

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

SIPCO, LLC,

Plaintiff,

v.

ABB INC.,

Defendant.

Civil Action No. 1:19-cv-01365-MN

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

This is an action for Patent infringement in which Plaintiff SIPCO, LLC complains against Defendant ABB Inc., all upon information and belief, as follows:

Identification of Parties, Jurisdiction and Venue

1. Plaintiff SIPCO, LLC (“SIPCO”) is a limited liability company organized and existing under the laws of the State of Georgia, having its principal office at 13921 Park Center Road, Suite 380, Herndon, Virginia 20171.

2. Defendant ABB Inc. (“ABB”) is a company organized under the laws of Delaware with a principal place of business at 12040 Regency Parkway, Suite 200, Cary, North Carolina 27518, and a registered office at Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

3. ABB states it is a leading innovator of advanced power and automation technologies, and has been selling products, systems and services in these fields for decades.

4. This action arises under the Patent laws of the United States, Title 35 of the

United States Code. Thus, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over all Defendant by virtue of the Defendant being a corporation created and existing under the laws of the State of Delaware.

6. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(c) and 1400(b) at least because ABB is incorporated in this District and resides in this District.

Parties

7. SIPCO is a small research, development and technology companies now based in Virginia. T. David Petite is a founding member of the company.

8. In the 1990's, through his own individual research and development efforts, Mr. Petite invented a large number of wireless control and distribution technology applications. The inventions resulting from Mr. Petite's efforts include, but are not limited to, various ways of moving data as economically and seamlessly as possible over both wired and wireless networks.

9. Through the 1990's and early 2000's investors contributed tens of millions of dollars for technology development and implementation of networks. Clients included Georgia Power, Alabama Power, Newnan Utilities GA, Johnson Controls, Synovus Bank and Grand Court Lifestyles residential living facilities.

10. After proving that the technology worked in the field, several companies competed to purchase an exclusive license to Mr. Petite's technology for the market known as "smart grid." Landis+Gyr (<http://www.landisgyr.com/>) (previously Siemens Metering) took an exclusive license to the smart grid technology in 2002 and in 2005 purchased rights to the technology for utility applications for \$30,000,000. Mr. Petite's technology has been deployed in millions of meters deployed across North America and throughout the world.

11. SIPCO retained the rights to the mesh network Patents, and for use of the technology outside of the utility space. It still maintains ownership of the software, firmware, hardware and Patent portfolio that resulted from Mr. Petite's research and development efforts, and SIPCO continues to develop and deploy wireless technology applications and wireless technology systems throughout the United States.

12. SIPCO's Patent portfolios (of which the Patents in suit are a part) include inventions that are widely recognized as pioneering in various fields of use. As a result, over 100 companies have taken licenses to them. Licensees include companies operating in the vertical markets of Industrial Controls, Smart Grid, Building Automation, Network Backhaul, Home Appliance, Home Automation and Entertainment, Sensor Monitoring, and Internet Service Provisioning. Licensed products include products using standard wireless mesh protocols such as WirelessHART, ZigBee, IEEE 802.15.4, Z-Wave, and as well as proprietary wireless protocols such as that marketed by EnOcean.

13. Plaintiff Sipco had previously sued ABB on certain Patents. Sipco and ABB, thereafter, on November 25, 2014, signed two licensing agreements, by which Plaintiff licensed its Patent portfolio to ABB for use with certain specified and defined products, which are expressly excluded from this action, in return for a royalty.

14. After the two licensing agreements were executed, however, ABB has not paid any royalties for any of the products here in issue and has not requested any amendment of the two licenses to include the products accused of infringement in this action.

15. Plaintiff wrote to ABB on February 23, 2018, commenting that certain ABB products required were within the scope of the Plaintiff's Patent claims, but were not included with the licenses, and that the parties should amend the licenses with ABB paying a royalty

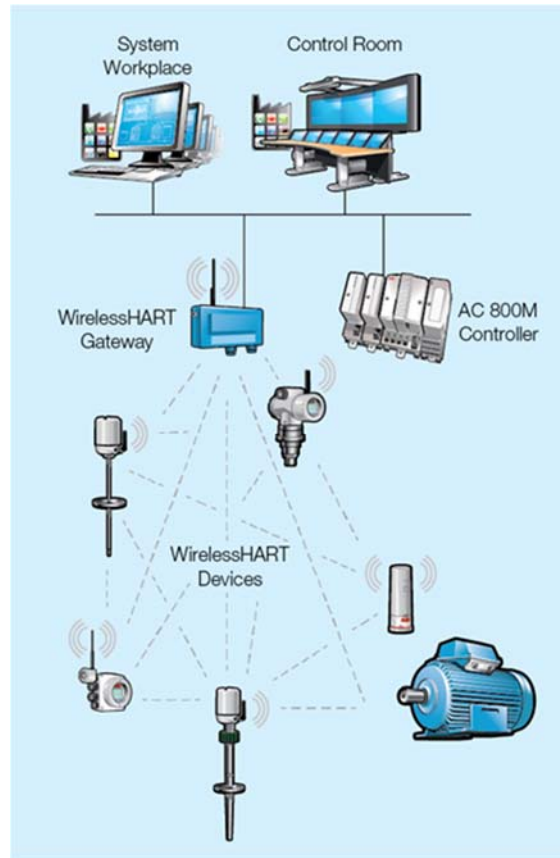
thereon. On March 13, 2019, Plaintiff sent Defendant a letter with charts demonstrating that Defendant was infringing at least Patent Nos. 8,964,708 and 9,430,936.

16. ABB has ignored Plaintiff's overtures and has neither requested an amendment to the licensing agreements, paid a royalty nor provided any justification for ABB's course of conduct.

17. On March 13, 2019, Plaintiff delivered a formal letter identifying ABB's infringing products, and included detailed claim charts demonstrating ABB's infringement. ABB ignored this letter as well.

18. As a consequence of ABB's misconduct in refusing to address the ongoing infringement issues, Plaintiff were forced to file the present action.

19. The Accused Instrumentalities are the ABB WirelessHART Systems:



and the components thereof, including the following:

- i. WirelessHART temperature sensors/transmitters TTF300-W; TSP300-W; TSP311-W; TSP321-W; TSP331-W; TSP341-W, with or without an integrated Energy Harvester (See, e.g., <https://new.abb.com/products/measurement-products/temperature/process-industry-head-thermometers/tsp300-w-wirelesshart-temperature-sensor>);
- ii. WirelessHART pressure sensors/transmitters 266DSH; 266DRH; 266HSH; 266HRH; 266NSH; 266NRH (See, e.g., <https://new.abb.com/products/measurement-products/wireless-products-and->

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