



agency of that municipality.

### **JURISDICTION AND VENUE**

4. 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 are subject to personal jurisdiction.

5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1400. Plaintiffs are informed and believe and on that basis allege Defendants reside in this judicial district, have committed and are committing the complained of acts of infringement in this judicial district, and have a regular and established place of business in this judicial district.

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

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

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

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

11. Plaintiff is informed and believes and based thereon alleges that Defendants had notice of the '188 Patent.

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

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 in 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 with the GAT Platform.

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

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

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

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

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

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

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

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

24. Plaintiff is informed and believes that Defendants' infringement of the '188 Patent has been willful and deliberate, entitling Plaintiff to increased damages under 35 U.S.C. § 284, and, in addition, Defendants' conduct renders this an exceptional case under 35 U.S.C. § 285, thus entitling Plaintiff to an award of attorney fees.

25. To the extent of any claim to sovereign or other immunity, Plaintiff asserts neither the Eleventh Amendment nor the Texas Tort Claims Act applies to a Federal cause of action for patent infringement against a municipality or agency of a municipality, and further and in the alternative contend that Plaintiff is informed and believes and therefore contends any immunity has been and/or should be considered to have been waived and/or in alternative excepted by Texas Civil Practice and Remedies Code, Title 5, Secs. 101.025, 101.021 and 101.0215.

**PRAYER FOR RELIEF**

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

1. Declaring the '188 Patent claims to be infringed by Defendants;
2. Finding the Defendants liable for the infringement, and the damages flowing therefrom.
3. Awarding and ordering all damages suffered by Plaintiff due to Defendants' infringement of the claims of the '188 Patent, including all amounts necessary to make Plaintiff whole, but not less than a reasonable royalty, pursuant to 35 U.S.C. § 284;
4. Awarding to Plaintiff enhanced damages up to and including trebling of Plaintiff's damages pursuant to 35 U.S.C. § 284;
5. Enjoining Defendants from using any products which infringe the '188 Patent, to wit, the Guardian Platform;
6. Awarding Plaintiff its costs of suit, including reasonable attorneys' fees pursuant to, *inter alia*, 35 U.S.C. § 285 due to the exceptional nature of this case, or as otherwise permitted by law;
7. Awarding pre- and post- judgment interest; and,
8. Awarding such other and further relief as may be just and proper.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a jury trial on all issues and causes of action triable to a jury.

Date: December 2, 2021

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