IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

GEORGETOWN RAIL EQUIPMENT COMPANY,	§	
	§	
	§	**CAUSE NO. 6:13-CV-366**
Plaintiff,	§	
	§	
v.	§	
	§	
HOLLAND L.P.,	§	
	§	
Defendant.	§	

MEMORANDUM AND ORDER

Having considered the parties' written submissions and argument at the June 30, 2015 post-trial hearing, and for the reasons below, the Court rules as follows:

- Holland L.P.'s ("Holland") Motion for Judgment as a Matter of Law (Docket No. 301) is **DENIED**;
- Plaintiff Georgetown Rail Equipment Company's ("Georgetown") Motion for Pre-Judgment and Post-Judgment Interest (Docket No. 298) is **GRANTED**;
- Georgetown's Motion for Permanent Injunction (Docket No. 299) is **GRANTED**;
- Georgetown's Motion for Finding of Willful Infringement (Docket No. 302) is **GRANTED**;
- Georgetown's Motion for Declaration of Exceptional Case and Award of Attorneys' Fees (Docket No. 300) is **GRANTED**; and
- Holland's Motion to Supplement Post-Trial Hearing Record (Docket No. 334) is **GRANTED**.

BACKGROUND

On May 1, 2013, Georgetown filed this action against Holland alleging that Holland infringes U.S. Patent No. 7,616,329 ("the '329 Patent"). Georgetown's Aurora Track Inspection System competes with Holland's Laser Plate-Cutting System and Line Scan System (collectively, Holland's "Rail Vision Systems") in the track inspection market. The market is essentially composed of only seven customers in the United States, known as "Class I Railroads," who maintain the railroads used to ship goods.

The patent-in-suit generally relates to a system and method for inspecting railroad track using lasers, cameras, and a processor. *See* '329 Patent col. 2:14–34. Specifically at issue in this case is a system for inspecting tie plates. Docket No. 21 at 1. Figure 2 of the '329 Patent, below, shows how a tie plate (14) secures the rail (12) to the crosstie (10) or "sleeper," as well as the lasers (40) and cameras (50) used to detect the tie plates.

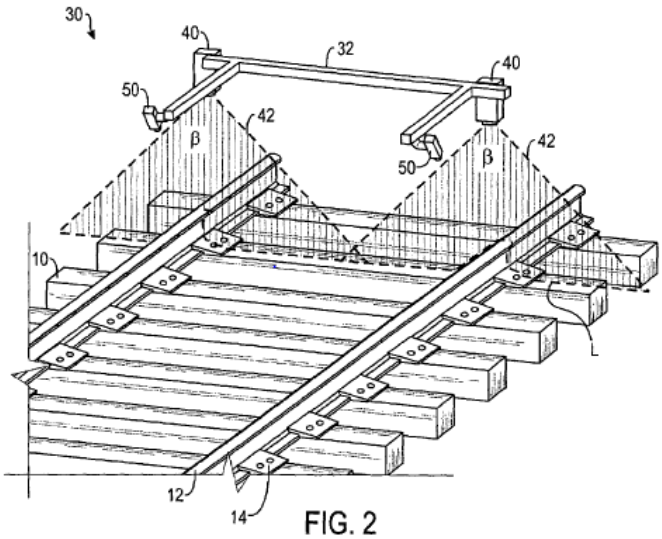

FIG. 2

'329 Patent, Fig. 2.

"Tie plates may sink or 'cut' into the [crosstie] or break over time." Docket No. 21-9, (Decl. of Greg Grissom, vice president of engineering for Georgetown) ¶ 5. Tie plates may also

be misaligned with respect to the crosstie. Measuring misaligned or sunken tie plates (also known as plate cut or plate cutting) is valuable to Class I Railroads because it allows repairs to be made before the crosstie fails. Historically, the process to measure plate cut required workers to manually walk the tracks and visually inspect each and every tie. Georgetown automated this process, patented the invention, and marketed it under its Aurora mark.

Georgetown asserted only claim 16 at trial. It recites in its entirety:

> 16. A system for inspecting a railroad track bed, including the railroad track, to be mounted on a vehicle for movement along the railroad track, the system comprising:
> at least one light generator positioned adjacent the railroad track for projecting a beam of light across the railroad track bed;
> at least one optical receiver positioned adjacent the railroad track for receiving at least a portion of the light reflected from the railroad track bed and generating a plurality of images representative of the profile of at least a portion of the railroad track bed; and
> at least one processor for analyzing the plurality of images and determining one or more physical characteristics of the said portion of the railroad track bed, the one or more physical characteristics comprising at least a geographic location of the plurality of images along the railroad track bed, wherein the processor includes an algorithm for detecting a misaligned or sunken tie plate of the railroad track bed, the algorithm comprising the steps of:
> (a) analyzing a frame of the plurality of images, the frame comprising a region of interest;
> (b) determining whether the region of interest contains a tie plate;
> (c) if a tie plate is present, determining a crosstie contour and a tie plate contour;
> (d) comparing an orientation of the crosstie contour and an orientation of the tie plate contour; and
> (e) determining whether the tie plate is misaligned or sunken based upon the comparison.

’329 Patent col. 11:41–12:2

Notably, claim 16 recites “at least one light generator” and “at least one optical receiver.” ‘329 Patent col. 11:43, 46. The specification describes the use of a “light generator such as a

laser 40 [and] a device for receiving light reflected from the area to be inspected such as a camera 50," as shown in Fig. 1. *Id*. at col. 3:30–3.

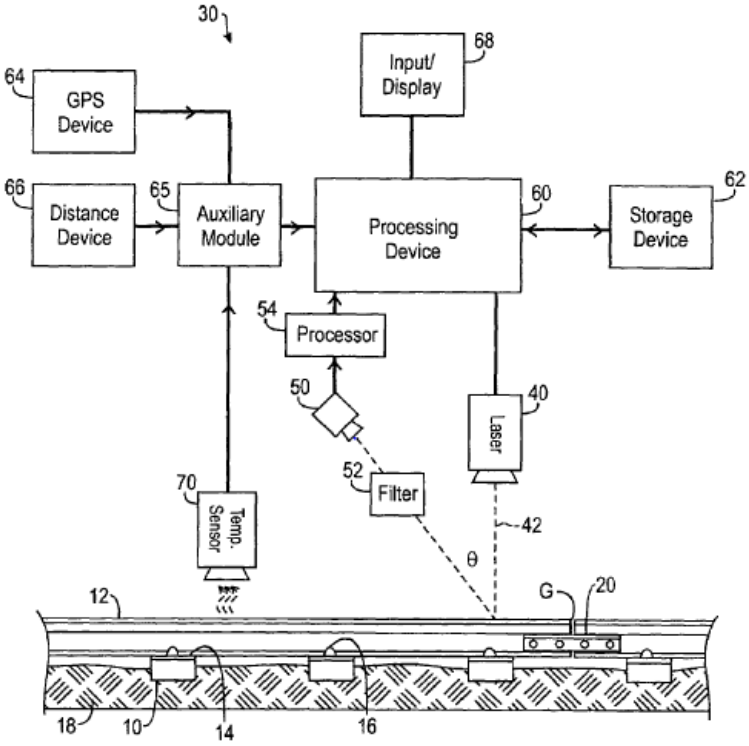

FIG. 1

'329 Patent Fig. 1. Figure 1 also shows how "the cameras 50 are mounted at an angle θ with respect to the beam 42 of light projected from lasers 40." '329 Patent col. 4:33–36. Specifically, the specification provides that:

> "[w]ith the beams 42 projected onto the irregular surface of the track and viewed at an angle, the projected line L shown in FIG. 2 follows the contours of the surface and components of the track bed. An example image or frame showing the projected line L of the track bed is shown in FIG. 3. The image data or frame includes a plurality of pixels given X-Y coordinates and shows a contour of the track bed captured by the cameras 50. [Using] image processing techniques known in the art, the image includes two pixel values, where the dark pixels represent the contour of the track bed. Every pixel of a given image data is given the same Z-coordinate, which represents the particular position along the length of

> the track at which the image data was captured. In this manner, a plurality of captured images produce a three-dimensional scan of the track bed in which each image of the scan has X-Y coordinates showing the contour of the track bed, and has a Z-coordinate representing the particular position of the contour along the length of rail."

'329 Patent col. 5:31–49. Notably, Fig. 3 provides an example of the contour view of a track bed, where the "dark pixels [appearing as black lines,] represent the contour of the track bed." '329 Patent col. 5:41, 7:51–52 ("the tie plate 14 and rail 12 are visible" in the contour image).

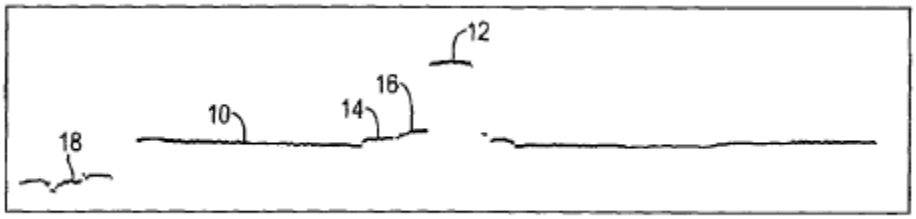

FIG. 3

'329 Patent, Fig. 3.

Holland places several light generator and optical receivers of its accused Rail Vision Systems on its track inspection vehicles ("TrackStar" vehicles).[1] This data is collected on a hard drive on the TrackStar vehicle, and then sent to non-party Rail Vision Europe Limited, a company based in the United Kingdom ("Rail Vision UK"). Rail Vision UK processes the data to determine the level of plate cut and misalignment in the inspected crossties. The resulting report is delivered back to Holland, who provides the analysis to its customers. Holland's primary noninfringement position through trial was that it only collects the data and does not control Rail Vision UK, who owns the processor and source code to carry out the claimed algorithm. *See generally* Docket No. 260 at 47:14–49:7 (Holland's closing argument).

[1] The TrackStar vehicles contain several other systems that measure other railroad characteristics.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.