

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

GATX CORPORATION,

Plaintiff,

v.

BIG WILL ENTERPRISES INC.,

Defendant.

Case No. 1:26-cv-8492

**COMPLAINT FOR
DECLARATORY JUDGMENT**

DEMAND FOR JURY TRIAL

Plaintiff GATX Corporation (“GATX”), by and through its undersigned counsel, files this Complaint for Declaratory Judgment of Non-Infringement against Defendant Big Will Enterprises Inc. (“BWE”) and in support of its Complaint alleges as follows:

INTRODUCTION

1. This is an action for a declaratory judgment of non-infringement of U.S. Patent Nos. 8,452,273 (“the ’273 Patent”) (**Ex. 1**); 9,049,558 (“the ’558 Patent”) (**Ex. 2**); 8,559,914 (“the ’914 Patent”) (**Ex. 3**); 8,737,951 (“the ’951 Patent”) (**Ex. 4**); 9,799,063 (“the ’063 Patent”) (**Ex. 5**); 8,977,230 (“the ’230 Patent”) (**Ex. 6**); 10,521,846 (“the ’846 Patent”) (**Ex. 7**); and 9,141,974 (“the ’974 Patent”) (**Ex. 8**) (collectively, the “Patents-in-Suit”) against BWE arising under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, and the patent laws of the United States, Title 35 of the United States Code.

2. Since its founding in 1898, GATX has been a leader in the leasing and management of transportation assets, including railcars and locomotives. GATX has a long history of investment in technology to enhance the safety, efficiency, and transparency of rail freight

transport. Through its ongoing investments, GATX has developed substantial engineering and technical expertise in the design, monitoring, and maintenance of railcars and related transportation equipment.

3. BWE has recently embarked on a patent assertion campaign demonstrating a pattern of meritless claims. BWE is a non-practicing entity that does not develop, manufacture, or sell any products or services relating to the patents it asserts. Rather, BWE sues potential targets who do not readily submit to its licensing demands. BWE has engaged in a pattern of serial patent assertions by filing numerous lawsuits against defendants in a wide array of industries, including Montblanc, Nationwide Insurance, Unaliwear, Autoliv, Matrix Telematics, Allstate, Kia, Rivian, and many others. The overwhelming majority of these cases have been dismissed with prejudice within weeks of filing, and often before the defendant has even filed an answer—a pattern consistent with nuisance-value settlements or licensing demands extracted under the threat of costly litigation rather than any genuine belief in the merits of BWE’s infringement claims.

4. BWE’s latest assertion activities target GATX in this District. However, GATX does not infringe any claims of the Patents-in-Suit. GATX brings this declaratory judgment action to remove the cloud of uncertainty created by BWE’s assertion against it and resolve this justiciable controversy.

PARTIES

5. GATX is a corporation organized and existing under the laws of the State of New York and has its principal place of business located at 233 S. Wacker Drive, Chicago, Illinois 60606.

6. On information and belief, BWE is a British Columbia company, incorporated in Canada having its principal place of business at 4573 West 1st Avenue, Vancouver, British Columbia V6R 1H7, Canada.

JURISDICTION AND VENUE

7. The Court has subject matter jurisdiction over the claims alleged in this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), because this action involves claims arising under the patent laws of the United States, 35 U.S.C. § 1, et seq., and under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. For the reasons stated herein, BWE has created a real, live, immediate, and justiciable case or controversy between BWE and GATX with regard to alleged infringement of the Patents-in-Suit.

8. This Court has personal jurisdiction over BWE consistent with the requirements of the Due Process Clause of the United States Constitution and the Illinois long-arm statute because BWE has continuous and systematic business contacts in this District, has purposely directed its business activities at residents of this District, and has conducted business activities relating to the Patents-in-Suit in this District. On information and belief, BWE has intentionally directed its patent licensing and enforcement activities concerning the Patents-in-Suit toward companies having principal places of business and/or operations located in this District. For example, The Allstate Corporation and Allstate Insurance Company have corporate headquarters located in this District. BWE has intentionally conducted business in this District related to its patent enforcement activities by enforcing the Patents-in-Suit against, and on information and belief entering into patent license and/or settlement agreements with, The Allstate Corporation and Allstate Insurance Company.¹ On information and belief, BWE directed numerous

¹ See, e.g., *Big Will Enterprises Inc. v The Allstate Corporation et al.*, 2:23-cv-00090 (EDTX), Dkt. 11 (Voluntary Dismissal with Prejudice filed by BWE).

communications to this District for purposes of licensing the Patents-in-Suit with The Allstate Corporation and Allstate Insurance Company.

9. On information and belief, BWE's intentional business activities in this District also include deriving patent licensing and/or litigation settlement payments concerning the Patents-in-Suit from allegedly infringing activities occurring in this District. BWE has enforced the Patents-in-Suit against, and on information and belief has entered into licensing and/or litigation settlement agreements with, the following entities that operate business in Illinois, and whose Illinois operations constitute license-bearing commercial activity to BWE: Rivian Automotive, Inc.; Kia America, Inc.; Mitsubishi Corporation (Americas); Mitsubishi Motors North America; Enterprise Holdings, Inc.; Loomis Armored US, LLC; Autozone, Inc.; Earnix, Inc.; Autoliv ASP, Inc.; The American Automobile Association, Inc.; Nationwide Mutual Insurance Co.; Montblanc North America, LLC; and Uber Technologies, Inc. (**Ex. 9.**) BWE's minimum contacts with this forum allow this Court to exercise personal jurisdiction over BWE and do not offend any traditional notions of fair play and substantial justice.

10. BWE's contacts with this District also include intentionally directing its licensing and enforcement demands for monetizing the Patents-in-Suit towards GATX. BWE has sent numerous communications into this District in connection with its enforcement of the Patents-in-Suit. On May 4, 2026, BWE sent a letter to GATX at 233 S. Wacker Drive, Chicago, Illinois 60606 in this District identifying the Patents-in-Suit, providing allegations of infringement relating to the Patents-in-Suit, and demanding licensing monies and/or an injunction with compensation for "past unauthorized use." (**Ex. 10** at 59.) Thereafter, BWE repeatedly communicated with GATX's outside counsel, also located in this District, in connection with its patent enforcement efforts concerning the Patents-in-Suit. Between May 21, 2026 and the present date, BWE sent no

fewer than eight email communications into this District in connection with its patent enforcement efforts against GATX, and also conducted at least one phone call with GATX's outside counsel located in this District in connection with its patent enforcement efforts. BWE repeatedly followed up on its licensing demands, including by sending into this District a copy of its standard licensing agreement to create a business relationship concerning the Patents-in-Suit.

11. BWE's business involves suing companies located in this District, including The Allstate Corporation and Allstate Insurance Company, and leaving them the choice to either expend significant resources defending themselves in court or submit to a licensing agreement. If BWE is successful in its threat, a resident of this District—such as The Allstate Corporation, Allstate Insurance Company, or GATX—transforms from a potential licensee to BWE's customer. Here, BWE seeks GATX's business in one fashion or the other—by licensing or by litigation judgments.

12. Because of its continuous and systemic contacts within this District, including those directly relating to GATX and the Patents-in-Suit giving rise to the events herein, BWE has purposefully directed its commercial, licensing, and enforcement activities at this District, thereby subjecting itself to personal jurisdiction in this District. BWE does business in the State of Illinois.

13. Alternatively, because BWE's principal place of business is in Canada, personal jurisdiction would also be appropriate under Federal Rule of Civil Procedure 4(k).

14. Venue is proper in this District under 28 U.S.C. § 1391. Because BWE is a foreign entity that does not reside in the United States, venue over it is proper in any federal district because “a defendant not resident in the United States may be sued in any judicial district.” *See* 28 U.S.C. § 1391(c)(3).

15. An actual and justiciable controversy of sufficient immediacy exists under 28 U.S.C. §§ 2201-2202 between GATX and BWE as to whether the claims of the Patents-in-Suit are infringed by GATX. BWE has clearly and explicitly told GATX that it believes GATX infringes the Patents-in-Suit. For example, BWE mailed a cease and desist demand letter dated May 4, 2026, and stated to GATX: “Following a thorough review of your technologies and operations, it has been determined that certain components and functionalities infringe upon multiple patents owned by BWE.” (**Ex. 10** at 59.) In the letter, BWE included “representative claim charts identifying how GATX’s use and/or deployment of PIVOT and similar railcar telematics systems practices one or more elements of the Asserted Patents....” (*Id.* at 2.) The letter also included “Enclosures (on thumb drive).” (*Id.* at 60.) On this thumb drive, BWE included four additional patents, whereby BWE’s statement that “certain components and functionalities infringe upon multiple patents owned by BWE,” also accused GATX of infringing these additional patents. Upon review, BWE has asserted one or more of these additional patents against defendants alongside other patents in the Patents-in-Suit, and such additional patents are of similar subject matter to those identified in BWE’s infringement allegations.

16. BWE made clear to GATX in its letter that GATX must either pay licensing fees to BWE for alleged infringement, cease use of allegedly infringing technology, or be sued by BWE. BWE stated that there were “two clear pathways toward resolution,” which included (1) “a licensing agreement with BWE, which would allow [GATX] to lawfully continue the use of the referenced technologies . . . without further legal implications,” or (2) “cease all use of infringing technologies and provide appropriate compensation for past unauthorized use.” (**Ex. 10** at 59.) BWE stated in the letter that it “is fully prepared to enforce its patent rights through all appropriate legal channels if necessary.” (*Id.*) To date, BWE has filed over thirty (30) patent infringement

lawsuits against companies that did not initially enter into a license agreement, and GATX understands BWE's statements in its letter as a direct threat of an imminent patent infringement lawsuit if GATX does not pay compensation to BWE. (**Ex. 9**; **Ex. 10** at 59.)

17. This controversy is of an immediate nature. BWE's May 4, 2026 letter stated that "[g]iven the seriousness of this matter, we urge you to treat this issue with urgency." (**Ex. 10** at 59.) BWE followed up by email on June 8, 2026, stating that "I am under pressure to move some files forward." After additional email exchanges, BWE followed up again on June 23, 2026 with the same message: "I am following up on the BWE license offer as I am under pressure to move some files forward." After a phone call between GATX's outside counsel and BWE, BWE followed up again on its licensing demands on July 13, 2026 and again on July 17, 2026.

18. In view of the foregoing, a threat of actual and imminent injury exists as to GATX that can be addressed by judicial relief. The injury to GATX includes uncertainty as to whether its actions in connection with the PIVOT system and similar systems will be free from infringement claims based on each of the Patents-in-Suit. Consequently, the injury is sufficiently immediate and irreparable to warrant the issuance of a declaratory judgment.

PATENTS-IN-SUIT

19. The following patents are at issue in this litigation, which are referred to collectively herein as the "Patents-in-Suit."

20. On May 28, 2013, the United States Patent and Trademark Office issued United States Patent No. 8,452,273 ("the '273 Patent"), entitled "Systems and Methods for Determining Mobile Thing Motion Activity (MTMA) Using Accelerometer of Wireless Communication Device," to Maria Khomenko, Martin Kelly Jones, and Scott Andrew Horstemeyer. A true and correct copy of the '273 Patent is attached to this Complaint as **Ex. 1**. On information and belief, BWE purports to be the current assignee or owner of the '273 Patent.

21. On June 2, 2015, the United States Patent and Trademark Office issued United States Patent No. 9,049,558 (“the ’558 Patent”), entitled “Systems and Methods for Determining Mobile Thing Motion Activity (MTMA) Using Sensor Data of Wireless Communication Device (WCD) and Initiating Activity-Based Actions,” to Martin Kelly Jones, Scott Andrew Horstemeyer, and Maria Khomenko. A true and correct copy of the ’558 Patent is attached to this Complaint as **Ex. 2**. On information and belief, BWE purports to be the current assignee or owner of the ’558 Patent.

22. On October 15, 2013, the United States Patent and Trademark Office issued United States Patent No. 8,559,914 (“the ’914 Patent”), entitled “Interactive Personal Surveillance and Security (IPSS) System,” to M. Kelly Jones. A true and correct copy of the ’914 Patent is attached to this Complaint as **Ex. 3**. On information and belief, BWE purports to be the current assignee or owner of the ’914 Patent.

23. On May 27, 2014, the United States Patent and Trademark Office issued United States Patent No. 8,737,951 (“the ’951 Patent”), entitled “Interactive Personal Surveillance and Security (IPSS) Systems and Methods,” to Martin Kelly Jones and Scott Andrew Horstemeyer. A true and correct copy of the ’951 Patent is attached to this Complaint as **Ex. 4**. On information and belief, BWE purports to be the current assignee or owner of the ’951 Patent.

24. On October 24, 2017, the United States Patent and Trademark Office issued United States Patent No. 9,799,063 (“the ’063 Patent”), entitled “Purchase Good or Service Based Upon Detected Activity and User Preferences in Wireless Communication Device,” to Martin Kelly Jones, Scott Andrew Horstemeyer, and Maria Khomenko. A true and correct copy of the ’063 Patent is attached to this Complaint as **Ex. 5**. On information and belief, BWE purports to be the current assignee or owner of the ’063 Patent.

25. On March 10, 2015, the United States Patent and Trademark Office issued United States Patent No. 8,977,230 (“the ’230 Patent”), entitled “Interactive Personal Surveillance and Security (IPSS) Systems and Methods,” to Martin Kelly Jones and Scott Andrew Horstemeyer. A true and correct copy of the ’230 Patent is attached to this Complaint as **Ex. 6**. On information and belief, BWE purports to be the current assignee or owner of the ’230 Patent.

26. On December 31, 2019, the United States Patent and Trademark Office issued United States Patent No. 10,521,846 (“the ’846 Patent”), entitled “Targeted Advertisement Selection for a Wireless Communication Device (WCD),” to Martin Kelly Jones and Scott Andrew Horstemeyer. A true and correct copy of the ’846 Patent is attached to this Complaint as **Ex. 7**. On information and belief, BWE purports to be the current assignee or owner of the ’846 Patent.

27. On September 22, 2015, the United States Patent and Trademark Office issued United States Patent No. 9,141,974 (“the ’974 Patent”), entitled “Systems and Methods for Determining Mobile Thing (MT) Identification and/or MT Motion Activity Using Sensor Data of Wireless Communication Device,” to Martin Kelly Jones, Scott Andrew Horstemeyer, and Maria Khomenko. A true and correct copy of the ’974 Patent is attached to this Complaint as **Ex. 8**. On information and belief, BWE purports to be the current assignee or owner of the ’974 Patent.

28. BWE has asserted or threatened to assert the Patents-in-Suit against GATX. BWE has alleged that “GATX uses and/or deploys railcar telematics and remote monitoring systems for railcar fleet visibility, customer-service improvement, condition monitoring, utilization tracking, and operational decision-making, including the PIVOT railcar remote monitoring solution and related railcar-mounted sensor, gateway, wireless reporting, and remote platform functionality.” (**Ex. 10** at 1.) BWE asserts that GATX’s alleged use of the PIVOT system (“Accused Products”) “infringe[s] upon multiple patents owned by BWE.” (*Id.* at 59.)

COUNT I:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '273 PATENT

29. GATX realleges and incorporates all preceding paragraphs as if fully set forth herein.

30. The '273 Patent purports to disclose “[s]ystems, apparatus, and methods . . . for accurately identifying a moving thing motion activity (MTMA) associated with a mobile thing (MT) using only accelerometer data from a wireless communication device (WCD) transported by the MT so as to enable or initiate a further one or more activity based actions.” (Ex. 1 at Abstract.)

Claim 1 of the '273 Patent recites:

A method, comprising:

receiving a time value and three streams of data sample values from an accelerometer of a wireless communication device (WCD) that is transported by a mobile thing (MT), each data sample value indicative of an acceleration of the WCD along an axis of a three dimensional (3D) coordinate system at a corresponding time value;

recognizing a particular set of data sample values as a reference in the 3D coordinate system for defining a relationship between an orientation of the WCD and a two dimensional (2D) coordinate system;

computing reference data based upon the recognition of the particular set, the reference data defining a relationship between each set of subsequent non-reference data sample values and the particular reference set of data sample values in the 2D coordinate system;

calculating movement data in the 2D coordinate system of one or more other non-reference data sample values based upon the reference data; and

determining a moving thing motion activity (MTMA) associated with the MT based upon the movement data.

(Ex. 1, claim 1.)

31. BWE asserts the Accused Products practice at least one claim of the '273 Patent.

32. GATX has not infringed and does not infringe at least claim 1 of the '273 Patent, either directly or indirectly, literally or under the doctrine of equivalents, including through its make, use, sale, or offer for sale in, or importation into, the United States of the Accused Products.

33. The Accused Products do not infringe the '273 Patent at least because they do not include or practice multiple limitations required by claim 1, including but not limited to: “recognizing a particular set of data sample values as a reference in the 3D coordinate system for defining a relationship between an orientation of the WCD and a two dimensional (2D) coordinate system; computing reference data based upon the recognition of the particular set, the reference data defining a relationship between each set of subsequent non-reference data sample values and the particular reference set of data sample values in the 2D coordinate system; calculating movement data in the 2D coordinate system of one or more other non-reference data sample values based upon the reference data; and determining a moving thing motion activity (MTMA) associated with the MT based upon the movement data.” (Ex. 1, claim 1.)

34. As set forth above, a substantial controversy of sufficient immediacy and concreteness exists between GATX and BWE with respect to infringement of the '273 Patent. Accordingly, a judicial declaration is necessary and appropriate so that GATX may ascertain its rights regarding the claims of the '273 Patent.

COUNT II:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '558 PATENT

35. GATX realleges and incorporates all preceding paragraphs as if fully set forth herein.

36. The '558 Patent purports to disclose “[s]ystems, apparatus, and methods . . . for accurately identifying a moving thing motion activity (MTMA) associated with a mobile thing (MT) using sensor data from one or more sensors associated with a wireless communication device

(WCD) transported by the MT so as to enable or initiate a further one or more activity based actions.” (Ex. 2 at Abstract.) The ’558 Patent is a continuation related to the ’273 Patent. Claim 1 of the ’558 Patent recites:

A method, comprising:

receiving a time value and at least three streams of data sample values from one or more sensors of a wireless communication device (WCD) that is transported by a mobile thing (MT), each data sample value indicative of movement of the WCD at a corresponding time value;

recognizing a particular set of data sample values as a reference for defining an orientation of the WCD in a coordinate system;

computing reference data based upon the recognition of the particular set, the reference data defining a relationship between each set of subsequent non-reference data sample values and the particular reference set of data sample values in the coordinate system;

calculating movement data in the coordinate system of one or more other non-reference data sample values based upon the reference data; and

determining a mobile thing motion activity (MTMA) associated with the MT based upon the movement data.

(Ex. 2, claim 1.)

37. BWE asserts the Accused Products practice at least one claim of the ’558 Patent.

38. GATX has not infringed and does not infringe at least claim 1 of the ’558 Patent, either directly or indirectly, literally or under the doctrine of equivalents, including through its make, use, sale, or offer for sale in, or importation into, the United States of the Accused Products.

39. The Accused Products do not infringe the ’558 Patent at least because they do not include or practice multiple limitations required by claim 1, including but not limited to: “recognizing a particular set of data sample values as a reference for defining an orientation of the WCD in a coordinate system; computing reference data based upon the recognition of the particular set, the reference data defining a relationship between each set of subsequent non-

reference data sample values and the particular reference set of data sample values in the coordinate system; calculating movement data in the coordinate system of one or more other non-reference data sample values based upon the reference data; and determining a mobile thing motion activity (MTMA) associated with the MT based upon the movement data.” (Ex. 2, claim 1.)

40. As set forth above, a substantial controversy of sufficient immediacy and concreteness exists between GATX and BWE with respect to infringement of the ’558 Patent. Accordingly, a judicial declaration is necessary and appropriate so that GATX may ascertain its rights regarding the claims of the ’558 Patent.

COUNT III:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE ’914 PATENT

41. GATX realleges and incorporates all preceding paragraphs as if fully set forth herein.

42. The ’914 Patent purports to disclose “[a]n interactive personal surveillance and security (IPSS) system for users carrying wireless communication devices. The system utilizes portable communication devices that are also capable of capturing and/or sending surveillance information. The system allows users carrying these devices to automatically capture surveillance information, have the information sent to one or more automated and remotely located surveillance (RLS) systems, and establish interactivity for the verification of determining secure or dangerous environments, encounters, logging events, or other encounters or observations.” (Ex. 3 at Abstract.) Claim 15 of the ’914 Patent recites:

A method comprising the steps of:

determining, by a computing device, a user activity and/or user surroundings;

determining, by the computing device, a surveillance mode that corresponds to the user activity and/or the user surroundings;

facilitating, by the computing device, a user-defined response to the user activity and/or the user surroundings; and

communicating, by the computing device, surveillance information to at least one remotely located computer device.

(Ex. 3, claim 15.)

43. BWE asserts the Accused Products practice at least one claim of the '914 Patent.

44. GATX has not infringed and does not infringe at least claim 15 of the '914 Patent, either directly or indirectly, literally or under the doctrine of equivalents, including through its make, use, sale, or offer for sale in, or importation into, the United States of the Accused Products.

45. The Accused Products do not infringe the '914 Patent at least because they do not include or practice multiple limitations required by claim 15, including but not limited to: “determining, by a computing device, a user activity and/or user surroundings; determining, by the computing device, a surveillance mode that corresponds to the user activity and/or the user surroundings; facilitating, by the computing device, a user-defined response to the user activity and/or the user surroundings; and communicating, by the computing device, surveillance information to at least one remotely located computer device.” (Ex. 3, claim 15.)

46. As set forth above, a substantial controversy of sufficient immediacy and concreteness exists between GATX and BWE with respect to infringement of the '914 Patent. Accordingly, a judicial declaration is necessary and appropriate so that GATX may ascertain its rights regarding the claims of the '914 Patent.

COUNT IV:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '951 PATENT

47. GATX realleges and incorporates all preceding paragraphs as if fully set forth herein.

48. The '951 Patent purports to disclose “[e]mbodiments relating to an interactive personal surveillance and security (IPSS) system . . . provided for one or more users carrying one or more respective wireless personal communication devices (WCDs) that are capable of capturing and sending surveillance information (e.g., video, images, audio, sensor data, etc.) to one or more remotely located servers (RLSs). From the information, the RLSs can identify and secure dangerous environments, encounters, etc., and log events or take other actions.” (Ex. 4 at Abstract.) Claim 1 of the '951 Patent recites:

A wireless communications device (WCD), comprising:

one or more memories that store computer program code; and

one or more processors that execute the computer program code, the computer program code comprising:

instructions to enter a first mode of operation involving a first investigation process with one or more sensors, the first investigation process capturing first data with the one or more sensors;

instructions to determine whether or not the first data is indicative of an activity relating to a user need for assistance, an accident, or a crime; and

instructions to, when the first data may involve the activity, enter into a second mode of operation involving a second investigation process that is different than the first investigation process and that involves the one or more sensors and/or one or more other sensors in order to capture second data that is further indicative of the activity.

(Ex. 4, claim 1.)

49. BWE asserts the Accused Products practice at least one claim of the '951 Patent.

50. GATX has not infringed and does not infringe at least claim 1 of the '951 Patent, either directly or indirectly, literally or under the doctrine of equivalents, including through its make, use, sale, or offer for sale in, or importation into, the United States of the Accused Products.

51. The Accused Products do not infringe the '951 Patent at least because they do not include or practice multiple limitations required by claim 1, including but not limited to: “instructions to enter a first mode of operation involving a first investigation process with one or more sensors, the first investigation process capturing first data with the one or more sensors; instructions to determine whether or not the first data is indicative of an activity relating to a user need for assistance, an accident, or a crime; and instructions to, when the first data may involve the activity, enter into a second mode of operation involving a second investigation process that is different than the first investigation process and that involves the one or more sensors and/or one or more other sensors in order to capture second data that is further indicative of the activity.” (Ex. 4, claim 1.)

52. As set forth above, a substantial controversy of sufficient immediacy and concreteness exists between GATX and BWE with respect to infringement of the '951 Patent. Accordingly, a judicial declaration is necessary and appropriate so that GATX may ascertain its rights regarding the claims of the '951 Patent.

COUNT V:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '063 PATENT

53. GATX realleges and incorporates all preceding paragraphs as if fully set forth herein.

54. The '063 Patent purports to disclose “[s]ystems, apparatus, and methods . . . for accurately identifying one or more mobile thing motion activity (MTMAs; e.g., stationary, walking, running, biking, driving, etc.) associated with a mobile thing (MT; e.g., a person) using sensor data from one or more sensors associated with a wireless communication device (WCD) transported by the MT and for facilitating purchase of a good or service based at least in part upon

the one or more MTMAs and one or more predefined user preferences.” (Ex. 5 at Abstract.) Claim

1 of the ’063 Patent recites:

A system, comprising:

a transceiver;

one or more sensors designed to produce data indicative of movement of the wireless communication device (WCD) in three dimensions of three dimensional (3D) space, the one or more sensors including at least an accelerometer and the produced data including accelerometer data;

a memory that stores computer program code;

a processor that executes the computer program code; and

wherein the computer program code comprises:

code operable to store user preferences in the memory that are selected or otherwise input by a user of the WCD, the user preferences defining a set of mobile thing motion activities (MTMAs) to detect, the user preferences also defining a predefined time or distance threshold for a specific MTMA of the defined set, the user preferences further defining an action to be initiated when one or more occurrences of the specific MTMA have exceeded the predefined time or distance threshold, the action involving initiation of a communication session involving one or more data transfers with a remote computer system via the transceiver and initiation of a purchase of a good or service during the communication session;

code operable to track a duration, in terms of time or distance, of the one or more occurrences of the specific MTMA based at least upon the data from the one or more sensors; and

code operable to initiate the action involving the purchase of the good or service when the occurrences exceed the predefined time or distance threshold.

(Ex. 5, claim 1.)

55. BWE asserts the Accused Products practice at least one claim of the ’063 Patent.

56. GATX has not infringed and does not infringe at least claim 1 of the '063 Patent, either directly or indirectly, literally or under the doctrine of equivalents, including through its make, use, sale, or offer for sale in, or importation into, the United States of the Accused Products.

57. The Accused Products do not infringe the '063 Patent at least because they do not include or practice multiple limitations required by claim 1, including but not limited to: “code operable to store user preferences in the memory that are selected or otherwise input by a user of the WCD, the user preferences defining a set of mobile thing motion activities (MTMAs) to detect, the user preferences also defining a predefined time or distance threshold for a specific MTMA of the defined set,” “code operable to track a duration, in terms of time or distance, of the one or more occurrences of the specific MTMA based at least upon the data from the one or more sensors,” and “code operable to initiate the action involving the purchase of the good or service when the occurrences exceed the predefined time or distance threshold.” (Ex. 5, claim 1.)

58. As set forth above, a substantial controversy of sufficient immediacy and concreteness exists between GATX and BWE with respect to infringement of the '063 Patent. Accordingly, a judicial declaration is necessary and appropriate so that GATX may ascertain its rights regarding the claims of the '063 Patent.

COUNT VI:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '230 PATENT

59. GATX realleges and incorporates all preceding paragraphs as if fully set forth herein.

60. The '230 Patent purports to disclose “[e]mbodiments relating to an interactive personal surveillance and security (IPSS) system . . . provided for one or more users carrying one or more respective wireless personal communication devices (WCDs) that are capable of capturing and sending surveillance information (e.g., video, images, audio, sensor data, etc.) to one or more

remotely located servers (RLSs). From the information, the RLSs can identify and secure dangerous environments, encounters, etc., and log events or take other actions.” (Ex. 6 at Abstract.) Claim 1 of the ’230 Patent recites:

A computer system designed to communicate with a remote wireless communication device (WCD), the computer system comprising:

one or more memories that store computer program code; and

one or more processors that execute the computer program code, the computer program code comprising:

instructions to receive sensed data from the WCD that derives the sensed data with one or more sensors associated with the WCD;

instructions to make a comparison of the sensed data with reference data;

instructions to communicate a message to the WCD indicating whether or not the sensed data involves an activity relating to at least one of a user need for assistance, an accident, and a crime, based upon the comparison;

instructions to, when the sensed data involves the activity, enable one or more additional sensors associated with the WCD; and

instructions to receive additional sensed data from the WCD that derives the additional sensed data from the one or more additional sensors.

(Ex. 6, claim 1.)

61. BWE asserts the Accused Products practice at least one claim of the ’230 Patent.

62. GATX has not infringed and does not infringe at least claim 1 of the ’230 Patent, either directly or indirectly, literally or under the doctrine of equivalents, including through its make, use, sale, or offer for sale in, or importation into, the United States of the Accused Products.

63. The Accused Products do not infringe the ’230 Patent at least because they do not include or practice multiple limitations required by claim 1, including but not limited to: “instructions to receive sensed data from the WCD that derives the sensed data with one or more

sensors associated with the WCD,” “instructions to make a comparison of the sensed data with reference data,” “instructions to communicate a message to the WCD indicating whether or not the sensed data involves an activity relating to at least one of a user need for assistance, an accident, and a crime, based upon the comparison,” and “instructions to, when the sensed data involves the activity, enable one or more additional sensors associated with the WCD.” (Ex. 6, claim 1.)

64. As set forth above, a substantial controversy of sufficient immediacy and concreteness exists between GATX and BWE with respect to infringement of the '230 Patent. Accordingly, a judicial declaration is necessary and appropriate so that GATX may ascertain its rights regarding the claims of the '230 Patent.

COUNT VII:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '846 PATENT

65. GATX realleges and incorporates all preceding paragraphs as if fully set forth herein.

66. The '846 Patent purports to disclose “[s]ystems, apparatus, and methods . . . for accurately identifying a mobile thing motion activity (MTMA; e.g., stationary, walking, running, biking, driving, etc.) associated with a mobile thing (MT) using sensor data from one or more sensors associated with a wireless communication device (WCD) transported by the MT, so as to enable targeted selection and communication of an advertisement that is suited for the identified MTMA.” (Ex. 7 at Abstract.) Claim 1 of the '846 Patent recites:

A method for use in connection with a wireless communication device (WCD) transported by a mobile thing (MT), the WCD having a computer architecture that has access to a memory, comprising:

determining a mobile thing motion activity (MTMA) associated with the MT that is transporting the WCD based at least in part upon sensor data, the sensor data derived from one or more sensors associated with the WCD, the one or more sensors measuring physical movement of the WCD in three dimensional space and

producing data sets comprising three movement values and a time value, each of the three movement values indicative of physical movement of the WCD relative to a respective axis in a three dimensional (3D) coordinate system at the time value in order to permit statistical analysis of the physical movement;

selecting an advertisement based at least in part upon the determined MTMA; causing the advertisement to be communicated to the WCD; and

wherein the determining the MTMA comprises:

storing a plurality of reference MTMA signatures in the memory, each of the MTMA signatures including frequency and/or time information associated with sensor data pertaining to a specific MTMA;

determining a normalizing mathematical relationship so that different data sets separated in time can be analyzed in the 3D coordinate system;

using the normalizing mathematical relationship, determining normalized data sets;

analyzing the normalized data sets in the frequency and time domains;

determining likelihoods associated with the stored MTMA signatures based at least in part upon the analyzing; and

selecting a most likely MTMA signature from the plurality of MTMA signatures based at least in part upon the likelihoods.

(Ex. 7, claim 1.)

67. BWE asserts the Accused Products practice at least one claim of the '846 Patent.

68. GATX has not infringed and does not infringe at least claim 1 of the '846 Patent, either directly or indirectly, literally or under the doctrine of equivalents, including through its make, use, sale, or offer for sale in, or importation into, the United States of the Accused Products.

69. The Accused Products do not infringe the '846 Patent at least because they do not include or practice multiple limitations required by claim 1, including but not limited to:

“determining a mobile thing motion activity (MTMA) associated with the MT that is transporting the WCD based at least in part upon sensor data, the sensor data derived from one or more sensors associated with the WCD, the one or more sensors measuring physical movement of the WCD in three dimensional space,” “storing a plurality of reference MTMA signatures in the memory, each of the MTMA signatures including frequency and/or time information associated with sensor data pertaining to a specific MTMA,” and “selecting a most likely MTMA signature from the plurality of MTMA signatures based at least in part upon the likelihoods.” (Ex. 7, claim 1.)

70. As set forth above, a substantial controversy of sufficient immediacy and concreteness exists between GATX and BWE with respect to infringement of the '846 Patent. Accordingly, a judicial declaration is necessary and appropriate so that GATX may ascertain its rights regarding the claims of the '846 Patent.

COUNT VIII:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '974 PATENT

71. GATX realleges and incorporates all preceding paragraphs as if fully set forth herein.

72. The '974 Patent purports to disclose “[s]ystems, apparatus, and methods . . . for accurately identifying a mobile thing (MT), a mobile thing motion activity (MTMA) associated with the MT, or both, using sensor data from one or more sensors, such as an accelerometer, gyroscope, etc., associated with a wireless communication device (WCD) transported by the MT, so as to enable or initiate a further one or more intelligent MT-identity-based and/or MTMA-based actions.” (Ex. 8 at Abstract.) Claim 1 of the '974 Patent recites:

A method for use in connection with a wireless communication device (WCD) and a point of sale (POS) device involved in a financial transaction associated with a purchase of a good and/or service, the method comprising:

accessing current user identification data associated with a current user that is transporting the WCD and historical user identification data associated with a historical user that has transported the WCD, the current and historical user identification data derived from sensor data, the sensor data derived from one or more sensors associated with the WCD, the sensor data indicative of physical movement of the WCD in three dimensional (3D) space relative to a respective axis in a 3D coordinate system;

communicatively coupling the WCD with a POS device during the financial transaction associated with the purchase of the good and/or service;

communicating financial account information from the current user of the WCD to the POS device corresponding to the financial account sought to be used in connection with the financial transaction;

determining whether or not the current user of the WCD is authorized to use the financial account based at least in part upon the current user identification data and the historical user identification data;

causing the financial transaction to be permitted at the POS device when the current user is authorized; and

causing the financial transaction to be prevented at the POS device when the current user is not authorized.

(Ex. 8, claim 1.)

73. BWE asserts the Accused Products practice at least one claim of the '974 Patent.

74. GATX has not infringed and does not infringe at least claim 1 of the '974 Patent, either directly or indirectly, literally or under the doctrine of equivalents, including through its make, use, sale, or offer for sale in, or importation into, the United States of the Accused Products.

75. The Accused Products do not infringe the '974 Patent at least because they do not include or practice multiple limitations required by claim 1, including but not limited to: "accessing current user identification data associated with a current user that is transporting the WCD and historical user identification data associated with a historical user that has transported the WCD,

the current and historical user identification data derived from sensor data, the sensor data derived from one or more sensors associated with the WCD, the sensor data indicative of physical movement of the WCD in three dimensional (3D) space,” “determining whether or not the current user of the WCD is authorized to use the financial account based at least in part upon the current user identification data and the historical user identification data,” and “causing the financial transaction to be prevented at the POS device when the current user is not authorized.” (Ex. 8, claim 1.)

76. As set forth above, a substantial controversy of sufficient immediacy and concreteness exists between GATX and BWE with respect to infringement of the '974 Patent. Accordingly, a judicial declaration is necessary and appropriate so that GATX may ascertain its rights regarding the claims of the '974 Patent.

PRAYER FOR RELIEF

WHEREFORE, GATX respectfully requests that judgment be entered:

A. Declaring that GATX has not infringed and is not infringing, directly or indirectly, any claim of the Patents-in-Suit;

B. Declaring that judgment be entered in favor of GATX and against BWE on each of GATX's claims;

C. Finding this to be an exceptional case under 35 U.S.C. § 285;

D. Awarding GATX its reasonable attorneys' fees and costs incurred in connection with this action; and

E. Awarding GATX any other remedy or relief to which it may be entitled that the Court deems just and proper.

DEMAND FOR JURY TRIAL

GATX hereby demands a trial by jury on all claims and issues so triable.

Dated: July 17, 2026

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