

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

JOAO CONTROL & MONITORING
SYSTEMS, LLC,

Plaintiff,

v.

NISSAN NORTH AMERICA, INC.,

Defendant.

Civil Action No. 1:14-cv-523

**FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

Plaintiff Joao Control & Monitoring Systems, LLC (“Plaintiff” or “JCMS”), by and through its undersigned counsel, files its First Amended Complaint for Patent Infringement against Defendant Nissan North America, Inc. (“Defendant” or “Nissan”) as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendant’s infringement of Plaintiff’s United States Patent No. 5,917,405 entitled “Control Apparatus and Methods for Vehicles” (hereinafter, the “405 Patent”; a copy of which is attached hereto as Exhibit A), United States Patent No. 6,542,076 entitled “Control, Monitoring and/or Security Apparatus and Method” (the “076 Patent”; a copy of which is attached hereto as Exhibit B), United States Patent No. 6,549,130 entitled “Control Apparatus and Method for Vehicles and/or for Premises” (the “130 Patent”; a copy of which is attached hereto as Exhibit C) (hereinafter the “Patents-in-Suit”), and United States Patent No. 7,397,363 entitled “Control and/or Monitoring Apparatus and Method”(the”363 Patent”; a copy of which is attached hereto as Exhibit D). Plaintiff is the

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owner of the '405 Patent, the '076 Patent, the '130 Patent, and the '363 Patent. Plaintiff seeks injunctive relief and monetary damages.

PARTIES

2. JCMS is a limited liability company organized and existing under the laws of the state of Delaware. Plaintiff maintains its principal place of business at 122 Bellevue Place, Yonkers, Westchester County, New York, 10703. Plaintiff is the owner of the Patents-in-Suit, and possesses all rights thereto, including the exclusive right to exclude the Defendant from making, using, selling, offering to sell or importing in this district and elsewhere into the United States the patented invention(s) of the Patents-in-Suit, the right to sublicense the Patents-in-Suit, and to sue the Defendant for infringement and recover past damages.

3. Upon information and belief, Nissan is a corporation duly organized and existing under the laws of the State of Delaware having its principal place of business located at One Nissan Way, Franklin, Tennessee, 37067. Defendant may be served through its registered agent, The Prentice-Hall Corporation System, Inc., 2711 Centerville Road, Suite 400, Wilmington, Delaware, 19808.

4. Upon information and belief, Nissan ships, distributes, offers for sale, sells, and/or advertises its Products and Services, namely vehicles equipped with systems that may be electronically controlled from a remote location, under the brand name "Nissan."

JURISDICTION AND VENUE

5. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

6. The Court has personal jurisdiction over Defendant because: Defendant has minimum contacts within the State of Delaware and in the District of Delaware; Defendant has purposefully availed itself of the privileges of conducting business in the State of Delaware and in the District of Delaware; Defendant has sought protection and benefit from the laws of the State of Delaware; Defendant regularly conducts business within the State of Delaware and within the District of Delaware, and Plaintiff's causes of action arise directly from Defendant's business contacts and other activities in the State of Delaware and in the District of Delaware.

7. More specifically, Defendant, directly and/or through its intermediaries, ships, distributes, offers for sale, sells, and/or advertises (including the provision of an interactive web page) its products and services in the United States, the State of Delaware, and the District of Delaware. Upon information and belief, Defendant has committed patent infringement in the State of Delaware and in the District of Delaware. Defendant solicits customers in the State of Delaware and in the District of Delaware. Defendant has many paying customers who are residents of the State of Delaware and the District of Delaware and who use Defendant's products and services in the State of Delaware and in the District of Delaware.

8. Venue is proper in the District of Delaware pursuant to 28 U.S.C. §§ 1391 and 1400(b).

BACKGROUND INFORMATION

9. The '405 Patent was duly and legally issued by the United States Patent and Trademark Office on June 29, 1999 after full and fair examination. Plaintiff is the owner of the '405 Patent, and possesses all right, title and interest in the '405 Patent including the right to

enforce the '405 Patent, and the right to sue Defendant for infringement and recover past damages.

10. The '076 Patent was duly and legally issued by the United States Patent and Trademark Office on April 1, 2003 after full and fair examination. Plaintiff is the owner of the '076 Patent, and possesses all right, title and interest in the '076 Patent including the right to enforce the '076 Patent, and the right to sue Defendant for infringement and recover past damages.

11. The '130 Patent was duly and legally issued by the United States Patent and Trademark Office on April 15, 2003 after full and fair examination. Plaintiff is the owner of the '130 Patent, and possesses all right, title and interest in the '130 Patent including the right to enforce the '130 Patent, and the right to sue Defendant for infringement and recover past damages.

12. On information and belief, Defendant has had knowledge of the Patents-in-Suit as early as January 4, 2013, the date Plaintiff sent a letter to Mr. Carlos Ghosn, Chairman and Chief Executive Officer of Nissan, informing Defendant of the Patents-in-Suit. Attached hereto as Exhibit E.

13. On information and belief, Defendant operates, advertises, and/or controls the websites, www.nissanusa.com, through which Defendant advertises, sells, offers to sell, provides and/or educates customers about its products and services, including, but not limited to, Bluetooth® Calling, Bluetooth® Audio Streaming, SiriusXM™ radio, and the NissanConnect system.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 5,917,405

14. Plaintiff re-alleges and incorporates by reference each of Paragraphs 1-13 above.

15. Plaintiff is informed and believes that Defendant has infringed and continues to infringe the '405 Patent either literally or under the doctrine of equivalents. Upon information and belief, Defendant has infringed and continues to infringe one or more claims of the '405 Patent by advertising, providing, selling, and using an apparatus capable of remotely controlling a vehicle system. Defendant provides an onboard computer, incorporated into Defendant's vehicles, that enables remote control of a vehicle system. Specifically, one or more of Defendant's Products and Services, including but not limited to the Bluetooth® Calling, Bluetooth® Audio Streaming, and SiriusXM™ radio through the onboard computer functionality offered in its vehicles, infringe one or more of the claims of the '405 Patent via signals between a communication device (in the case of Bluetooth®) or Server (in the case of SiriusXM™) located remote from the vehicle and satellite or cellular station, a satellite or cellular station located remote from the vehicle and communication device or Server, and the onboard computer located at the vehicle which activates the vehicle's audio system. Defendant's infringing Products and Services are available for sale on its website www.nissanusa.com and through various retailers located in this district.

16. Plaintiff is informed and believes that Defendant and its customers collectively have infringed and continue to infringe the '405 Patent either literally or under the doctrine of equivalents. Upon information and belief, Defendant and its customers have infringed and continue to infringe one or more claims of the '405 Patent by advertising, providing, selling, and using an apparatus capable of remotely controlling a vehicle system. Defendant provides an onboard computer, incorporated into Defendant's vehicles, that enables Defendant's customers

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