

**U.S. District Court
Northern District of Ohio (Cleveland)
CIVIL DOCKET FOR CASE #: 1:11-cv-00082-BYP
Internal Use Only**

Progressive Casualty Insurance Company v. Allstate
Insurance Company et al
Assigned to: Judge Benita Y. Pearson
Cause: 35:271 Patent Infringement

Date Filed: 01/12/2011
Jury Demand: Both
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

**Progressive Casualty Insurance
Company**

Pat. # 6,064,970
7,124,088

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**Liberty Mutual
Exhibit 1002**

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PROGRESSIVE CASUALTY INSURANCE
COMPANY,

Plaintiff,

v.

ALLSTATE INSURANCE COMPANY,
ALLSTATE FIRE AND CASUALTY
INSURANCE COMPANY, SAFECO
INSURANCE COMPANY OF ILLINOIS,
SAFECO INSURANCE COMPANY OF
AMERICA, LIBERTY MUTUAL FIRE
INSURANCE COMPANY and LIBERTY
MUTUAL INSURANCE COMPANY,

Defendants.

Case No.

JURY DEMAND

COMPLAINT

Plaintiff Progressive Casualty Insurance Company (“Progressive”), by and through its attorneys, for its complaint against Defendants Allstate Insurance Company (“Allstate Insurance”), Allstate Fire and Casualty Insurance Company (“Allstate Fire”), Safeco Insurance Company of Illinois (“Safeco Illinois”), Safeco Insurance Company of America (“Safeco America”), Liberty Mutual Fire Insurance Company (“Liberty Mutual Fire”) and Liberty Mutual Insurance Company (“Liberty Mutual”), alleges as follows:

1. This action arises under the Patent Laws of the United States, Title 35 of the Unites States Code (for example, 35 U.S.C. §§ 271, 281, 283, 284, and 285) for infringement of U.S. Patent No. 6,064,970 (the “970 patent”) and U.S. Patent No. 7,124,088 (the “088 patent”),

CLI-1862930v1

and Title 15 of the United States Code, and the laws of the state of Ohio, for trademark infringement, unfair competition, and false designation of origin.

PARTIES

2. Progressive is a corporation organized under the laws of the state of Ohio, with its principal place of business at 6300 Wilson Mills Road, Mayfield Village, Ohio 44143.

3. Allstate Insurance is a corporation organized and incorporated under the laws of the state of Illinois, with its principal place of business at Sanders Road, Northbrook, Illinois 60062.

4. Allstate Fire is a corporation organized and incorporated under the laws of the state of Illinois, with its principal place of business at Sanders Road, Northbrook, Illinois 60062. Allstate Insurance and Allstate Fire are collectively referred to herein as "Allstate."

5. Safeco Illinois is a corporation organized and incorporated under the laws of the state of Colorado, with its principal place of business at Safeco Plaza, 1001 4th Avenue, Seattle, Washington 98185.

6. Safeco America is a corporation organized and incorporated under the laws of the State of Washington, with its principal place of business at Safeco Plaza, 1001 4th Avenue, Seattle, Washington 98185. Safeco Illinois and Safeco America are collectively referred to herein as "Safeco."

7. Liberty Fire is a corporation organized and incorporated under the laws of the State of Massachusetts, with its principal place of business at 175 Berkley Street, Boston, Massachusetts 02116.

8. Liberty Mutual is a corporation organized and incorporated under the laws of the State of Massachusetts, with its principal place of business at 175 Berkley Street, Boston,

Massachusetts 02116. Liberty Fire and Liberty Mutual are collectively referred to herein as “Liberty.”

JURISDICTION AND VENUE

9. The Court has jurisdiction over the subject matter of this action pursuant to 15 U.S.C. §§ 1121 and 1125 and 28 U.S.C. §§ 1331 and 1338. This Court has jurisdiction over Progressive’s common law claims pursuant to 28 U.S.C. §§ 1332 and 1367.

10. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400(b).

11. On information and belief, Allstate regularly transacts and conducts business in this district, and, by itself or through one or more agents acting under its control and direction, has committed and/or induced acts of infringement in this district. On information and belief, Safeco regularly transacts and conducts business in this district, and, by itself or through one or more agents acting under its control and direction, has committed and/or induced acts of infringement in this district. On information and belief, Liberty regularly transacts and conducts business in this district, and, by itself or through one or more agents acting under its control and direction, has committed and/or induced acts of infringement in this district. Progressive is suffering from the effects of Defendants’ unlawful conduct in this district.

FACTS COMMON TO ALL COUNTS

United States Patents of Progressive

12. On October 17, 2006, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 7,124,088 (attached as Exhibit A) for an invention related to an online insurance policy service system. Progressive owns the ’088 patent.

13. On May 16, 2000, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 6,064,970 (attached as Exhibit B) for an invention related to the

determination of insurance ratings based upon vehicle monitoring. Progressive owns the '970 patent.

Registered Trademark of Progressive

14. Since 2004, Progressive has invested millions of dollars in advertising and promoting the trademark "DRIVE" in various forms in connection with insurance services.

15. Progressive has exclusive rights under license to use the DRIVE mark described in United States Trademark Registration No. 2,974,452, a copy of which is attached as Exhibit C.

16. Allstate is using the mark Drive Wise in interstate commerce, in connection with insurance services.

COUNT I

Patent Infringement (Against All Defendants) – '088 Patent

A. Allstate

17. Progressive incorporates by reference the allegations set forth in paragraphs 1 through 16 above as though fully asserted herein.

18. On information and belief, Allstate was aware of the '088 patent prior to the acts of infringement alleged herein.

19. On information and belief, Allstate, individually or through one or more agents under its direction and control, has been and still is operating a website entitled "www.Allstate.com" (the "Allstate website").

20. On information and belief, the Allstate website operates as an online insurance policy service system.

21. On information and belief, the Allstate website utilizes a security feature that allows access to insurance policy parameters for a specified policyholder.

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