

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

ZITO, LLC
7137 MAPLE AVENUE
TAKOMA PARK MARYLAND 20912

Plaintiff

v.

TURTLE INTEGRATED SUPPLY, INC.
2802 EAST 13TH STREET
LA PORTE, TX 77571

Defendant

Civil Action No.:

24-cv-4583

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff ZITO LLC, by its undersigned counsel, alleges as follows for its Complaint against Defendant Turtle, Inc., as follows.

THE NATURE OF THIS ACTION

1. Zito brings this action against Turtle pursuant to 35 U.S.C. §101 et. seq. and §§271, 281, 283, 284, & 285 inclusive, for infringement of one or more claims of U.S. Patents No. 10,867,461 (the ‘461 Patent); 11,127,239 (the ‘239 Patent) and 11,710,364 (the ‘364 Patent) each entitled “User-Specific Dispensing System.”

THE PARTIES

2. Plaintiff is a Maryland corporation having an address located at 7137 Maple Avenue, Takoma Park, Maryland 20912. Plaintiff is the owner of the ‘461, the ‘239 and the ‘364 patents-in-suit by assignment.

3. Defendant Turtle Integrated Supply, Inc. is a wholly owned subsidiary fo Turtle, Inc. a New Jersey Corporation with regular and established places of business in Texas including

the Souther District of Texas at: 2802 East 13th Street in La Porte Texas and 2177 North Highway 35 in Port Lavaca Texas. Turtle IS makes, uses, offers to sell, sells, suoplies and services the accused products throughout the United States, including in this district. The accused products infringe the system claims of the Patents-in-Suit and when used, practice the method claims of the Patents-in-Suit.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the laws of the United States, 35 U.S.C. §271 et seq.

5. This Court has subject matter jurisdiction over this action pursuant to 35 U.S.C. §§271, 281 and 28 U.S.C. §§1331 and 1338(a), federal question.

6. This Court has personal jurisdiction over Defendant because Defendant is located in this district and maintains a regular and established place of business in this District.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1400(a), 1400(b) and based on information set forth herein. Defendant maintains several places of business in this District which sell, supply and service accused products and has committed acts of infringement, including making, using, selling, and offers to sell infringing products.

BACKGROUND AND GENERAL ALLEGATIONS

8. ZITO LLC is the current owner and assignee of the patents-in-suit.

9. Defendant Turtle IS provides, distributes, licenses, supplies, services and sells the Turtle Industrial Vending Machines, MRO Vending Machines and Turtle MRO vending

solutions, including automated tool cribs and vending machines, which infringe the claims of the Patents-in-Suit.



TURTLE
INTEGRATED SUPPLY

Automated Storerooms, Vending Solutions

TURTLE
INTEGRATED SUPPLY

VENDING

Turtle VENDING solution brings you the best technology in the industry with automated tool cribs and vending machines equipped with cloud technology. These are innovative solutions for businesses looking to save time and money through more strategic supply distribution and better inventory control.

OUR SOLUTIONS

- Helix-Based Vending Machines
- Drawer-Based Storage Systems
- Modular Locker/Cabinet Configurations
- Weight-Based Scale Systems
- High Density Tooling Stations
- Software, Web & Mobile Access

10. Turtle IS infringes at least:
- claims 1-55 of the '461 Patent;
- claims 1-17 of the '239 Patent; and
- claims 1-16 of the '364 Patent.

11. On December 15, 2020, United States Patent No. 10,867,461, entitled “User-Specific Dispensing System ” was duly and legally issued by the United States Patent and Trademark Office (“USPTO”). The ‘461 Patent claims patent-eligible subject matter and is valid and enforceable. ZITO LLC is the exclusive owner by assignment of all rights, title, and interest in the ‘461 Patent, including the right to bring this suit for injunction and damages, and including the right to sue and recover all past, present, and future damages for infringement of the ‘461 Patent. Defendant is not licensed to the ‘461 Patent, either expressly or implicitly, nor do they enjoy or benefit from any rights in or to the ‘461 patent whatsoever. A true and correct copy of the ‘461 Patent is attached hereto as **Exhibit A**.

12. The ‘461 Patent is presumed valid under 35 U.S.C. § 282.

13. On September 21, 2021, United States Patent No. 11,127,239, entitled “User-Specific Dispensing System ” was duly and legally issued by the United States Patent and Trademark Office (“USPTO”). The ‘239 Patent claims patent-eligible subject matter and is valid and enforceable. ZITO LLC is the exclusive owner by assignment of all rights, title, and interest in the ‘239 Patent, including the right to bring this suit for injunction and damages, and including the right to sue and recover all past, present, and future damages for infringement of the ‘239 Patent. Defendant is not licensed to the ‘239 Patent, either expressly or implicitly, nor do they enjoy or benefit from any rights in or to the ‘239 patent whatsoever. A true and correct copy of the ‘461 Patent is attached hereto as **Exhibit B**.

14. The ‘239 Patent is presumed valid under 35 U.S.C. § 282.

15. On July 25, 2023, United States Patent No. 11,710,364, entitled “User-Specific Dispensing System ” was duly and legally issued by the United States Patent and Trademark Office (“USPTO”). The ‘364 Patent claims patent-eligible subject matter and is valid and

enforceable. ZITO LLC is the exclusive owner by assignment of all rights, title, and interest in the '364 Patent, including the right to bring this suit for injunction and damages, and including the right to sue and recover all past, present, and future damages for infringement of the '364 Patent. Defendant is not licensed to the '364 Patent, either expressly or implicitly, nor do they enjoy or benefit from any rights in or to the '461 patent whatsoever. A true and correct copy of the '461 Patent is attached hereto as **Exhibit C**.

16. The '364 Patent is presumed valid under 35 U.S.C. § 282.

THE '461 PATENT

17. The claims of the '461 patent are directed to “A system to dispense at least one user-appropriate item.” Claim 1 of the '461 patent recites:

1. A system to dispense at least one user-appropriate item, said system comprising:

an input device capable of accepting user-specific information of a user;

at least one storage device;

at least one dispensing device;

a processor to interpret the user-specific information and select a type of item for dispensing, and to further select a specific item from the type of item, based on at least one characteristic known about the user, wherein the characteristic comprises at least one of a user location, a biological profile of the user, or a user role within a group; and to send a signal based on the selected specific item to the dispensing device to automatically dispense the selected item; and

wherein the automatic dispensation consists of the selected item, and wherein the user cannot select a different type of item for that dispensation subsequent to the processor selecting the type of item.

THE '239 PATENT

18. The claims of the '239 patent are directed to “A method of dispensing at least one user-appropriate item.” Claim 1 of the '239 patent recites:

1. A method of dispensing at least one user-appropriate item, the method comprising:

identifying a user based on a user identification;

associating user-specific information with the user identification, wherein the user-specific information comprises a user characteristic known about the user, wherein the user characteristic comprises at least one of a user location, a biological profile of the user, or a user role within a group;

selecting at least one type of item appropriate to the user based on the user-specific information;

presenting the user with at least one choice of the at least one type of item appropriate to the user based on the user-specific information;

selecting at least one specific item based on the user's response to the presenting of at least one type of item;

automatically dispensing the specific item selected; and

wherein the dispensation consists of the selected specific item, and wherein the user cannot select a different type of item for that dispensation after the presenting the user with the at least one choice of the at least one type of item.

THE '364 PATENT

19. The claims of the '364 patent are directed to “A system to dispense at least one user-appropriate item.” Claim 1 of the '364 patent recites:

1. A system to activate at least one user-appropriate type of tool or type of machine, the system comprising:

a first input device operable to identify a user;

at least one type of a tool or a machine, the at least one type of a tool or a machine comprising an item;

a release mechanism to activate the item;

coded instructions configured to associate user-specific information with the user identification and select the at least one item on the basis of the associated user-specific information, and to activate the release mechanism to activate the at least one item;

a processor coupled to the first input device and the release mechanism, the processor operable to execute the coded instructions to associate the user-specific information based on the user identification, to select the at least one item based on the user-specific information, and to activate the release mechanism to activate the at least one item;

wherein the user-specific information comprises at least one of a user location, a biological profile of the user, or a user role within a group; and

wherein the user cannot select a different item for release subsequent to the processor selecting the item

INFRINGEMENT

20. Defendant manufactures, sells, leases, services, supplies and offers to sell Turtle Vending Machines and solutions which include various machines and systems for dispensing user-appropriate items. The accused Turtle products infringe claims of the three Patents-in-Suit.

21. Defendant has, under 35 U.S.C. §271(a), directly infringed, and continues to directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '461 patent, by making, using, testing, selling, offering for sale and/or importing into the United States Defendant's Accused Products.

22. Defendant also indirectly infringes the '461 Patent by actively inducing the direct infringement by third parties under 35 U.S.C. §271(b). Defendant has knowingly and intentionally actively induced others to directly infringe at least one claim of the '461 patent by

providing accused devices and instruction for customers to use the devices in an infringing manner throughout the United States. Defendant continues to induce infringement of the '461 patent. Defendant has contributorily infringed and continues to contributorily infringe under 35 U.S.C. §271(c) because, with knowledge of the '461 patent, Defendant supplies material parts of infringing systems, where the material part is not a staple article of commerce, and is incapable of substantial noninfringing use. Defendant contributes to its customers' infringement because, with knowledge of the '461 patent, Defendant supplies the technology that allows its customers to infringe the patent.

23. Defendant has, under 35 U.S.C. §271(a), directly infringed, and continues to directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '239 patent, by practicing the claimed method of dispensing user-appropriate items.

24. Defendant also indirectly infringes the '239 Patent by actively inducing the direct infringement by third parties under 35 U.S.C. §271(b). Defendant has knowingly and intentionally actively induced others to directly infringe at least one claim of the '239 patent by providing accused devices and instruction for customers to use the devices in an infringing manner to practice the patented method of the '239 patent, throughout the United States. Defendant continues to induce infringement of the '239 patent. Defendant has contributorily infringed and continues to contributorily infringe under 35 U.S.C. §271(c) because, with knowledge of the '239 patent, Defendant supplies material parts of infringing systems, where the material part is not a staple article of commerce, and is incapable of substantial noninfringing use. Defendant contributes to its customers' infringement because, with knowledge of the '239 patent, Defendant supplies the technology that allows its customers to infringe the patent by practicing the claimed method.

25. Defendant has, under 35 U.S.C. §271(a), directly infringed, and continues to directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '364 patent, by making, using, testing, selling, offering for sale and/or importing into the United States Defendant's Accused Products.

26. Defendant also indirectly infringes the '364 Patent by actively inducing the direct infringement by third parties under 35 U.S.C. §271(b). Defendant has knowingly and intentionally actively induced others to directly infringe at least one claim of the '364 patent by providing accused devices and instruction for customers to use the devices in an infringing manner throughout the United States. Defendant continues to induce infringement of the '364 patent. Defendant has contributorily infringed and continues to contributorily infringe under 35 U.S.C. §271(c) because, with knowledge of the '461 patent, Defendant supplies material parts of infringing systems, where the material part is not a staple article of commerce, and is incapable of substantial noninfringing use. Defendant contributes to its customers' infringement because, with knowledge of the '364 patent, Defendant supplies the technology that allows its customers to infringe the patent.

27. Plaintiff has conducted a detailed analysis, establishing and confirming that Defendant's Accused Products directly infringe, and that Defendant contributes to and induces infringement when used Defendant supplies parts and when, according to Defendant's instructions for operation, the accused products are use to directly infringe claims of the Patents-in-Suit.

28. Recited below is an example demonstrating the correspondence of the operation of the accused products with elements of an exemplary claim of the '461 patent.

29. The accused products satisfy the elements of the asserted claims, shown below is an example of the Turtle compared to exemplary claim 1 of the '461 patent:

1. A system to dispense at least one user-appropriate item, said system comprising:

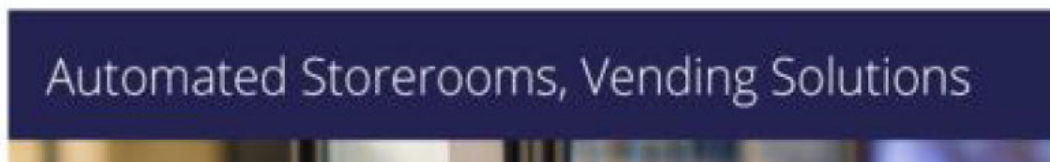
MRO vending machines from Turtle Integrated Supply brings you the best industrial vending machine solutions in the industry with automated tool cribs and vending machines equipped with RFID technology. These are innovative solutions for businesses looking to save time and money through more strategic supply distribution and better inventory control. Traditionally, MRO products are contained in large storerooms, which may be far from where tool management operations occur. **Industrial vending solutions allow you to store and organize critical MRO products closer to where they are used**, allowing your staff to operate more efficiently. Turtle has designed and deployed these solutions for businesses of all sizes and involved in a wide range of industries, so you can rely on us to provide an optimized solution built on proven methodologies and experience.

an input device capable of accepting user-specific information of a user;

TRACK YOUR TOOLS

Onboard vending software tracks supply levels and MRO tools in real time. Managers can set item quantity limits and tool access restrictions, giving your business exceptional control over how supplies are utilized. MRO vending machines can be centrally managed from a single point, allowing for inventory control over multiple, widely spread locations.

at least one storage device;



at least one dispensing device;

OUR SOLUTIONS

- Helix-Based Vending Machines
- Drawer-Based Storage Systems
- Modular Locker/Cabinet Configurations
- Weight-Based Scale Systems
- High Density Tooling Stations
- Software, Web & Mobile Access

a processor to interpret the user-specific information and select a type of item for dispensing, and to further select a specific item from the type of item, based on at least one characteristic known about the user, wherein the characteristic comprises at least one of a user location, a biological profile of the user, or a user role within a group; and

TRACK YOUR TOOLS

Onboard vending software tracks supply levels and MRO tools in real time. Managers can set item quantity limits and tool access restrictions, giving your business exceptional control over how supplies are utilized. MRO vending machines can be centrally managed from a single point, allowing for inventory control over multiple, widely spread locations.

to send a signal based on the selected specific item to the dispensing device to automatically dispense the selected item; and wherein the automatic dispensation consists of the selected item, and wherein the user cannot select a different type of item for that dispensation subsequent to the processor selecting the type of item.

15-30%

Consumption reduction based on increased user accountability. These are material savings straight to your bottom line.

22. Defendant has infringed, and continues to infringe, at least claims 1-55 of the '461 Patent, including method claim 37; claims 1-17 of the '239 Patent ; and claims 1-16 of the '364 Patent (the asserted claims) under 35 U.S.C. § 271(a)(b) and/or (c), by (a) making, using, distributing offering to sell, selling and/or importing into the United States, systems, and methods that infringe the asserted claims and by performing the claimed methods in the United States, (b) by inducing others to use the accused products and/or sell the accused products and to perform the claimed methods in the United States, (c) by contributing to the infringement of others and by selling components of the patented systems and (b & c) by selling a product for performing the patented process. Defendant continues to manufacture, use, offer to sell, sell and import accused products. The accused products are also being used to infringe. Defendant continues to sell accused products inducing and contributing to infringement by others and also continues to perform infringing activity by performing the claimed method in the United States.

23. By engaging in accused activity including making, using, distributing, offering to sell, selling and importing accused products in the United States, defendant continues to infringe the asserted claims.

24. Upon information and belief, Defendant has directly infringed one or more of the asserted claims under 35 USC §271(a):

"(a) Except as otherwise provided in this title, whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States or imports into the United States any patented invention during the term of the patent therefor, infringes the patent.

by engaging in accused activity including making, using, distributing, offering to sell, selling and importing accused products in the United States. Defendant continues to infringe the asserted claims.

25. Upon information and belief, Defendant has indirectly infringed one or more of the asserted claims under 35 USC §271(b):

(b) Whoever actively induces infringement of a patent shall be liable as an infringer.

by providing accused products, with instructions, which are used to create a patented system and/or used to practice the patented methods according to the instructions and thereby inducing others to use the products in an infringing manner.

26. Upon information and belief, Defendant has indirectly infringed one or more of the asserted claims under 35 USC §271(c):

(c) Whoever offers to sell or sells within the United States or imports into the United States . . . or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as a contributory infringer.

by providing accused products, and other components and supplies, which are combined to form an infringing system and/or used in practicing methods which infringe the asserted claims , thus contributing to the infringement of the asserted claims .

27. Defendant does not have a license or authority to use the asserted claims .

28. Defendant has been willfully infringing the asserted claims since at least as early as they became aware of the Patents-in-Suit. Upon information and belief, Defendant has no good faith defense to Plaintiff's infringement allegations and have refused to cease selling products or to engage in further attempts to reach a business resolution. Instead, Defendant has intentionally continued their knowing infringement.

29. As a result of Defendant's infringement of the asserted claims, Plaintiff has suffered and will continue to suffer damages in an amount not yet determined, of at least a reasonable royalty.

**COUNT I
DIRECT INFRINGEMENT OF U.S. PATENT NO. 10,867,461**

30. The allegations of each of the paragraphs above are hereby re-alleged and incorporated herein by reference.

31. Defendant has directly infringed, and continues to directly infringe, at least claims 1-55 of the '461 Patent, under 35 U.S.C. § 271(a), by making, using, offering to sell, selling and importing the Accused Products in the United States.

32. Defendant does not have a license or authority to use the '461 Patent.

33. As a result of Turtle IS's infringement of the '461 Patent, Plaintiff has suffered and will continue to suffer damages in an amount not yet determined, of at least a reasonable royalty.

34. Turtle IS's infringement of the '461 patent has been willful under 35 U.S.C. § 284.

**COUNT II
INDIRECT INDUCED INFRINGEMENT OF U.S. PATENT NO. 10,867,461**

35. The allegations of each of the paragraphs above are hereby re-alleged and incorporated herein by reference.

36. Upon information and belief, Defendant has indirectly infringed one or more of the claims of the '461 patent under 35 USC §271(b) by providing accused products with instructions, to practice the patented methods of claim 17 according to the instructions and in

addition to use the patented systems of the other claims thereby inducing others to use the products in an infringing manner.

37. Defendant does not have a license or authority to use the '461 Patent.

38. As a result of Turtle IS's infringement of the '461 Patent, Plaintiff has suffered and will continue to suffer damages in an amount not yet determined, of at least a reasonable royalty.

39. Turtle IS's infringement of the '461 patent has been willful under 35 U.S.C. § 284.

**COUNT III
INDIRECT CONTRIBUTORY INFRINGEMENT OF U.S. PATENT NO. 10,867,461**

40. The allegations of each of the paragraphs above are hereby re-alleged and incorporated herein by reference.

41. Upon information and belief, Defendant has indirectly infringed one or more of the claims of the '461 patent under 35 USC §271(c) by providing accused products, and components and supplies, which are used as components of infringing systems which infringe the claims of the '461 patent, thus contributing to the infringement of the '461 patent.

42. Upon information and belief, Defendant Turtle IS has indirectly infringed one or more of the claims of the '461 patent under 35 USC §271(c) by providing accused products, and components and supplies, which are used as components of infringing systems which are used to practice methods which infringe claim 37 of the '461 patent, thus contributing to the infringement of the '461 patent.

43. Defendant does not have a license or authority to use the '461 Patent.

44. As a result of Turtle IS's infringement of the '461 Patent, Plaintiff has suffered and will continue to suffer damages in an amount not yet determined, of at least a reasonable royalty.

45. Turtle IS's infringement of the '461 patent has been willful under 35 U.S.C. § 284.

**COUNT IV
DIRECT INFRINGEMENT OF U.S. PATENT NO. 11,127,239**

30. The allegations of each of the paragraphs above are hereby re-alleged and incorporated herein by reference.

31. Defendant Turtle IS has directly infringed, and continues to directly infringe, at least claims 1-17 of the '239 Patent, under 35 U.S.C. § 271(a), by making, using, offering to sell, selling and importing the Accused Products which are used to practice the claimed method of the '239 Patent in the United States.

32. Defendant does not have a license or authority to use the '239 Patent.

33. As a result of Turtle IS's infringement of the '239 Patent, Plaintiff has suffered and will continue to suffer damages in an amount not yet determined, of at least a reasonable royalty.

34. Turtle IS's infringement of the '239 patent has been willful under 35 U.S.C. § 284.

**COUNT V
INDIRECT INDUCED INFRINGEMENT OF U.S. PATENT NO. 11,127,239**

35. The allegations of each of the paragraphs above are hereby re-alleged and incorporated herein by reference.

36. Upon information and belief, Defendant Turtle IS has indirectly infringed one or more of the claims of the '239 patent under 35 USC §271(b) by providing accused products with instructions, to practice the patented methods of claims 1-17 according to the instructions thereby inducing others to use the products in an infringing manner.

37. Defendant does not have a license or authority to use the '239 Patent.

38. As a result of Turtle IS's infringement of the '239 Patent, Plaintiff has suffered and will continue to suffer damages in an amount not yet determined, of at least a reasonable royalty.

39. Turtle IS's infringement of the '239 patent has been willful under 35 U.S.C. § 284.

**COUNT VI
INDIRECT CONTRIBUTORY INFRINGEMENT OF U.S. PATENT NO. 11,127,239**

40. The allegations of each of the paragraphs above are hereby re-alleged and incorporated herein by reference.

41. Upon information and belief, Defendant Turtle IS has indirectly infringed one or more of the claims of the '239 patent under 35 USC §271(c) by providing accused products, and components and supplies, which are used as components of infringing systems which infringe the claims of the '239 patent when in use, thus contributing to the infringement of the '239 patent.

42. Upon information and belief, Defendant Turtle IS has indirectly infringed one or more of the claims of the '239 patent under 35 USC §271(c) by providing accused products, and components and supplies, which are used as components of infringing systems which are used to practice methods which infringe the claims of the '239 patent, thus contributing to the infringement of the '239 patent.

43. Defendant does not have a license or authority to use the '461 Patent.

44. As a result of Turtle IS's infringement of the '461 Patent, Plaintiff has suffered and will continue to suffer damages in an amount not yet determined, of at least a reasonable royalty.

45. Turtle IS's infringement of the '461 patent has been willful under 35 U.S.C. § 284.

**COUNT VII
DIRECT INFRINGEMENT OF U.S. PATENT NO. 11,710,364**

30. The allegations of each of the paragraphs above are hereby re-alleged and incorporated herein by reference.

31. Defendant Turtle IS has directly infringed, and continues to directly infringe, at least claims 1-16 of the '364 Patent, under 35 U.S.C. § 271(a), by making, using, offering to sell, selling and importing the Accused Products in the United States.

32. Defendant does not have a license or authority to use the '461 Patent.

33. As a result of Turtle IS's infringement of the '364 Patent, Plaintiff has suffered and will continue to suffer damages in an amount not yet determined, of at least a reasonable royalty.

34. Turtle IS's infringement of the '364 patent has been willful under 35 U.S.C. § 284.

**COUNT VIII
INDIRECT INDUCED INFRINGEMENT OF U.S. PATENT NO. 11,170,364**

35. The allegations of each of the paragraphs above are hereby re-alleged and incorporated herein by reference.

36. Upon information and belief, Defendant Turtle IS has indirectly infringed one or more of the claims of the '364 patent under 35 USC §271(b) by providing accused products with instructions to use the patented systems in an infringing manner, thereby inducing others to use the products in an infringing manner.

37. Defendant does not have a license or authority to use the '364 Patent.

38. As a result of Turtle IS's infringement of the '364 Patent, Plaintiff has suffered and will continue to suffer damages in an amount not yet determined, of at least a reasonable royalty.

39. Turtle IS's infringement of the '364 patent has been willful under 35 U.S.C. § 284.

**COUNT IX
INDIRECT CONTRIBUTORY INFRINGEMENT OF U.S. PATENT NO. 11,170,364**

The allegations of each of the paragraphs above are hereby re-alleged and incorporated herein by reference.

41. Upon information and belief, Defendant Turtle IS has indirectly infringed one or more of the claims of the '364 patent under 35 USC §271(c) by providing accused products, and

components and supplies, which are used as components of infringing systems which infringe the claims of the '364 patent, thus contributing to the infringement of the '364 patent.

42. Upon information and belief, Defendant Turtle IS has indirectly infringed one or more of the claims of the '364 patent under 35 USC §271(c) by providing accused products, and components and supplies, which are used as components of infringing systems which are used to infringe claims of the '364 patent, thus contributing to the infringement of the '364 patent.

43. Defendant does not have a license or authority to use the '364 Patent.

44. As a result of Turtle IS's infringement of the '364 Patent, Plaintiff has suffered and will continue to suffer damages in an amount not yet determined, of at least a reasonable royalty.

45. Turtle IS's infringement of the '364 patent has been willful under 35 U.S.C. § 284.

PRAYER FOR RELIEF

A. For a Judgment declaring that Defendant has infringed one or more of the Patents-in-Suit.

B. For a judgment declaring that Defendant's infringement of the Patents-in-Suit has been willful and for enhancement of damages in accordance with 35 U.S.C. 284;

C. For a grant of a permanent injunction pursuant to 35 U.S.C. §283, enjoining the Defendant from further acts of infringement;

D. For a judgment awarding Plaintiff compensatory damages as a result of Defendant's infringement sufficient to reasonably and entirely compensate Plaintiff for infringement of the '461 Patent in an amount to be determined;

E. For a judgement and order awarding a compulsory ongoing royalty;

F. For a judgment declaring that this case is exceptional and awarding Plaintiff its expenses, costs and attorneys' fees in accordance with 35 U.S.C. §285 and Rule 54(d) of the Federal Rules of Civil Procedure;

G. For a judgment awarding Plaintiff prejudgment interest pursuant to 35 U.S.C. §284, and a further award of post judgment interest, pursuant to 28 U.S.C. §1961, continuing until such judgment is paid; and.

H. For a judgment awarding Plaintiff enhanced damages under 35 U.S.C. §284; and

L. For such other relief to which Plaintiff is entitled under the applicable United States laws and regulations or as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to the Federal Rules of Civil Procedure Rule 38(b), Plaintiff hereby demands trial by jury as to all claims in this litigation.

Respectfully Submitted:

/s/ Joseph J. Zito
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