

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

BADGER METER, INC.

Plaintiff,

v.

Civil Action No. 2:16-cv-789

SENSUS USA INC.

Defendant.

COMPLAINT

Plaintiff, Badger Meter, Inc., for its complaint against defendant, Sensus USA Inc. alleges the following:

I. Nature of Action

1. This is a civil action for patent infringement under The Patent Act, 35 U.S.C. §§ 1 *et seq.* of plaintiff's U.S. Patent No. 8,539,827 entitled "Water Meter with Integral Flow Restriction Valve."

II. Jurisdiction and Venue

2. The district court has original jurisdiction over this action pursuant to 28 U.S.C. §1331 (federal question) and §1338(a) (action arising under any Act of Congress relating to patents and copyrights).

3. Defendant, upon information and belief, regularly conducts business in this district, has one or more dealers or other agents located in this district and actively markets, sells and has offered to sell goods and product in this district, including but not limited to products

that infringe the plaintiff's patent. Accordingly, venue in this district as to defendant is proper under 28 U.S.C. § 1391(b) and (c) and/or 28 U.S.C. § 1400(b).

III. Parties

4. Plaintiff Badger Meter, Inc. ("Badger Meter") is a Wisconsin corporation with its principal place of business at 4545 West Brown Deer Road, Milwaukee, Wisconsin 53223. Plaintiff is engaged in, among other things, the business of manufacturing and selling water meters, meter reading and analytics technologies for municipal water utilities as well as other flow measurement and fluid control products for use in a wide range of industries.

5. Defendant Sensus USA Inc. ("Sensus") is a Delaware corporation with its principal place of business at 8601 Six Forks Road, Raleigh, North Carolina 27615; its registered agent is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

IV. Background Facts

6. Badger Meter is a leading manufacturer of water meters, meter reading and analytics technologies for municipal water utilities. Badger Meter's business includes, among other things, manufacturing, selling and distributing water meters to municipal water utilities.

7. Badger Meter has developed a new water meter with integral flow restriction valve which has an electrically operable flow control valve for restricting the flow of water through the valve.

8. United States Patent No. 8,539,827 ("the '827 patent") entitled "Water Meter with Integral Flow Restriction Valve" was duly and legally issued to Badger Meter by the United States Patent and Trademark Office on about September 24, 2013. A true and correct copy of the '827 patent is attached as Exhibit A.

9. Defendant Sensus manufactures, offers to sell and sells water meters and meter reading products in competition with Badger Meter.

10. Defendant Sensus has, on information and belief, recently introduced a new water meter called the Ally.

11. On information and belief, the Ally water meter has an integral flow restriction valve comprised of an electrically operable flow control valve for restricting the flow of water through the valve.

**Count I:
Infringement of U.S. Patent No. 8,539,827**

12. Plaintiff Badger Meter restates and incorporates by reference the allegations in paragraphs 1 through 11 above.

13. Defendant Sensus manufactures, offers to sell and sells water meters that infringe at least claim 1 of the '827 patent in violation of 35 U.S.C. § 271(a) and (c).

14. Upon information and belief, Sensus has had both constructive and actual notice of the '827 patent.

15. Upon information and belief, Sensus has been and is willfully infringing the '827 patent.

16. Upon further information and belief, Sensus will continue to infringe the '827 patent unless and until it is enjoined by a court.

17. Sensus's infringement has caused and continues to cause irreparable harm to Badger Meter, including, but not limited to, infringing upon Badger Meter's rights in and to the '827 patent.

18. Plaintiff Badger Meter has been damaged by Sensus's infringement of the '827 patent.

19. Sensus's conduct shows a lack of the required duty of care to avoid infringement, such that this is an exceptional case; therefore, Badger Meter should be awarded its reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

20. Pursuant to 35 U.S.C. § 284, Badger Meter is entitled to enhanced damages for infringement, up to treble damages.

21. Pursuant to 35 U.S.C. § 283, Badger Meter is entitled to a preliminary and a permanent injunction against further infringement.

WHEREFORE, plaintiff, Badger Meter, Inc., demands judgment against defendant Sensus USA Inc. for the following:

- A. An award of plaintiff's damages.
- B. An award trebling or enhancing the damage found due to defendant's willful infringement.
- C. That the defendant be preliminarily and permanently enjoined from manufacturing or selling any further weapons cabinets that embody or is based on plaintiff's patented weapons cabinet or otherwise infringes the plaintiff's patent.
- D. That the defendant be ordered to turn over to plaintiff or alternatively to destroy any infringing weapons cabinets.
- E. An award of plaintiff's costs, including attorney's fees.
- F. Any other relief that the court may deem proper and just.

JURY DEMAND

Plaintiff Badger Meter, Inc. demands a jury trial for all factual issues not admitted by the defendant.

Respectfully submitted,

Dated: June 23, 2016

s/Michael T. Griggs
Michael T. Griggs

Attorneys for Plaintiff Badger Meter, Inc.

James F. Boyle
WI Bar No. 1019165
Michael T. Griggs
WI Bar No. 1046124
Boyle Fredrickson, SC
840 N. Plankinton Ave.
Milwaukee, WI 53203
414-225-9755
jfb@boylefred.com
mtg@boylefred.com
docketing@boylefred.com