

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

ASSA ABLOY AB,
ASSA ABLOY Inc.,
ASSA ABLOY Residential Group, Inc.,
August Home, Inc.,
HID Global Corporation, and
ASSA ABLOY Global Solutions, Inc.

Plaintiffs,

v.

CPC Patent Technologies Pty. Ltd., and
Charter Pacific Corporation Ltd.

Defendants.

Civil Action No. 3:22-cv-694-MPS

DECLARATION OF KEVIN J. DART

I, Kevin J. Dart, swear under the penalty of perjury as follows:

1. I am over the age of 18 and competent to testify to the matters set forth below. My testimony in this declaration is based on my personal knowledge. If called as a witness, I could and would testify to all of the facts set forth herein under oath.

2. I am Chairman, Chief Executive Officer, and Managing Director of Charter Pacific Corp Ltd. and its subsidiary CPC Patent Technologies Pty. Ltd. and (collectively “Charter Pacific”). Charter Pacific is a diversified investment company based in Queensland, Australia. CPC Patent Technologies Pty. Ltd. is the owner by assignment of U.S. Patent Nos. 9,269,208, 9,665,705, and 8,620,039 (“the Patents-in-Suit”).

3. I have reviewed the complaint filed by the plaintiffs in this action on May 23, 2022 (“the Complaint”) including allegations that there is an “actual case and controversy” between

Charter Pacific and plaintiffs ASSA ABLOY AB, ASSA ABLOY Inc., HID Global Corporation (“HID”) and ASSA ABLOY Global Solutions, Inc. (“Hospitality”) concerning the Patents-in-Suit and certain products identified in the complaint. In particular, the Complaint identifies “HID’s Signo 25B” which purportedly “works with HID Mobile Access” (ECF No. 1 at ¶¶ 96-97). The Complaint also generally mentions HID’s “variety of access control devices” and “HID’s products and software solutions” (*id.* at ¶¶ 96, 99). The Complaint also generally alleges that “HID and Hospitality offer software solutions that allows an individual’s mobile device (e.g., smartphone or wearable) to be used to gain access to secured doors, gates, networks, services, and more.” *Id.* at ¶ 101. The Complaint also states that “through its HID Mobile Access software solution, HID offers student ID and employee badge in Apple Wallet” (*id.* at ¶ 102) and “through its ASSA ABLOY Mobile Access software solution, Hospitality offers hotel room key in Apple Wallet” (*id.* at ¶ 103). Finally, the Complaint generally references HID’s “biometric reader products and software solutions that [allegedly] are in the same products/technology space as Charter Pacific’s licensee Tapplock” and HID and Hospitality’s respective “software solutions that allow an individual’s mobile device (e.g., smartphone or wearable) to act as a replacement for a keycard to be used to gain access to secured doors, gates, networks, services, and more.” *Id.*, at ¶ 106.

4. Prior to the filing of the Complaint I was generally aware of ASSA ABLOY AB, ASSA ABLOY Inc., HID and Hospitality as companies in the field of security and access solutions. At the time the Complaint was filed, however, neither I nor anyone else at Charter Pacific, nor anyone on behalf of Charter Pacific, had conducted any infringement analysis with respect to any Charter Pacific patents as to any products of ASSA ABLOY AB, ASSA ABLOY Inc., HID or Hospitality, including the products described above or otherwise identified in the

Complaint. Indeed, at the time the Complaint was filed, neither myself nor anyone at Charter Pacific had ever seen the products described above or otherwise identified in the complaint.

Accordingly, as of the time the Complaint was filed Charter Pacific made no determination as to whether the HID and Hospitality products described above or otherwise identified in the Complaint infringed any of the Patents-in-Suit.

5. Further, no one at Charter Pacific, or on behalf of Charter Pacific, has ever communicated with ASSA ABLOY AB, ASSA ABLOY Inc., HID or Hospitality regarding any HID or Hospitality products described above or otherwise identified in the complaint, or any of Charter Pacific's intellectual property, including the Patents-in-Suit.

6. Prior to Plaintiffs' filing of the Complaint, neither Charter Pacific nor anyone on its behalf: (i) sent a cease and desist letter to ASSA ABLOY AB, ASSA ABLOY Inc., HID or Hospitality regarding any HID or Hospitality products described above or otherwise identified in the Complaint, or regarding any of Charter Pacific's intellectual property, including the Patents-in-Suit; (ii) sent a demand letter of any kind to ASSA ABLOY AB, ASSA ABLOY Inc., HID or Hospitality regarding any HID or Hospitality products described above or otherwise identified in the Complaint, or regarding any of Charter Pacific's intellectual property, including the Patents-in-Suit; (iii) sent a licensing offer letter to ASSA ABLOY AB, ASSA ABLOY Inc., HID or Hospitality regarding any HID or Hospitality products described above or otherwise identified in the Complaint, or regarding any of Charter Pacific's intellectual property, including the Patents-in-Suit; (iv) contacted by telephone, regular mail, email or any other means ASSA ABLOY AB, ASSA ABLOY Inc., HID or Hospitality regarding any HID or Hospitality products described above or otherwise identified in the Complaint, or regarding any of Charter Pacific's intellectual property, including the Patents-in-Suit.

7. Contrary to the assertions in the Complaint, Charter Pacific has never publicly identified ASSA ABLOY AB, ASSA ABLOY Inc., HID and/or Hospitality as potential litigation targets.

8. The press release attached to the Complaint as Exhibit L (ECF No. 1-12) is dated May 4, 2020 and conveys general information relating to the biometrics market as a whole as of that time. The press release merely reports on data about the biometrics market generally that came from a third-party market report published online at www.researchandmarkets.com entitled “Biometrics – Global Market Outlook (2018-2027).” *See* ECF No. 1-12. The report was not prepared by Charter Pacific or at the behest of Charter Pacific. The press release notes that the third-party market report identifies a list of fourteen “key market players” but makes no mention of any specific products or services offered by any of them. *See id.* at p. 2/3 (“ASSA Abloy, Aware, Bio-Key, Cognitec Systems, Daon, Facebanx, Fujitsu, Fulcrum Biometrics, NEC, Precise Biometrics, secunet, Securiport, Stanley Black & Decker and Thales are identified as key market players.”). As is readily apparent, this list is arranged in alphabetical order. Charter Pacific did not compile the list of “key market players,” nor was the list compiled at Charter Pacific’s behest. Nowhere in this press release does Charter Pacific state that any of ASSA ABLOY AB, ASSA ABLOY Inc., HID and/or Hospitality are litigation targets.

9. As noted, the press release attached to the Complaint as Exhibit L was dated May 4, 2020, and was therefore issued by Charter Pacific more than two years before Plaintiffs filed their Complaint. During the two year period between the press release and the filing of the Complaint, Charter Pacific never investigated ASSA ABLOY AB, ASSA ABLOY Inc., HID and/or Hospitality for potential infringement of the Patents-in-Suit or any other Charter Pacific

patents. During that two year period, Charter Pacific never contacted ASSA ABLOY AB, ASSA ABLOY Inc., HID and/or Hospitality in any way related to the Charter Pacific patents.

10. In the more than two years since the press release attached as Exhibit L to the Complaint was issued, Charter Pacific has not sued any of the fourteen identified “key market players” for infringement of any Charter Pacific patents.

11. Similarly, the press release attached to the Complaint as Exhibit M (ECF No. 1-13) conveys information published in a third-party market report. This press release is dated May 20, 2020. More particularly, the press release conveys information from a third party market report entitled “Automotive Biometric Identification Market” published on the www.biometricupdate.com website. *See* ECF No. 1-13. According to the report, it was prepared by an entity known as Acumen Research and Consulting. The report was not prepared by Charter Pacific or at the behest of Charter Pacific. In describing the report, the press release factually notes that a group of five companies were profiled in the third-party report, one of which was HID. The profile of HID Global mentioned in the third-party report was not performed by Charter Pacific or at the behest of Charter Pacific. Nowhere in this press release does Charter Pacific state that any of ASSA ABLOY AB, ASSA ABLOY Inc., HID and/or Hospitality are litigation targets

12. In the two years since the issuance of the press release attached to the Complaint as Exhibit M, Charter Pacific has not sued any of the five entities that were profiled in the “Automotive Biometric Identification Market” report that was the subject of this press release.

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