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

LITES OUT, LLC,)
Plaintiff,) Civil Action No. 4:17-cv-192
v.	JURY TRIAL DEMANDED
OUTDOORLINK, INC.; OUTDOORLINK SERVICES, INC.,)))
Defendants.))

ORIGINAL COMPLAINT

Plaintiff Lites Out, LLC, by and through its undersigned counsel, files this Original Complaint against OutdoorLink, Inc. and OutdoorLink Services, Inc. and alleges:

PARTIES

- 1. Plaintiff Lites Out, LLC ("Lites Out"), is a Texas limited liability company having a principal place of business at 1723 E. Southlake Blvd. Ste. 220, Southlake TX 76092. Lites Out was formed in 2004 and is based in Texas. Lites Out provides innovative lighting installation, maintenance and repair solutions for the commercial, industrial and retail businesses.
- 2. Upon information and belief, Defendants OutdoorLink, Inc. and OutdoorLink Services, Inc. (collectively "OutdoorLink" or "Defendants" unless otherwise specified) are both Alabama Corporations with stated places of business at 3058 Leeman Ferry Road, Huntsville, Alabama 35801.

- 3. OutdoorLink, Inc. can be served via its registered agent for service of process, Charles Jennings with an address of 3058 Leeman Ferry Road, Huntsville, Alabama 35801, or on a principal officer of the company at the place of business.
- 4. OutdoorLink Services, Inc. can be served via its registered agent for service of process, Terry Kennamer with an address of 3058 Leeman Ferry Road, Huntsville, Alabama 35801, or on a principal officer of the company at the place of business.
- 5. OutdoorLink sells and services remote wireless lighting controls for extensive outdoor lighting on properties and billboards.
- 6. OutdoorLink conducts business and sells its consumer wireless lighting control systems and services ("Accused Technology") throughout the United States, including in this district, via websites, including, but not limited to, at www.outdoorlinkinc.com and through various distributors. The Accused Technology include the "Smartlink" system and services which enable OutdoorLink clients to use the Accused Technology.

JURISDICTION AND VENUE

- 7. 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).
- 8. This Court has personal jurisdiction over OutdoorLink because OutdoorLink has had, and continues to have, regular and systematic contacts with the State of Texas and within this judicial district, including at least a portion of the infringement alleged herein, by selling and/or offering to sell products and services which infringe the patents at issue in this case, and/or by conducting other business within this judicial district. Further, this Court has personal jurisdiction over OutdoorLink because OutdoorLink has used, offered for sale, and/or sold

infringing products and services and placed such infringing products and services in the stream of commerce with the expectation that such infringing products would be used, offered for sale, and/or sold within the State of Texas and this judicial district. Further, this Court has personal jurisdiction over OutdoorLink because OutdoorLink has conducted substantial business in this state, including at least a portion of the infringement alleged herein and regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods provided to or sold to individuals in Texas and this Judicial District.

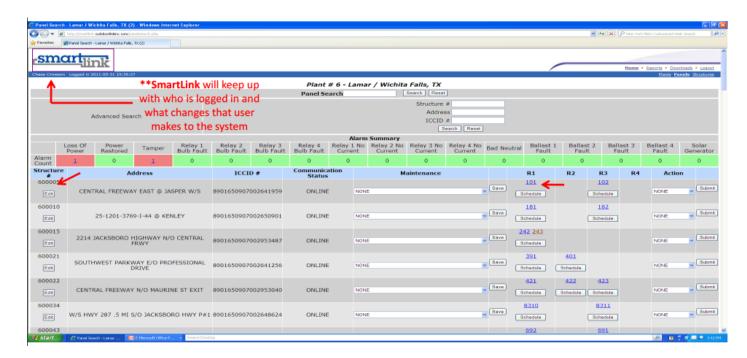
- 9. Upon information and belief, this Court has personal jurisdiction over OutdoorLink because Plaintiff's patent infringement claims against OutdoorLink arise from OutdoorLink's acts of infringement in Texas. These acts include selling or offering for sale infringing products in the State of Texas, placing infringing products into the stream of commerce through an established distribution channel with full awareness that substantial quantities of products have been shipped into the State of Texas and causing Plaintiff harm in this judicial district.
- 10. Venue is proper in this District under 28 U.S.C. §§1391 and 1400. Upon information and belief, OutdoorLink committed and/or induced acts of patent infringement in this District described above sufficient to subject them to personal jurisdiction in this District if the district were a separate State. Further, upon information and belief OutdoorLink conducts substantial business directly and/or through third parties or agents in this judicial district by selling and/or offering for sale infringing products, and/or by conducting other business in this judicial district. Upon information and belief OutdoorLink has transacted business in this District, and has committed and/or induced acts of patent infringement in this District described above sufficient to subject it to personal jurisdiction in this District if the district were a separate State.

JOINDER

11. Joinder of Defendants is proper under 35 U.S.C. §299 because the right to relief asserted against Defendants jointly relates to the making, using, selling or offering to sell accused products.

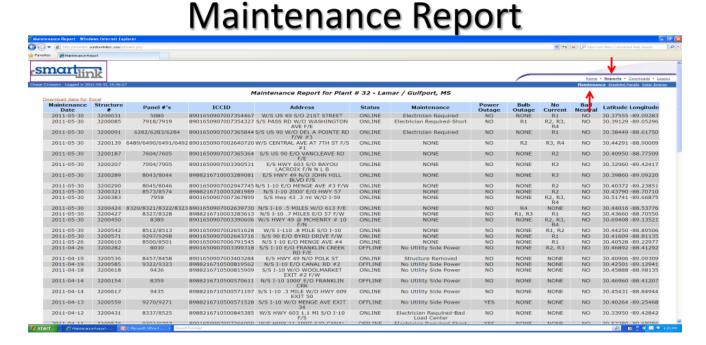
OUTDOORLINK'S ACCUSED TECHNOLOGY

- 12. OutdoorLink offers a cellular system, referred to as the SmartLinkTM System, which remotely controls and monitors billboard lighting applications. OutdoorLink states that over 60,000 SmartLink systems have been installed to date.
- 13. The SmartLink system uses a web-based interface as well as cellular technology to monitor and control billboards and other lighting situations in real time. Lights of the billboards can be turned off, for example, to save energy. Additionally, outdoor lighting on commercial properties such as parking lots and warehouses can also be monitored and controlled.
- 14. The SmartLink system allows several billboards to be monitored at once, recording the status. The figure below is a screenshot of the web-based "Home Screen" from the user manual.



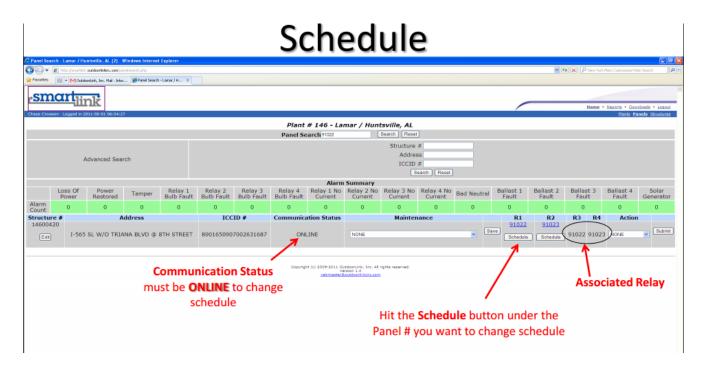
http://smartlink.outdoorlinkinc.com/docs/SmartLinkWebsiteUserManual.pdf, page 5; Ex. A at p. 5.

15. OutdoorLink provides a maintenance report, reproduced below from page 7 of the manual which is a live report of all active alarms.



http://smartlink.outdoorlinkinc.com/docs/SmartLinkWebsiteUserManual.pdf, page 7; Ex. A at p. 7.

16. SmartLink allows users to monitor and change the status of a billboard or light. SmartLink also allows the status to be changed. For example, on the below screen, the user can set the time that lights are on or off for a given billboard.



http://smartlink.outdoorlinkinc.com/docs/SmartLinkWebsiteUserManual.pdf, page 14; Ex. A. at p. 14.

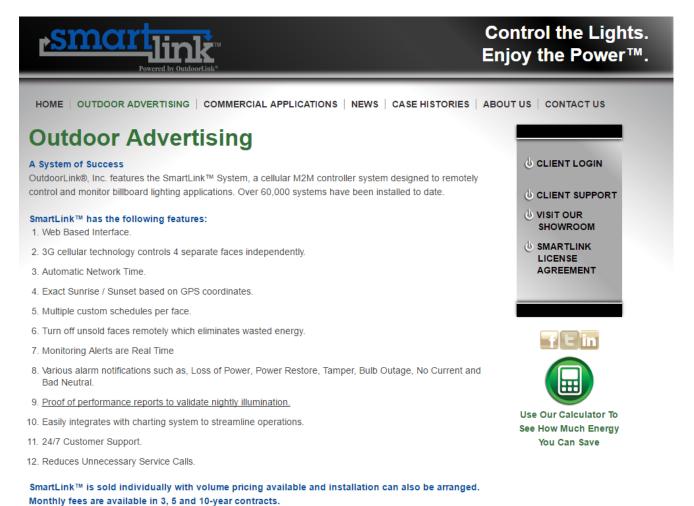
17. The SmartLink System uses a receiver operable to receive wireless cellular signals.

A controller can then process the requests and determine operating conditions of a billboard.

COUNT I INFRINGEMENT OF U.S. PATENT NO. 7,501,941

- 18. Plaintiff incorporates paragraphs 1 through 17 as if fully set forth herein.
- 19. Plaintiff is the owner by assignment of United States Patent No. 7,501,941 ("the '941 Patent") titled "Managing Advertising Devices". The '941 Patent issued on March 10, 2009. A copy of the '941 Patent is attached hereto as Exhibit B.
- 20. OutdoorLink has been and/or is now infringing at least claim 11 of the '941 Patent in Texas, in this Judicial District and elsewhere in the United States under 35 U.S.C. §271(a), by, among other things, directly or through intermediaries making, using, importing, providing,

supplying, distributing, selling and/or offering for sale products and systems, including without limitation the SmartLink System. As shown above, and in the below screenshot from Defendant Outdoorlink's Website, the SmartLink System is a receiver operable to receive wireless signals. The system further includes a controller operable to process the requests and determine operating conditions associated with an advertising device in accordance with those requests. The apparatus is further assign a cellular phone number and a network address.



http://www.outdoorlinkinc.com/base/public/static/outdooradvertising

- 21. Defendants are directly infringing, either literally or under the doctrine of equivalents, pursuant to 35 U.S.C. §271(a) by, among other things, directly or through intermediaries making, using importing, providing supplying, distributing, selling and/or offering for sale, installation and use the SmartLink System.
- 22. Should the SmartLink System be found not to literally infringe the asserted claims of the '941 patent, the SmartLink System would nevertheless infringe the asserted claims of the '941. More specifically, the accused System performs substantially the same function (monitoring and controlling), in substantially the same way, to yield substantially the same result (monitoring and controlling lighting and billboards). Thus, Defendants would be liable for direct infringement under the doctrine of equivalents.
- 23. In addition, or in the alternative, Defendants are or have been indirectly infringing one or more claims of the '941 Patent, including claim 11, by inducing third parties, including without limitation manufacturers, resellers, developers, customers and end users of the SmartLink System to directly infringe the '941 Patent in violation of 35 U.S.C. §271(b), with specific knowledge of the '941 patent and with specific intent to encourage infringement, knowingly inducing consumers to use articles and methods that Defendants know or should know infringe one or more claims of the '941 patent.
- 24. In addition, or in the alternative, Defendants are or have been indirectly infringing one or more claims of the '941 Patent, including claim 11, in this judicial district by, among other things, contributing to the direct infringement by others including, without limitation customers using the SmartLink System, by making, offering to sell, selling and/or importing into the United States, a component of a patented machine, manufacture or combination, or an apparatus for use in practicing a patented process, constituting a material park of the invention,

knowing the same to be especially made or especially adapted for use in infringing the '941 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

- 25. The SmartLink System is a material part of the claimed invention and upon information and belief is not a stable article or commodity of commerce suitable for substantial non-infringing use. Defendants are, therefore, liable for infringement under 35 U.S.C. § 271(c).
- 26. Defendants will have been on notice of the '941 Patent since, at the latest, the service upon this complaint upon Defendants. By the time of trial, Defendants will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to, the infringement of one or more claims of the '941 Patent, including claim 11.
- 27. With this knowledge of the '941 Patent, Defendants intend for their manufacturers, resellers, developers, customers and end users to make, use or sell the SmartLink System in its normal and customary manner and know, or is willfully blind, that by doing so these parties will directly infringe one or more of the '941 Patent claims.
- 28. In violation of 35 U.S.C. §271(c), Defendants are or have been indirectly infringing one or more claims of the '941 Patent by contributing to the infringement of the '941 Patent by third parties using the SmartLink System in the normal and customary manner, including without limitation manufacturers, resellers, developers, customers and end users of the SmartLink System, to directly infringe the '941 Patent.
- 29. Defendants' past and continued infringement of the '941 Patent has damaged and will continue to damage Plaintiff.
- 30. As a result of Defendants' acts of patent infringement, Plaintiff has suffered actual and consequential damages; however, Plaintiff does not yet know the full extent of the

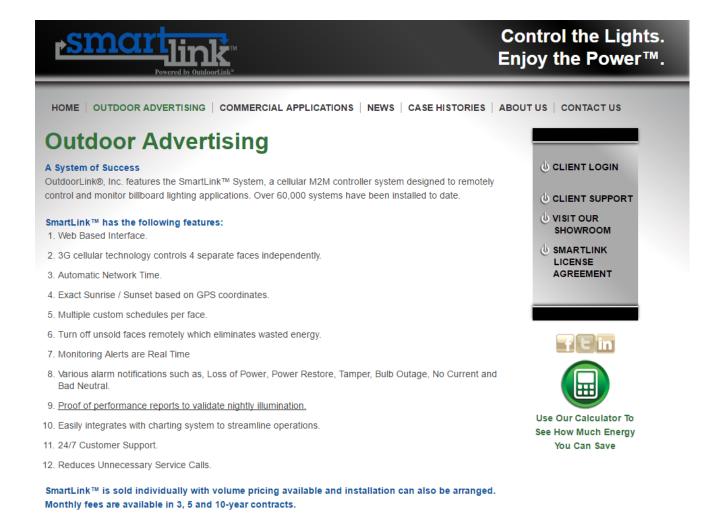
infringement and its extent cannot be ascertained except through discovery and special accounting. To the fullest extent permitted by law, Plaintiff seeks recovery of damages at least for reasonable royalties, unjust enrichment and benefits received by Defendant as a result of the infringement.

- 31. Plaintiff further seeks any other damages to which it is entitled under law or in equity, including enhanced damages pursuant to 35 U.S.C. §284.
- 32. Plaintiff is entitled to recover reasonable and necessary attorneys' fees under 35 U.S.C. §285 or applicable law.

COUNT II INFRINGEMENT OF U.S. PATENT NO. 8,497,773

- 33. Plaintiff incorporates paragraphs 1 through 32 as if fully set forth herein.
- 34. Plaintiff is the owner by assignment of United States Patent No. 8,497,773 ("the '773 Patent") titled "Managing Advertising Devices". The '773 Patent issued on July 30, 2013. A copy of the '773 Patent is attached hereto as Exhibit C.
- OutdoorLink has been and/or is now infringing at least claim 18 of the '773 Patent in Texas, in this Judicial District and elsewhere in the United States under 35 U.S.C. §271(a), by, among other things, directly or through intermediaries making, using, importing, providing, supplying, distributing, selling and/or offering for sale products and systems, including without limitation the SmartLink System. As shown above, and in the below screenshot from Defendant Outdoorlink's Website, the SmartLink System has a processor, can receive operating conditions from a plurality of billboards, determine a configuration file associated with one of the plurality of billboards, determine a status of one of the billboards, and communicate an alert relating to the billboard. Furthermore, the system includes a wireless transceiver to wireless transmit the

operating conditions. The system can further communicate an alert which includes information representative of the operating conditions of one of the billboards.



http://www.outdoorlinkinc.com/base/public/static/outdooradvertising

36. Defendants are directly infringing, either literally or under the doctrine of equivalents, pursuant to 35 U.S.C. §271(a) by, among other things, directly or through intermediaries making, using importing, providing supplying, distributing, selling and/or offering for sale, installation and use the SmartLink System.

- 37. Should the SmartLink System be found not to literally infringe the asserted claims of the '773 patent, the SmartLink System would nevertheless infringe the asserted claims of the '773. More specifically, the accused System performs substantially the same function (monitoring and controlling), in substantially the same way, to yield substantially the same result (monitoring and controlling lighting and billboards). Thus, Defendants would be liable for direct infringement under the doctrine of equivalents.
- 38. In addition, or in the alternative, Defendants are or have been indirectly infringing one or more claims of the '773 Patent, including claim 18, by inducing third parties, including without limitation manufacturers, resellers, developers, customers and end users of the SmartLink System to directly infringe the '773 Patent in violation of 35 U.S.C. §271(b), with specific knowledge of the '773 patent and with specific intent to encourage infringement, knowingly inducing consumers to use articles and methods that Defendants know or should know infringe one or more claims of the '773 patent.
- 39. In addition, or in the alternative, Defendants are or have been indirectly infringing one or more claims of the '773 Patent, including claim 18, in this judicial district by, among other things, contributing to the direct infringement by others including, without limitation customers using the SmartLink System, by making, offering to sell, selling and/or importing into the United States, a component of a patented machine, manufacture or combination, or an apparatus for use in practicing a patented process, constituting a material park of the invention, knowing the same to be especially made or especially adapted for use in infringing the '773 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

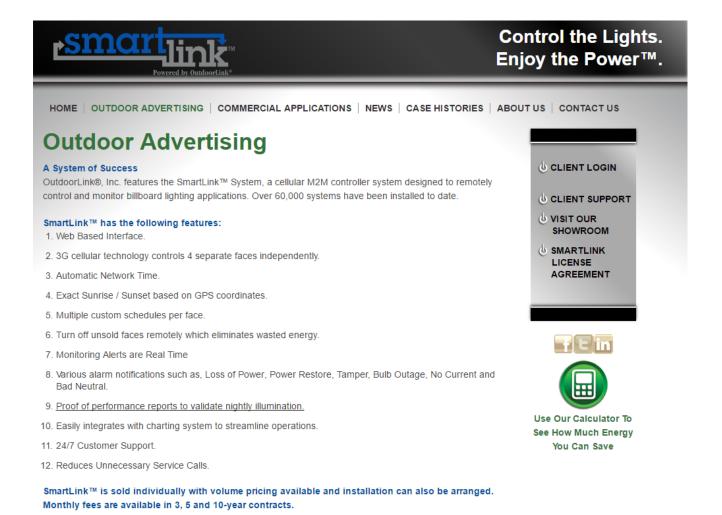
- 40. The SmartLink System is a material part of the claimed invention and upon information and belief is not a stable article or commodity of commerce suitable for substantial non-infringing use. Defendants are, therefore, liable for infringement under 35 U.S.C. § 271(c).
- 41. Defendants will have been on notice of the '773 Patent since, at the latest, the service upon this complaint upon Defendants. By the time of trial, Defendants will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to, the infringement of one or more claims of the '773 Patent, including claim 18.
- 42. With this knowledge of the '773 Patent, Defendants intend for their manufacturers, resellers, developers, customers and end users to make, use or sell the SmartLink System in its normal and customary manner and know, or is willfully blind, that by doing so these parties will directly infringe one or more of the '773 Patent claims.
- 43. In violation of 35 U.S.C. §271(c), Defendants are or have been indirectly infringing one or more claims of the '773 Patent by contributing to the infringement of the '773 Patent by third parties using the SmartLink System in the normal and customary manner, including without limitation manufacturers, resellers, developers, customers and end users of the SmartLink System, to directly infringe the '773 Patent.
- 44. Defendants' past and continued infringement of the '773 Patent has damaged and will continue to damage Plaintiff.
- 45. As a result of Defendants' acts of patent infringement, Plaintiff has suffered actual and consequential damages; however, Plaintiff does not yet know the full extent of the infringement and its extent cannot be ascertained except through discovery and special accounting. To the fullest extent permitted by law, Plaintiff seeks recovery of damages at least

for reasonable royalties, unjust enrichment and benefits received by Defendant as a result of the infringement.

- 46. Plaintiff further seeks any other damages to which it is entitled under law or in equity, including enhanced damages pursuant to 35 U.S.C. §284.
- 47. Plaintiff is entitled to recover reasonable and necessary attorneys' fees under 35 U.S.C. §285 or applicable law.

COUNT III INFRINGEMENT OF U.S. PATENT NO. 8,912,898

- 48. Plaintiff incorporates paragraphs 1 through 47 as if fully set forth herein.
- 49. Plaintiff is the owner by assignment of United States Patent No. 8,912,898 ("the '898 Patent") titled "Managing Advertising Devices". The '898 Patent issued on December 16, 2014. A copy of the '898 Patent is attached hereto as Exhibit D.
- OutdoorLink has been and/or is now infringing at least claim 18 of the '898 Patent in Texas, in this Judicial District and elsewhere in the United States under 35 U.S.C. §271(a), by, among other things, directly or through intermediaries making, using, importing, providing, supplying, distributing, selling and/or offering for sale products and systems, including without limitation the SmartLink System. As shown above, and in the below screenshot from Defendant Outdoorlink's Website, the SmartLink System comprises a processor with memory, and the ability to determine a status of one of a plurality of billboards (monitoring and alert capability), communicate an alert over a wireless network, whereby the allergy includes information of the current operating conditions of one of the billboards.



http://www.outdoorlinkinc.com/base/public/static/outdooradvertising

- Defendants are directly infringing, either literally or under the doctrine of equivalents, pursuant to 35 U.S.C. §271(a) by, among other things, directly or through intermediaries making, using importing, providing supplying, distributing, selling and/or offering for sale, installation and use the SmartLink System.
- 52. Should the SmartLink System be found not to literally infringe the asserted claims of the '898 patent, the SmartLink System would nevertheless infringe the asserted claims of the '898. More specifically, the accused System performs substantially the same function

(monitoring and controlling), in substantially the same way, to yield substantially the same result (monitoring and controlling lighting and billboards). Thus, Defendants would be liable for direct infringement under the doctrine of equivalents.

- In addition, or in the alternative, Defendants are or have been indirectly infringing one or more claims of the '898 Patent, including claim 18, by inducing third parties, including without limitation manufacturers, resellers, developers, customers and end users of the SmartLink System to directly infringe the '898 Patent in violation of 35 U.S.C. §271(b), with specific knowledge of the '898 patent and with specific intent to encourage infringement, knowingly inducing consumers to use articles and methods that Defendants know or should know infringe one or more claims of the '898 patent.
- In addition, or in the alternative, Defendants are or have been indirectly infringing one or more claims of the '898 Patent, including claim 18, in this judicial district by, among other things, contributing to the direct infringement by others including, without limitation customers using the SmartLink System, by making, offering to sell, selling and/or importing into the United States, a component of a patented machine, manufacture or combination, or an apparatus for use in practicing a patented process, constituting a material park of the invention, knowing the same to be especially made or especially adapted for use in infringing the '898 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.
- 55. The SmartLink System is a material part of the claimed invention and upon information and belief is not a stable article or commodity of commerce suitable for substantial non-infringing use. Defendants are, therefore, liable for infringement under 35 U.S.C. § 271(c).

- Defendants will have been on notice of the '898 Patent since, at the latest, the service upon this complaint upon Defendants. By the time of trial, Defendants will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to, the infringement of one or more claims of the '898 Patent, including claim 18.
- 57. With this prior knowledge of the '898 Patent, and by way of this Complaint, Defendants intend for their manufacturers, resellers, developers, customers and end users to make, use or sell the SmartLink System in its normal and customary manner and know, or is willfully blind, that by doing so these parties will directly infringe one or more of the '898 Patent claims.
- 58. In violation of 35 U.S.C. §271(c), Defendants are or have been indirectly infringing one or more claims of the '898 Patent by contributing to the infringement of the '941 Patent by third parties using the SmartLink System in the normal and customary manner, including without limitation manufacturers, resellers, developers, customers and end users of the SmartLink System, to directly infringe the '898 Patent.
- 59. Defendants' past and continued infringement of the '898 Patent has damaged and will continue to damage Plaintiff.
- As a result of Defendants' acts of patent infringement, Plaintiff has suffered actual and consequential damages; however, Plaintiff does not yet know the full extent of the infringement and its extent cannot be ascertained except through discovery and special accounting. To the fullest extent permitted by law, Plaintiff seeks recovery of damages at least for reasonable royalties, unjust enrichment and benefits received by Defendant as a result of the infringement.

- 61. Plaintiff further seeks any other damages to which it is entitled under law or in equity, including enhanced damages pursuant to 35 U.S.C. §284.
- 62. Plaintiff is entitled to recover reasonable and necessary attorneys' fees under 35 U.S.C. §285 or applicable law.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and Local Rule CV-38, Plaintiff demands a trial by jury of this action.

PRAYER FOR RELIEF

Plaintiff respectfully requests that this Honorable Court enter preliminary and final orders and judgments against Defendants as are necessary to provide Plaintiff with the following relief:

- (a) A judgment that Defendants have infringed and/or are infringing one or more claims of the '941 Patent, the '773 Patent, and/or the '898 Patent;
- (b) Award Plaintiff damages in an amount adequate to compensate Plaintiff for Defendants' infringement of the of the '941 Patent, the '773 Patent, and/or the '898 Patent; but in no event less than a reasonable royalty, pursuant to 35 U.S.C. §284;
- (d) Enter an order finding that this case is an exceptional case, and award Plaintiff its attorney's fees pursuant to 35 U.S.C. §285;
 - (e) Award pre-judgment and post-judgment interest as allowed by law;
- (f) Enter an injunction enjoining Defendants and all others in active concert with Defendants from further infringing the of the '941 Patent, the '773 Patent, and the '898 Patent;
- (g) In lieu of an injunction, award a mandatory future royalty payable on each future product sold by Defendants that is found to infringe the 'of the '941 Patent, the '773 Patent,

and/or the '898 Patent, and on all future products that are not colorably different from products found to infringe;

- (h) Order an accounting of damages;
- (i) Award Plaintiff its costs of suit; and
- (j) Award all other further relief in law or in equity as the Court may deem just and proper.

Dated: March 21, 2017 Respectfully submitted,

/s/ Bobby W. Braxton
Bobby W. Braxton
Texas Bar. No. 24059484
braxton@bhp-ip.com
Gregory Perrone
Texas Bar No. 24048053
perrone@bhp-ip.com
Zachary Hilton
Texas Bar No. 24036780
hilton@bhp-ip.com

BRAXTON, HILTON & PERRONE, PLLC

4975 Preston Park Blvd., Suite 490 Plano, Texas 75093 Phone: (469) 814-0028 Fax: (469) 814-0023

ATTORNEYS FOR PLAINTIFF