

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SIPCO, LLC,

Plaintiff,

v.

ABB INC.,

Defendant.

C.A. No. 19-1365-MN

**DEFENDANT'S OPENING BRIEF IN SUPPORT OF ITS
MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM**

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Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendant ABB Inc. (“ABB”) moves the Court to dismiss the First Amended Complaint for Patent Infringement (D.I. 9) (“Complaint”) for failure to state a claim upon which relief may be granted.

NATURE AND STAGE OF PROCEEDING

Plaintiff SIPCO, LLC, (“SIPCO”) filed its First Amended Complaint for Patent Infringement against ABB on September 25, 2019. (D.I. 9) The deadline to answer or otherwise respond was extended to October 18, 2019. (D.I. 7, motion granted on September 25, 2019) ABB now moves to dismiss the Complaint for failure to state a claim upon which relief may be granted and submits this brief in support.

SUMMARY OF THE ARGUMENT AND BACKGROUND

SIPCO’s Amended Complaint fails to provide ABB fair notice of the allegations against it as required by *Twombly* and *Iqbal*. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). SIPCO alleges that ABB infringes six of SIPCO’s patents related to certain wireless network systems and devices that implement the WirelessHART standard. However, the accused products are described inconsistently and without adequate precision. Many of the claims, such as most of the claims for indirect infringement and all of the claims under the doctrine of equivalents, consist of nothing more than legally deficient, threadbare allegations of patent infringement. Despite claiming that it is entitled to relief for indirect infringement, SIPCO fails to make even the barest assertion that ABB has committed any act of indirect infringement for Counts I-V. (D.I. 9, ¶ A)

As with SIPCO’s claim of indirect infringement, SIPCO’s claim of infringement under the doctrine of equivalents and claim of willful infringement are woefully deficient. The pleading contains only the most threadbare allegations that are made without any of the necessary factual statements sufficient to state a claim.

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