

CLIENT ALERT

Pay \$100 Million Before Boarding: TSA Liable to Contractor for Patent Infringement Under 28 U.S.C. § 1498

November 5, 2021

On October 22, 2021, the [Court of Federal Claims](#) (Court) unsealed a decision awarding contractor SecurityPoint Holdings, Inc. (SecurityPoint) over \$100 million in damages for TSA's infringement of SecurityPoint's patent No. 6,888,460 ("the '460 patent"). The '460 patent concerns a system of trays that recycle through security screening checkpoints by use of movable carts, and was first filed with the U.S. Patent and Trademark Office on July 3, 2002 by SecurityPoint CEO Joseph Ambrefe. Ambrefe had offered the TSA a license to use the patent in exchange for the exclusive right to advertise on the trays, but TSA refused the offer.

On May 2, 2011, SecurityPoint filed suit under 28 U.S.C. § 1498(a), which provides patent owners an exclusive remedy for "reasonable and entire compensation" against the United States by action in the Court of Federal Claims when a patented invention is used or manufactured by or for the United States. SecurityPoint alleged that TSA had subsequently used carts, trays, and scanning devices at security checkpoints in a manner that infringed its '460 patent in over 400 airports throughout the United States. In support of its claims, SecurityPoint identified TSA internal documentation from 2006, which stated that the agency had "no single TSA standard bin return system," whereas by 2009, an updated version of the same internal guide spelled out a process for bin return, utilizing "bin carts." TSA eventually admitted that it had used the patented technology since 2008 in 10 airports, leaving the Court to decide damages. In one of the largest patent infringement awards of its kind, the unsealed decision determined that TSA owed SecurityPoint \$103.6 million in royalties from 2008 through the date of the opinion, delay damages, and interest.

This case serves as a reminder to contractor-patent owners that recourse for money damages may be available under 28 U.S.C. § 1498(a) when the U.S. Government infringes, or authorizes another contractor to infringe, the patent owner's patent.

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