

PUBLICATION

Motor Carriers Targeted by Patent Infringement Suits

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PJC Logistics, LLC has filed lawsuits in a number of federal courts from Virginia to Texas and Oregon, claiming it is the owner of a valid patent entitled "Vehicle Tracking and Security System" issued by the United States Patent Office. The lawsuits claim that numerous defendant motor carriers have infringed the patent by their use of "electronic position-based fleet management and tracking systems in [their] fleet of trucks, vans or other vehicles." Because this is not the type of litigation that motor carriers typically encounter in their operations, we thought it appropriate to share some general information about these suits with companies on our "Alert" distribution lists. This is not an attempt to provide legal advice or to solicit clients for representation in these actions.

In addition to having been solicited by other law firms, some motor carrier defendants may have been contacted by their vendor(s) with an offer to defend their customers. It may well be in each motor carrier's best interest to accept such an offer of defense, but each company should carefully review the terms and conditions of these offers with its regular counsel or other attorneys, who are familiar with patent infringement litigation and with possible pitfalls of being represented by a manufacturer or vendor in such an action. This is especially true if the motor carrier has used tracking equipment from different vendors or manufacturers, or modified equipment from a single manufacturer.

1. How do I find out if my company is a defendant?

Many, if not most, of the motor carrier defendants have not yet been formally served with the Summons and Complaint. Service may be accomplished by certified mail or by personal service on your Registered Agent. You can wait to be served, contact one of the attorneys named below, or click [here](#) to view a list of defendants and venues. It is not wise to contact plaintiff's counsel before being served, and you should discuss any contact by attorneys for PJC Logistics promptly with an attorney who represents your company's interests.

2. What exposure is presented by these cases?

The lawsuits demand judgment in the form of money damages plus interest, attorney fees, costs and expenses and an accounting. Plaintiff's goals are clearly to obtain money from as many motor carriers as possible based on use of a system claimed to be subject to the patent between 2005 [6 years before suit was filed] and 2012 when the patent expires. Typical damages in these types of cases are known as reasonable royalties. A reasonable royalty is the amount a willing licensor and willing licensee would agree upon in a patent license. PJC Logistics may contact you and offer your company early dismissal in return for a quick payment by your company. You should carefully review any such overture with counsel who represent only your company's interests.

3. The following information will help you and your counsel investigate plaintiff's claims and determine your company's appropriate defense options.

Consider the answers to the following questions:

- What systems have you used to monitor the locations and conditions of your vehicles since 2005?
- Who supplied you the systems?
- What agreements do you have with the supplier(s)?
- Do those agreements contain indemnification provisions?
- Who serviced the systems for you?

- What agreements do you have with the servicer(s)?
- Do those agreements contain indemnification provisions?
- What changes in the systems or your use of the systems have taken place since 2005 (e.g. replacements, upgrades, customizations, etc.)?
- Did you participate in designing or implementing the systems other than according to the instructions of the supplier(s) or servicer(s)?
- Do you have any other dealings with the supplier(s) or servicer(s) on any systems other than the vehicle monitoring system(s)?

Baker Donelson's Transportation and Patent lawyers will continue to monitor these cases as they develop.