

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Kurt M. Rylander, OSB No. 944271
rylander@rylanderlaw.com
Mark E. Beatty, OSB No. 092603
beatty@rylanderlaw.com
RYLANDER & ASSOCIATES PC
PO Box 250
Vancouver, WA 98666
Tel: 360.750.9931
Fax: 360.397.0473
Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON, PORTLAND DIVISION**

MILLER MENDEL, INC., a Washington
Corporation,

Plaintiff,

v.

WASHINGTON COUNTY, OREGON, a
local government, and **WASHINGTON
COUNTY SHERIFF’S OFFICE**, a local
government agency,

Defendant.

Case No. _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

Jury Trial Demanded

Plaintiff, MILLER MENDEL, INC. (“Plaintiff” or “Miller Mendel”), by undersigned
counsel, asserts this Complaint for patent infringement against Defendants, WASHINGTON
COUNTY, OREGON and WASHINGTON COUNTY SHERIFF’S OFFICE, and alleges:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

PARTIES

1. Plaintiff Miller Mendel is a Washington corporation, with its principal place of business in Seattle, Washington, with an exclusive license to United States Patent No. 10,043,188 B2 (hereinafter, “the ‘188 Patent”) with the right to sublicense to third parties.

2. Upon information and belief, Defendant Washington County, Oregon is a county in the State of Oregon and Defendant Washington County Sheriff’s Office is an agency of that county.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. §§ 100 *et seq.*, particularly at least Sections 271, 281 through 285, and 295 of Title 35 of the United States Code. Jurisdiction is proper under 28 U.S.C. §§ 1331 and 1338. Defendants are situated and resides within this state and judicial district and is subject to personal jurisdiction.

4. Venue is proper in this District pursuant to 28 U.S.C. §§ 1400.

5. While Plaintiff contends notice under the Oregon Tort Claims Act is not required, on or about December 9, 2020, Plaintiff protectively served upon Defendants a tort claim notice consistent with the requirements of ORS 30.275. Defendants have not responded.

CLAIM FOR RELIEF

(Patent Infringement)

6. Plaintiff adopts and re-alleges each and every numbered paragraph above as if set forth verbatim herein at this point.

7. The ‘188 Patent, which is entitled “Background Investigation Management

1
2
3 Service,” issued on August 7, 2018. A true and correct copy of the ‘188 Patent is attached
4 hereto as **Exhibit “1”** and by this reference incorporated herein.

5 8. The ‘188 Patent was duly and legally issued by the United States Patent &
6 Trademark Office after full and fair examination. Tyler Miller, the owner of all right title and
7 interest in and to the ‘188 Patent, exclusively licensed the ‘188 Patent to Miller Mendel, Inc.

8 9. Plaintiff manufactures, markets and sells through one or more licensees within
9 the United States products, including eSOPH system, covered by the ‘188 Patent (“Plaintiff’s
10 Licensed Products”).

11 10. Section 271, of Title 35 of the United States Code, provides that whoever uses
12 any patented invention within the United States infringes the patent. *See also* Section 271(h).

13 11. Plaintiff is informed and believe and based thereon allege that Defendants had
14 notice of the ‘188 Patent.

15 12. Plaintiff is informed and believes and on that basis alleges that Defendants use
16 a product, the Guardian Alliance Technologies investigation software platform (“the
17 Guardian Platform”), which infringes one or more claims of the ‘188 Patent, including at
18 least Claims 1, 5, and 15, and all elements thereof; that Defendants have, within the past six
19 years infringed, and continue to literally and/or equivalently infringe one or more claims of
20 the ‘188 Patent, including at least Claims 1, 5 and 15, and all elements thereof, by using the
21 Guardian Platform in this district without the consent or permission of Plaintiff, including,
22 for example, literally and/or equivalently infringing Claim 1 of the ‘188 Patent by using the
23 Guardian Platform on a computing device with a processor and system memory, assisting an
24 investigator in conducting a background investigation of an application within an
25 organization by:
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

receiving a first set of program data comprising information identifying the applicant , the position , the organization , and the investigator;

storing a new applicant entry in the system memory, the new applicant entry associated with the first set of program data;

transmitting an applicant hyperlink to an applicant email address associated with the applicant, the applicant hyperlink for viewing an applicant set of electronic documents;

receiving an applicant electronic response with a reference set of program data, wherein the reference set of program data comprises information regarding a reference source, wherein the reference source is a person, the program data including a reference email address associated with the reference source;

determining a reference class of the reference source based on the reference set of program data;

selecting a reference set of electronic documents based on the reference class of the reference source;

transmitting a reference hyperlink to the reference email address, the reference hyperlink for viewing the reference set of electronic documents;

receiving a reference electronic response to the reference set of electronic documents from the reference source;

storing the reference electronic response in the system memory, associating the reference electronic response with the new applicant entry; and

generating a suggested reference list of one or more law enforcement agencies based on an applicant residential address.

13. Plaintiff is entitled to recover from Defendants the damages sustained by Plaintiff as a result of Defendants’ wrongful acts in an amount subject to proof at trial, but not less than a reasonable royalty.

14. Plaintiff is informed and believes and on that basis alleges Defendants’ infringement started at least as early as August 30, 2020, and is ongoing.

15. Plaintiff has offered and sold to law enforcement agencies nationwide, during the entire time that Defendants have used the infringing GAT Platform, its own software system (the electronic Statement of Personal History (“eSOPH”)) which directly competes

1
2
3 with the GAT Platform.

4 16. Defendants' infringing use will cause ongoing and future harm to Plaintiff,
5 which may be difficult or impossible to reduce to a sum certain of money damages.

6 17. Plaintiff has been and continues to be irreparably harmed by the acts of
7 Defendants and this harm is not remediable by damages alone. A patent is a property right of
8 limited duration. Every day of continuing infringement lessens, taints, and depletes the rights
9 and entitlements granted by the '188 Patent.

10 18. WCSO's adoption and use of the infringing GAT Platform acts as an
11 endorsement to encourage other law enforcement agencies to also infringe by adopting the
12 infringing GAT Platform.

13 19. The public has an overriding interest in protecting patent rights and in the
14 enforcement of patent laws.

15 20. Defendants' infringement of Plaintiff's exclusive rights under the '188 Patent
16 will continue to damage Plaintiff's business, causing irreparable harm for which there is no
17 adequate remedy at law, unless enjoined by this Court.

18 21. Defendants have infringed and continues to infringe the '188 Patent directly
19 and/or through acts of inducement in violation of 35 U.S.C. § 271(a) and/or (b).

20 22. As a result of Defendants' infringement, Plaintiff suffered and continues to
21 suffer damages in an amount to be determined at trial.

22 23. Unless Plaintiff receives temporary, preliminary, and permanent injunctive
23 relief enjoining Defendants' use of infringing products and systems, including the Guardian
24 Platform, Plaintiff will be irreparably injured.

25 24. Plaintiff is informed and believes that Defendants' infringement of the '188
26
27
28

1
2 Patent has been willful and deliberate, entitling Plaintiff to increased damages under 35
3 U.S.C. § 284, and, in addition, Defendants' conduct renders this an exceptional case under
4 35 U.S.C. § 285, thus entitling Plaintiff to an award of attorney fees.
5

6 25. To the extent of any claim to sovereign immunity, Plaintiff is informed and
7 believe and therefore contend such immunity has been and/or should be considered to have
8 been waived.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff prays that judgment be entered in their favor and against
11 Defendants and for relief including:

- 12 1. Declaring the '188 Patent claims to be infringed by Defendants;
13
14 2. Finding the Defendants liable for the infringement, and the damages flowing
15 therefrom.
16
17 3. Awarding and ordering all damages suffered by Plaintiff due to Defendants'
18 infringement of the claims of the '188 Patent, including all amounts necessary to make
19 Plaintiff whole, but not less than a reasonable royalty, pursuant to 35 U.S.C. § 284;
20
21 4. Awarding to Plaintiff enhanced damages up to and including trebling of
22 Plaintiff's damages pursuant to 35 U.S.C. § 284;
23
24 5. Enjoining Defendants from using any products which infringe the '188 Patent,
25 to wit, the Guardian Platform;
26
27 6. Awarding Plaintiff its costs of suit, including reasonable attorneys' fees
28 pursuant to, *inter alia*, 35 U.S.C. § 285 due to the exceptional nature of this case, or as
29 otherwise permitted by law;
30
31 7. Awarding pre- and post- judgment interest; and,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

8. Awarding such other and further relief as may be just and proper.

DEMAND FOR JURY

Plaintiff hereby demands a jury trial of all issues so triable.

DATED This February 1, 2021

/s/ Kurt M. Rylander
KURT M. RYLANDER, OSB 944271

/s/ Mark E. Beatty
MARK E. BEATTY, OSB 092603

RYLANDER & ASSOCIATES PC
PO Box 250
Vancouver, WA 98666
Tel: (360) 750-9931
Fax: (360) 397-0473
E-mail: rylander@rylanderlaw.com
beatty@rylanderlaw.com
Of Attorneys for Plaintiff