

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

2012 SEP 26 P 2:44

Blackbird Technologies, Inc.)	Civil Action No. <u>1:12-cv-1085</u>
Plaintiff,)	
)	
v.)	COMPLAINT FOR PATENT
)	INFRINGEMENT
)	
CornerTurn, LLC)	JURY TRIAL DEMANDED
Defendant.)	
)	
)	

Plaintiff Blackbird Technologies, Inc. (“Blackbird” or “Plaintiff”) files the following Complaint for Patent Infringement and, in support thereof, alleges as follows:

THE PARTIES

1. Blackbird is a Virginia corporation having its principal place of business at 13900 Lincoln Park Drive, Suite 400, Herndon, VA 20171.
2. On information and belief, defendant CornerTurn, LLC (“CornerTurn” or “Defendant”) is a California limited liability corporation having its principal place of business at 2320 Pomona Rd., Corona, CA 92880.

JURISDICTION AND VENUE

3. This is a civil action for patent infringement arising under the United States patent statutes, Title 35, United States Code, §§ 1 et seq.
4. This Court has jurisdiction of the subject matter of this action under Title 28, United States Code, §§ 1331 and 1338(a).
5. This Court has personal jurisdiction over CornerTurn because, on information and belief, CornerTurn conducts substantial business in this District, regularly solicits business from and conducts business with customers in this District, including for example CornerTurn’s contract with Naval Sea Systems Command, Naval Surface Warfare Dahlgren Division, and/or has committed acts of infringement in this District.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)-(c) and § 1400(b).

GENERAL ALLEGATIONS

7. Blackbird designs, manufactures and sells innovative and commercially successful technology solutions to public and private customers in the Defense, Intelligence, and Law Enforcement Communities. Blackbird's success is the result of technical expertise, operational experience, innovative solutions, and a commitment to investment in product development. Blackbird's innovative contributions have been recognized by the United States Patent and Trademark Office through the issuance of various U.S. Patents.

8. Blackbird employs highly-skilled engineers, scientists, researchers, and analysts. Blackbird develops practical, field-ready solutions that successfully meld science with robust and reliable communications technology to provide the highly specialized networks that meet the most stringent requirements for reliability, and security. These solutions are employed on a regular basis by various customers and agencies throughout the Government.

9. Blackbird offers products solving unique and complex challenges in the areas of asset tagging, tracking, and locating; secure, reliable global communication devices and networks; and information security. Blackbird's products include the BAT, iBAT, FOX, and iFOX, which provide asset tracking and location functionality using various communication modes and networks.

10. United States Patent No. 7,843,335 (the "'335 Patent"), entitled "Mobile Asset Tracking Unit, System and Method," was duly and legally issued on November 30, 2010. The '335 Patent was assigned to Blackbird before its issuance. A true and correct copy of the '335 Patent is attached hereto as Exhibit A.

11. United States Patent No. 7,924,153 (the "'153 Patent"), entitled "Mobile Asset Tracking Unit, System and Method," was duly and legally issued on April 12, 2011. The '153 Patent was assigned to Blackbird before its issuance. A true and correct copy of the '153 Patent is attached hereto as Exhibit B.

12. United States Patent No. 7,970,534 (the “‘534 Patent”), entitled “Mobile Unit and System Having Integrated Mapping, Communications and Tracking,” was duly and legally issued on June 28, 2011. The ‘534 Patent was assigned to Blackbird before its issuance. A true and correct copy of the ‘534 Patent is attached hereto as Exhibit C.

13. United States Patent No. 8,099,235 (the “‘235 Patent”), entitled “Mobile Unit and System Having Integrated Mapping, Communications and Tracking,” was duly and legally issued on January 17, 2012. The ‘235 Patent was assigned to Blackbird before its issuance. A true and correct copy of the ‘235 Patent is attached hereto as Exhibit D.

14. United States Patent No. 8,144,008 (the “‘008 Patent”), entitled “Mobile Asset Tracking Unit, System and Method,” was duly and legally issued on March 27, 2012. The ‘008 Patent was assigned to Blackbird before its issuance. A true and correct copy of the ‘008 Patent is attached hereto as Exhibit E.

15. Blackbird is the sole owner of the entire right, title and interest in the ‘335 Patent, the ‘153 Patent, the ‘534 Patent, the ‘235 Patent, and the ‘008 Patent (collectively, the “Blackbird Patents”) including the right to bring suit and recover damages for past infringement.

16. CornerTurn makes, uses, sells, offers to sell, and/or imports products utilizing GPS, satellite, tracking, and/or communication technology protected by the Blackbird Patents, including, but not limited to, CornerTurn’s PRU-5V product and CornerTurn’s PRU-7 product (collectively, the “PRU products”).

17. The PRU products each include a GPS transceiver, a satellite transceiver, a GPS antenna and a satellite antenna. The PRU products allow non-continuous operation of the satellite transceiver, and can automatically activate and/or deactivate the connection of the device with either the GPS network or satellite network. In addition, the PRU products include a tracking module configured to receive an indication of a status of an asset, and a communication module configured to facilitate communication with a computing device remote from the asset using at least two distinct communication modes. The communication module is configured to send a signal to the computing device using a communication mode from the at least two distinct

communication modes. The communication module is also configured to select the communication mode automatically based on the indication of the status of the asset. The Blackbird Patents cover these and other related aspects of the PRU products.

18. In a letter dated June 21, 2012, counsel for Blackbird informed CornerTurn that at least the PRU products infringed each of the Blackbird Patents. The letter stated in no uncertain terms that “the PRU products may infringe at least one claim of each of the Blackbird patents.” Moreover, the letter explained that Blackbird had analyzed the PRU Products and concluded that the PRU products infringed each of the Blackbird Patents. To support its claims, Blackbird included exemplary analysis of infringing aspects of the PRU products, for example: “[t]he PRU products allow non-continuous operation of the satellite transceiver, and can automatically activate and/or deactivate the connection of the device with either the GPS network or satellite network. As you will appreciate, the ‘335 patent covers these and other aspects of such a device.” A true and correct copy of the letter is attached hereto as Exhibit F.

19. CornerTurn acknowledged receipt of the June 21 Letter in a June 25, 2012 voicemail to Blackbird’s counsel.

20. At least as early as June 2012, CornerTurn was put on notice that its manufacture, use, sales, and/or offers for sale of at least the PRU products presented an objectively high likelihood of infringement of the Blackbird Patents. Despite this notice, CornerTurn continued to deliberately and willfully infringe the Blackbird Patents, precipitating the filing of this Complaint.

COUNT ONE – INFRINGEMENT OF THE ‘335 PATENT

21. Plaintiff realleges and incorporates by reference paragraphs 1 through 20 of this Complaint as though set forth in full herein.

22. Defendant has directly infringed one or more claims of the ‘335 Patent under Section 271 of Title 35 of the United States Code by making, using, selling, and/or offering to

sell in the United States and/or importing into the United States devices embodying the inventions claimed in the '335 Patent, including, but not limited to, the PRU products.

23. On information and belief, Defendant will continue to infringe the '335 Patent unless enjoined by this Court.

24. Defendant's infringement of the '335 Patent has been willful.

COUNT TWO – INFRINGEMENT OF THE '153 PATENT

25. Plaintiff realleges and incorporates by reference paragraphs 1 through 24 of this Complaint as though set forth in full herein.

26. Defendant has directly infringed one or more claims of the '153 Patent under Section 271 of Title 35 of the United States Code by making, using, selling, and/or offering to sell in the United States and/or importing into the United States devices embodying the inventions claimed in the '153 Patent, including, but not limited to, the PRU products.

27. On information and belief, Defendant will continue to infringe the '153 Patent unless enjoined by this Court.

28. Defendant's infringement of the '153 Patent has been willful.

COUNT THREE – INFRINGEMENT OF THE '534 PATENT

29. Plaintiff realleges and incorporates by reference paragraphs 1 through 28 of this Complaint as though set forth in full herein.

30. Defendant has directly infringed one or more claims of the '534 Patent under Section 271 of Title 35 of the United States Code by making, using, selling, and/or offering to sell in the United States and/or importing into the United States devices embodying the inventions claimed in the '534 Patent, including, but not limited to, the PRU products.

31. On information and belief, Defendant will continue to infringe the '534 Patent unless enjoined by this Court.

32. Defendant's infringement of the '534 Patent has been willful.

COUNT FOUR – INFRINGEMENT OF THE ‘235 PATENT

33. Plaintiff realleges and incorporates by reference paragraphs 1 through 32 of this Complaint as though set forth in full herein.

34. Defendant has directly infringed one or more claims of the ‘235 Patent under Section 271 of Title 35 of the United States Code by making, using, selling, and/or offering to sell in the United States and/or importing into the United States devices embodying the inventions claimed in the ‘235 Patent, including, but not limited to, the PRU products.

35. On information and belief, Defendant will continue to infringe the ‘235 Patent unless enjoined by this Court.

36. Defendant’s infringement of the ‘235 Patent has been willful.

COUNT FIVE – INFRINGEMENT OF THE ‘008 PATENT

37. Plaintiff realleges and incorporates by reference paragraphs 1 through 36 of this Complaint as though set forth in full herein.

38. Defendant has directly infringed one or more claims of the ‘008 Patent under Section 271 of Title 35 of the United States Code by making, using, selling, and/or offering to sell in the United States and/or importing into the United States devices embodying the inventions claimed in the ‘008 Patent, including, but not limited to, the PRU products.

39. On information and belief, Defendant will continue to infringe the ‘008 Patent unless enjoined by this Court.

40. Defendant’s infringement of the ‘008 Patent has been willful.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. a preliminary and permanent injunction against CornerTurn, their respective officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from acts of infringement of the ‘335 Patent;

- B. a preliminary and permanent injunction against CornerTurn, their respective officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from acts of infringement of the '153 Patent;
- C. a preliminary and permanent injunction against CornerTurn, their respective officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from acts of infringement of the '534 Patent;
- D. a preliminary and permanent injunction against CornerTurn, their respective officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from acts of infringement of the '235 Patent;
- E. a preliminary and permanent injunction against CornerTurn, their respective officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from acts of infringement of the '008 Patent;
- F. a judgment holding CornerTurn liable for infringement of the '335 Patent;
- G. a judgment holding CornerTurn liable for infringement of the '153 Patent;
- H. a judgment holding CornerTurn liable for infringement of the '534 Patent;
- I. a judgment holding CornerTurn liable for infringement of the '235 Patent;
- J. a judgment holding CornerTurn liable for infringement of the '008 Patent;
- K. an accounting of damages resulting from the infringement by CornerTurn of the '335 Patent, together with prejudgment and postjudgment interest;

- L. an accounting of damages resulting from the infringement by CornerTurn of the '153 Patent, together with prejudgment and postjudgment interest;
- M. an accounting of damages resulting from the infringement by CornerTurn of the '534 Patent, together with prejudgment and postjudgment interest;
- N. an accounting of damages resulting from the infringement by CornerTurn of the '235 Patent, together with prejudgment and postjudgment interest;
- O. an accounting of damages resulting from the infringement by CornerTurn of the '008 Patent, together with prejudgment and postjudgment interest;
- P. that the infringement by CornerTurn of the '335 Patent be adjudged willful and Plaintiff's damages be trebled pursuant to Title 35, United States Code, § 284;
- Q. that the infringement by CornerTurn of the '153 Patent be adjudged willful and Plaintiff's damages be trebled pursuant to Title 35, United States Code, § 284;
- R. that the infringement by CornerTurn of the '534 Patent be adjudged willful and Plaintiff's damages be trebled pursuant to Title 35, United States Code, § 284;
- S. that the infringement by CornerTurn of the '235 Patent be adjudged willful and Plaintiff's damages be trebled pursuant to Title 35, United States Code, § 284;
- T. that the infringement by CornerTurn of the '008 Patent be adjudged willful and Plaintiff's damages be trebled pursuant to Title 35, United States Code, § 284;
- U. that this be adjudged an exceptional case and that Plaintiff be awarded its attorneys' fees pursuant to Title 35, United States Code, § 285; and
- V. that the Court grant Plaintiff such other relief as it deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff Blackbird Technologies, Inc. hereby demands a trial by jury of all issues triable of right by a jury.

Dated: September 26, 2012

Respectfully submitted,



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