

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

ORTHOSIE SYSTEMS, LLC,

Plaintiff,

v.

US FLEET TRACKING LLC;

Defendant.

CIVIL ACTION NO.: 4:17-cv-95

JURY TRIAL DEMANDED

FIRST 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 US Fleet Tracking LLC (“UFT” or “Defendant”).

PARTIES

2. Plaintiff Orthosie Systems, LLC (“Plaintiff” or “Orthosie”) 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, UFT is an Oklahoma company having a principal place of business at 2912 NW 156th Street, Edmond, OK 73013. UFT appears to have no Registered Agent for service of process in Texas. UFT’s Registered Agent for service of process in Oklahoma appears to be William H. Whitehill, 100 North Broadway, Suite 1700, Oklahoma City, OK 73102.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code – as this is an action for patent infringement under 35 U.S.C. § 271. 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(d) and 1400(b). Plaintiff's principal place of business is within this district. On information and belief, Defendant has transacted business in this district, has committed acts of patent infringement in this district, and has a regular and established place of business in the State of Texas.

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 within the State of Texas, particularly by maintaining a regular and established place of business – a "Texas Division Office" – in Addison, TX.

8. On information and belief, Defendant has transacted or conducted business within the Eastern District of Texas – particularly with East Texas Copy Systems of Tyler, TX.

9. On information and belief, Defendant's infringing instrumentalities have been used in the commission of acts of patent infringement within the Eastern District of Texas.

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

10. 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.

11. Upon information and belief, the Defendant made, had made, used, operated, imported, provided, supplied, distributed, offered for sale, sold, or rented UFT's AT-V3, AT-V3 Pro, CloudSat3, NT-V3, NT-V3ia, and PT-V3 tracking devices ("UFT Tracking Devices").

12. Upon information and belief, the Defendant made, had made, used, operated, imported, provided, supplied, distributed, sold, offered for sale, or offered for subscription its

Web Based Fleet Management software, in a software as a service (SaaS) format (“UFT Tracking Software”).

13. Upon information and belief, UFT Tracking Software is loaded upon server computers owned, operated, controlled or maintained by Defendant, or for Defendant’s exclusive use (“UFT Servers”).

14. Upon information and belief, UFT Tracking Software requires a user to enter identification or login credentials through a login script operating via a UFT server, in order to access UFT Tracking Software.

15. Upon information and belief, UFT Tracking Software provides a user with a central monitoring/tracking interface on a desktop or mobile computing device (“UFT Web Interface”), via an Internet web browser linked to a UFT server, after that user has logged in via a UFT Server.

16. Upon information and belief, a UFT Tracking Device sends data to the UFT Tracking Software, loaded on a UFT Server. The UFT Tracking Software then transmits that data to a UFT Web Interface, via a UFT server.

17. Upon information and belief, a UFT Tracking Device operates under the direction and control of UFT Tracking Software, loaded on a UFT Server, and a UFT Web Interface operates under the direction and control of UFT Tracking Software, loaded on a UFT Server. The UFT Tracking Device, UFT Tracking Software, UFT Web Interface, and UFT Server form a tracking system (“UFT Tracking System”), under the direction and control of UFT Tracking Software, loaded on a UFT Server.

18. Upon information and belief, a UFT Tracking System associates a UFT Tracking Device with a particular vehicle or other mobile asset (collectively “vehicle”), or a particular driver, within the UFT Tracking Software loaded on a UFT Server.

19. Upon information and belief, a UFT Tracking System sends data indicating movement or activation of a vehicle, from a UFT Tracking Device to a UFT Web Interface via a UFT Server.

20. Upon information and belief, a UFT Tracking System sends data indicating time of movement or activation of a vehicle, from a UFT Tracking Device to a UFT Web Interface via a UFT Server.

21. Upon information and belief, a UFT Tracking System sends data indicating time of movement a driver, from a UFT Tracking Device to a UFT Web Interface via a UFT Server.

22. Upon information and belief, a UFT Tracking System receives data indicating driver identification, from a unique key or fob issued to a driver (“UFT Fob”), when that UFT Fob is deployed at a UFT Tracking Device.

23. Upon information and belief, a UFT Tracking System sends data indicating time of deployment of a UFT Fob, from a UFT Tracking Device to a UFT Web Interface via a UFT Server.

24. Upon information and belief, a UFT Tracking System records data indicating time of movement or activation of a vehicle, data indicating time of driver movement, and data indicating time of driver identification, on a UFT Server.

25. Upon information and belief, a UFT Tracking System sends data indicating time of movement or activation of a vehicle, data indicating time of driver movement, and data indicating time of driver identification, to a UFT Web Interface via a UFT Server.

26. Upon information and belief, a UFT Tracking System sends data indicating location of a vehicle, from a UFT Tracking Device to a UFT Web Interface via a UFT Server.

27. Upon information and belief, a UFT Tracking System sends data indicating speed of a vehicle, from a UFT Tracking Device to a UFT Web Interface via a UFT Server.

28. Upon information and belief, a UFT Tracking System sends data indicating stoppage or idling of a vehicle, from a UFT Tracking Device to a UFT Web Interface via a UFT Server.

29. Upon information and belief, a UFT Tracking System sends data indicating time of vehicle stoppage or idling, from UFT Tracking Software to a UFT Web Interface via a UFT Server.

30. Upon information and belief, a UFT Tracking System sends data indicating location of a landmark or an area (“Landmark”), from UFT Tracking Software to a UFT Web Interface via a UFT Server.

31. Upon information and belief, a UFT Tracking System sends data identifying a Landmark from UFT Tracking Software to a UFT Web Interface via a UFT Server.

32. Upon information and belief, a UFT Tracking System sends data indicating location of a vehicle in relation to a Landmark, from a UFT Tracking Device to a UFT Web Interface, via a UFT Server.

33. Upon information and belief, a UFT Tracking System receives data from a UFT Tracking Device via Global Positioning System (GPS) receivers and/or transmitters.

34. Upon information and belief, a UFT Tracking System sends data indicating vehicle diagnostic data, from a UFT Tracking Device to a UFT Web Interface, via a UFT Server.

35. Upon information and belief, a UFT Tracking System sends data indicating power take off (“PTO”) data, from a UFT Tracking Device to a UFT Web Interface, via a UFT Server.

36. Upon information and belief, a UFT Tracking System sends alerts from UFT Tracking Software to a UFT Web Interface, via a UFT Server.

37. Upon information and belief, a UFT Tracking System sends speed alerts from UFT Tracking Software to a UFT Web Interface, via a UFT Server.

38. Upon information and belief, a UFT Tracking System sends vehicle activation alerts from UFT Tracking Software to a UFT Web Interface, via a UFT Server.

39. Upon information and belief, a UFT Tracking System sends Landmark alerts from UFT Tracking Software to a UFT Web Interface, via a UFT Server.

40. Upon information and belief, a UFT Tracking System sends driver-specific alerts from UFT Tracking Software to a UFT Web Interface, via a UFT Server.

41. Upon information and belief, a UFT Tracking System sends time of operation alerts from UFT Tracking Software to a UFT Web Interface, via a UFT Server.

42. Upon information and belief, all steps of the claimed methods in the '471 Patent are performed by a UFT Tracking System, operating via a UFT Server, under the direction and control of UFT.

43. Upon information and belief, users of UFT Tracking Systems are under the direction and control of UFT while operating UFT Tracking Software and UFT Tracking Devices, via UFT Servers.

44. Upon information and belief, all steps of the claimed methods in the '471 Patent are performed by users of UFT Tracking Systems while under the direction and control of UFT, and are therefore attributable to UFT.

45. Upon information and belief, Defendant's UFT Tracking Systems infringe one or more claims of the '471 Patent, and Defendant is therefore liable for infringement of the '471 Patent.

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 infringes 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 the service date of this complaint, 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: July 18, 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. As such, the foregoing was served on all counsel of record who have consented to electronic service. Local Rule CV-5. Pursuant to Fed. R. Civ. P. 5 and Local Rule CV-5, 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 18th day of July, 2017.

/s/ Ronald W. Burns

Ronald W. Burns