

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

SIPCO, LLC,

Plaintiff,

v.

**ACUITY BRANDS, INC., and ACUITY
BRANDS LIGHTING, INC.,**

Defendants.

Civil Action No.

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Plaintiff SIPCO, LLC (“Plaintiff” or “SIPCO”) complains against Defendants Acuity Brands, Inc. and Acuity Brands Lighting, Inc., all upon information and belief, as follows:

PARTIES

1. Plaintiff SIPCO, LLC is a limited liability company organized and existing under the laws of the State of Georgia, having its principal office at 2600 Abbey Court, Alpharetta, Georgia, 30004.

2. Defendant Acuity Brands, Inc. (“Acuity”) is a corporation organized under the laws of Delaware, with its principal place of business located at 1170 Peachtree Street, N.E., Suite 2300, Atlanta, Georgia 30309-7676. Acuity may be served with process by serving its registered agent, Corporation Service Company, 2711 Centerville Rd, Suite 400, Wilmington, Delaware 19808.

3. Defendant Acuity Brands Lighting, Inc. (“Acuity Lighting”) is a corporation organized under the laws of Delaware, with its principal place of business located in Conyers, Georgia. Acuity may be served with process by serving its registered agent, Corporation Service

Company, 2711 Centerville Rd, Suite 400, Wilmington, Delaware 19808. Acuity Lighting is a wholly-owned subsidiary of Acuity. Acuity and Acuity Lighting shall hereafter be collectively referenced as “Acuity,” unless the context otherwise dictates.

JURISDICTION AND VENUE

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 Defendants by virtue of the Defendants being corporations created and existing under the laws of the State of Delaware.

6. Venue is proper in this Judicial District as to each Defendant under 28 U.S.C. §§ 1391(c) and 1400(b) by virtue of the Defendants being corporations created and existing under the laws of the State of Delaware.

SIPCO

7. SIPCO is a small research, development and technology company based in Atlanta, Georgia. T. David Petite is its founding member.

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 75 corporations 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.

THE DEFENDANTS

13. Acuity in fiscal year 2015 had net sales of \$2.7 billion. It is a market leader and one of the world's leading providers of indoor and outdoor lighting and energy management solutions. Acuity's products and solutions are sold under various brands, including Lithonia

Lighting®, Holophane®, Peerless®, Gotham®, Mark Architectural Lighting™, Winona® Lighting, Healthcare Lighting®, Hydrel®, American Electric Lighting®, Carandini®, Antique Street Lamps™, Juno®, Indy™, AccuLite®, Aculux™, DanaLite, NaviLite®, Sunoptics®, RELOC® Wiring Solutions, eldoLED®, Distech Controls®, and Acuity Controls™.

14. On December 20, 2012, Acuity acquired Adura Technologies Inc. ("Adura"). Adura was a leading developer of radio frequency (RF) mesh networking technology that allows individual light fixtures to communicate in a wireless mesh network with switches, sensors and system management software. Adura has now been incorporated into Acuity.

15. Defendants have made, had made, used, offered for sale, imported into this country and sold wireless lighting control systems and components, including a line of systems, products and methods marketed as XPoint™ Wireless.

16. XPoint™ Wireless (hereafter "XPoint") includes:

- a. XPoint Wireless CMRB Sensors/Controllers including those complying with FCC ID: S4GEM358L, which are 2.4GHz ZigBee® modules;
- b. XPoint™ Wireless Wet Location Multi-Sensor and Controller including those complying with FCC ID: S4GEM358L, which are 2.4GHz ZigBee® modules;
- c. XPoint™ Wireless Light Controller complying with FCC ID: S4GEM358L, which are 2.4GHz ZigBee® modules, including models XPA RL1 DSI EM / XPA RL0 DSI EM; XPA CMRB__EM / XPA CMNB__EM; XPA SBOR__EM / XPA SBON__EM;
- d. XPoint Light Controllers (including Models LC-1R, LC-2R and LC-1RD);
- e. XPoint Wireless Gateway;

- f. XPoint™ Wireless Sensor Interfaces including those complying with FCC ID: S4GEM358L, which are 2.4GHz ZigBee® modules (including Models XPA SIAC L2 and XPA SIAC H1);
- g. XPoint Wireless DS ES7 Sensor;
- h. XPoint wireless plug load modules, wireless rocker switches, photosensors, and occupancy sensors;
- i. XPoint Wall Control Interface; Sensor Interface (such as Catalog Number SI-2C);
- j. XPoint Wireless RDT Translator.

17. XPoint can operate as a stand-alone wireless solution or can be combined with Acuity Controls GR2400™ products to create a full building control solution. Further, XPoint™ Wireless RDT Translator is an RDT Receiver which translates data from Acuity's xCella and other RDT wireless devices, and, thus, ties those devices to the XPoint wireless system. This translation enables xCella Wireless sensors and wall stations to join an XPoint Wireless lighting control system providing both flexible zoning and device placement. The RDT Translator has the ability to support up to 48 total xCella/RDT wireless sensors and wall stations.

18. XPoint can also be used with Holophane Lighting and Lithonia Lighting, which are specific lighting solutions provided by Defendants.

19. XPoint may be integrated with Defendants' SensorView 13, which is a software platform for Defendants' lighting products. SensorView 13 has the ability to pair luminaires and sensors to respond together, to create program schedules so as to set normal, holiday, event and after hours behavior to suit the needs of the space, to configure sensor settings such as dimming levels and time delays to optimize energy use, to monitor status and sensor readings for nLight®

and XPoint Wireless devices, control lighting zones from a smartphone or tablet with the mobile app such as nWiFi Virtual WallPod, and verify historical system operations and monitor energy usage trends. XPoint Wireless can also be combined with the OPENADR INTERFACE, which monitors signals from a power company and automatically activates load reduction scenes. The XPoint wireless nodes can also be paired with a computer running GX2 SOFTWARE and SensorView (at least version 13), which allows facility managers to control and monitor large spaces or a multi-building system from a single location and through a mobile device. All such devices, software and systems are included within the meaning of “XPoint” when combined in a system with XPoint wireless nodes.

20. Defendants have made, had made, used, offered for sale, imported into this country and sold wireless outdoor lighting systems and components, including a line of systems, products and methods marketed as ROAM wireless outdoor lighting management system.

21. ROAM wireless outdoor lighting management system (hereafter “ROAM”) includes ROAM photocontrols or nodes, ROAM Gateways, ROAM Dimming Control Modules, Network Operations Center, ROAMview™, ROAM ENTERPRISE and ROAM CONCIERGE, all of which operate pursuant to 2.4 GHz-IEEE 802.15.4, and include components complying with FCC IDs: UJX-DCM127-001, UJX-ROAMMOD0001 and UJX-ROAMMK3MOD1, and which are exemplified in ROAM® Wireless Gateway (such as REG127), Revenue Grade Node (such as REN127 NHX), Dimming Control Module (such as DCM127 NX1), Node (Tunnel) (such as REN127 SO1), Multi-Volt Node (such as REN127 NM1), 347V Node (such as REN347 NM1), 480V Node (such as REN480 NM1). ROAM can also incorporate the GX2 system to host and collect data, and provide both monitoring and control functions to a client via the Web or other wide-area-network. ROAMView can, in turn, be integrated with the BACnet IP

Software Module. Hereafter, ROAM systems that include ROAM CONCIERGE or other Acuity-hosted ROAM system, ROAM integrated with GX2, ROAM integrated with ROAMView (either alone or in combination with the BACnet IP Software Module), and ROAM as ROAM ENTERPRISE are collectively referenced as “Hosted ROAM.”

DEFENDANTS’ KNOWLEDGE OF PLAINTIFF’S PATENTS

22. Defendants have been aware of at least some of the Patents-in-Suit since at least about January 28, 2013, and that further applications were pending. Plaintiffs discussed its patent with Defendants at various times between 2013 and 2015. Defendants knew or should have known of the Plaintiff’s patents shortly after they issued. Despite knowledge of the Patents, Defendants have refused to take a license under the Patents or to cease their infringing activities.

23. Defendants’ predecessor in interest, Adura Technologies, Inc., was aware of at least some of the Patents-in-Suit at least about June 1st, 2012 (i.e., before being acquired by Defendants).

24. Adura Technologies’ CEO notified Plaintiff of the acquisition on February 5, 2013.

25. Defendants have proffered unreasonable constructions or applications of constructions of Plaintiff’s patent claims to argue non-infringement of the Patents in suit.

26. Thus, Defendants assert that in Defendants’ systems “[n]one of the transceivers receive back the same original message they send,” which is a preposterous misconstruction of the claims of the Patent 7,103,511.

27. Similarly, the claims of the Patent 7,697,492 refer to “scalable address” and “scalable message.” The term “scalable address” has been previously judicially construed as “an address that has a variable size based on the size and complexity of the system.” Defendants

have asserted that none of the accused systems use such a scalable address, but that “all network addresses used in Acuity's systems are of a fixed size, and they do not vary based on the size or complexity of the system.” Defendants in fact practice the “scalable address” as judicially construed, and, thus, apparently are asserting a preposterous application of the term.

COUNT I

DIRECT AND INDIRECT INFRINGEMENT OF U.S. PATENT NO. 8,013,732

28. Plaintiff hereby restates and re-alleges the allegations set forth in the preceding paragraphs 1-27 and incorporates them by reference.

29. Plaintiff is the owner by assignment of United States Patent No. 8,013,732 entitled “Systems And Methods For Monitoring And Controlling Remote Devices” (“the ‘732 Patent”). The ‘732 Patent was duly and legally issued on September 6, 2011. A true and correct copy of the ‘732 Patent is attached as Exhibit A.

30. Defendants have been and now are directly infringing claims 1, 2, 13, 14, 16-19, 31-33 and 35 of the ‘732 Patent making, having had made, using, offering for sale, importing into this country and selling XPoint.

31. Defendants have been and now are directly infringing claims 13, 14, 16-19, 31-33 and 35 of the ‘732 Patent making, having had made, using, offering for sale, importing into this country and selling ROAM.

32. Defendants have been and now are directly infringing claims 8-10 of the ‘732 Patent by practicing the method for collecting information, providing data services, and controlling remote systems comprising a plurality of wireless communication devices which Defendants make, have made, used, offered for sale, imported into this country and sold as XPoint, the method comprising: adaptively configuring at least one transmitter electrically

interfaced with a sensor and an actuator wherein the transmitter generates an information signal consisting of a transmitter identification code and an information field, wherein the information signal is received by another nearby transmitter electrically interfaced with one or both of a sensor and an actuator and repeated in the same signal type as received to additional transmitters each electrically interfaced with one or both of a sensor and an actuator for communicating the information signal to a gateway, the gateway providing access to a WAN; translating the information signal within the gateway into a WAN compatible data transfer protocol; transferring the information signal via the WAN to a computer wherein the computer is configured to manipulate and store data provided in the information signal; and granting client access to the computer.

33. Defendants have been and now are indirectly infringing claims 8-10 of the '732 Patent by intentionally inducing and continuing to induce infringement of the claim by their intentional acts which have successfully, among other things, encouraged, instructed, enabled, and otherwise caused Defendants' customers to use Defendants' XPoint systems and methods, in a manner which infringes the '732 Patent claims by practicing the method for collecting information, providing data services, and controlling remote systems, the method comprising: adaptively configuring at least one transmitter electrically interfaced with a sensor and an actuator wherein the transmitter generates an information signal consisting of a transmitter identification code and an information field, wherein the information signal is received by another nearby transmitter electrically interfaced with one or both of a sensor and an actuator and repeated in the same signal type as received to additional transmitters each electrically interfaced with one or both of a sensor and an actuator for communicating the information signal to a gateway, the gateway providing access to a WAN; translating the information signal within the

gateway into a WAN compatible data transfer protocol; transferring the information signal via the WAN to a computer wherein the computer is configured to manipulate and store data provided in the information signal; and granting client access to the computer.

34. Defendants have been and now are directly infringing claims 8-10 of the '732 Patent by practicing the method for collecting information, providing data services, and controlling remote systems comprising a plurality of wireless communication devices which Defendants make, have made, used, offered for sale, imported into this country and sold as ROAM, the method comprising: adaptively configuring at least one transmitter electrically interfaced with a sensor and an actuator wherein the transmitter generates an information signal consisting of a transmitter identification code and an information field, wherein the information signal is received by another nearby transmitter electrically interfaced with one or both of a sensor and an actuator and repeated in the same signal type as received to additional transmitters each electrically interfaced with one or both of a sensor and an actuator for communicating the information signal to a gateway, the gateway providing access to a WAN; translating the information signal within the gateway into a WAN compatible data transfer protocol; transferring the information signal via the WAN to a computer wherein the computer is configured to manipulate and store data provided in the information signal; and granting client access to the computer.

35. Defendants have been and now are indirectly infringing claims 8-10 of the '732 Patent by intentionally inducing and continuing to induce infringement of the claim by their intentional acts which have successfully, among other things, encouraged, instructed, enabled, and otherwise caused Defendants' customers to use Defendants' ROAM systems and methods, in a manner which infringes the '732 Patent claims by practicing the method for collecting

information, providing data services, and controlling remote systems, the method comprising: adaptively configuring at least one transmitter electrically interfaced with a sensor and an actuator wherein the transmitter generates an information signal consisting of a transmitter identification code and an information field, wherein the information signal is received by another nearby transmitter electrically interfaced with one or both of a sensor and an actuator and repeated in the same signal type as received to additional transmitters each electrically interfaced with one or both of a sensor and an actuator for communicating the information signal to a gateway, the gateway providing access to a WAN; translating the information signal within the gateway into a WAN compatible data transfer protocol; transferring the information signal via the WAN to a computer wherein the computer is configured to manipulate and store data provided in the information signal; and granting client access to the computer.

36. Defendants' acts of infringement have caused and continue to cause damage to Plaintiffs. Plaintiff is entitled to recover from Defendants the damages sustained by Plaintiff as a result of Defendants' wrongful acts.

COUNT II

DIRECT INFRINGEMENT OF U.S. PATENT NO. 7,697,492

37. Plaintiff hereby restates and re-alleges the allegations set forth in the preceding paragraphs 1-27 and incorporates them by reference.

38. Plaintiff is the owner by assignment of United States Patent No. 7,697,492 entitled "Systems And Methods For Monitoring And Controlling Remote Devices" ("the '492 Patent"). The '492 Patent was duly and legally issued on April 13, 2010. A true and correct copy of the '492 Patent is attached as Exhibit B.

39. Defendants have been and now are directly infringing at least claims 14-16 and 18

of the '492 Patent making, having had made, using, offering for sale, importing into this country and selling XPoint.

40. Defendants have been and now are directly infringing at least claims 14, 15 and 18 of the '492 Patent making, having had made, using, offering for sale, importing into this country and selling ROAM.

41. Defendants have been and now are directly infringing at least claims 8, 10 and 13 of the '492 Patent by practicing the method for communicating command and sensed data between remote wireless devices comprising a plurality of wireless communication devices which Defendants make, have made, used, offered for sale, imported into this country and sold as XPoint, the method comprising: providing a receiver to receive at least one message; wherein the message has a packet that comprises a command indicator comprising a command code, a scalable data value comprising a scalable message, and an error detector that is a redundancy check error detector; and providing a controller to determine if at least one received message is a duplicate message and determining a location from which the duplicate message originated.

42. Defendants have been and now are indirectly infringing at least claims 8, 10 and 13 of the '492 Patent by intentionally inducing and continuing to induce infringement of the claims by their intentional acts which have successfully, among other things, encouraged, instructed, enabled, and otherwise caused Defendants' customers to use Defendants' XPoint systems and methods, in a manner which infringes the '492 Patent claims by practicing the method for communicating command and sensed data between remote wireless devices comprising a plurality of wireless communication devices which Defendants make, have made, used, offered for sale, imported into this country and sold as XPoint, the method comprising: providing a receiver to receive at least one message; wherein the message has a packet that

comprises a command indicator comprising a command code, a scalable data value comprising a scalable message, and an error detector that is a redundancy check error detector; and providing a controller to determine if at least one received message is a duplicate message and determining a location from which the duplicate message originated.

43. Defendants' acts of infringement have caused and continue to cause damage to Plaintiffs. Plaintiff is entitled to recover from Defendants the damages sustained by Plaintiff as a result of Defendants' wrongful acts.

COUNT III

DIRECT AND INDIRECT INFRINGEMENT OF U.S. PATENT NO. 7,468,661

44. Plaintiff hereby restates and re-alleges the allegations set forth in the preceding paragraphs 1-27 and incorporates them by reference.

45. Plaintiff is the owner by assignment of United States Patent No. 7,468,661 entitled "Systems And Methods For Monitoring And Controlling Remote Devices" ("the '661 Patent"). The '661 Patent was duly and legally issued on December 23, 2008. A true and correct copy of the '661 Patent is attached as Exhibit C.

46. Defendants have been and now are directly infringing at least claims 1, 5, 8, 9, 12 and 14 of the '661 Patent making, having had made, using, offering for sale and selling XPoint as part of a system that includes Defendants' GX2 web or SensorView web components.

47. Defendants have been and now are indirectly infringing as contributory infringers under 35 U.S.C. § 271 of at least claims 1, 5, 8, 9, 12 and 14 of the '661 Patent by making, having had made, using, offering for sale into this country and selling XPoint combined with SensorView or GX2, wherein XPoint combined with SensorView or GX2 is a component of a patented system, constituting a material part of the invention, knowing the same to be especially

made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

48. Defendants have been and now are directly infringing at least claims 1, 8 and 9 of the '661 Patent making, having had made, using, offering for sale and selling Hosted ROAM.

49. Defendants have been and now are indirectly infringing as contributory infringers under 35 U.S.C. § 271 of at least claims 1, 8 and 9 of the '661 Patent by making, having had made, using, offering for sale into this country and selling Hosted ROAM wherein Hosted ROAM is a component of a patented system, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

50. Defendants' acts of infringement have caused and continue to cause damage to Plaintiffs. Plaintiff is entitled to recover from Defendants the damages sustained by Plaintiff as a result of Defendants' wrongful acts.

COUNT IV

DIRECT AND INDIRECT INFRINGEMENT OF U.S. PATENT NO. 7,103,511

51. Plaintiff hereby restates and re-alleges the allegations set forth in the preceding paragraphs 1-27 and incorporates them by reference.

52. Plaintiff is the owner by assignment of United States Patent No. 7,103,511 entitled "Wireless Communication Networks For Providing Remote Monitoring Of Devices" ("the '511 Patent"). The '511 Patent was duly and legally issued on September 5, 2006, and the Patent was reexamined and a Reexamination Certificate was issued on October 25, 2011. A true and correct copy of the '511 Patent, together with its certificate of reexamination is attached as

Exhibit D.

53. Defendants have been and now are directly infringing at least claims 1, 3, 4, 8, 10, 11, and 35 of the '511 Patent by making, having had made, using, offering for sale, importing into this country and selling XPoint as part of a system that includes Defendants' GX2 web or SensorView web components.

54. Defendants have been and now are directly infringing at least claims 1, 3, 4, 8, 10, 11, 35, 44 and 46 of the '511 Patent by making, having had made, using, offering for sale, importing into this country and selling ROAM as part of a system that includes Hosted ROAM.

55. Defendants have been and now are indirectly infringing as contributory infringers under 35 U.S.C. § 271 of at least claims 1, 3, 4, 8, 10, 11, and 35 of the '511 Patent by making, having had made, using, offering for sale, importing into this country and selling XPoint as part of a system that includes Defendants' GX2 web or SensorView web components, wherein XPoint combined with SensorView or GX2 is a component of a patented system, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

56. Defendants have been and now are indirectly infringing as contributory infringers under 35 U.S.C. § 271 of at least claims 1, 3, 4, 8, 10, 11, 35, 44 and 46 of the '511 Patent by making, having had made, using, offering for sale, importing into this country and selling ROAM as part of a system that includes Hosted ROAM, wherein Hosted ROAM is a component of a patented system, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

57. Defendants have been and now are directly infringing at least claim 27 of the '511 Patent by practicing the method for enabling customers to monitor remote devices via a wide area network (WAN), the method comprising the steps of: establishing a wireless communication network that enables each of a plurality of customers to monitor at least one remote device via a wide area network comprising a plurality of wireless communication devices which Defendants make, have made, used, offered for sale, imported into this country and sold as XPoint as part of a system that includes Defendants' GX2 web or SensorView web components, the method comprising the wireless communication network comprising: a plurality of wireless transceivers each integrated with one of the plurality of remote devices and having a unique identifier and configured to receive a sensor data signal from the remote device and transmit an original data message using a predefined wireless communication protocol, the original data message comprising the corresponding unique identifier for the originating wireless transceiver, each wireless transceiver further configured to receive the original data message transmitted by one of the other wireless transceivers and transmit a repeated data messaging using the predefined communication protocol, the repeated data message including the original sensor data signal and the corresponding unique identifiers for the originating wireless transceiver and the repeating wireless transceiver; and a site controller in communication with at least one of the plurality of wireless transceivers, the site controller configured to receive the original data messages and the repeated data messages, identify the remote device associated with the corresponding sensor data signal, and provide information related to the sensor data signal to a WAN for delivery to a host computer; and providing an organization access to the wireless communication network.

58. Defendants have been and now are indirectly infringing at least claim 27 of the

'511 Patent by intentionally inducing and continuing to induce infringement of the claims by their intentional acts which have successfully, among other things, encouraged, instructed, enabled, and otherwise caused Defendants' customers to use Defendants' XPoint systems as part of a system that includes Defendants' GX2 web or SensorView web components and related methods, in a manner which infringes the '511 Patent claims by practicing the method the method for enabling customers to monitor remote devices via a wide area network (WAN), the method comprising the wireless communication network comprising: a plurality of wireless transceivers each integrated with one of the plurality of remote devices and having a unique identifier and configured to receive a sensor data signal from the remote device and transmit an original data message using a predefined wireless communication protocol, the original data message comprising the corresponding unique identifier for the originating wireless transceiver, each wireless transceiver further configured to receive the original data message transmitted by one of the other wireless transceivers and transmit a repeated data messaging using the predefined communication protocol, the repeated data message including the original sensor data signal and the corresponding unique identifiers for the originating wireless transceiver and the repeating wireless transceiver; and a site controller in communication with at least one of the plurality of wireless transceivers, the site controller configured to receive the original data messages and the repeated data messages, identify the remote device associated with the corresponding sensor data signal, and provide information related to the sensor data signal to a WAN for delivery to a host computer; and providing an organization access to the wireless communication network.

59. Defendants' acts of infringement have caused and continue to cause damage to Plaintiffs. Plaintiff is entitled to recover from Defendants the damages sustained by Plaintiff as a

result of Defendants' wrongful acts.

COUNT V

DIRECT AND INDIRECT INFRINGEMENT OF U.S. PATENT NO. 6,914,893

60. Plaintiff hereby restates and re-alleges the allegations set forth in the preceding paragraphs 1-27 and incorporates them by reference.

61. Plaintiff is the owner by assignment of United States Patent No. 6,914,893 entitled "System And Method For Monitoring And Controlling Remote Devices" ("the '893 Patent"). The '893 Patent was duly and legally issued on July 5, 2005. A true and correct copy of the '893 Patent is attached as Exhibit E.

62. Defendants have been and now are directly infringing at least claims 1-3, 10, and 37 of the '893 Patent by making, having had made, using, offering for sale, importing into this country and selling XPoint.

63. Defendants' acts of infringement have caused and continue to cause damage to Plaintiffs. Plaintiff is entitled to recover from Defendants the damages sustained by Plaintiff as a result of Defendants' wrongful acts.

COUNT VI

DIRECT AND INDIRECT INFRINGEMENT OF U.S. PATENT NO. 6,437,692

64. Plaintiff hereby restates and re-alleges the allegations set forth in the preceding paragraphs 1-27 and incorporates them by reference.

65. Plaintiff is the owner by assignment of United States Patent No. 6,437,692 entitled "System And Method For Monitoring And Controlling Remote Devices" ("the '692 Patent"). The '692 Patent was duly and legally issued on August 20, 2002. A true and correct copy of the '692 Patent is attached as Exhibit F.

66. Defendants have been and now are directly infringing at least claims 1, 3-8, 12-14, 32, and 36-38 of the '692 Patent by making, having had made, using, offering for sale, importing into this country and selling XPoint as part of a system that includes Defendants' GX2 web or SensorView web components.

67. Defendants have been and now are directly infringing at least claims 1, 3-4, 12-14, 32, and 36-38 of the '692 Patent by making, having had made, using, offering for sale, importing into this country and selling ROAM as part of a system that includes Defendants' Hosted ROAM web components.

68. Defendants have been and now are indirectly infringing as contributory infringers under 35 U.S.C. § 271 of at least claims 1, 3-8, 12-14, 32, and 36-38 of the '692 Patent by making, having had made, using, offering for sale, importing into this country and selling XPoint as part of a system that includes Defendants' GX2 web or SensorView web components, wherein XPoint combined with SensorView or GX2 is a component of a patented system, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

69. Defendants have been and now are indirectly infringing as contributory infringers under 35 U.S.C. § 271 of at least claims 1, 3-4, 12-14, 32, and 36-38, and 36-38 of the '692 Patent by making, having had made, using, offering for sale, importing into this country and selling ROAM as part of a system that includes Defendants' Hosted ROAM web components, wherein Hosted ROAM is a component of a patented system, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an

infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

70. Defendants' acts of infringement have caused and continue to cause damage to Plaintiffs. Plaintiff is entitled to recover from Defendants the damages sustained by Plaintiff as a result of Defendants' wrongful acts.

DEFENDANTS' WILLFULNESS OF INFRINGEMENT

71. Plaintiff hereby restates and re-alleges the allegations set forth in the preceding paragraphs 1-94 and incorporates them by reference.

72. Defendants actually knew that Defendants were infringing at least one claim of Plaintiff's patents-in-suit, and particularly the claims of the '511 and '492 Patents.

73. Alternately, to the extent that Defendants did not actually know that they were infringing, Defendants acted despite an objectively high likelihood that their actions constituted infringement of a patents, and this objectively-defined risk was either known or so obvious that it should have been known to Defendants.

74. For example, Defendants knew about Plaintiffs' patents, because Defendants cited the '511 and '492 Patents in a letter to Plaintiff on April 1, 2014. The bases for distinguishing the claims of those patents were particularly weak and indicative of a bad-faith misconstruction of patent claims and the law.

75. Plaintiff notes that the following Petitions for *Inter Partes* Review have been filed with the United States Patent and Trademark Office, with the following status:

- a. Case IPR2015-00668 relating to Patent 6,437,692; a Petition was filed on February 2, 2015. On August 11, 2015, the Patent Trial and Appeal Board ruled that "The Petition fails to show there is a reasonable likelihood that Petitioner

would prevail with respect to at least one of the claims challenged in the Petition.”

b. Case IPR2015-00663 relating to Patent 7,103,511; a Petition was filed on February 2, 2015. On June 23, 2015, the Patent Trial and Appeal Board ruled that “Petitioner does *not* demonstrate a reasonable likelihood of prevailing on its challenge to the patentability of claims 1–4, 6–11, 27–47, and 51–64 of the ’511 patent as unpatentable under 35 U.S.C. § 103.” (emphasis in original). On August 29, 2015, the Patent Trial and Appeal Board denied the Petitioner’s motion for reconsideration of the Board’s finding that the claims were patentable.

c. Case IPR2014-00751 relating to Patent 7,468,661; a Petition was filed on May 14, 2014 to review claims 1–14. The Patent Trial and Appeal Board instituted trial with respect to claims 1–4 and 9–13 on November 17, 2014. (Paper 15) On November 13, 2015, the Patent Trial and Appeal Board ruled that “claims 2–4 ... are unpatentable,” but “claims 1 and 9–13 ... have not been shown to be unpatentable.”

d. Case IPR2015-00659 relating to Patent 7,697,492; a Petition was filed on February 2, 2015. On August 11, 2015, the Patent Trial and Appeal Board ruled that “The information presented does not show that there is a reasonable likelihood that Petitioner would prevail at trial with respect to at least one claim of the ’492 patent.” On December 10, 2015, the Patent Trial and Appeal Board denied the Petitioner’s motion for reconsideration of the Board’s finding that the claims were patentable.

e. Case IPR2015-01579 relating to Patent 6,914,893; a Petition was filed on July 13, 2015. On January 14, 2016, the Patent Trial and Appeal Board ruled that

“the Petition and accompanying evidence does not establish that there is a reasonable likelihood Petitioner would prevail in showing the unpatentability of any one of the challenged claims, 1, 2, 10, and 37, of the ’893 patent.” On March 17, 2016, the Patent Trial and Appeal Board denied the Petitioner’s motion for reconsideration of the Board’s finding that the claims were patentable.

f. Case IPR2015-01973 relating to Patent 8,013,732; a Petition was filed on September 25, 2015. On March 28, 2016, the Patent Trial and Appeal Board agreed to review claims 13, 14, 16–21, and 23–35 of the ’732 Patent. A trial has not yet been held.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court enter:

- A. A judgment in favor of Plaintiff that Defendants have directly and indirectly infringed Patents 6,437,692; 7,103,511; 7,468,661; 7,697,492; and 8,013,732.
- B. A judgment and order requiring Defendants to pay Plaintiff its damages, costs, expenses, prejudgment and post-judgment interest, and post-judgment royalties for Defendants’ infringement of Patents 6,437,692; 7,103,511; 7,468,661; 7,697,492; 6,914,893; and 8,013,732, as provided under 35 U.S.C. § 284;
- C. A judgment and order holding that Defendants’ infringement was willful, and awarding treble damages and attorney fees and expenses;
- D. Judgment that this is an exceptional case, and, thus, awarding attorney fees and expenses to Plaintiff; and
- E. Any and all other relief to which the Court may deem Plaintiff entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Respectfully submitted,

O'KELLY & ERNST, LLC

Dated: June 23, 2016

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