

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FLEET CONNECT SOLUTIONS LLC,

Plaintiff,

v.

THE KROGER CO.,

Defendant.

Civil Action No. 2:24-cv-00430

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Fleet Connect Solutions LLC (“FCS” or “Plaintiff”) files this Original Complaint against The Kroger Co. (“Kroger” or “Defendant”) alleging, based on its own knowledge as to itself and its own actions, and based on information and belief as to all other matters, as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendant’s infringement of the following United States Patents (collectively, the “Asserted Patents”) issued by the United States Patent and Trademark Office (“USPTO”):

	U.S. Patent No.	Title	Available At
1	6,549,583	Optimum Phase Error Metric For OFDM Pilot Tone Tracking In Wireless LAN	https://image-ppubs.uspto.gov/dirsearch-public/print/downloadPdf/6549583/
2	6,633,616	OFDM Pilot Tone Tracking For Wireless LAN	https://image-ppubs.uspto.gov/dirsearch-public/print/downloadPdf/6633616/
3	7,206,837	Intelligent Trip Status Notification	https://image-ppubs.uspto.gov/dirsearch-public/print/downloadPdf/7206837/
4	7,741,968	System and Method For Navigation Tracking of Individuals in a Group	https://image-ppubs.uspto.gov/dirsearch-public/print/downloadPdf/7741968/

	U.S. Patent No.	Title	Available At
5	7,747,291	Wireless Communication Method	https://imageppubs.uspto.gov/dirsearch-public/print/downloadPdf/7747291/
6	8,005,053	Channel Interference Reduction	https://imageppubs.uspto.gov/dirsearch-public/print/downloadPdf/8005053/
7	9,299,044	System and Methods For Management of Mobile Field Assets Via Wireless Handheld Devices	https://imageppubs.uspto.gov/dirsearch-public/print/downloadPdf/9299044/
8	9,747,565	System and Methods For Management of Mobile Field Assets Via Wireless Handheld Devices	https://imageppubs.uspto.gov/dirsearch-public/print/downloadPdf/9747565/
9	10,671,949	System and Methods For Management of Mobile Field Assets Via Wireless Handheld Devices	https://imageppubs.uspto.gov/dirsearch-public/print/downloadPdf/10671949/

2. Plaintiff seeks injunctive relief and monetary damages.

PARTIES

3. Plaintiff is a limited liability company formed under the laws of Texas with its registered office address located in Austin, Texas.

4. Upon information and belief, Kroger is a corporation organized under the laws of the State of Ohio with its principal place of business located at 1014 Vine St., Cincinnati, Ohio 45202.

5. Upon information and belief, Kroger may be served through its registered agent for service, Corporation Service Company d/b/a CSC-Lawyers Inco., located at 211 E. 7th Street Suite 620, Austin, Texas 78701.

JURISDICTION AND VENUE

6. FCS repeats and re-alleges the allegations in Paragraphs 1-5 as though fully set forth in their entirety.

7. This is an action for infringement of a United States patent arising under 35 U.S.C. §§ 271, 281, and 284–85, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. § 1331 and § 1338(a).

8. Venue is proper against Defendant in this District pursuant to 28 U.S.C. § 1400(b) and 1391(c) because it has maintained established and regular places of business in this District and has committed acts of patent infringement in the District from those regular and established places of business. *See In re: Cray Inc.*, 871 F.3d 1355, 1362-1363 (Fed. Cir. 2017).

9. Defendant offers products and services, including through the use of Accused Products, and conducts business in this District.

10. Defendant is subject to this Court’s specific and general personal jurisdiction under due process due at least to Defendant’s substantial business in this judicial district, including: (i) at least a portion of the infringements alleged herein; (ii) regularly transacting, doing, and/or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services provided to individuals in Texas and in this District; (iii) having an interest in, using or possessing real property in Texas and this District; (iv) and having and keeping personal property in Texas and in this District.

11. Specifically, Defendant intends to do and does business in, has committed acts of infringement in, this District directly, and its employees, agents, and/or contractors located in this District use the products or services accused of infringement.

12. On information and belief, Defendant owns, operates, manages, conducts business, and directs and controls the operations and employees of facilities at several locations in this District, including, but not limited to, facilities at the following addresses: (1) 300 E. End Blvd. N, Marshall, Texas 75670; (2) 701 W. Marshall Ave., Longview, Texas 75601; (3) 2415 US-79,

Henderson, Texas 75654; (4) 3205 N. University Dr., Nacogdoches, Texas 75965; (5) 325 E. Spring St., Palestine, Texas 75801; and (6) 1215 North St, Nacogdoches, Texas 75961.

13. Defendant commits acts of infringement from its places of business in this District, including, but not limited to, use of the Accused Products and inducement of third parties to use the Accused Products.

THE ACCUSED PRODUCTS

14. FCS repeats and re-alleges the allegations in the Paragraphs above as though fully set forth in their entirety.

15. Based upon public information, Defendant owns, operates, advertises, and/or controls products and services that provide and/or utilize Accused Products manufactured by ORBCOMM.¹

16. On information and belief, Defendant uses, causes to be used, provides, supplies, or distributes one or more fleet management platform and tracking solutions utilizing infringing systems and/or methods manufactured by ORBCOMM, including, but not limited to, including (1) the GT1200 Series, (2) CT1000 Container, (3) CT1000 Transportation, (4) CT3000, (5) CT3500, (6) PT6000, (7) PT7000, (8) GT1020, (9) GT1030, (10) GT1030HE, (11) IS400, (12) SC1000; (13) ORBCOMM trailer tracking devices; (14) BT 320; (15) BT 500 / ORBCOMM ELD Devices; (16) the PRO-400; (17) Smart Dashcams, such as the FM 6510; (18) ORBCOMM Telematics Devices such as the FM5000, (19) ORBCOMM Trailer Tracking Solutions, (20) ORBCOMM Platform, (21) ORBCOMM Fleet Management Software/Application, such as Alert, Report,

¹ ORBCOMM (ORBC) Q4 2019 Earnings Call Transcript (“Kroger operates nearly 3,000 stores under a variety of brands and selected ORBCOMM to track their 10,000 assets including dry and refrigerated trailers.”), available at: <https://www.fool.com/earnings/call-transcripts/2020/02/26/orbcomm-orbc-q4-2019-earnings-call-transcript.aspx>

Control (ARC) Terminal App and Automatic Vehicle Location (AVL) Terminal App, (22) ORBCOMM Web Applications, such as AssetWatch, CargoWatch Secure, Drivewyze, FleetEdge, FSMA Compliance Solution, and ELD Truck Management Software, (23) ORBCOMM Enterprise Application such as DeviceCloud and ORBCOMM Connect, (24) other substantially similar products and services offered in the past or the future, and (25) all of the prior models, iterations, releases, versions, generations, and prototypes of the foregoing, along with any associated hardware, software, applications, and functionality associated with those products and solutions (collectively, the “Accused Products”).

17. On information and belief, Defendant, using the Accused Products, performs wireless communications and methods associated with performing and/or implementing wireless communications including, but not limited to, wireless communications and methods pursuant to various protocols and implementations, including, but not limited to, Bluetooth, IEEE 802.11, and LTE protocols and various subsections thereof, including, but not limited to, 802.11ac, 802.11b, and 802.11n.

18. On information and belief, Defendant, using the Accused Products, performs singular value decomposition of estimated channel matrices, transmit data over various media, compute time slot channels, generate packets for network transmissions, perform or cause to be performed error estimation in orthogonal frequency division multiplexed (“OFDM”) receivers, and various methods of processing OFDM symbols.

19. Defendant, using the Accused Products, also tracks, analyzes, and reports vehicle maintenance needs and driver warnings associated with a vehicle, tracks or causes to be tracked vehicle locations, and allows for communication between a system administrator and a remote unit to communicate, *e.g.*, advisory notifications.

20. For these reasons and the additional reasons detailed below, the Accused Products practice at least one claim of each of the Asserted Patents.

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 6,549,583

21. FCS repeats and re-alleges the allegations in the Paragraphs above as though fully set forth in their entirety.

22. The USPTO duly issued the '583 patent on April 15, 2003, after full and fair examination of Application No. 09/790,429 which was filed February 21, 2001. *See* '583 patent at 1.

23. FCS owns all substantial rights, interest, and title in and to the '583 patent, including the sole and exclusive right to prosecute this action and enforce the '583 patent against infringers and to collect damages for all relevant times.

24. The claims of the '583 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve upon the function and operation of preexisting error estimation methods.

25. The written description of the '583 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

26. Upon information and belief, Defendant has directly infringed one or more claims of the '583 patent by providing, supplying, using, causing to be used, distributing, importing, selling, offering for sale, and/or internal and external testing the Accused Products.

27. Upon information and belief, Defendant has directly infringed, either literally or under the doctrine of equivalents, at least claim 1 of the '583 patent.

28. Upon information and belief, Defendant, using the Accused Products, performs a method of pilot phase error estimation in an orthogonal frequency division multiplexed (OFDM) receiver. The method includes determining pilot reference points corresponding to a plurality of pilots of an OFDM preamble waveform; and estimating an aggregate phase error of a subsequent OFDM data symbol relative to the pilot reference points using complex signal measurements corresponding to each of the plurality of pilots of the subsequent OFDM data symbol and the pilot reference points; wherein the estimating step comprises performing a maximum likelihood-based estimation using the complex signal measurements corresponding to each of the plurality of pilots of the subsequent OFDM data symbol and the pilot reference points.

29. FCS or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '583 patent.

30. FCS has been damaged as a result of the infringing conduct by Defendant alleged above. Thus, Defendant is liable to FCS in an amount that compensates it for such infringements, which by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT II: INFRINGEMENT OF U.S. PATENT NO. 6,633,616

31. FCS repeats and re-alleges the allegations in the Paragraphs above as though fully set forth in their entirety.

32. The USPTO duly issued the '616 patent on October 14, 2003 after full and fair examination of Application No. 09/935,081 which was filed on August 21, 2001. *See* '616 patent at 1.

33. FCS owns all substantial rights, interest, and title in and to the '616 patent, including the sole and exclusive right to prosecute this action and enforce the '616 patent against infringers and to collect damages for all relevant times.

34. The claims of the '616 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve upon the function and operation of preexisting methods of producing or generating a pilot phase error metric.

35. The written description of the '616 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

36. Upon information and belief, Defendant has directly infringed one or more claims of the '616 patent by providing, supplying, using, causing to be used, distributing, importing, selling, offering for sale, and/or internal and external testing the Accused Products.

37. Upon information and belief, Defendant has directly infringed, either literally or under the doctrine of equivalents, at least claim 12 of the '616 patent.

38. Upon information and belief, Defendant, using the Accused Products, performs a method pilot phase error estimation in an orthogonal frequency division multiplexed (OFDM) receiver. The method includes determining pilot reference points corresponding to a plurality of pilots of an OFDM preamble waveform; processing, in a parallel path to the determining step, the OFDM preamble waveform with a fast Fourier transform; determining a phase error estimate of a subsequent OFDM symbol relative to the pilot reference points; and processing, in the parallel

path to the determining step, the subsequent OFDM symbol with the fast Fourier transform; wherein the determining the phase error estimate step is completed prior to the completion of the processing the subsequent OFDM symbol with the fast Fourier transform in the parallel path.

39. FCS or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '616 patent.

40. FCS has been damaged as a result of the infringing conduct by Defendant alleged above. Thus, Defendant is liable to FCS in an amount that compensates it for such infringements, which by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT III: INFRINGEMENT OF U.S. PATENT NO. 7,206,837

41. FCS repeats and re-alleges the allegations in the Paragraphs above as though fully set forth in their entirety.

42. The USPTO duly issued the '837 patent on April 17, 2007, after full and fair examination of Application No. 10/287,151 which was filed November 4, 2002. *See* '837 patent at 1.

43. FCS owns all substantial rights, interest, and title in and to, the '837 patent including the sole and exclusive right to prosecute this action and enforce the '837 patent against infringers and to collect damages for all relevant times.

44. The claims of the '837 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve upon the function and operation of voice and data communications systems.

45. The written description of the '837 patent describes in technical detail each limitation

of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

46. Upon information and belief, Defendant has directly infringed one or more claims of the '837 patent by providing, supplying, using, causing to be used, distributing, importing, selling, offering for sale, and/or internal and external testing the Accused Products.

47. Upon information and belief, Defendant has directly infringed and continues to directly infringe, either literally or under the doctrine of equivalents, at least claim 1 of the '837 patent.

48. Upon information and belief, Defendant, using the Accused Products, performs a method comprising receiving a location of a mobile communications device that is in transit to a destination, estimating the time-of-arrival bounds for said mobile communications device at said destination for a confidence interval based on said location and at least one historical travel time statistic, and sending the time-of-arrival bounds to said mobile communications device.

49. Defendant has indirectly infringed and continues to indirectly infringe the '837 patent by inducing others to directly infringe the '837 patent. Defendant has induced and continues to induce customers and end-users, including, but not limited to, Defendant's customers, employees, partners, or contractors, to directly infringe, either literally or under the doctrine of equivalents, the '837 patent by providing or requiring use of the Accused Products. Defendant has taken active steps, directly or through contractual relationships with others, with the specific intent to cause them to use the Accused Products in a manner that infringes one or more claims of the '837 patent, including, for example, claim 1. Such steps by Defendant have included, among other things,

advising or directing customers, personnel, contractors, or end-users to use the Accused Products in an infringing manner; advertising and promoting the use of the Accused Products in an infringing manner; distributing instructions that guide users to use the Accused Products in an infringing manner; and/or instructional and technical support on its website/dashboard and/or *via* the ORBCOMM Fleet Management Software/Application(s). Defendant has been performing these steps, which constitute induced infringement with the knowledge of the '837 patent and with the knowledge that the induced acts constitute infringement. Defendant has been aware that the normal and customary use of the Accused Products by others would infringe the '837 patent. Defendant's inducement is ongoing.

50. Defendant has indirectly infringed and continues to indirectly infringe by contributing to the infringement of the '837 patent. Defendant has contributed and continues to contribute to the direct infringement of the '837 patent by its customers, personnel, and contractors. The Accused Products have special features that are specially designed to be used in an infringing way and that have no substantial uses other than ones that infringe one or more claims of the '837 patent, including, for example, claim 1. The special features constitute a material part of the invention of one or more of the claims of the '837 patent and are not staple articles of commerce suitable for substantial non-infringing use. Defendant's contributory infringement is ongoing.

51. Defendant had knowledge of the '837 patent at least as of the date when it was notified of the filing of this action.

52. Furthermore, on information and belief, Defendant has a policy or practice of not reviewing the patents of others, including instructing its employees to not review the patents of others, and thus have been willfully blind of FCS's patent rights.

53. Defendant's actions are at least objectively reckless as to the risk of infringing a valid

patent and this objective risk was either known or should have been known by Defendant.

54. Defendant's infringement of the '837 patent is, has been, and continues to be willful, intentional, deliberate, or in conscious disregard of FCS's rights under the patent.

55. FCS or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '837 patent.

56. FCS has been damaged as a result of the infringing conduct by Defendant alleged above. Thus, Defendant is liable to FCS in an amount that compensates it for such infringements, which by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

57. FCS has suffered irreparable harm, through its loss of market share and goodwill, for which there is no adequate remedy at law. FCS has and will continue to suffer this harm by virtue of Defendant's infringement of the '837 patent. Defendant's actions have interfered with and will interfere with FCS's ability to license technology. The balance of hardships favors FCS's ability to commercialize its own ideas and technology. The public interest in allowing FCS to enforce its right to exclude outweighs other public interests, which supports injunctive relief in this case.

COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 7,741,968

58. FCS repeats and re-alleges the allegations in the Paragraphs above as though fully set forth in their entirety.

59. The USPTO duly issued the '968 patent on June 22, 2010 after full and fair examination of Application No. 12/143,707 which was filed on June 20, 2008. *See* '968 patent at 1.

60. FCS owns all substantial rights, interest, and title in and to the '968 patent, including the sole and exclusive right to prosecute this action and enforce the '968 patent against infringers

and to collect damages for all relevant times.

61. The claims of the '968 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve upon the function and operation of systems and methods for permissive navigational tracking where the sending party selectively transmits navigation data to a receiving party over a period of time.

62. The written description of the '968 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

63. Upon information and belief, Defendant has directly infringed and continues to directly infringe one or more claims of the '968 patent by providing, supplying, using, causing to be used, distributing, importing, selling, offering for sale, and/or internal and external testing the Accused Products.

64. Upon information and belief, Defendant has directly infringed and continues to directly infringe, either literally or under the doctrine of equivalents, at least claim 7 of the '968 patent.

65. Upon information and belief, the Accused Products, used by Defendant, provide a computer readable medium having stored thereon computer executable code, said computer executable code. The Accused Products include code for controlling a reception at a master mobile device of geographical positional data relating to a plurality of mobile devices; code for controlling said master mobile device to display received ones of said geographical positions of said plurality of other mobile devices; code for causing said master mobile device to send convergence

geographical data-to a selected one of said other mobile devices, said sent geographical data allowing said selected mobile device to converge with said master mobile device; wherein said geographical data comprises turn by turn instructions leading said selected mobile device to said master device; and wherein said code continuously generates an ETA for said selected mobile device to converge with said master mobile device.

66. Since at least the time of receiving the original complaint in this action, Defendant has indirectly infringed and continues to indirectly infringe the '968 patent by inducing others to directly infringe the '968 patent. Defendant has induced and continues to induce customers and end-users, including, but not limited to, Defendant's customers, employees, partners, contractors, customers and/or potential customers, to directly infringe, either literally or under the doctrine of equivalents, the '968 patent by providing or requiring use of the Accused Products. Defendant has taken active steps, directly or through contractual relationships with others, with the specific intent to cause them to use the Accused Products in a manner that infringes one or more claims of the '968 patent, including, for example, claim 7. Such steps by Defendant have included, among other things, advising or directing customers, personnel, contractors, or end-users to use the Accused Products in an infringing manner; advertising and promoting the use of the Accused Products in an infringing manner; distributing instructions that guide users to use the Accused Products in an infringing manner; and/or instructional and technical support on its website/dashboard and/or *via* the ORBCOMM Fleet Management Software/Application(s). Defendant has been performing these steps, which constitute induced infringement with the knowledge of the '968 patent and with the knowledge that the induced acts constitute infringement. Defendant has been aware that the normal and customary use of the Accused Products by others would infringe the '968 patent. Defendant's inducement is ongoing.

67. Defendant has indirectly infringed and continues to indirectly infringe by contributing to the infringement of the '968 patent. Defendant has contributed and continues to contribute to the direct infringement of the '968 patent by its customers, personnel, and contractors. The Accused Products have special features that are specially designed to be used in an infringing way and that have no substantial uses other than ones that infringe one or more claims of the '968 patent, including, for example, claim 7. The special features constitute a material part of the invention of one or more of the claims of the '968 patent and are not staple articles of commerce suitable for substantial non-infringing use. Defendant's contributory infringement is ongoing.

68. Defendant had knowledge of the '968 patent at least as of the date when it was notified of the filing of this action.

69. Furthermore, on information and belief, Defendant has a policy or practice of not reviewing the patents of others, including instructing its employees to not review the patents of others, and thus has been willfully blind of FCS's patent rights.

70. Defendant's actions are at least objectively reckless as to the risk of infringing a valid patent and this objective risk was either known or should have been known by Defendant.

71. Defendant's direct infringement of the '968 patent is, has been, and continues to be willful, intentional, deliberate, or in conscious disregard of FCS's rights under the patent.

72. FCS or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '968 patent.

73. FCS has been damaged as a result of the infringing conduct by Defendant alleged above. Thus, Defendant is liable to FCS in an amount that compensates it for such infringements, which by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

74. FCS has suffered irreparable harm, through its loss of market share and goodwill, for which there is no adequate remedy at law. FCS has and will continue to suffer this harm by virtue of Defendant's infringement of the '968 patent. Defendant's actions have interfered with and will interfere with FCS's ability to license technology. The balance of hardships favors FCS's ability to commercialize its own ideas and technology. The public interest in allowing FCS to enforce its right to exclude outweighs other public interests, which supports injunctive relief in this case.

COUNT V: INFRINGEMENT OF U.S. PATENT NO. 7,747,291

75. FCS repeats and re-alleges the allegations in the Paragraphs above as though fully set forth in their entirety.

76. The USPTO duly issued the '291 patent on June 29, 2010, after full and fair examination of Application No. 12/546,650 which was filed August 24, 2009. *See* '291 patent at 1. A Certificate of Correction was issued on June 18, 2013. *See id.* at 26.

77. FCS owns all substantial rights, interest, and title in and to the '291 patent, including the sole and exclusive right to prosecute this action and enforce the '291 patent against infringers and to collect damages for all relevant times.

78. The claims of the '291 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve upon the function and operation of preexisting methods and systems for mobile vehicle-based communications systems utilizing short-range communication links.

79. The written description of the '291 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and

improved upon what may have been considered conventional or generic in the art at the time of the invention.

80. Upon information and belief, Defendant has directly infringed one or more claims of the '291 patent by providing, supplying, using, causing to be used, distributing, importing, selling, offering for sale, and/or internal and external testing the Accused Products.

81. Upon information and belief, Defendant has directly infringed, either literally or under the doctrine of equivalents, at least claim 20 of the '291 patent.

82. Upon information and belief, Defendant, using the Accused Products, performs a method of wirelessly providing a traffic update to a vehicle. The method includes storing information, at a wireless communication system, the information associated with the vehicle comprising a transceiver; receiving a communication from the vehicle, through a mobile unit comprising a microprocessor, the communication comprising identification and GPS information; interfacing the wireless communication system with a network to obtain a traffic update; sending the traffic update from the wireless communication system, through the mobile unit, to the vehicle, and storing, in a memory, information related to the communication in a communication log.

83. FCS or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '291 patent.

84. FCS has been damaged as a result of the infringing conduct by Defendant alleged above. Thus, Defendant is liable to FCS in an amount that compensates it for such infringements, which by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT VI: INFRINGEMENT OF U.S. PATENT NO. 8,005,053

85. FCS repeats and re-alleges the allegations in the Paragraphs above as though fully set

forth in their entirety.

86. The USPTO duly issued the '053 patent on August 23, 2011 after full and fair examination of Application No. 12/696,760 which was filed on January 29, 2010. A Certificate of Correction was issued on February 14, 2012.

87. FCS owns all substantial rights, interest, and title in and to the '053 patent, including the sole and exclusive right to prosecute this action and enforce the '053 patent against infringers and to collect damages for all relevant times.

88. The claims of the '053 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve upon the function and operation of preexisting systems and methods of data transmission in wireless communication systems.

89. The written description of the '053 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

90. Upon information and belief, Defendant has directly infringed one or more claims of the '053 patent by providing, supplying, using, causing to be used, distributing, importing, selling, offering for sale, and/or internal and external testing the Accused Products.

91. Upon information and belief, Defendant has directly infringed, either literally or under the doctrine of equivalents, at least claim 1 of the '053 patent.

92. Upon information and belief, the Accused Products, used by Defendant, comprise a first wireless transceiver configured to communicate data according to a first wireless protocol; a

second wireless transceiver configured to communicate data according to a second wireless protocol that is different from the first wireless protocol; and a controller configured to select one of the first and second wireless transceivers to communicate data of both the first and second wireless protocols, wherein the apparatus is configured to encode data of the wireless protocol for the unselected transceiver into data of the wireless protocol for the selected transceiver.

93. FCS or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '053 patent

94. FCS has been damaged as a result of the infringing conduct by Defendant alleged above. Thus, Defendant is liable to FCS in an amount that compensates it for such infringements, which by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT VII: INFRINGEMENT OF U.S. PATENT NO. 9,299,044

95. FCS repeats and re-alleges the allegations in the Paragraphs above as though fully set forth in their entirety.

96. The USPTO duly issued the '044 patent on March 29, 2016 after full and fair examination by the USPTO of Application No. 14/480,297 which was filed on September 8, 2014. *See* '044 patent at 1.

97. FCS owns all substantial rights, interest, and title in and to the '044 patent, including the sole and exclusive right to prosecute this action and enforce the '044 patent against infringers and to collect damages for all relevant times.

98. The claims of the '044 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve upon the function and operation of systems and methods of

managing mobile assets in the field such as personnel, equipment and inventory using handheld data management devices in the field.

99. The written description of the '044 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

100. Upon information and belief, Defendant has directly infringed one or more claims of the '044 patent by providing, supplying, using, causing to be used, distributing, importing, selling, offering for sale, and/or internal and external testing the Accused Products.

101. Upon information and belief, Defendant has directly infringed, either literally or under the doctrine of equivalents, at least claim 1 of the '044 patent.

102. Upon information and belief, Defendant, using the Accused Products, performs a method for management of mobile field assets *via* wireless handheld devices. The method includes accessing, at a beginning of a work shift using a handheld device, at least one template stored on a server located remotely from the handheld device, the at least one template listing tasks that are assigned to be completed before an end of the work shift; reporting a status of each of the tasks at least once during the work shift by synchronizing the handheld device to the server; and updating the at least one template stored on the server in response to the status with unfinished or new tasks.

103. FCS or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '044 patent.

104. FCS has been damaged as a result of the infringing conduct by Defendant alleged above. Defendant is liable to FCS in an amount that compensates it for such infringements, which

by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT VIII: INFRINGEMENT OF U.S. PATENT NO. 9,747,565

105. FCS repeats and re-alleges the allegations in the Paragraphs above as though fully set forth in their entirety.

106. The USPTO duly issued the '565 patent on August 29, 2017 after full and fair examination of Application No. 15/071,003 which was filed on March 15, 2016. *See* '565 patent at 1.

107. FCS owns all substantial rights, interest, and title in and to the '565 patent, including the sole and exclusive right to prosecute this action and enforce the '565 patent against infringers and to collect damages for all relevant times.

108. The claims of the '565 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve upon the systems and methods of managing mobile assets in the field such as personnel, equipment and inventory using handheld data management devices in the field.

109. The written description of the '565 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

110. Upon information and belief, Defendant has directly infringed the '565 patent by providing, supplying, using, causing to be used, distributing, importing, selling, offering for sale,

and/or internal and external testing the Accused Products.

111. Upon information and belief, Defendant has directly infringed, either literally or under the doctrine of equivalents, at least claim 1 of the '565 patent.

112. Upon information and belief, Defendant using the Accused Products, performs a method for management of mobile field assets *via* wireless handheld devices. The method includes accessing a template stored on a server located remotely from a handheld device, the template listing tasks to be completed before an end of a work shift, reporting a status of each of the tasks at least once by synchronizing the handheld device to the server, and updating the template responsive to the status with unfinished or new tasks at the end of the work shift.

113. FCS or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '565 patent.

114. FCS has been damaged as a result of the infringing conduct by Defendant alleged above. Thus, Defendant is liable to FCS in an amount that compensates it for such infringements, which by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT IX: INFRINGEMENT OF U.S. PATENT NO. 10,671,949

115. FCS repeats and re-alleges the allegations in the Paragraphs above as though fully set forth in their entirety.

116. The USPTO duly issued the '949 patent on June 2, 2020 after full and fair examination of Application No. 15/660,685 which was filed on July 26, 2017. *See* '949 patent at 1.

117. FCS owns all substantial rights, interest, and title in and to the '949 patent, including the sole and exclusive right to prosecute this action and enforce the 949 patent against infringers and to collect damages for all relevant times.

118. The claims of the '949 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve upon the function and operation of managing mobile field assets via wireless handheld devices.

119. The written description of the '949 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

120. Upon information and belief, Defendant has directly infringed one or more claims of the '949 patent by providing, supplying, using, causing to be used, distributing, importing, selling, offering for sale, and/or internal and external testing the Accused Products.

121. Upon information and belief, Defendant has directly infringed, either literally or under the doctrine of equivalents, at least claim 1 of the '949 patent.

122. Upon information and belief, Defendant, using the Accused Products, performs a method for management of mobile field assets *via* wireless handheld devices. The method includes accessing a template stored on a server located remotely from a handheld device, the template listing a first set of tasks to be completed in a first predetermined time period, reporting, after a time of the accessing, a status of each of the tasks of the first set of tasks by synchronizing the handheld device to the server, and updating the template responsive to the status, the updated template including a second set of tasks to be completed in a second predetermined time period.

123. FCS or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '949 patent.

124. FCS is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JURY DEMAND

125. FCS hereby requests a trial by jury on all issues so triable by right.

PRAYER FOR RELIEF

126. FCS requests that the Court find in its favor and against Defendant, and that the Court grant FCS the following relief:

- a. Judgment that one or more claims of each of the Asserted Patents has been infringed, either literally or under the doctrine of equivalents, by Defendant or others acting in concert therewith;
- b. A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert therewith from infringement of the '837 patent and '968 patent; or, in the alternative, an award of a reasonable ongoing royalty for future infringement of the '837 patent and '968 patent by such entities;
- c. Judgment that Defendant account for and pay to FCS all damages to and costs incurred by FCS because of Defendant's infringing activities and other conduct complained of herein;
- d. Judgment that Defendant's infringements of the '837 patent and '968 patent be found willful, and that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;

- e. Pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;
- f. That this Court declare this an exceptional case and award FCS its reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and
- g. All other and further relief as the Court may deem just and proper under the circumstances.

Dated: June 6, 2024

Respectfully submitted,

By: */s/ James F. McDonough, III*

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Attachments

- Civil Cover Sheet
- Proposed Summons