

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CICAS IP LLC,

Plaintiff,

v.

**Meta Dynamic, Inc. and Med-Surgical
Services, Inc.,**

Defendants.

Case No. 2:24-cv-665

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

CICAS IP LLC (“Plaintiff”) hereby files this Original Complaint for Patent Infringement against Meta Dynamic, Inc. (“META”) and Med-Surgical Services, Inc. (“MSS”) (collectively, “Defendants”), and alleges, upon information and belief, as follows:

THE PARTIES

1. CICAS IP LLC is a limited liability company organized and existing under the laws of the State of Wyoming with its principal place of business at 30 N Gould St, Suite R, Sheridan, WY 82801.
2. Upon information and belief, META is a California corporation with a place of business in this District located in Aubrey, Texas. Upon information and belief, META employs individuals in this Judicial District involved in the sales and marketing of its products. META may be served with process via its registered agent, Brian Harralson, located at 1021 Ponderosa Drive, Aubrey, Texas 76227. Upon information and belief, META does business in Texas, directly or through intermediaries, and offers its products and/or services, including those accused herein of

infringement, to customers and potential customers located in Texas, including in the judicial Eastern District of Texas.

3. Upon information and belief, MSS is a California corporation with a place of business in this District located in Aubrey, Texas. Upon information and belief, MSS uses META, and its employees in this Judicial District involved in the sales and marketing of its products, as agents of MSS in this District. MSS may be served with process via its registered agent, Rory Randall, located at 12779 Calle De La Siena, San Diego, California 92130. Upon information and belief, MSS does business in Texas, directly or through intermediaries, and offers its products and/or services, including those accused herein of infringement, to customers and potential customers located in Texas, including in the judicial Eastern District of Texas.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this case under 28 U.S.C. §§ 1331 and 1338(a).
5. This Court has personal jurisdiction over Defendants. Defendants have continuous and systematic business contacts with the State of Texas. Defendants transact business within this District and elsewhere in the State of Texas. Further, this Court has personal jurisdiction over Defendants based on its commission of one or more acts of infringement of patent-in-suit in this District and elsewhere in the State of Texas.
6. Upon information and belief, Defendants transact substantial business in the State of Texas and this Judicial District. Defendants have committed acts of infringement in this District by, among other things, offering to sell and selling products that infringe the asserted patents, including the accused products as alleged herein, as well as providing service and support to its customers in this District. Upon information and belief, Defendants, directly or indirectly, participates in the stream of commerce that results in products, including the accused products, being made, used,

offered for sale, and/or sold in the State of Texas and/or imported into the United States to the State of Texas.

7. MSS has had authorized sales/customer service agents in the Eastern District of Texas, as evidenced by its advertising of META as its “Partner,” as shown below, acting as its agent, and in particular for the CBYON accused products. Upon information and belief, MSS currently uses META and its employees as agents in the Eastern District of Texas.



See <https://medsurgicalservices.com/>

8. MSS has a regular and established place of business in this District through META and its employees acting as agents. MSS manifests assent to META and its employees that they shall act on MSS’s behalf and subject to its control, and META and its employees manifest assent or otherwise consent to act. MSS maintains “interim control” over the META and its employees’ work, in which they rely on interactions and MSS’s instructions within the scope of their work.

9. The contracts between MSS and META establish (1) MSS has the right to direct and control META and its employees, (2) MSS has manifested consent that META and its employees act on its behalf, and (3) META and its employees have consented to act on behalf of MSS. META and its employees rent, sell, monitor, train, oversee use, and handle complaints and returns, instruments and implants obtained from and on behalf of MSS for customers in this District. Those activities involve renting, storage, transport, training, monitor and exchange of goods and services and are part of MSS's business.
10. MSS has established and ratified META and its employees' places of business because the contracts affect how they perform hospital set ups, approval of procedures to be performed at hospitals with MSS products, rentals, sales, training, handling complaints, and returns. MSS also provides META and its employees with all information required to properly get products approved at hospitals.
11. META and its employees in this district have fixed geographical locations. They are "regular" and "established" because they operate in a "steady, uniform, orderly, and methodical manner" and are sufficiently permanent. These locations are "of the defendant" because MSS has contractual rights with them—authorized distributors and Partners in the United States.
12. MSS ratifies META and its employees' locations because it exercises interim control over META and its employees activities and holds out to the public that MSS's distribution, warehousing, marketing, rentals and sales of the products are being performed at and by META and its employees' locations in this District.
13. META maintains regular, physical, continuous, and established places of businesses, including places of business for META's Regional Manager of this District, and META's Neuro Navigation Clinical Specialist of this District, which Defendants have established, ratified, and controlled;


have employed people to conduct their business from this District; and from which they have willfully infringed the Asserted Patents in order to benefit themselves in this District. Defendants commits acts of infringement in this District, including as explained further below by making and using the infringing systems in, and performing at least one step of the accused methods of the Asserted Patents, at their regular and established places of business in this District.

14. As shown below, META has employees in the Eastern District of Texas, including its Regional Manager of this District for over 6 years, and its Neuro Navigation Clinical Specialist of this District for 3 years:

Brian Harralson · 3rd
Regional Manager at Meta Dynamic Inc.
Aubrey, Texas, United States · [Contact info](#)
500+ connections

[Message](#) [+ Follow](#) [More](#)

Experience

 **Meta Dynamic Inc.**
6 yrs 8 mos

- **Regional Manager**
Full-time
Mar 2021 - Present · 3 yrs 5 mos
- **Sales/Case Support**
Dec 2017 - Mar 2021 · 3 yrs 4 mos
Greater Los Angeles Area

My role at Meta Dynamic, Inc. is to bring the exceptional service our technicians provide to new surgeons and hospitals. By making these services available when needed, whether after hours or on weekends, Meta becomes a trusted partner to your hospital team.

Meta Dynamic rents Brainlab Kick systems to hospitals and surgery centers that do not have navigation systems of their own, or when there are scheduling conflicts requiring multiple systems. Meta can also provide support for other manufacturer's navigation systems.

See <https://www.linkedin.com/in/brianharralson/> (screenshot of Brian Harralson's LinkedIn page, as Defendant's Regional Manager of this District and located in Aubrey, Texas).



Jacob Harrington · 3rd
Clinical Specialist- Neuro Navigation at Meta Dynamic Inc.
Argyle, Texas, United States · [Contact info](#)
351 connections

[Message](#) [+ Follow](#) [More](#)

 Meta Dynamic Inc.
 College of the Ozarks

See <https://www.linkedin.com/in/jacob-harrington-8b6ba1104/> (screenshot of Jacob Harrington's LinkedIn page, as Defendant's Neuro Navigation Clinical Specialist for this District, located in Argyle, Texas).

15. As shown above, all three of these employees are located in this District in Aubrey and Argyle, Texas. Their locations within the Eastern District of Texas are important to the business performed and Defendants had intention to maintain some place of business in the Eastern District of Texas in the event any employees decided to terminate their residences as a place there.
16. META's employees also not merely possess inventory. Their use in the Eastern District of Texas part of Defendants' services to its Eastern District of Texas customers, a job that falls on these employees. When sample products or inventory arrive at these employees' places of businesses, they then visit local customers to deliver or show the samples.
17. META has further solicited salespeople in public advertisements to cover this District and preferred that those employees live in their assigned sales area. Their locations within the Eastern District of Texas are important to the business performed and META had intention to maintain some place of business in the Eastern District of Texas in the event any employees decided to terminate their residences as a place there.
18. Defendants have regular, physical presences of Defendants' employees and/or agents in this District conducting Defendants' business. Defendants maintain a regular and established place of business at the Defendants defined places and separate areas by the regular, physical presence of its employees.

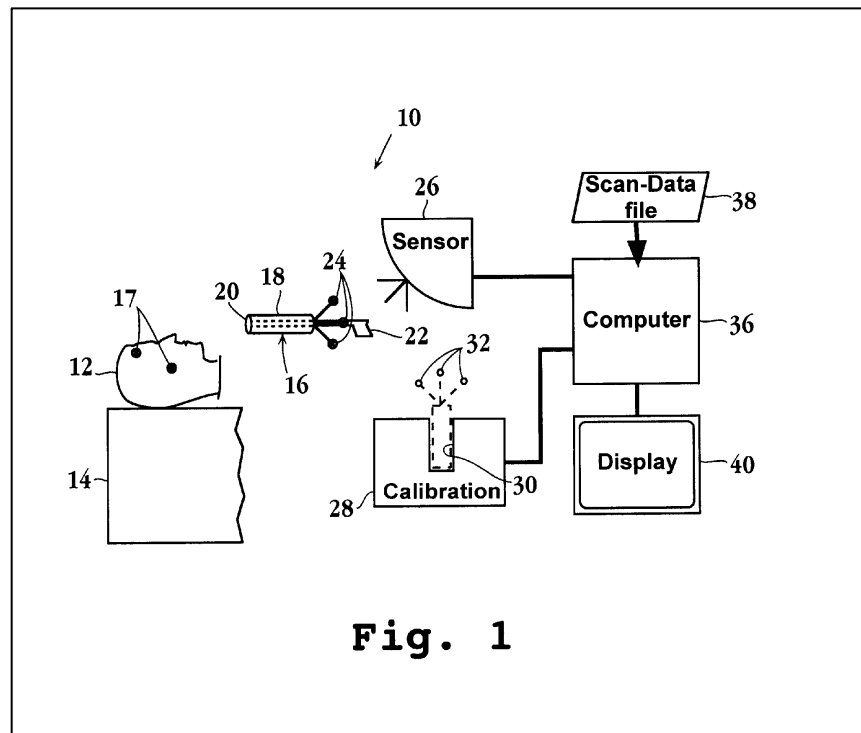
19. Venue is proper in this District as to Defendants pursuant to at least 28 U.S.C. §§ 1391(c)(2) and 1400(b). As noted above, Defendants maintain a regular and established business presence in this District. *See In re Monolithic Power Sys., Inc.*, 50 F.4th 157, 160 (Fed. Cir. 2022); *see also AGIS Software Dev. LLC v. Google LLC*, No. 2:19-CV-00361-JRG, 2022 WL 1511757, at *9 (E.D. Tex. May 12, 2022).

BACKGROUND AND PATENTS-IN-SUIT

20. Plaintiff is the sole and exclusive owner, by assignment, of U.S. Patent No. 6,850,794 (“the ’794 Patent”) titled “Endoscopic Targeting Method and System” relating to image-guided surgery, and in particular, to a targeting method and system using an intraoperative imaging source.
21. Plaintiff is the sole and exclusive owner, by assignment, of U.S. Patent No. 6,511,418 (“the ’418 Patent”) (collectively with the ’794 Patent, the “Patents-in-Suit”) titled “Apparatus and Method for Calibrating and Endoscope” relating to an apparatus and method for calibrating lens position and field of view in an endoscope, and in particular, with respect to a tracking element on the endoscope.
22. By operation of law, the ’794 Patent was originally issued and exclusively vested to the named inventor, Ramin Shahidi, as of the issue date of the ’794 Patent. *See* 35 U.S.C. § 261; *Schwendimann v. Arkwright Advanced Coating, Inc.*, 959 F.3d 1065, 1072 (Fed. Cir. 2020); *Suppes v. Katti*, 710 Fed. Appx. 883, 887 (Fed. Cir. 2017); *Taylor v. Taylor Made Plastics, Inc.*, 565 Fed. Appx. 888, 889 (Fed. Cir. 2014). The inventors, in a written instrument dated November 6, 2001, and filed with the United States Patent and Trademark Office on January 23, 2002, assigned all rights, title, and interest in the ’794 Patent to Stanford University.
23. By operation of law, the ’418 Patent was originally issued and exclusively vested to the named inventors, Ramin Shahidi and Marc Epitoux, as of the issue date of the ’418 Patent. *See* 35 U.S.C.

§ 261; *Schwendimann v. Arkwright Advanced Coating, Inc.*, 959 F.3d 1065, 1072 (Fed. Cir. 2020); *Suppes v. Katti*, 710 Fed. Appx. 883, 887 (Fed. Cir. 2017); *Taylor v. Taylor Made Plastics, Inc.*, 565 Fed. Appx. 888, 889 (Fed. Cir. 2014).

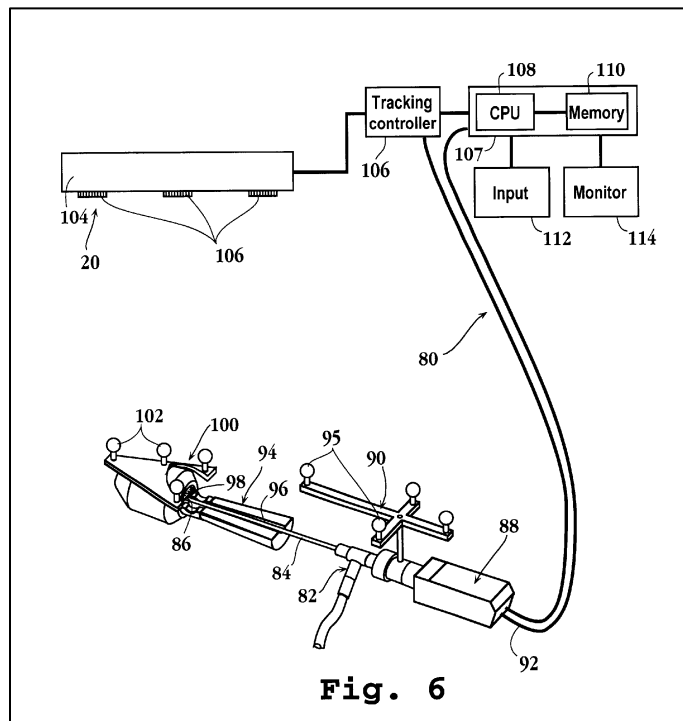
- 24. Plaintiff has sole and exclusive standing to assert the Patents-in-Suit and to bring these causes of action.
- 25. The Patents-in-Suit are valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.
- 26. The inventions described and claimed in the '794 Patent were invented individually and independently by Ramin Shahidi.
- 27. The '794 Patent includes numerous claims defining distinct inventions. As represented in Fig. 1 of the '794 Patent below, the inventions generally relate to image-guided surgery, and in particular, to atargeting method and system using an intraoperative imaging source.



28. The priority date of each of the '794 Patent is at least as early as September 23, 2000. As of the priority date, the inventions as claimed were novel, non-obvious, unconventional, and non-routine.
29. Before the inventions of the '794 Patent, minimally invasive surgical tools were used in a variety of surgical procedures. Typically, such tools included an intraoperative imaging system for visualizing patient structure at or near a target site, and a surgical tool for carrying out desired operations at the site, e.g., removal of tissue for biopsy, surgical removal of necrotic or tumorous tissue, surgical repair of tissue structure, etc. *See* '794 Patent, Col. 1, ll. 1-21.
30. Therefore, in an intraoperative image-guided operation, the surgeon would be required to know in which direction, and what distance to advance the tool in order to optimally access the target site. Since surgical view is often restricted to visible surface structure, the surgeon would often have difficulty in locating and/or accessing a target site, which is likely to be hidden from direct surgical view. *Id.*, Col. 1, ll. 23-9.
31. The inventor of the '794 Patent conceived new an intraoperative targeting method and system to assist a surgeon in performing minimally invasive surgical procedure using intraoperative tools such as an endoscope or a fluoroscope . *Id.*, Col. 1, ll. 30-3.
32. To do so, the '794 Patent includes, in one aspect, a system for enhancing the ability of a surgeon to access a target site within a patient. The system includes a data file containing volumetric scan data of a region of the patient that includes the target site, a display device, a movable imagining tool for producing on the display device, an image of visible patient structure seen by the tool, where the position of the tool is tracked relative to the position of the patient, and a computer operatively connected to data file, display screen, and tracking device. *Id.*, Col. 1, ll. 36-45.
33. Then, the computer operates to (i) determine the position and/or orientation of the tool in the frame of reference of the patient, (ii) identify the scan-data coordinates (either x,y or x,y,z coordinates)

of the target site, and (iii) project on the video image on the display device, indicia that indicate the lateral position of the target site with respect to the patient structure imaged on the display device. *Id.*, Col. 1, ll. 46-52.

- 34. The '794 Patent is a pioneering patent and has been cited as relevant prior art in 134 subsequent United States Patent Applications, including Applications Assigned to Defendant and such technology leaders and academia as Ethicon Surgical Operations, Inc., Veran Medical Technologies, Inc., Stryker Corporation, Boston Scientific Scimed, Inc. and Covidien.
- 35. The inventions described and claimed in the '418 Patent were invented individually and independently by Ramin Shahidi and Marc Epitoux.
- 36. The '418 Patent includes numerous claims defining distinct inventions. As represented in Fig. 6 of the '418 Patent below, the inventions generally relate to an apparatus and method for calibrating lens position and field of view in an endoscope, and in particular, with respect to a tracking element on the endoscope.



37. The priority date of each of the '418 Patent is at least as early as March 30, 2000. As of the priority date, the inventions as claimed were novel, non-obvious, unconventional, and non-routine.
38. Before the inventions of the '418 Patent, intraoperative imaging systems were only able to display only visible surfaces, and were also limited by their inability to provide views of the interior of opaque tissue. Prior art did not provide capability of overlaying volumetrically reconstructed patient images onto the endoscopic view of the surgical field. Nor did prior art permit surgeons to look beyond visible surfaces and provide “on-the-fly” 3-D and two-dimensional (2-D) information for planning and navigational purposes. Further, prior art would lead to multiple small errors in the settings of the device that may have relatively large and cumulative effects on the final discrepancy between the position of the overlaid intraoperative images and the patient’s anatomy. Moreover, prior art could not provide precise calibration of the intraoperative imaging system and accuracy testing necessary to ensure surgical quality. *See* '418 Patent, Col. 1, ll. 54-67; Col. 2, ll. 1-5.
39. The inventors of the '418 Patent conceived new an apparatus for use in calibrating lens position and field of view in an intraoperative imaging system. The apparatus includes tracking elements mounted at fixed positions on the intraoperative imaging system’s shaft, a holder providing an object or pattern to be viewed by the intraoperative imaging system, when the intraoperative imaging system is placed in the holder, and positional elements mounted on the holder at known positions. A processor in the apparatus operates to determine the positions of the tracking and positional elements, with the intraoperative imaging system shaft received in the holder guide, and calculate from the determined positions, the coordinates of the intraoperative imaging system lens with respect to the tracking elements, and the field of the view of the lens. The inventors also conceived the calibration method which employs the apparatus. *Id.*, Abstract.

40. The '418 Patent is a pioneering patent and has been cited as relevant prior art in 134 subsequent United States Patent Applications, including Applications Assigned to Defendant and such technology leaders and academia as Olympus, GE, Phillips, Stryker, Acclarent, Inneroptic, Intuitive Surgical, Scopis, Boston Scientific, Medtronic, and Depuy.
41. The claims of the Patents-in-Suit were all properly issued and are valid and enforceable for the respective terms of their statutory life through expiration, and are enforceable for purposes of seeking damages for past infringement even post-expiration. *See, e.g., Genetics Institute, LLC v. Novartis Vaccines and Diagnostics, Inc.*, 655 F.3d 1291, 1299 (Fed. Cir. 2011) (“[A]n expired patent is not viewed as having ‘never existed.’ Much to the contrary, a patent does have value beyond its expiration date. For example, an expired patent may form the basis of an action for past damages subject to the six-year limitation under 35 U.S.C. § 286”) (internal citations omitted).

DEFENDANT’S INFRINGING PRODUCTS

42. Upon information and belief, Defendants makes, sells, advertises, offers for sale, uses, rent or otherwise provide intraoperative image enhanced targeting methods and systems, including, but not limited to, the CBYON System (“Accused Instrumentalities”), that utilize the Patent-in-Suit’s patented intraoperative imaging system’s methods and systems, and the patented apparatus and methods of calibrating the intraoperative imaging system.
43. As shown in more detail in the attached Exhibits 1 and 2, Defendant’s products include each and every limitation of at least, but not limited to, claim 1 of the Patents-in-Suit and therefore literally infringe these claims. Plaintiff reserves the right to assert additional claims and to assert infringement under the doctrine of equivalents in light of information learned during discovery or in view of this Court’s claim construction order.

COUNT I
Infringement of U.S. Patent No. 6,850,794

44. Plaintiff incorporates the above paragraphs by reference.
45. Defendants without authority, continue to make, use, sell, offer to sell, rent and/or import into the United States its Accused Instrumentalities as shown above.
46. Defendants thus have infringed and continue to infringe at least claim 1 of the '794 Patent literally and/or under the doctrine of equivalents.
47. Defendants have also actively induced and will continue to actively induce the infringement of at least one of claim 1 of the '794 Patent, in violation of 35 U.S.C. § 271(b), by, among other things, actively and knowingly aiding and abetting infringement of others through activities such as creating and/or distributing videos of use such as the videos above, brochures, manuals, instructional documents, and/or similar materials with instructions on creating, manufacturing, designing, assembling and/or implementing infringing products, with the specific intent to induce others to directly make, use, offer for sale, sell, and/or import into the United States products that fall within the scope of the '794 Patent, without license or authority from Plaintiff. On information and belief, Defendants know that the induced acts constitute infringement of the '794 Patent.
48. Defendants individually, collectively, or through others or intermediaries, has contributorily infringed, and/or is contributorily infringing, in violation of 35 U.S.C. § 271(c), at least one claim of the '794 Patent by making, using, offering for sale, selling, and/or importing, material parts of the inventions claimed in the '794 Patent, which are not a staple article or commodity of commerce suitable for substantial non-infringing use, and knowing the accused parts to be especially made or especially adapted for use in an infringement of the '794 claims.
49. Defendants have been on actual notice of the '794 Patent at least as early as the early 2000s, when Rory Randall, META's former Vice President (see below) and now MSS's CEO/CTO (*see*

<https://medsurgicalservices.com/leadership/>), became aware of the patents when he was “Vice President of Engineering and head of product development for the CBYON Navigation System developed in collaboration with Stanford University,” in which it became aware of and the history of the ’794 Patent. *See also* <https://metadynamicinc.com/cbyon/>. Defendant’s direct and indirect infringement of the ’794 Patent has thus been committed with knowledge of the ’794 Patent, making Defendants liable for direct, indirect, and willful infringement.

50. Defendant’s infringement of the ’794 Patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless it is enjoined by this Court.
51. Plaintiff has been damaged because of the infringing conduct by Defendants alleged above. Thus, Defendants are liable to Plaintiff in an amount that adequately compensates it for such infringement, 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.
52. Plaintiff and/or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law.

COUNT II
Infringement of U.S. Patent No. 6,511,418

53. Plaintiff incorporates the above paragraphs by reference.
54. Defendants without authority, continue to make, use, sell, offer to sell, rent and/or import into the United States its Accused Instrumentalities as shown above.
55. Defendants thus have infringed and continue to infringe at least claim 1 of the ’418 Patent literally and/or under the doctrine of equivalents.
56. Defendants have also actively induced and will continue to actively induce the infringement of at least one of claim 1 of the ’418 Patent, in violation of 35 U.S.C. § 271(b), by, among other things, actively and knowingly aiding and abetting infringement of others through activities such as

creating and/or distributing videos of use such as the videos above, brochures, manuals, instructional documents, and/or similar materials with instructions on creating, manufacturing, designing, assembling and/or implementing infringing products, with the specific intent to induce others to directly make, use, offer for sale, sell, and/or import into the United States products that fall within the scope of the '418 Patent, without license or authority from Plaintiff. On information and belief, Defendants know that the induced acts constitute infringement of the '418 Patent.

57. Defendants individually, collectively, or through others or intermediaries, has contributorily infringed, and/or is contributorily infringing, in violation of 35 U.S.C. § 271(c), at least one claim of the '418 Patent by making, using, offering for sale, selling, and/or importing, material parts of the inventions claimed in the '418 Patent, which are not a staple article or commodity of commerce suitable for substantial non-infringing use, and knowing the accused parts to be especially made or especially adapted for use in an infringement of the '418 claims.
58. Defendants have been on actual notice of the '418 Patent at least as early as the early 2000s, when Rory Randall, META's former Vice President (see below) and now MSS's CEO/CTO (*see* <https://medsurgicalservices.com/leadership/>), became aware of the patents when he was "Vice President of Engineering and head of product development for the CBYON Navigation System developed in collaboration with Stanford University," in which it became aware of and the history of the '418 Patent. *See also* <https://metadynamicinc.com/cbyon/>. Defendant's direct and indirect infringement of the '418 Patent has thus been committed with knowledge of the '418 Patent, making Defendants liable for direct, indirect, and willful infringement.
59. Defendant's infringement of the '418 Patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless it is enjoined by this Court.

60. Plaintiff has been damaged because of the infringing conduct by Defendants alleged above. Thus, Defendants are liable to Plaintiff in an amount that adequately compensates it for such infringement, 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.
61. Plaintiff and/or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against Defendants as follows:

1. Declaring that Defendants have infringed the Patents-in-Suit;
2. Awarding Plaintiff its damages suffered because of Defendants' infringement of the Patents-in-Suit;
3. Awarding Plaintiff its costs, reasonable attorneys' fees, expenses, and interest;
4. An award to Plaintiff of enhanced damages, up to and including trebling of Plaintiff's damages pursuant to 35 U.S.C. § 284 for Defendant's willful infringement of the Patents-in-Suit; and
5. Granting Plaintiff such further relief as the Court finds appropriate.

JURY DEMAND

Plaintiff demands trial by jury, under Fed. R. Civ. P. 38.

Respectfully Submitted

/s/ Christopher A. Honea _____

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