

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

M2M SOLUTIONS LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 12-030 (RGA) (SRF)
)	
SIERRA WIRELESS AMERICA, INC.,)	PUBLIC VERSION
et al.,)	
)	
Defendants.)	

**OPENING BRIEF IN SUPPORT OF DEFENDANTS SIERRA
WIRELESS AMERICA INC.'S AND SIERRA WIRELESS INC.'S
MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT**

MORRIS, NICHOLS, ARSHT & TUNNELL LLP
Thomas C. Grimm (#1098)
Jeremy A. Tigan (#5239)
1201 N. Market Street
P.O. Box 1347
Wilmington, DE 19899-1347
(302) 658-9200
tgrimm@mnat.com
jtigan@mnat.com
*Attorneys for Defendants Sierra Wireless
America, Inc and Sierra Wireless Inc.*

OF COUNSEL:

Robert E. Krebs
Jennifer Hayes
Christopher M. Mooney
NIXON PEABODY LLP
2 Palo Alto Square
3000 El Camino Real, Suite 500
Palo Alto, CA 94306-2106
(650) 320-7700

Ronald F. Lopez
NIXON PEABODY LLP
One Embarcadero Center, Suite 1800
San Francisco, CA 94111
(415) 984-8200

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NATURE AND SCOPE OF PROCEEDINGS

This Court issued claim construction orders on November 19, 2013, and January 30, 2014 (D.I. 104, 113), and fact discovery and expert discovery have closed. Defendants Sierra Wireless Inc. and Sierra Wireless America, Inc. (collectively, “Sierra Wireless”) now move for Summary Judgment of Non-Infringement of United States Patent No. 8,094,010 (“the ‘010 Patent”), the only remaining Patent-In-Suit.

SUMMARY OF ARGUMENT

Sierra Wireless moves for summary judgment of non-infringement of the ‘010 Patent because none of the Accused Products include a “programmable interface” that is directly programmable. Rather, it is undisputed that when commands are sent to the Accused Products, the microprocessor first processes and executes the commands, and only then does the microprocessor itself send control signals to *indirectly* configure basic settings on the interfaces accused of infringement (“the Accused Interfaces”).

This is not “*directly* programming” or *directly* performing any operation on or by the Accused Interfaces. Even Plaintiff’s expert, Dr. Nettleton, has plainly admitted that the interfaces only “indirectly” receive the AT commands. Therefore, it is not disputed that there is no way to program, configure, or otherwise change settings on the Accused Interfaces *directly* an element required by all the Asserted Claims as construed by the Court. Accordingly, because the Accused Products cannot perform this function required by the claims, they do not infringe.

Sierra Wireless also moves for summary judgment of non-infringement on the “permitted callers” limitation based on Plaintiff’s admissions that Sierra Wireless’s Accused Products do not infringe that limitation. Accordingly, Plaintiff cannot meet its burden to prove infringement.

STATEMENT OF UNDISPUTED FACTS

I. '010 PATENT ASSERTED CLAIMS

The '010 Patent describes a device that is capable of performing high level communication functions that are essentially relaying information between a sensor device and a remote monitoring device. *See* Ex. A, '010 Patent, 8:25-9:10. To perform these functions, the '010 Patent basically claims a collection of generic electrical components or “modules” such as a (1) “programmable interface,” (2) a “processing module,” and others that perform these functions without disclosing any specific devices, interfaces, processors, or even any algorithms for performing these functions. *See* Ex. A, '010 Patent, 8:31-67.

Plaintiff has asserted independent claims 1 and 52 and several additional claims that depend on either claim 1 or 52. The following three limitations are at issue in this motion that are nearly the identical in claims 1 and 52:

Claim 1 limitations at issue	Claim 52 limitations at issue
a programmable interface for establishing a communication link with at least one monitored technical device;	a programmable interface for establishing a communication link with at least one monitored technical device;
a processing module for authenticating an at least one transmission sent from a programming transmitter and received by the programmable communicator device, the at least one transmission including a coded number and at least one telephone number or Internet Protocol (IP) address corresponding to an at least one monitoring device, wherein the processing module authenticates the at least one transmission by determining if the at least one transmission contains the coded number, the processing module authenticating the at least one transmission if the transmission includes the coded number;	a processing module for authenticating an at least one transmission sent from a programming transmitter and received by the programmable communicator device, the at least one transmission including a coded number and at least one telephone number or Internet Protocol (IP) address corresponding to an at least one monitoring device, wherein the processing module authenticates the at least one transmission by determining if the at least one transmission contains the coded number, the processing module authenticating the at least one transmission if the transmission includes the coded number;

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