

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

_____		)	
DOMINION RESOURCES, INC., and		)	
VIRGINIA ELECTRIC AND POWER		)	
COMPANY,		)	
		)	
Plaintiffs,		)	Civ. Action No. 2:15-cv-0224-MAK
v.		)	
		)	
ALSTOM GRID, INC.		)	
		)	
Defendant.		)	
_____		)	

**AMENDED COMPLAINT**

COME NOW, the plaintiffs, Dominion Resources, Inc. and Virginia Electric and Power Company (collectively “Dominion” or “Plaintiffs”), by and through their undersigned counsel, and for their amended complaint against defendant Alstom Grid, Inc. (“Alstom Grid” or “Defendant”) allege as follows:

**NATURE OF ACTION**

1. This is an action under the Declaratory Judgment Act, 28 U.S.C. §§ 2201, *et seq.*, seeking an Order declaring that Alstom Grid’s actions will imminently result in the infringement of at least one claim of U.S. Patent Nos. 8,577,510 (“the ‘510 patent”) and 8,437,883 (“the ‘883 patent”) (collectively, “the Dominion Patents”).

**PARTIES**

2. Plaintiff Dominion Resources, Inc. is a corporation organized and existing under the laws of the Commonwealth of Virginia, with its corporate headquarters and principal place of business at 120 Tredegar Street, Richmond VA 23219.

3. Plaintiff Virginia Electric and Power Company is a corporation organized under the

laws of the Commonwealth of Virginia, with its corporate headquarters and principal place of business at 120 Tredegar Street, Richmond VA 23219.

4. On information and belief, Defendant Alstom Grid is a corporation organized under the laws of the State of Ohio, with its principal place of business located at One International Plaza, Philadelphia, Pennsylvania, 19113.

### **JURISDICTION AND VENUE**

5. This action arises under the United States Patent Act, codified at 35 U.S.C. § 1 et seq., and in particular, 35 U.S.C. §§ 271 and 281-285.

6. This Court has original jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 2201 and 2202. As described below, Alstom Grid's actions have created an actual controversy within the meaning of 28 U.S.C. § 2201 as to the infringement of the Dominion Patents. The controversy is substantial between parties having adverse legal interests, and of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

8. This Court has personal jurisdiction over Defendant Alstom Grid because, on information and belief, Defendant's principal place of business is in this Judicial District. This Court also has personal jurisdiction over Defendant because, on information and belief, Defendant will commit acts of infringement in and from this Judicial District.

9. Venue is proper under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) in this District because, on information and belief, Defendant's principal place of business is in this District. Venue is also proper in this District because, on information and belief, Defendant will commit acts of infringement in and from this District.

## **FACTUAL BACKGROUND**

### **The Patented Technology**

10. While distributing power from a power generation site to the customer, controlling the components of electrical power throughout the power distribution system is important in order to stay within design requirements of customer equipment. One application of power distribution system control is conservation voltage reduction (“CVR”) through voltage control. This voltage reduction allows a utility to generate less power while still satisfying its customers’ power requirements.

11. Before others in the power transmission industry, Dominion conceived of improved technologies needed to more effectively and efficiently implement power distribution system control which enables a utility to produce less power while ensuring its customers’ needs are met.

12. The Dominion Patents are directed to controlling components of electrical power in a power distribution system using sensors at a plurality of distribution locations within the distribution system. Dominion’s power control technology, as described and claimed in the Dominion Patents, enables a power utility to produce less power to satisfy the needs of its customers.

13. The application for the ‘883 patent is a continuation of the application that issued as the ‘510 patent.

14. Dominion is the assignee of all rights, title and interests in and to the Dominion Patents, and holds the right to sue and recover for past, present, and future infringement thereof.

15. Dominion currently uses the patented power control technology in its EDGE® control platform, which is currently deployed in numerous locations in the U.S. including

Virginia, Hawaii, California, Oregon, Illinois and Louisiana.

**Alstom Grid's Use of the Patented Technology**

16. On information and belief, Defendant Alstom Grid incorporates Dominion's patented power control technology in its Alstom Integrated Distribution Management System (IDMS) and Load & Volt/VAR Management (LVM) module of its e-terradistribution product ("Alstom Grid's IDMS and LVM module control system").

17. Alstom Grid's IDMS and LVM module control system directly competes in the marketplace for sales with Dominion's EDGE® control platform.

18. When Alstom Grid's IDMS and LVM module control system is used by a third-party utility user ("third-party user") in the third-party user's power distribution system, that third-party user directly infringes at least one claim of the Dominion Patents.

19. Alstom disagrees that the third-party user's use of Alstom Grid's IDMS and LVM module control system in its power distribution system directly infringes at least one claim of the Dominion Patents.

20. Alstom Grid has sold its IDMS and LVM module control system to at least one third-party user.

21. Upon information and belief the sale was made after the third-party user expressed an interest in upgrading its current power distribution system to incorporate Alstom Grid's IDMS and LVM module control system, including the features described and claimed in the Dominion Patents.

22. Since Alstom Grid's sale of its IDMS and LVM module control system to the third-party user, Alstom Grid has been working directly with the third-party user to assist with the upgrade from the third-party user's existing power distribution system to a power distribution

system that includes the features described and claimed in Dominion's Patents.

23. Alstom Grid is currently working with the third-party user to incorporate its IDMS and LVM module control system into several different power distribution systems within the third-party user's service territories in the United States.

24. Before going live within its service territories with its upgraded power distribution system, the third-party user will test Alstom's IDMS and LVM module control system in its power distribution system.

25. The third-party user, working directly with Alstom Grid, has been working for months making preparations to begin testing its upgraded power distribution system which includes the features described and claimed in the Dominion Patents.

26. The act of testing the third-party user's upgraded power distribution system infringes the Dominion Patents.

27. Alstom Grid disagrees that the act of testing the third-party user's upgraded power distribution system infringes the Dominion Patents.

28. After many months of preparations, the third-party user will test its upgraded power distribution system in an infringing manner in early 2016.

29. After the third-party user concludes its testing, it will go live within its service territories with its upgraded power distribution system.

30. The third-party user's purchase, implementation, training, system upgrade and imminent use of Alstom's IDMS and LVM module control systems in an infringing manner have created an actual, substantial and justiciable controversy between Dominion and Alstom Grid, parties having adverse legal interests.

31. In addition to the sale of its IDMS and LVM module control systems to the one

identified third-party user, Alstom Grid continues to offer for sale its IDMS and LVM module control systems to other third parties throughout the United States in direct competition with Dominion.

32. Dominion provided Alstom Grid with actual notice of the Dominion Patents on August 11, 2014.

33. After learning of the Dominion Patents, Defendant Alstom Grid continued to willfully supply, provide instructions and training relating to, and configure systems with Alstom's IDMS and LVM module control systems for the third-party user, knowing that the third-party user's use of the Alstom IDMS and LVM module control systems in its power distribution system infringes the Dominion Patents.

34. After learning of the Dominion Patents, Defendant Alstom Grid continued to willfully encourage the third-party user to use Alstom's IDMS and LVM module control systems in its power distribution system knowing that such use infringes the Dominion Patents.

35. Alstom Grid has presented and advertised that the features described and claimed in the Dominion Patents are important features of its IDMS and LVM module.

36. On information and belief, after adopting the features described in the Dominion Patents, Alstom Grid's market share grew.

37. On information and belief, after adopting the features described in the Dominion Patents, Alstom Grid's revenues increased.

### **FIRST CLAIM FOR RELIEF**

(Declaratory Judgment of Infringement of U.S. Patent No. 8,577,510)

38. Dominion incorporates by reference the allegations contained in paragraphs 1 through 37 above as if fully set forth herein.

39. Alstom Grid has engaged in continuous, systematic and concrete steps to induce and contribute to the infringement of the '510 patent pursuant to 35 U.S.C. § 271 (b) and (c), knowingly taking active steps to encourage and facilitate direct infringement by the third-party user, and thus an actual and justiciable controversy between Dominion and Alstom Grid exists and this Court has jurisdiction over this Claim for declaratory relief pursuant to 28 U.S.C. §§ 2201 *et seq.*

40. The third-party user has engaged in continuous, systematic and concrete steps to directly infringe the '510 patent pursuant to 35 U.S.C. § 271 (a) and that direct infringement is now imminent after months of preparations, training, and system upgrades.

41. Upon the third-party user's imminent infringing use of Alstom's IDMS and LVM module control system, the third-party user will directly infringe the '510 patent in violation of 35 U.S.C. § 271(a) and Alstom Grid will infringe the '510 patent in violation of 35 U.S.C. § 271(b) by knowingly taking active steps to encourage and facilitate direct infringement by others.

42. Upon the third-party user's imminent infringing use of Alstom's IDMS and LVM module control system, the third-party user will directly infringe the '510 patent in violation of 35 U.S.C. § 271(a) and Alstom Grid will infringe the '510 patent in violation of 35 U.S.C. § 271(c) by making, using, selling, and/or offering for sale within the United States components, for example, the Alstom IDMS and/or LVM module, that embody a material part of the invention described and claimed in the Dominion Patents, and that are known by Alstom Grid to be specially made or specially adapted for use in the infringement of at least one claim of the '510 patent, and that are not staple articles or commodities suitable for substantial, non-infringing use.

43. Dominion requests a declaration of the Court that the third-party user's imminent use of Alstom's IDMS and LVM module control system directly infringes the '510 patent in violation of 35 U.S.C. § 271 (a) and that Alstom's actions indirectly infringe the '510 patent in violation of 35 U.S.C. § 271 (b) and (c).

44. Dominion requests a declaration of the Court that Dominion will be damaged by Alstom Grid's imminent infringement of the '510 patent and thus is entitled to recover damages from Alstom Grid to compensate it for the infringement.

45. Dominion requests a declaration of the Court that, pursuant to 35 U.S.C. § 284, Dominion is entitled to damages adequate to compensate it for the infringement but in no event less than a reasonable royalty.

46. Dominion requests a declaration of the Court that this case is "exceptional" within the meaning of 35 U.S.C. § 285, and Dominion is entitled to an award of attorneys' fees.

47. Dominion requests a declaration of the Court that Alstom Grid's imminent infringement is both willful and deliberate.

### **SECOND CLAIM FOR RELIEF**

(Declaratory Judgment of Infringement of U.S. Patent No. 8,437,883)

48. Dominion incorporates by reference the allegations contained in paragraphs 1 through 47 above as if fully set forth herein.

49. Alstom Grid has engaged in continuous, systematic and concrete steps to induce and contribute to the infringement of the '883 patent pursuant to 35 U.S.C. § 271 (b) and (c), knowingly taking active steps to encourage and facilitate direct infringement by the third-party user, and thus an actual and justiciable controversy between Dominion and Alstom Grid exists and this Court has jurisdiction over this Claim for declaratory relief pursuant to 28 U.S.C. §§



2201 *et seq.*

50. The third-party user has engaged in continuous, systematic and concrete steps to directly infringe the '883 patent pursuant to 35 U.S.C. § 271 (a) and that direct infringement is now imminent after months of preparations, training, and system upgrades.

51. Upon the third-party user's imminent infringing use of Alstom's IDMS and LVM module control system, the third-party user will directly infringe the '883 patent in violation of 35 U.S.C. § 271(a) and Alstom Grid will infringe the '883 patent in violation of 35 U.S.C. § 271(b) by knowingly taking active steps to encourage and facilitate direct infringement by others.

52. Upon the third-party user's imminent infringing use of Alstom's IDMS and LVM module control system, the third-party user will directly infringe the '883 patent in violation of 35 U.S.C. § 271(a) and Alstom Grid will infringe the '883 patent in violation of 35 U.S.C. § 271(c) by making, using, selling, and/or offering for sale within the United States components, for example, the Alstom IDMS and/or LVM module, that embody a material part of the invention described and claimed in the Dominion Patents, and that are known by Alstom Grid to be specially made or specially adapted for use in the infringement of at least one claim of the '883 patent, and that are not staple articles or commodities suitable for substantial, non-infringing use.

53. Dominion requests a declaration of the Court that the third-party user's imminent use of Alstom's IDMS and LVM module control system directly infringes the '883 patent in violation of 35 U.S.C. § 271 (a) and that Alstom's actions indirectly infringe the '510 patent in violation of 35 U.S.C. § 271 (b) and (c).

54. Dominion requests a declaration of the Court that Dominion will be damaged by

Alstom Grid's imminent infringement of the '883 patent and thus is entitled to recover damages from Alstom Grid to compensate it for the infringement.

55. Dominion requests a declaration of the Court that, pursuant to 35 U.S.C. § 284, Dominion is entitled to damages adequate to compensate it for the infringement but in no event less than a reasonable royalty.

56. Dominion requests a declaration of the Court that this case is "exceptional" within the meaning of 35 U.S.C. § 285, and Dominion is entitled to an award of attorneys' fees.

57. Dominion requests a declaration of the Court that Alstom Grid's imminent infringement is both willful and deliberate.

### **PRAYER FOR RELIEF**

WHEREFORE, Dominion prays for the following relief:

58. Pursuant to 35 U.S.C. § 271, a Judgment that Alstom Grid infringes at least one claim of the '510 patent and/or at least one claim of the '883 patent;

59. Pursuant to 35 U.S.C. § 284, appropriate compensatory damages amounting to no less than reasonable royalties and/or lost profits, prejudgment interest, and/or any other available damages based on any form of recoverable economic injury sustained by Dominion as a result of Alstom Grid's infringement;

60. Pursuant to 35 U.S.C. § 283, that Defendant Alstom Grid be permanently enjoined from infringing the Dominion Patents.

61. Pursuant to 28 U.S.C. § 2201, *et seq.*, a declaratory judgment in favor of Plaintiffs that the third-party user's imminent use of Alstom's IDMS and LVM module control systems constitutes direct infringement of Dominion's Patents in violation of 35 U.S.C § 271(a) and that Alstom's actions indirectly infringe Dominion's Patents in violation of 35 U.S.C. § 271 (b) and

(c).

62. Pursuant to 35 U.S.C. § 285, an award of Dominion's costs and attorneys' fees incurred in this action; and

63. For such other and further relief as this Court deems just and proper.

DATED: October 27, 2015

Respectfully submitted,

By: /s/ John D. Simmons

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 27, 2015, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ John D. Simmons  
John D. Simmons