

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

SIERRA WIRELESS AMERICA, INC.,	)	
a Delaware corporation, and	)	
SIERRA WIRELESS, INC.,	)	
a Canadian corporation,	)	
	)	C.A. No.
Plaintiffs,	)	
	)	<b>JURY TRIAL DEMANDED</b>
v.	)	
	)	
M2M SOLUTIONS LLC,	)	
a Delaware limited liability company,	)	
	)	
Defendant.	)	

**SIERRA WIRELESS AMERICA, INC. AND SIERRA WIRELESS, INC.’S  
COMPLAINT FOR DECLARATORY JUDGMENT**

Sierra Wireless America, Inc. and Sierra Wireless, Inc. (collectively, “Sierra Wireless”), brings this complaint for declaratory judgment against Defendant M2M Solutions LLC (“M2M”) as follows.

**THE PARTIES**

1. Sierra Wireless America, Inc. is a Delaware corporation with its principal place of business in at 2200 Faraday Avenue, Suite A – 2738 Loker Ave West, Carlsbad, California 92010. Sierra Wireless America, Inc. is a wholly-owned subsidiary of Sierra Wireless, Inc.

2. Sierra Wireless, Inc. is a Canadian corporation, having its principal place of business at 13811 Wireless Way, Richmond, B.C., Canada, V6V 3A4.

3. On information and belief, defendant M2M is a Delaware corporation with its principal place of business in at Camden House, School Lane, Tiddington, Stratford-upon-Avon, CV377AJ, United Kingdom.

**JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 2201–2202, 1338, and 1331. The controversy arises under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.* and relates to the non-infringement of U.S. Patent No. 8,648,717 (the “’717 patent”). A true and correct copy of the issue notification for the ’717 patent indicating its issue date of February 11, 2014 is attached hereto as Exhibit A.

5. A real, immediate, and justiciable controversy exists between Sierra Wireless and M2M relating to allegations by M2M that certain Sierra Wireless products infringe any claims of the ’717 patent.

6. On information and belief, this Court has personal jurisdiction over M2M because M2M has constitutionally sufficient contacts with this Judicial District as to make personal jurisdiction proper in this Court. M2M has purposefully availed itself of the benefits and protections of the laws of this State, including this Judicial District, in connection with its conduct in wrongfully asserting patents against Sierra Wireless and other parties, including suing Sierra Wireless and other parties for patent infringement in this District (Case No. 12-cv-00030-RGA). In addition, M2M is a Delaware corporation, and by virtue of its incorporation under Delaware law, M2M has availed itself of the benefits and protections of the laws of this State.

7. Venue is proper in this judicial district under 28 U.S.C. § 1391 (b) and (c).

**FACTUAL BACKGROUND**

8. On January 13, 2012, M2M filed a lawsuit in this District against Sierra Wireless (the “Pending Litigation”) accusing Sierra Wireless of patent infringement of U.S. Patent No. 7,583,197 (the “’197 patent”) and U.S. Patent No. 8,094,010 (the “’010 patent”). In the complaint, M2M alleged that Sierra Wireless infringed the ’010 and ’197 patents based on

Sierra's alleged sales or offers to sell its Airprime embedded wireless modules and its Airlink products.

9. On December 16, 2013, the United State Patent and Trademark Office mailed a notice of allowance for U.S. Patent Application No. 13/934,763 (the "'763 application"). The '763 application issued as the '717 patent. The '717 patent is a continuation of both the '197 and '010 patents asserted in the Pending Litigation, its specification is the same as the specifications of the '197 and '010 patents, and its claims are substantially similar to the claims of the '197 and '010 patents.

10. On December 19, 2013, Richard Kirk, Esq., attorney for M2M, emailed Ron Lopez, attorney for Sierra Wireless, and stated that M2M had received an allowance for the '763 application, and alleged that Sierra Wireless's products infringe the allowed claims.

11. On January 22, 2014, the United States Patent and Trademark Office mailed an issue notification for the '763 application, indicating the application would issue as the '717 patent on February 11, 2014.

12. On information and belief, M2M is the present owner of all right, title, and interest in the '717 Patent.

13. By virtue of M2M's actions, Sierra Wireless reasonably believes that M2M intends to sue it for allegedly infringing the '717 Patent.

14. Sierra Wireless denies that it infringes any claim of any of the '717 Patent.

**FIRST CLAIM FOR RELIEF**  
**(Declaratory Relief as to the '717 Patent)**

15. Sierra Wireless incorporates by reference paragraphs 1 through 14 above as though fully set forth herein.

16. An actual and justiciable controversy exists between Sierra Wireless and M2M concerning whether Sierra Wireless infringes any claim of the '717 Patent. Sierra Wireless now seeks a declaratory judgment that it not directly infringing, contributorily infringing, or actively inducing others to infringe any claim of the '717 Patent as properly construed.

17. Sierra Wireless is entitled to a judicial determination and declaration of the respective rights and duties of the parties herein. Such determination and declaration is necessary and appropriate at this time in order that the parties may ascertain their respective rights and duties.

18. Accordingly, Sierra Wireless seeks a declaratory judgment pursuant to 28 U.S.C. §§ 2201–2202 that Sierra Wireless's products do not infringe any claim of the '717 Patent.

**PRAYER FOR RELIEF**

WHEREFORE, Sierra Wireless prays for the following relief:

- A. A judgment for Sierra Wireless against M2M;
- B. An order declaring that Sierra Wireless products do not infringe, and have not infringed the '717 Patent; and
- C. An order granting such other and further relief as may be deemed just and appropriate.

**DEMAND FOR JURY TRIAL**

Sierra Wireless demands a trial by jury on all issues for which a jury trial is proper.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Thomas C. Grimm

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