

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WNS HOLDINGS, LLC AND MARK ALAN
EBERWINE

Plaintiffs,

v.

NORTHWEST AIRLINES, INC.

Defendant.

§
§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO.: 08-cv-305

JURY TRIAL DEMANDED

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs WNS Holdings and Mark Allan Eberwine (collectively “Plaintiffs”) for their Complaint against Northwest Airlines, Inc. (“Northwest”) state as follows:

NATURE OF THE ACTION

This is an action arising under the United States Patent Laws, 35 U.S.C. § 1 *et. seq.* Plaintiffs bring this action to seeking damages and injunctive relief arising out of Northwest’s infringement of U.S. Patent Nos. 5,392,052 and 5,351,194, (collectively, the “Plaintiffs’ Patents”) attached hereto as Exhibits A and B.

THE PARTIES

1.1 Plaintiff WNS Holdings, LLC (“WNS”) is a Georgia limited liability company, in good standing, with its principal place of business in Grand Rapids, Michigan.

1.2 Plaintiff Mark Alan Eberwine is a citizen of the United States residing in Texas.

1.3 Defendant Northwest Airlines, Inc. (“Northwest”) is a corporation with its principal place of business in Minnesota, and which may be served with process by serving its Registered Agent, CT Corporation System, at 8040 Excelsior Dr., Suite 200, Madison WI 53717.

JURISDICTION AND VENUE

2.1 The Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) because the case arises under the federal patent laws, 35 U.S.C. § 1 *et seq.*

2.2 Northwest is registered to do business in Wisconsin and regularly and systematically conducts business activities in this judicial district. Such business activities include regularly operating a commercial airline business that includes flying in and out of this District.

2.3 Northwest has committed acts of patent infringement (as described below) in this District.

2.4 This Court may properly exercise personal jurisdiction over Northwest under Wisconsin’s long arm statute, Wisconsin Statute § 801.05.

GENERAL ALLEGATIONS

3.1 WNS is the owner of duly issued U.S. Patent No. 5,351,194 (the ‘194 Patent).

3.2 Mr. Eberwine is the owner of duly issued U.S. Patent No. 5,392,052 (the ‘052 Patent).

3.3 Northwest provides commercial air service throughout the United States and abroad.

3.4 Northwest aircraft operated in the United States implement a functionality known as Automatic Dependent Surveillance-Broadcast (ADS-B).

3.5 Northwest aircraft that implement ADS-B broadcast information from the aircraft to air traffic control facilities (“ATC”) and other aircraft.

3.6 Northwest aircraft that implement ADS-B broadcast aircraft position information determined onboard the aircraft via a Global Positioning System (“GPS”) along with status information concerning the aircraft. This aspect of ADS-B is known as “ADS-B Out” functionality.

3.7 Upon information and belief, Northwest aircraft that implement ADS-B functionality broadcast aircraft GPS position along with on-ground status information as determined onboard the aircraft from a landing gear switch and emergency status information determined onboard the aircraft from an emergency switch.

3.8 Northwest aircraft operated in the United States and abroad implement functionality known as Automatic Dependent Surveillance-Contract (ADS-C) as part of an intercontinental air traffic control system.

3.9 Northwest aircraft that implement ADS-C perform functionality known as “periodic contract” position reporting in which the aircraft broadcasts its position to ATC pursuant to interrogation. The position information is broadcast from the aircraft to ATC in time-spaced packets via a satellite communication link.

CAUSES OF ACTION

4.1 Plaintiffs hereby restate the allegations set forth in all prior paragraphs and incorporate them herein by reference.

Count I — Infringement of the ‘194 Patent

4.2 Northwest’s operation of aircraft in the United States and abroad that implement ADS-B, including at least “ADS-B Out” broadcast of aircraft position together with aircraft status information determined from one or more switches onboard the aircraft, such as on-ground status

determined from a landing gear switch and emergency status determined from an emergency switch, infringes the '194 Patent.

Count II – Infringement of the '052 Patent

4.3 Northwest's operation of aircraft in United States and abroad that implement ADS-C, including at least the "periodic contract" position reporting functionality of ADS-C, infringes the '052 Patent.

4.4 Plaintiffs have suffered irreparable injury that cannot be adequately compensated by a monetary award as a result of Northwest's infringement of Plaintiffs' Patents, and Plaintiffs will continue to suffer irreparable injury as a result of the continued infringement, unless enjoined by this Court.

4.5 Upon information and belief, UPS's infringement of each of Plaintiffs' Patents is willful.

4.6 Northwest's willful, systematic, extensive and/or continuing infringement of Plaintiffs' Patents render this an exceptional case pursuant to 35 U.S.C. '285.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs seek the following relief of the Court:

(a) Judgment that Northwest has infringed, induced infringement, and committed acts of contributory infringement, with respect to valid claims of U.S. Patents Nos. 5,392,052 and 5,351,194;

(b) An order preliminarily and permanently enjoining Northwest and its affiliates, subsidiaries, officers, directors, agents, employees, representatives, licensees, successors, assigns,

and all those acting for Northwest and on its behalf, or acting in concert with it directly or indirectly, from using avionics equipment that infringes any of the patents identified herein;

(c) An award of damages to Plaintiffs in an amount adequate to compensate each for Northwest's infringement of the Plaintiffs' Patents, but in no event less than a reasonable royalty, together with interest and costs pursuant to 35 U.S.C. 284;

(d) An order enhancing the foregoing damages due to Northwest's willful infringement under 35 U.S.C. 284;

(e) An award of prejudgment and postjudgment interest on damages assessed;

(f) A determination that this is an exceptional case and an award of attorneys' fees and costs incurred in prosecuting this action pursuant to 35 U.S.C. 285; and

(g) An award of such other and further relief as the Court deems just.

Dated: May 27, 2008

Respectfully submitted,

/s/ Richard D. Daly

Michael A. Caddell
SBT No. 03576700
Cynthia B. Chapman
SBT No. 00796339
Richard D. Daly
SBT No. 00796429
Caddell & Chapman
1331 Lamar, Suite 1070
Houston TX 77010-3027
713.751.0400 Telephone
713.751.0906 Facsimile

Attorney for Plaintiffs

WNS HOLDINGS, LLC and MARK ALAN
EBERWINE

Of Counsel:

Stephen P. Hurley
Hurley, Burish & Stanton
33 East Main St., Suite 400
Madison WI 53703
Telephone: (608) 257-0945
Facsimile: (608) 257-5764

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial jury of all issues so triable under the law as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: May 27, 2008

Respectfully submitted,

/s/ Richard D. Daly

Michael A. Caddell
SBT No. 03576700
Cynthia B. Chapman
SBT No. 00796339
Richard D. Daly
SBT No. 00796429
Caddell & Chapman
1331 Lamar, Suite 1070
Houston TX 77010-3027
713.751.0400 Telephone
713.751.0906 Facsimile

Attorney for Plaintiffs

WNS HOLDINGS, LLC, INTELLIGENT
TECHNOLOGIES INTERNATIONAL,
INC., and MARK ALLAN EBERWINE

Of Counsel:

Stephen P. Hurley
Hurley, Burish & Stanton
33 East Main St., Suite 400
Madison WI 53703
Telephone: (608) 257-0945
Facsimile: (608) 257-5764