, under 35 U.S.C. § 271(c), by, for example, selling and/or offering for

sale the Accused Instrumentalities in the United States, including Defendants' platforms, systems, hardware, and software knowing that those products constitute a material part of the inventions of the '809 patent, knowing that those products are specially made or adapted to infringe the '809 patent, and knowing that those products are not staple articles of commerce suitable for substantial non-infringing use.

149. PerDiemCo has been and continues to be damaged by Defendants' infringement of the '809 patent.

150. From the time of notice, Defendants have willfully infringed the '809 patent.

151. The conduct by Defendants in infringing the '809 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT VII – INFRINGEMENT OF THE '038 PATENT

152. The allegations of the preceding paragraphs are incorporated by reference as if fully set forth herein.

153. Defendants directly infringe and continue to directly infringe under 35 U.S.C. § 271(a) at least one or more claims of the '038 patent either literally and/or under the doctrine of equivalents, by, among other things, making, using, importing, selling, offering for sale and/or providing and/or causing to be used in the United States the Accused Instrumentalities. An exemplary claim chart attached hereto as Exhibit G-1 and incorporated by reference details the correspondence of every element of each identified claim of the '038 patent in Exhibit G-1 with features of the Accused Instrumentalities.

154. Third parties, including Defendants' customers, have directly infringed, and continue to directly infringe under 35 U.S.C. § 271(a), one or more claims of the '038 patent, either literally and/or under the doctrine of equivalents, by making, using, importing, selling, and/or offering for

sale the Accused Instrumentalities in the United States so as to infringe one or more claims of the '038 patent.

155. Defendants were made aware of the '038 patent and its infringement through at least the filing and service or notice of the filing of this Complaint.

156. Upon information and belief, since at least the time Defendants received notice, Defendants have induced infringement and continue to induce infringement under 35 U.S.C. § 271(b). Defendants have actively, knowingly, and intentionally induced, and with specific intent or conscious blindness, actively aided and abetted others to infringe and continue to actively, knowingly, and intentionally induce others to infringe, including but not limited to each of Defendants' partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '809 patent.

157. Defendants induce infringement by selling or otherwise supplying and supporting the Accused Instrumentalities in the United States with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States the Accused Instrumentalities, for their intended purpose to infringe the '038 patent, with instructions as to the use of the Accused Instrumentalities and guidance, including the J. J. Keller User Guides reference above, as to the specific steps that must be taken to utilize the Accused Instrumentalities, all with the knowledge and intent to encourage and facilitate infringement through the dissemination of the Accused Instrumentalities and/or the creation and dissemination of documentation and technical information to customers and prospective customers related to the Accused Instrumentalities, including the product literature described in Exhibit G-1, attached hereto.

158. In particular, Defendants' actions that aid and abet others to infringe include advertising and/or providing support services to partners contracted by Defendants or providing instruction

materials, training, and services regarding the Accused Instrumentalities, which actively induce a user of Defendants system to infringe the Asserted Claims. For example, using the J. J. Keller User Guides referenced above; Defendants provide potential users with detailed instruction materials on how to utilize the Accused Instrumentalities in a way that infringes at least one claim of the '038 patent.

159. Upon information and belief, since at least the time Defendants received notice, Defendants have contributed to, and continue to contribute to, the infringement by third parties, including their customers, of one or more claims of the '038 patent, including at least claim 1 identified in Exhibit G-1, under 35 U.S.C. § 271(c), by, for example, selling and/or offering for sale the Accused Instrumentalities in the United States, including Defendants' platforms, systems, hardware, and software knowing that those products constitute a material part of the inventions of the '038 patent, knowing that those products are especially made or adapted to infringe the '038 patent, and knowing that those products are not staple articles of commerce suitable for substantial non-infringing use.

160. PerDiemCo has been and continues to be damaged by Defendants' infringement of the '038 patent.

161. From the time of notice, Defendants have willfully infringed the '038 patent.

162. The conduct by Defendants in infringing the '038 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT VIII – INFRINGEMENT OF THE '937 PATENT

163. The allegations of the preceding paragraphs are incorporated by reference as if fully set forth herein.

164. Defendants directly infringe and continue to directly infringe under 35 U.S.C. § 271(a) at least one or more claims of the '937 patent either literally and/or under the doctrine of

equivalents, by, among other things, making, using, importing, selling, offering for sale and/or providing and/or causing to be used in the United States the Accused Instrumentalities. An exemplary claim chart attached hereto as Exhibit H-1 and incorporated by reference details the correspondence of every element of each identified claim of the '937 patent in Exhibit H-1 with features of the Accused Instrumentalities.

165. Third parties, including Defendants' customers, have directly infringed, and continue to directly infringe under 35 U.S.C. § 271(a), one or more claims of the '937 patent, either literally and/or under the doctrine of equivalents, by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities in the United States so as to infringe one or more claims of the '937 patent.

166. Defendants were made aware of the '937 patent and its infringement through at least the filing and service or notice of the filing of this Complaint.

167. Upon information and belief, since at least the time Defendants received notice, Defendants have induced infringement and continue to induce infringement under 35 U.S.C. § 271(b). Defendants have actively, knowingly, and intentionally induced, and with specific intent or conscious blindness, actively aided and abetted others to infringe and continue to actively, knowingly, and intentionally induce others to infringe, including but not limited to each of Defendants' partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '809 patent.

168. Defendants induce infringement by selling or otherwise supplying and supporting the Accused Instrumentalities in the United States with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States the Accused Instrumentalities, for their intended purpose to infringe the '937 patent, with instructions as to the use of the Accused Instrumentalities

and guidance, including the J. J. Keller User Guides reference above, as to the specific steps that must be taken to utilize the Accused Instrumentalities, all with the knowledge and intent to encourage and facilitate infringement through the dissemination of the Accused Instrumentalities and/or the creation and dissemination of documentation and technical information to customers and prospective customers related to the Accused Instrumentalities, including the product literature described in Exhibit H-1, attached hereto.

169. In particular, Defendants' actions that aid and abet others to infringe include advertising and/or providing support services to partners contracted by Defendants or providing instruction materials, training, and services regarding the Accused Instrumentalities, which actively induce a user of Defendants system to infringe the Asserted Claims. For example, using the J. J. Keller User Guides referenced above; Defendants provide potential users with detailed instruction materials on how to utilize the Accused Instrumentalities in a way that infringes at least one claim of the '937 patent.

170. Upon information and belief, since at least the time Defendants received notice, Defendants have contributed to, and continue to contribute to, the infringement by third parties, including their customers, of one or more claims of the '937 patent, including at least claims 1, 2, 3, 4, 5 identified in Exhibit H-1, under 35 U.S.C. § 271(c), by, for example, selling and/or offering for sale the Accused Instrumentalities in the United States, including Defendants' platforms, systems, hardware, and software knowing that those products constitute a material part of the inventions of the '937 patent, knowing that those products are especially made or adapted to infringe the '937 patent, and knowing that those products are not staple articles of commerce suitable for substantial non-infringing use.

171. PerDiemCo has been and continues to be damaged by Defendants' infringement of the '937 patent.

172. From the time of notice, Defendants have willfully infringed the '937 patent.

173. The conduct by Defendants in infringing the '937 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT IX – INFRINGEMENT OF THE '237 PATENT

174. The allegations of the preceding paragraphs are incorporated by reference as if fully set forth herein.

175. Defendants directly infringe and continue to directly infringe under 35 U.S.C. § 271(a) at least one or more claims of the '237 patent either literally and/or under the doctrine of equivalents, by, among other things, making, using, importing, selling, offering for sale and/or providing and/or causing to be used in the United States the Accused Instrumentalities. An exemplary claim chart attached hereto as Exhibit I-1 and incorporated by reference details the correspondence of every element of each identified claim of the '237 patent in Exhibit I-1 with features of the Accused Instrumentalities.

176. Third parties, including Defendants' customers, have directly infringed, and continue to directly infringe under 35 U.S.C. § 271(a), one or more claims of the '237 patent, either literally and/or under the doctrine of equivalents, by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities in the United States so as to infringe one or more claims of the '237 patent.

177. Defendants were made aware of the '237 patent and its infringement through at least the filing and service or notice of the filing of this Complaint.

178. Upon information and belief, since at least the time Defendants received notice, Defendants have induced infringement and continue to induce infringement under 35 U.S.C.

§ 271(b). Defendants have actively, knowingly, and intentionally induced, and with specific intent or conscious blindness, actively aided and abetted others to infringe and continue to actively, knowingly, and intentionally induce others to infringe, including but not limited to each of Defendants' partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '237 patent.

179. Defendants induce infringement by selling or otherwise supplying and supporting the Accused Instrumentalities in the United States with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States the Accused Instrumentalities, for their intended purpose to infringe the '237 patent, with instructions as to the use of the Accused Instrumentalities and guidance, including the J. J. Keller User Guides reference above, as to the specific steps that must be taken to utilize the Accused Instrumentalities, all with the knowledge and intent to encourage and facilitate infringement through the dissemination of the Accused Instrumentalities and/or the creation and dissemination of documentation and technical information to customers and prospective customers related to the Accused Instrumentalities, including the product literature described in Exhibit I-1, attached hereto.

180. In particular, Defendants' actions that aid and abet others to infringe include advertising and/or providing support services to partners contracted by Defendants or providing instruction materials, training, and services regarding the Accused Instrumentalities, which actively induce a user of Defendants system to infringe the Asserted Claims. For example, using the J. J. Keller User Guides referenced above; Defendants provide potential users with detailed instruction materials on how to utilize the Accused Instrumentalities in a way that infringes at least one claim of the '237 patent.

181. Upon information and belief, since at least the time Defendants received notice, Defendants have contributed to, and continue to contribute to, the infringement by third parties, including their customers, of one or more claims of the '237 patent, including at least claims 1 and 10 identified in Exhibit I-1, under 35 U.S.C. § 271(c), by, for example, selling and/or offering for sale the Accused Instrumentalities in the United States, including Defendants' platforms, systems, hardware, and software knowing that those products constitute a material part of the inventions of the '237 patent, knowing that those products are especially made or adapted to infringe the '237 patent, and knowing that those products are not staple articles of commerce suitable for substantial non-infringing use.

182. PerDiemCo has been and continues to be damaged by Defendants' infringement of the '237 patent.

183. From the time of notice, Defendants have willfully infringed the '237 patent.

184. The conduct by Defendants in infringing the '237 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT X – INFRINGEMENT OF THE '662 PATENT

185. The allegations of the preceding paragraphs are incorporated by reference as if fully set forth herein.

186. Defendants directly infringe and continue to directly infringe under 35 U.S.C. § 271(a) at least one or more claims of the '662 patent either literally and/or under the doctrine of equivalents, by, among other things, making, using, importing, selling, offering for sale and/or providing and/or causing to be used in the United States the Accused Instrumentalities. An exemplary claim chart attached hereto as Exhibit J-1 and incorporated by reference details the correspondence of every element of each identified claim of the '662 patent in Exhibit J-1 with features of the Accused Instrumentalities.

187. Third parties, including Defendants' customers, have directly infringed, and continue to directly infringe under 35 U.S.C. § 271(a), one or more claims of the '662 patent, either literally and/or under the doctrine of equivalents, by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities in the United States so as to infringe one or more claims of the '662 patent.

188. Defendants were made aware of the '662 patent and its infringement through at least the filing and service or notice of the filing of this Complaint.

189. Upon information and belief, since at least the time Defendants received notice, Defendants have induced infringement and continue to induce infringement under 35 U.S.C. § 271(b). Defendants have actively, knowingly, and intentionally induced, and with specific intent or conscious blindness, actively aided and abetted others to infringe and continue to actively, knowingly, and intentionally induce others to infringe, including but not limited to each of Defendants' partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '662 patent.

190. Defendants induce infringement by selling or otherwise supplying and supporting the Accused Instrumentalities in the United States with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States the Accused Instrumentalities, for their intended purpose to infringe the '662 patent, with instructions as to the use of the Accused Instrumentalities and guidance, including the J. J. Keller User Guides reference above, as to the specific steps that must be taken to utilize the Accused Instrumentalities, all with the knowledge and intent to encourage and facilitate infringement through the dissemination of the Accused Instrumentalities and/or the creation and dissemination of documentation and technical information to customers

and prospective customers related to the Accused Instrumentalities, including the product literature described in Exhibit J-1, attached hereto.

191. In particular, Defendants' actions that aid and abet others to infringe include advertising and/or providing support services to partners contracted by Defendants or providing instruction materials, training, and services regarding the Accused Instrumentalities, which actively induce a user of Defendants system to infringe the Asserted Claims. For example, using the J. J. Keller User Guides referenced above; Defendants provide potential users with detailed instruction materials on how to utilize the Accused Instrumentalities in a way that infringes at least one claim of the '662 patent.

192. Upon information and belief, since at least the time Defendants received notice, Defendants have contributed to, and continue to contribute to, the infringement by third parties, including their customers, of one or more claims of the '662 patent, including at least claims 1, 3, 4, 5, 13, 14 identified in Exhibit J-1, under 35 U.S.C. § 271(c), by, for example, selling and/or offering for sale the Accused Instrumentalities in the United States, including Defendants' platforms, systems, hardware, and software knowing that those products constitute a material part of the inventions of the '662 patent, knowing that those products are especially made or adapted to infringe the '662 patent, and knowing that those products are not staple articles of commerce suitable for substantial non-infringing use.

193. PerDiemCo has been and continues to be damaged by Defendants' infringement of the '662 patent.

194. From the time of notice, Defendants have willfully infringed the '662 patent.

195. The conduct by Defendants in infringing the '662 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT XI – INFRINGEMENT OF THE '689 PATENT

196. The allegations of the preceding paragraphs are incorporated by reference as if fully set forth herein.

197. Defendants directly infringe and continue to directly infringe under 35 U.S.C. § 271(a) at least one or more claims of the '689 patent either literally and/or under the doctrine of equivalents, by, among other things, making, using, importing, selling, offering for sale and/or providing and/or causing to be used in the United States the Accused Instrumentalities. An exemplary claim chart attached hereto as Exhibit K-1 and incorporated by reference details the correspondence of every element of each identified claim of the '689 patent in Exhibit K-1 with features of the Accused Instrumentalities.

198. Third parties, including Defendants' customers, have directly infringed, and continue to directly infringe under 35 U.S.C. § 271(a), one or more claims of the '689 patent, either literally and/or under the doctrine of equivalents, by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities in the United States so as to infringe one or more claims of the '689 patent.

199. Defendants were made aware of the '689 patent and its infringement through at least the filing and service or notice of the filing of this Complaint.

200. Upon information and belief, since at least the time Defendants received notice, Defendants have induced infringement and continue to induce infringement under 35 U.S.C. § 271(b). Defendants have actively, knowingly, and intentionally induced, and with specific intent or conscious blindness, actively aided and abetted others to infringe and continue to actively, knowingly, and intentionally induce others to infringe, including but not limited to each of Defendants' partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '689 patent.

201. Defendants induce infringement by selling or otherwise supplying and supporting the Accused Instrumentalities in the United States with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States the Accused Instrumentalities, for their intended purpose to infringe the '689 patent, with instructions as to the use of the Accused Instrumentalities and guidance, including the J. J. Keller User Guides reference above, as to the specific steps that must be taken to utilize the Accused Instrumentalities, all with the knowledge and intent to encourage and facilitate infringement through the dissemination of the Accused Instrumentalities and/or the creation and dissemination of documentation and technical information to customers and prospective customers related to the Accused Instrumentalities, including the product literature described in Exhibit K-1, attached hereto.

202. In particular, Defendants' actions that aid and abet others to infringe include advertising and/or providing support services to partners contracted by Defendants or providing instruction materials, training, and services regarding the Accused Instrumentalities, which actively induce a user of Defendants system to infringe the Asserted Claims. For example, using the J. J. Keller User Guides referenced above; Defendants provide potential users with detailed instruction materials on how to utilize the Accused Instrumentalities in a way that infringes at least one claim of the '689 patent.

203. Upon information and belief, since at least the time Defendants received notice, Defendants have contributed to, and continue to contribute to, the infringement by third parties, including their customers, of one or more claims of the '689 patent, including at least claims 1, 4, 5, 6, 7 identified in Exhibit K-1, under 35 U.S.C. § 271(c), by, for example, selling and/or offering for sale the Accused Instrumentalities in the United States, including Defendants' platforms, systems, hardware, and software knowing that those products constitute a material part of the

inventions of the '689 patent, knowing that those products are especially made or adapted to infringe the '689 patent, and knowing that those products are not staple articles of commerce suitable for substantial non-infringing use.

204. PerDiemCo has been and continues to be damaged by Defendants' infringement of the '689 patent.

205. From the time of notice, Defendants have willfully infringed the '689 patent.

206. The conduct by Defendants in infringing the '689 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT XII – INFRINGEMENT OF THE '966 PATENT

207. The allegations of the preceding paragraphs are incorporated by reference as if fully set forth herein.

208. Defendants directly infringe and continue to directly infringe under 35 U.S.C. § 271(a) at least one or more claims of the '966 patent either literally and/or under the doctrine of equivalents, by, among other things, making, using, importing, selling, offering for sale and/or providing and/or causing to be used in the United States the Accused Instrumentalities. An exemplary claim chart attached hereto as Exhibit L-1 and incorporated by reference details the correspondence of every element of each identified claim of the '966 patent in Exhibit L-1 with features of the Accused Instrumentalities.

209. Third parties, including Defendants' customers, have directly infringed, and continue to directly infringe under 35 U.S.C. § 271(a), one or more claims of the '966 patent, either literally and/or under the doctrine of equivalents, by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities in the United States so as to infringe one or more claims of the '966 patent.

210. Defendants were made aware of the '966 patent and its infringement through at least the filing and service or notice of the filing of this Complaint.

211. Upon information and belief, since at least the time Defendants received notice, Defendants have induced infringement and continue to induce infringement under 35 U.S.C. § 271(b). Defendants have actively, knowingly, and intentionally induced, and with specific intent or conscious blindness, actively aided and abetted others to infringe and continue to actively, knowingly, and intentionally induce others to infringe, including but not limited to each of Defendants' partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '966 patent.

212. Defendants induce infringement by selling or otherwise supplying and supporting the Accused Instrumentalities in the United States with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States the Accused Instrumentalities, for their intended purpose to infringe the '966 patent, with instructions as to the use of the Accused Instrumentalities and guidance, including the J. J. Keller User Guides reference above, as to the specific steps that must be taken to utilize the Accused Instrumentalities, all with the knowledge and intent to encourage and facilitate infringement through the dissemination of the Accused Instrumentalities and/or the creation and dissemination of documentation and technical information to customers and prospective customers related to the Accused Instrumentalities, including the product literature described in Exhibit L-1, attached hereto.

213. In particular, Defendants' actions that aid and abet others to infringe include advertising and/or providing support services to partners contracted by Defendants or providing instruction materials, training, and services regarding the Accused Instrumentalities, which actively induce a user of Defendants system to infringe the Asserted Claims. For example, using the J. J. Keller

User Guides referenced above; Defendants provide potential users with detailed instruction materials on how to utilize the Accused Instrumentalities in a way that infringes at least one claim of the '966 patent.

214. Upon information and belief, since at least the time Defendants received notice, Defendants have contributed to, and continue to contribute to, the infringement by third parties, including their customers, of one or more claims of the '966 patent, including at least claims 1, 3, 8, 13, and 18 identified in Exhibit L-1, under 35 U.S.C. § 271(c), by, for example, selling and/or offering for sale the Accused Instrumentalities in the United States, including Defendants' platforms, systems, hardware, and software knowing that those products constitute a material part of the inventions of the '966 patent, knowing that those products are especially made or adapted to infringe the '966 patent, and knowing that those products are not staple articles of commerce suitable for substantial non-infringing use.

215. PerDiemCo has been and continues to be damaged by Defendants' infringement of the '966 patent.

216. From the time of notice, Defendants have willfully infringed the '966 patent.

217. The conduct by Defendants in infringing the '966 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

COUNT XIII – INFRINGEMENT OF THE '595 PATENT

218. The allegations of the preceding paragraphs are incorporated by reference as if fully set forth herein.

219. Defendants directly infringe and continue to directly infringe under 35 U.S.C. § 271(a) at least one or more claims of the '595 patent either literally and/or under the doctrine of equivalents, by, among other things, making, using, importing, selling, offering for sale and/or providing and/or causing to be used in the United States the Accused Instrumentalities. An

exemplary claim chart attached hereto as Exhibit M-1 and incorporated by reference details the correspondence of every element of each identified claim of the '595 patent in Exhibit M-1 with features of the Accused Instrumentalities.

220. Third parties, including Defendants' customers, have directly infringed, and continue to directly infringe under 35 U.S.C. § 271(a), one or more claims of the '595 patent, either literally and/or under the doctrine of equivalents, by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities in the United States so as to infringe one or more claims of the '595 patent.

221. Defendants were made aware of the '595 patent and its infringement through at least the filing and service or notice of the filing of this Complaint.

222. Upon information and belief, since at least the time Defendants received notice, Defendants have induced infringement and continue to induce infringement under 35 U.S.C. § 271(b). Defendants have actively, knowingly, and intentionally induced, and with specific intent or conscious blindness, actively aided and abetted others to infringe and continue to actively, knowingly, and intentionally induce others to infringe, including but not limited to each of Defendants' partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '595 patent.

223. Defendants induce infringement by selling or otherwise supplying and supporting the Accused Instrumentalities in the United States with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States the Accused Instrumentalities, for their intended purpose to infringe the '595 patent, with instructions as to the use of the Accused Instrumentalities and guidance, including the J. J. Keller User Guides reference above, as to the specific steps that must be taken to utilize the Accused Instrumentalities, all with the knowledge and intent to

encourage and facilitate infringement through the dissemination of the Accused Instrumentalities and/or the creation and dissemination of documentation and technical information to customers and prospective customers related to the Accused Instrumentalities, including the product literature described in Exhibit M-1, attached hereto.

224. In particular, Defendants' actions that aid and abet others to infringe include advertising and/or providing support services to partners contracted by Defendants or providing instruction materials, training, and services regarding the Accused Instrumentalities, which actively induce a user of Defendants system to infringe the Asserted Claims. For example, using the J. J. Keller User Guides referenced above; Defendants provide potential users with detailed instruction materials on how to utilize the Accused Instrumentalities in a way that infringes at least one claim of the '595 patent.

225. Upon information and belief, since at least the time Defendants received notice, Defendants have contributed to, and continue to contribute to, the infringement by third parties, including their customers, of one or more claims of the '595 patent, including at least claims 1, 4, 5, and 6 identified in Exhibit M-1, under 35 U.S.C. § 271(c), by, for example, selling and/or offering for sale the Accused Instrumentalities in the United States, including Defendants' platforms, systems, hardware, and software knowing that those products constitute a material part of the inventions of the '595 patent, knowing that those products are especially made or adapted to infringe the '595 patent, and knowing that those products are not staple articles of commerce suitable for substantial non-infringing use.

226. PerDiemCo has been and continues to be damaged by Defendants' infringement of the '595 patent.

227. From the time of notice, Defendants have willfully infringed the '595 patent.

228. The conduct by Defendants in infringing the '595 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

JURY DEMAND

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

PRAYER FOR RELIEF

WHEREFORE, PerDiemCo demands judgment for itself and against Defendants as follows:

- A. An adjudication that Defendants have infringed each of the Patents-in-Suit;
- B. An award of damages to be paid by Defendants adequate to compensate PerDiemCo for Defendants' past infringement of the Patents-in-Suit, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses, and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. An award of an ongoing royalty for any acts of direct, induced, or contributory infringement conducted by Defendants post-judgment;
- D. A declaration that this case is exceptional under 35 U.S.C. § 285, an award of PerDiem's reasonable attorneys' fees; and
- E. An award to PerDiemCo of such further relief at law or in equity as the Court deems just and proper.

Dated: October 3, 2023

Respectfully submitted,

HANSEN REYNOLDS LLC

Electronically signed by Thomas S. Reynolds II

Nicholas S. Boebel (admitted in E.D. WI)

Niall A. MacLeod (admitted in E.D. WI)

Michael D. Okerlund (admission to be filed)

801 Marquette Ave S., Suite 200

Minneapolis, MN 55402

Phone 414-455-7676

Fax 414-273-8476

nboebel@hansenreynolds.com

nmacleod@hansenreynolds.com

mokerlund@hansenreynolds.com

Thomas S. Reynolds II, SBN 1036732

301 N. Broadway, Suite 400

Milwaukee, WI 53202

Phone: (414) 455-7676

treynolds@hansenreynolds.com

Attorneys for Plaintiff, PerDiemCo LLC