

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

ORTHOSIE SYSTEMS, LLC,

Plaintiff,

v.

ZONAR SYSTEMS, INC.;

Defendant.

CIVIL ACTION NO.: 4:16-cv-872

JURY TRIAL DEMANDED

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

1. Orthosie Systems, LLC (“Orthosie” or “Plaintiff”) files this first amended complaint for patent infringement, as a matter of right under FRCP 15(a)(1)(B), in which Orthosie makes the following allegations against Zonar Systems, Inc. (“Zonar” or “Defendant”).

PARTIES

2. Plaintiff Orthosie Systems, LLC is a Texas limited liability company with a principal place of business at 1333 W. McDermott Drive, Suite 200, Allen, Texas 75013. Plaintiff’s president is Daniel F. Perez.

3. On information and belief, Zonar is a Washington corporation having a principal place of business at 18200 Cascade Ave. S., Suite 200, Seattle, WA 98188. Zonar’s Registered Agent for service of process in Texas is National Corporate Research, Ltd., at 1601 Elm St., Suite 4360, Dallas, TX 75201.

JURISDICTION AND VENUE

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

5. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). Plaintiff’s principal place of business is within this district. On information and belief, Defendant

has transacted business in this district, and has committed acts of patent infringement in this district.

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

7. On information and belief, Defendant has transacted or conducted business with or within the city of Beaumont, Texas – which is located within the Eastern District of Texas.

8. On information and belief, Defendant was an exhibitor at the Texas Association for Pupil Transportation Conference held in Beaumont, Texas in June of 2016.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,430,471

9. Plaintiff is the owner by assignment of the valid and enforceable United States Patent No. 7,430,471 (“the ‘471 Patent”) entitled “Method and System for Monitoring a Vehicle” – including all rights to recover for past and future acts of infringement. The ‘471 Patent issued on September 30, 2008. A true and correct copy of the ‘471 Patent is attached as Exhibit A.

10. Upon information and belief, the Defendant makes, had made, produces, provided, used, operated, supplies, supplied, distributes, distributed or rented Zonar's ZTrak, V3, and V3R GPS tracking devices (collectively, “Zonar Tracking Devices”).

11. Upon information and belief, the Zonar Tracking Devices are operated, installed, mounted, attached, or otherwise disposed on, in, or around a vehicle or asset.

12. Upon information and belief, the Defendant makes, had made, produces, provided, used, operated, supplies, supplied, distributes, distributed or rented Zonar's 2020 and Connect handheld/tablet devices (collectively, “Zonar Tablet Devices”).

13. Upon information and belief, the Zonar Tablet Devices are operated, installed, mounted, attached, or otherwise disposed on, in, or around a vehicle or asset (“Vehicle”).

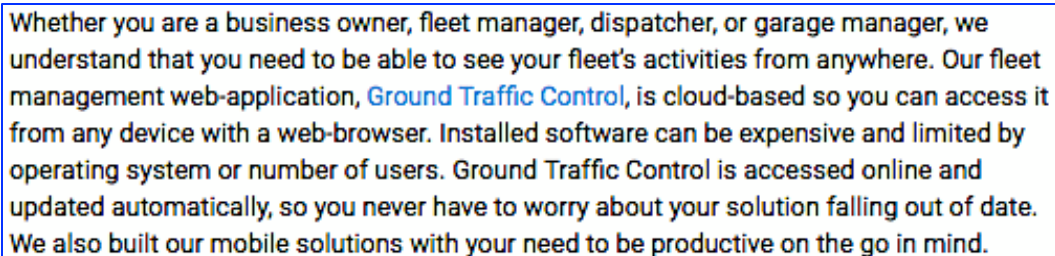
14. Upon information and belief, Zonar Tablet Devices operate in conjunction with Zonar Tracking Devices; one or both of which transmit or receive signals from or to a Vehicle (collectively “Zonar Vehicle Devices”).

15. Upon information and belief, the Zonar Vehicle Devices transmit and receive signals from and to server computers owned, operated, controlled or maintained by Defendant, or for Defendant’s exclusive use (“Zonar Servers”).

16. Upon information and belief, the Defendant makes, had made, produces, provided, used, operated, supplies, supplied, distributes, distributed, offered for sale, sold, offered for subscription, licenses, licensed, or otherwise charges money for use of or access to Zonar’s “Ground Traffic Control” tracking and management application (“Zonar Tracking Software”).

17. Upon information and belief, the “Ground Traffic Control” application is accessed – via a Zonar Server – on a desktop computing device, laptop computing device, tablet computing device, or other mobile computing device (“Computing Device”) – rendering the Computing Device a management platform under the control of Zonar (“Zonar Management Platform”).

18. Upon information and belief, the “Ground Traffic Control” application is provided in a Software as a Service (“SaaS”), web-based format, as indicated in Figure 1, below:



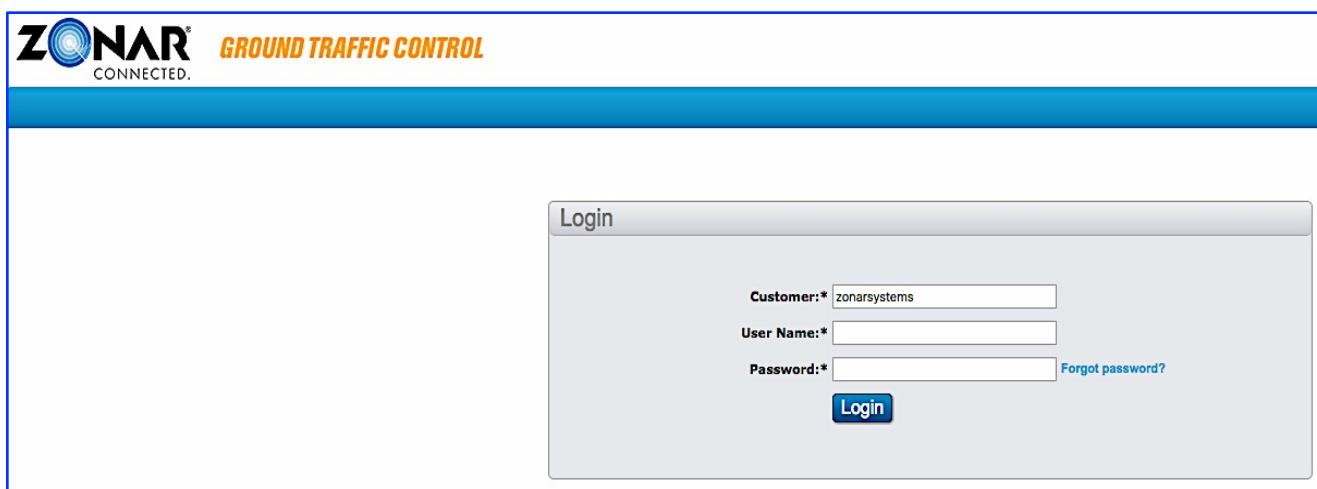
Whether you are a business owner, fleet manager, dispatcher, or garage manager, we understand that you need to be able to see your fleet's activities from anywhere. Our fleet management web-application, Ground Traffic Control, is cloud-based so you can access it from any device with a web-browser. Installed software can be expensive and limited by operating system or number of users. Ground Traffic Control is accessed online and updated automatically, so you never have to worry about your solution falling out of date. We also built our mobile solutions with your need to be productive on the go in mind.

Fig. 1

19. Upon information and belief, the “Ground Traffic Control” application causes a Computing Device to transmit and receive signals and data via Zonar Servers.

20. Upon information and belief, once an end-user purchases or otherwise pays for access to Zonar Tracking Software, an account is established within Zonar Servers for that end-user.

21. Upon information and belief, the “Ground Traffic Control” application requires an end-user to enter identification or login credentials, via Zonar Servers, in order to access account data or use the Zonar Tracking Software, as indicated in Figure 2, below:



The screenshot shows the Zonar Ground Traffic Control login page. At the top left is the Zonar logo with the tagline 'CONNECTED.' and the text 'GROUND TRAFFIC CONTROL' in orange. Below the header is a blue horizontal bar. The main content area is white and contains a 'Login' form. The form has a title bar that says 'Login'. Inside the form, there are three input fields: 'Customer:*' with the value 'zonarsystems', 'User Name:*', and 'Password:*'. To the right of the password field is a blue link that says 'Forgot password?'. Below the input fields is a blue 'Login' button.

Fig. 2

22. Upon information and belief, the “Ground Traffic Control” application requires an end-user to access or organize data using menus, fields, and forms formatted by Zonar.

23. Upon information and belief, the “Ground Traffic Control” application prompts an end-user to enter data in a manner predefined by Zonar, using interactive prompts or instructions communicated to the end-user by the application user interface.

24. Upon information and belief, the “Ground Traffic Control” application prompts an end-user to populate formatted data fields in a manner predefined by Zonar, using interactive prompts or instructions communicated to the end-user by the application user interface.

25. Upon information and belief, the “Ground Traffic Control” application prompts an end-user to select a Zonar-formatted report to retrieve, view or analyze data compiled or stored on Zonar Servers by Zonar Tracking Software. Even though these reports are styled by Zonar as having “customizable” features, an end-user is really only selecting from a limited number of preselected parameters, prebuilt by Zonar, for a report that is also predefined by Zonar, as indicated in Figures 3 and 4, below:

Location Report

Use to: See the current location of your assets in relation to landmarks, geo-fences and roads.

Benefits: Easy visual check of asset locations.

Options and features: Auto-refresh every 30 seconds. Show paths up to two hours for up to five vehicles.

Customizable by: One asset, subgroup or all assets; user-specified time range; geo-fence.

Data collected: Asset number, time of GPS collection, speed, power on and off, geo-fence, address.

Fig. 3

Ground Traffic Control[®] comes pre-built with macro-to-micro reporting capabilities to calculate overall fleet mileage or details of each asset's path, including each stop and start.

Fig. 4

26. Upon information and belief, the Defendant makes, had made, produces, provided, used, operated, supplies, supplied, distributes, or distributed applications for use on Zonar Tablet Device, including Zonar's ZLogs, ZAlerts, and Messaging applications ("Zonar Tablet Apps").

27. Upon information and belief, Zonar Tablet Apps are installed on a Zonar Tablet Device in order to be fully operable.

28. Upon information and belief, Zonar Tablet Apps cause a Zonar Tablet Device to transmit and receive data via Zonar Servers.

29. Upon information and belief, Zonar Tablet Apps cause a Zonar Tablet Device to exchange data with Zonar Tracking Software via Zonar Servers.

30. Upon information and belief, access to Zonar Tablet Apps requires a Zonar Tablet Device user to enter identification or login credentials through the Zonar Tablet Device's user interface.

31. Upon information and belief, Zonar Tracking Software and Zonar Tablet Apps are not operable on a computing device or a handheld/tablet device unless an end-user has purchased, subscribed or otherwise paid for access to and use of Zonar Tracking Software.

32. Upon information and belief, Zonar sends, receives and stores data for users of Zonar's Management Platforms via Zonar Servers.

33. Upon information and belief, Zonar maintains data for a user of Zonar's Management Platforms on Zonar Servers using a unique customer identifier associated with that user, as shown in Figure 2, above.

34. Upon information and belief, a user of a Zonar Management Platform in conjunction with Zonar Vehicle Device: 1) pays Zonar for access to Zonar Tracking Software; 2) is associated with a unique customer identifier on Zonar Servers; 3) accesses Zonar Tracking Software via a Zonar Server; 4) accesses and enters data in a format predefined by Zonar; and 5) receives and sends data, via a Zonar Server, from and to a Zonar Vehicle Device, which also receives and sends data via a Zonar Server.

35. Upon information and belief, Zonar Management Platforms and Zonar Vehicle Devices (collectively, "Zonar Tracking Systems") are all operated under the direction and control of Zonar – regardless of the end-user.

36. Upon information and belief, a Zonar Vehicle Device wirelessly communicates signals indicating movement of a Vehicle to a Zonar Management Platform via a Zonar Server, as shown in Figures 5, 6 and 7, below:

Zonar Connect™ is a fast and powerful in-vehicle tablet which instantly connects truck drivers and fleet managers. Capable of running a variety of Zonar applications, Connect provides options to choose the apps you want to run your operations. Streamline and enhance your drivers' completion of daily tasks with solutions for electronic hours of service logs, pre- and post-trip inspections, and GPS navigation. Paired with the Ground Traffic Control® web portal, you can monitor driver performance, truck location, maintenance status, inspection results and more—all in real-time. The Zonar suite of solutions

Fig. 5

Monitor the field from anywhere

Our web-based software allows fleet management to see vehicle speeds, idle times and geo-fence entry at any time, from anywhere.

Fig. 6



Fig. 7

37. Upon information and belief, a Zonar Vehicle Device wirelessly communicates signals indicating idling or stopping of a Vehicle to a Zonar Management Platform via a Zonar Server, as shown in Figures 6 and 7, above.

38. Upon information and belief, a Zonar Vehicle Device wirelessly communicates signals indicating location of a Vehicle to a Zonar Management Platform via a Zonar Server, as shown in Figures 3 and 5, above.

39. Upon information and belief, a Zonar Vehicle Device wirelessly communicates signals indicating speed of a Vehicle to a Zonar Management Platform via a Zonar Server, as shown in Figures 3 and 6, above.

40. Upon information and belief, a Zonar Vehicle Device wirelessly communicates signals indicating operational information of a Vehicle to a Zonar Management Platform via a Zonar Server, as shown in Figures 3 and 5, above.

41. Upon information and belief, a Zonar Vehicle Device wirelessly communicates signals identifying an operator of a Vehicle to a Zonar Management Platform via a Zonar Server, as shown in Figures 8 - 10, below:

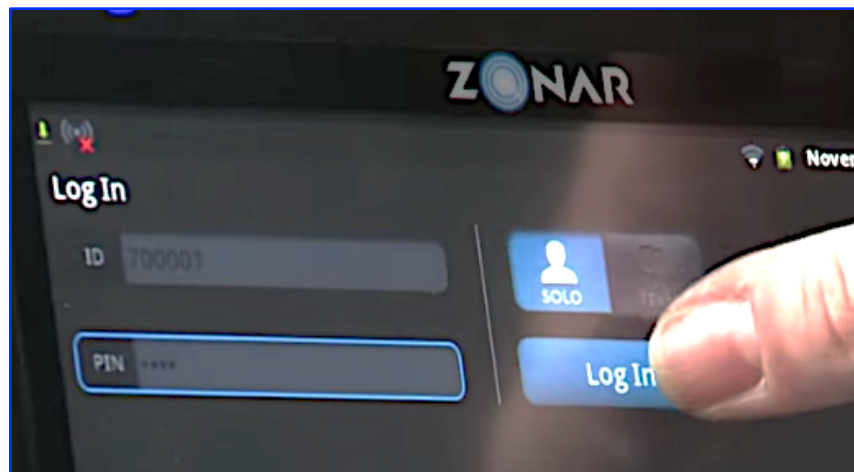


Fig. 8



Fig. 9

2020 Driver ID/PIN setup in GTC

In order to access the 2020 tablet and its applications, drivers must prove a Driver ID and PIN. These features are bundled in with Zonar's Ground Traffic Control system. In order to fully log in, the 2020 must have the following:

- Driver ID
 - In the GTC, the Driver ID is referred to as the Zonar Tag Number
- PIN
- Set Home location

If these are not set when they attempt to use it, the driver cannot log in to the 2020 or use any of its tools or applications.

Fig. 10

42. Upon information and belief, a Zonar Vehicle Device wirelessly communicates signals characterizing an operator's use or operation of a Vehicle to a Zonar Management Platform via a Zonar Server, as shown in Figures 5 and 6, above.

43. Upon information and belief, a Zonar Tracking Systems determines a Vehicle operator's status based upon signals identifying the Vehicle operator and signals indicating time of movement, idling or stopping of a Vehicle, as shown in Figures 11 and 12, below.

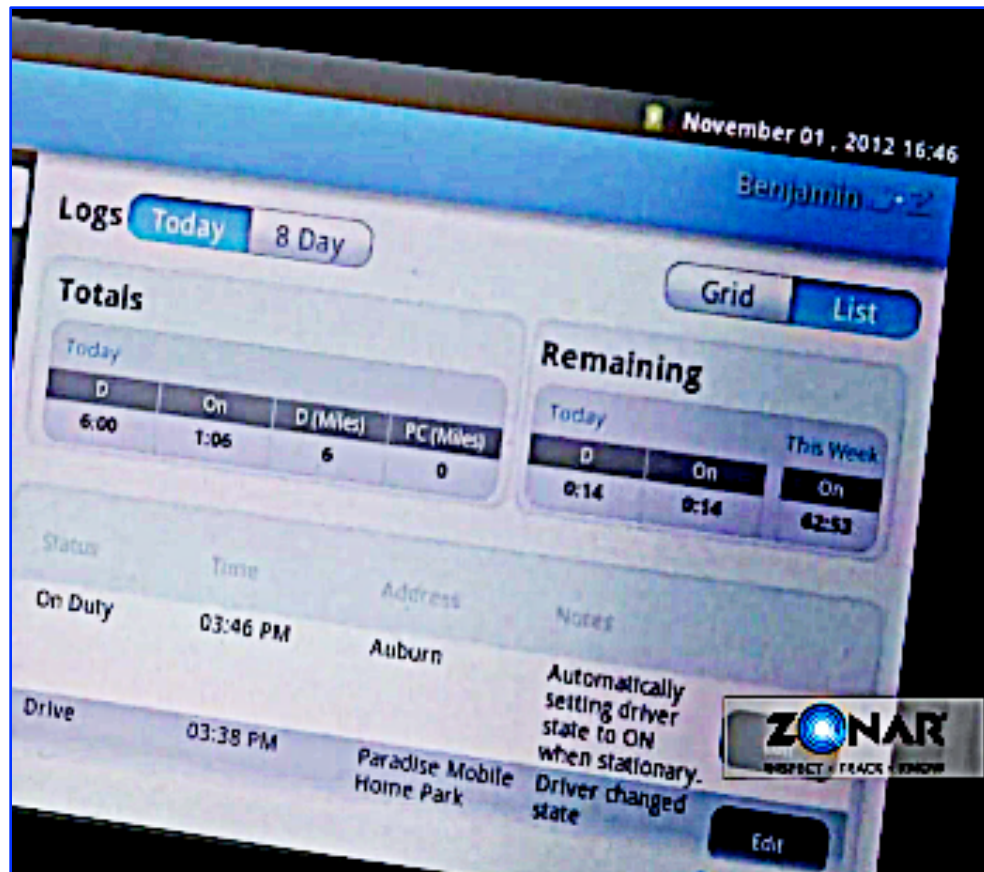


Fig. 11

facility with restricted access as on-duty, not driving. (This is very important because the ELD senses motion and starts a drive status which will need to be accounted for.)

Fig. 12

44. Upon information and belief, a Zonar Management Platform causes a Zonar Management Platform user device to receive signals from a Zonar Vehicle Device via a Zonar Server, as shown in Figures 5 and 6, above, and Figure 13, below.

Ground Traffic Control is a web-based data management system that is "command central" for fleet users. It is used to access all data captured by any of Zonar's electronic fleet management products and to share data with third-party systems.

Fig. 13

45. Upon information and belief, a Zonar Management Platform causes a Zonar Management Platform user device to transmit signals to a Zonar Vehicle Device via a Zonar Server, as shown in Figure 9, above, and Figure 14, below.

Quick and clear communication between dispatch and drivers is one of the most important aspects of fleet management. Two-way messaging on the 2020[®] facilitates communication while eliminating distractions from texting and calling. Dispatch can create, save and send template messages, or write free-form messages. Messages can be sent to one driver or to the entire fleet.

Fig. 14

46. Upon information and belief, a Zonar Management Platform causes a Zonar Management Platform user device to receive signals from a Zonar Vehicle Device indicating movement of a Vehicle, via a Zonar Server, as shown in Figures 3, 5 and 6, above.

47. Upon information and belief, a Zonar Management Platform causes a Zonar Management Platform user device to receive signals from a Zonar Vehicle Device indicating location of a Vehicle, via a Zonar Server, as shown in Figure 3, above.

48. Upon information and belief, a Zonar Management Platform causes a Zonar Management Platform user device to receive signals from a Zonar Vehicle Device indicating speed of a Vehicle, via a Zonar Server, as shown in Figures 3 and 6, above.

49. Upon information and belief, a Zonar Management Platform causes a Zonar Management Platform user device to receive signals from a Zonar Vehicle Device indicating operational information of a Vehicle, via a Zonar Server, as shown in Figures 3 - 6, above.

50. Upon information and belief, a Zonar Management Platform causes a Zonar Management Platform user device to receive signals from a Zonar Vehicle Device identifying an operator of a Vehicle, via a Zonar Server, as shown in Figures 8 - 10, above.

51. Upon information and belief, a Zonar Management Platform causes a Zonar Management Platform user device to exchange landmark identification signals with a Zonar Vehicle Device via a Zonar Server, as shown in Figures 15-18, below.

Features include a dashboard with violation warnings, HOS drive time, and integration with messaging to navigate to sent addresses. Drivers can also search local services including fuel, lodging and restaurants for convenient access. The Nav app will

Fig. 15

The Power to Protect Your Fleet

A geo-fence is a virtual area you draw on the map to define a place of interest. You can outline as many geo-fences as you need and change them at any time within our system.

Simple to draw

We provide three easy options to create geo-fences:

- **Polygons:** Define areas of any shape, defining perimeters.
- **Lines:** Define a point of crossing or speeding.
- **Circles:** Outline an area within a certain radius.

Know who is where

Within each geo-fence, our system knows when an asset exits or enters and how many miles it has been driven within that area. With geo-fencing, managers keep track of vehicles without having to constantly watch the map.

Fig. 16

Track your vehicles on your terms

Geo-fences turn coordinates and addresses into labels that are easy to recognize. Using the same terms you use in the yard, Ground Traffic Control® provides a full rundown of a vehicle's activities as they enter and exit geo-fences, including duration and miles driven.

Fig. 17

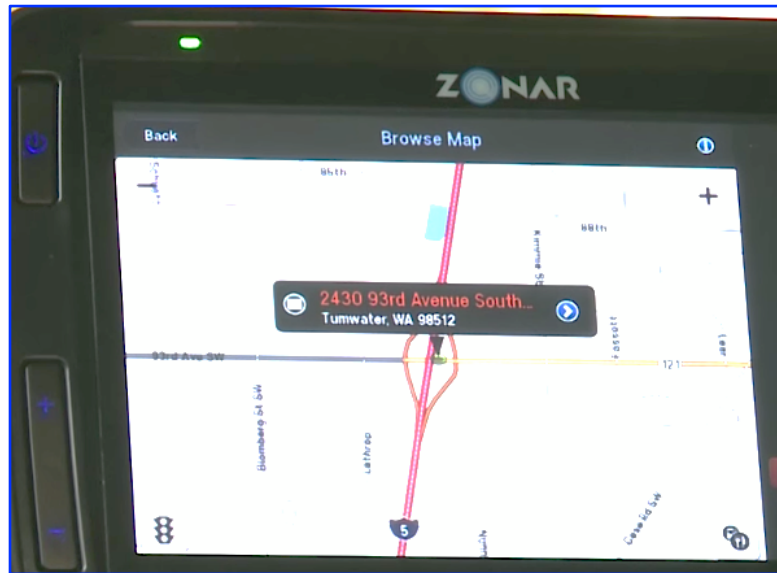


Fig. 18

52. Upon information and belief, a Zonar Management Platform causes a Zonar Management Platform user device to exchange alert signals with a Zonar Vehicle Device via a Zonar Server, as shown in Figures 19-23, below.

Logs drive time and alerts drivers and management to pending or current violations.

Fig. 19

accurate turn-by-turn directions. Turn alerts can be configured to warn at the distance of your choosing. Voice alerts also provide a distraction-free indication of the next turn. If drivers receive a message from dispatch, they also have a one touch text to speak

Fig. 20

- Send messages to a single driver or multiple drivers with auto-populated message fields to display information such as asset numbers, odometer, date and time

Fig. 21

the boundaries of safety, efficiency and compliance. With these alerts, management can be guaranteed that their assets are being operated with minimal risk and cost. Alerts are communicated via pop-up window within the Ground Traffic Control® application, email and/or SMS text message.

Fig. 22

- Alert management to speeding drivers, excessive idling and prohibited geo-fence crossings.

Fig. 23

53. Upon information and belief, a Zonar Management Platform causes a Zonar Management Platform user device to exchange alert signals with a Zonar Vehicle Device indicating location of a Vehicle in relation to a landmark, via a Zonar Server, as shown in Figures 3 and 6, above, and Figure 24, below.

ZAlerts will let you know if a vehicle enters a prohibited area or exits its work zone. Either incident can be a sign of theft or unauthorized use, potentially putting your organization at risk. This alert uses the names you give to your geo-fence, making it user-friendly.

Fig. 24

54. Upon information and belief, a Zonar Management Platform provides a Zonar Management Platform user device with a central monitoring or control interface, via a Zonar Server, as shown in Figures 1, 2 and 13, above, and Figure 25, below.



Fig. 25

55. Upon information and belief, users, customers, subscribers, or operators of Zonar Tracking Systems are under the direction and control of Zonar while operating Zonar Tracking Systems, via Zonar Servers.

56. All steps of the claimed methods in the '471 Patent are performed by Zonar Tracking Systems via a Zonar Server, under the direction and control of Zonar.

57. All steps of the claimed methods in the '471 Patent are attributable to Zonar Tracking Systems operating on Zonar Servers, under the direction and control of Zonar.

58. Upon information and belief, Zonar Tracking Software is interoperable and utilized cooperatively within a Zonar Tracking System.

59. Upon information and belief, a Zonar Tracking Systems is not limited to use of a single Zonar Vehicle Device.

60. Defendant has had actual knowledge of its infringement of the '471 Patent at least since January 6, 2017 – the date Defendant was served with Plaintiff's original complaint. All infringing activity since that date has been knowing and willful.

DEMAND FOR JURY TRIAL

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

a. A judgment in favor of Plaintiff that Defendant has directly or jointly infringed the '471 Patent;

b. A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement of the '471 Patent;

c. A judgment and order requiring Defendant to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest for Defendant's infringement of the '471 Patent as provided under 35 U.S.C. § 284;

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

deliberate nature of Defendant's prohibited conduct with notice being made at least as early as January 10, 2017, as provided under 35 U.S.C. § 284;

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

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

Dated: March 20, 2017

Respectfully Submitted,

ORTHOSIE SYSTEMS, LLC

By: /s/ Ronald W. Burns

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**ATTORNEYS FOR PLAINTIFF
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, the foregoing was served on all counsel of record who have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d), all others not deemed to have consented to electronic service will be served with a true and correct copy of the foregoing by email, on this the 20th day of March, 2017.

/s/ Ronald W. Burns

Ronald W. Burns, Esq.