

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GPNE CORP.,

Plaintiff,

v.

BP AMERICA INC.,

Defendant.

Civil Action No.:

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff GPNE Corp. (“GPNE”) complains upon information and belief of Defendant BP America Inc. (“BP”) as follows:

NATURE OF LAWSUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

THE PARTIES

2. Plaintiff GPNE is a corporation organized and existing under the laws of the state of Delaware with its principal place of business at 2800 Woodlawn Drive, Suite 101, Honolulu, Hawaii 96822.

3. On information and belief, BP America Inc. is a corporation organized and existing under the laws of the state of Delaware with its principal place of business at 501 Westlake Park Boulevard, Houston, Texas 77079. BP America Inc.’s registered agent is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

5. Personal jurisdiction over Defendant is proper in this Court. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b).

THE PATENT-IN-SUIT

6. On December 27, 2011, U.S. Patent No. 8,086,240 (“the ‘240 Patent”), entitled “Data Communication System Using A Reserve Request And Four Frequencies To Enable Transmitting Data Packets Which Can Include A Count Value And Termination Indication Information,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the Patent is attached as Exhibit A to this Complaint.

7. GPNE is the assignee and owner of the right, title and interest in and to the ‘240 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

BACKGROUND

8. Defendant transports more than 1.6 million barrels of oil, refined products, natural gas liquids, carbon dioxide and chemicals per day, and is the second largest liquids pipeline company in the United States. With 9,000 miles of pipelines owned and operated by Defendant or its subsidiaries, affiliates and joint ventures, keeping its drivers safe is critical to the company’s success.

9. Defendant has over 700 vehicles in its pipeline and logistics fleet.

10. Vehicles operated by Defendant as part of its fleet utilize GPRS telematics technology which tracks various metrics to determine the success of its safety program.

11. GPNE advised Defendant of its infringement of the patent-in-suit by letter on February 6, 2014, and the letter was delivered to Defendant on February 10, 2014.

COUNT I - INFRINGEMENT OF U.S. PATENT NO. 8,086,240

12. The allegations set forth in the foregoing paragraphs 1 through 11 are hereby incorporated by reference and realleged.

13. Defendant is directly infringing at least claim 27 of the '240 Patent in this judicial district and elsewhere in the United States, by utilizing the GPRS protocol at least in its method of communicating informatics through the integrated cellular telecommunications system provided in its transportation fleet.

14. GPNE has been damaged as a result of this infringing conduct described in this Count. Defendant is thus liable to GPNE in an amount that adequately compensates it for Defendant's infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

PRAYER FOR RELIEF

GPNE requests that the Court find in its favor and against Defendant and against its respective subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with it, and that the Court grant GPNE the following relief:

A. Judgment that Defendant has infringed the claims of the '240 Patent, either literally and/or under the doctrine of equivalents;

B. Judgment that Defendant accounts for and pays to GPNE all damages to and costs incurred by GPNE because of Defendant's infringing activities and other conduct complained of herein, including without limitation any attorneys' fees if Defendant is found to infringe willfully;

C. Judgment that Defendant accounts for and pays to GPNE a reasonable, ongoing, post-judgment royalty because of Defendant's infringing activities and other conduct complained of herein;

D. That GPNE be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein; and

E. That GPNE be granted such other and further relief as the Court may deem just and proper under the circumstances.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable as presented in this Complaint.

Dated: April 4, 2014

Of Counsel:

Timothy J. Haller

Daniel R. Ferri

NIRO, HALLER & NIRO

181 West Madison Street, Suite 4600

Chicago, IL 60602

Phone: (312) 236-0733

Fax: (312) 236-3137

haller@nshn.com

dferrri@nshn.com

Respectfully submitted,

/s/ George Pazuniak

George Pazuniak (DE Bar No. 00478)

O'KELLY ERNST & BIELLI, LLC

901 North Market Street, Suite 1000

Wilmington, DE 19801

Phone: (302) 478-4230

Fax: (302) 295-2873

gp@del-iplaw.com

Attorneys for Plaintiff, GPNE Corp.