

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**OLIVISTAR LLC,**

**Plaintiff,**

**v.**

**EXELON CORPORATION,**

**Defendant.**

**Civil Action No. 2:15-cv-407**

**JURY TRIAL DEMANDED**

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**PLAINTIFF'S ORIGINAL COMPLAINT**

Plaintiff Olivistar LLC ("Plaintiff" or "Olivistar"), by and through its undersigned counsel, files this Original Complaint against Defendant Exelon Corporation ("Exelon") as follows:

**NATURE OF THE ACTION**

1. This is a patent infringement action to stop Defendant's infringement of Plaintiff's United States Patent No. 8,239,481 entitled "System and Method for Implementing Open-Control Remote Device Control" (the "'481 patent"; a copy of which is attached hereto as Exhibit A). Olivistar is the owner by assignment of the '481 patent. Olivistar seeks injunctive relief and monetary damages.

**PARTIES**

2. Plaintiff Olivistar LLC is a limited liability company organized under the laws of the State of Texas. Plaintiff maintains its principal place of business at 2150 S. Central Expressway, Suite 200, McKinney, Texas 75070.

3. Upon information and belief, Defendant Exelon is a business organized and existing under the laws of the State of Pennsylvania, with its principal place of business located at 10 South Dearborn Street, Chicago, Illinois 60603. Defendant conducts business in the State of Texas and its Registered Agent for service of process is Corporate Creations Network, 350

South Northwest Highway 300, Park Ridge, Illinois 60068.

**JURISDICTION AND VENUE**

4. This action arises under the patent laws of the United States, 35 U.S.C. § *et seq.*, including 35 U.S.C. § 271, 281, and 284-85, among others. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §1331 and §1338(a).

5. The Court has personal jurisdiction over Defendant because: Defendant is present within or has minimum contacts with the State of Texas and the Eastern District of Texas; Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in the Eastern District of Texas; Defendant has sought protection and benefit from the laws of the State of Texas; Defendant regularly conducts business within the State of Texas and within the Eastern District of Texas; and Plaintiff's causes of action arise directly from Defendant's business contacts and other activities in the State of Texas and in the Eastern District of Texas.

6. More specifically, Defendant, directly and/or through authorized intermediaries, ships, distributes, offers for sale, sells, and/or advertises products and services in the United States, the State of Texas, and the Eastern District of Texas including but not limited to the Accused Instrumentalities as detailed below. Defendant makes use of the Accused Instrumentality in the State of Texas and/or in the Eastern District of Texas. Defendant has paying customers who are residents of the State of Texas and the Eastern District of Texas and who use the Defendant's products and services in the State of Texas and in the Eastern District of Texas. Defendant derives substantial revenue from goods and services provided to individuals in Texas and in this district.

7. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§1391 and 1400(b). On information and belief, Defendant has transacted business in this district, is located in this district and has directly and/or jointly committed acts of patent infringement in this district.

**COUNT I – INFRINGEMENT OF U.S. PATENT 8,239,481**

8. Olivistar refers to and incorporates herein the allegations of Paragraphs 1-7 above.

9. The ‘481 patent was duly and legally issued by the United States Patent and Trademark Office on August 7, 2012, after full and fair examination. The ‘481 patent is in full force and effect. Plaintiff is the owner by assignment of the ‘481 patent and possesses all rights of recovery under the ‘481 patent, including the exclusive right to sue for infringement and recover past damages.

10. Defendant owns, uses, operates, advertises, controls, sells, and otherwise provides systems that infringe the ‘481 patent. The ‘481 patent provides, among other things, a “method for controlling devices in a computer system, the method comprising: (1) obtaining a user selection of one or more of a plurality of networked devices to be manipulated from a user interface, wherein at least one of the plurality of networked devices requires device-specific protocol instructions that are different from protocol instructions required by at least one of the other plurality of networked devices; (2) obtaining a user interface application corresponding to the selected one or more networked devices; (3) transmitting, to at least one user interface selection device, the user interface application corresponding to the selected one or more networked devices so that the user interface can be displayed on the at least one user interface selection device; (4) obtaining a user selection of an operation corresponding to at least one selected networked device; (5) encoding the selected operation according to a standard communication protocol instruction; (6) transmitting the selected standard protocol instruction

to a server corresponding to the selected networked device; and (7) obtaining an output corresponding to the selected operation of the selected networked device.

11. Defendant directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems and methods for implementing open-control remote device control that infringed one or more claims of the '481 patent in this district and elsewhere in the United States. Particularly, Exelon ("Defendant") uses a method for controlling devices in a computer system. Defendant uses third-generation, web-based SCADA, which is a system that enables centralized control of geographically dispersed field devices, over a wide area network (WAN) using standard TCP/IP protocols to control field-device operation. In 2013, the Corporate and Information Security Services group launched the Exelon Security Operations Center (SOC) and Cyber Security Operation Center (Cyber-SOC). The SOC enables around-the-clock monitoring of facilities, which allows Defendant's security team to remotely control access to sensitive areas, detect events on the ground as they occur to minimize impacts, and identify persons responsible, if necessary. The Cyber-SOC uses advanced detection methods to constantly monitor the state of Exelon's networks. Commercial operation of the 28 WTGs (Wind turbine generator) was achieved on December 27, 2010 and the Project will operate for a minimum of 20 years. Each WTG includes a Supervisory Control and Data Acquisitions (SCADA) operations and communications system that allows automated independent operation and remote supervision of each WTG. The SCADA data provides detailed operating and performance information for each turbine, allowing continuous, real-time control and monitoring to ensure optimal operation and early warning of potential problems ("Accused Instrumentality") which directly infringes the '481 patent. Defendant has at least made or used the Accused Instrumentality in an infringing manner, directly

or through intermediaries for purposes of development, testing, quality assurance, deployment, and maintenance.

12. Defendant is willfully and intentionally infringing the '481 Patent from at least the date of the filing of the Original Complaint. Defendant is fully aware of their infringement and Defendant's infringement at this point is willful and intentional as evidenced by Defendant continuing to make, use, provide, and offer, the Accused Instrumentality.

13. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

14. Plaintiff is entitled to recover from the Defendant the damages sustained by Plaintiff as a result of the Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

15. Defendant's infringement of Plaintiff's exclusive rights under the '481 patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

### **JURY DEMAND**

Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

### **PRAYER FOR RELIEF**

Plaintiff respectfully requests that the Court find in its favor and against the Defendant, and that the Court grant Plaintiff the following relief:

- A. A judgment in favor of Plaintiff that Defendant has infringed one or more of the claims of the '481 patent, directly, and/or jointly;

- B. A permanent injunction pursuant to 35 U.S.C. § 283, enjoining Defendant and their officers, directors, agents servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement of the '481 patent, or such other equitable relief the Court determines is warranted;
- C. An award to Plaintiff of damages adequate to compensate Plaintiff for the Defendant's acts of infringement together with pre-judgment and post-judgment interest;
- D. That, should Defendant's acts of infringement be found to be willful from the time that Defendant became aware of the infringing nature of their actions, which is the time of filing of Plaintiff's Original Complaint at the latest, that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;
- E. That this Court declare this to be an exceptional case and award Plaintiff its reasonable attorneys' fees and costs in accordance with 35 U.S.C. §285; and
- F. Any further relief that this Court deems just and proper.

Dated: March 20, 2015

Respectfully submitted,

By: /s/ Austin Hansley  
**AUSTIN HANSLEY P.L.L.C.**  
Austin Hansley  
Texas Bar No.: 24073081  
Brandon LaPray  
Texas Bar No.: 24087888  
5050 Quorum Dr. Suite 700  
Dallas, Texas 75254  
Telephone: (469) 587-9776  
Facsimile: (855) 347-6329  
Email: Austin@TheTexasLawOffice.com  
www.TheTexasLawOffice.com  
**ATTORNEY FOR PLAINTIFF**

**OLIVISTAR LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on March 20, 2015, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, Marshall Division, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means. All other counsel was served by email, mail, or fax.

/s/ Austin Hansley  
Austin Hansley