

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

SIPCO, LLC,

Plaintiff,

v.

EZLO INNOVATION, LLC.
Defendant.

Civil Action No.:

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff SIPCO, LLC (“SIPCO” or “Plaintiff”), for its Complaint against eZLO Innovation, LLC. (“eZLO” or “Defendant”) alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

THE PARTIES

2. Plaintiff is a limited liability company organized and existing under the laws of the State of Georgia with a principal office at 235 Peachtree Street NE, Suite 400, Atlanta, GA, 30303.

3. Upon information and belief, Defendant is a limited liability company organized under the laws of Delaware with a registered agent located at 1209 Orange Street, Wilmington, DE 19801.

4. Upon information and belief, Defendant sells and offers to sell products and services throughout the United States, including in this District, and introduces products and services into the stream of commerce and that incorporate infringing technology knowing that they would be sold in this District and elsewhere in the United States.

5. Upon information and belief, Defendant conducts a significant, persistent and regular amount of business in this District through product sales by its distributors, customers, and resellers and through online marketing, and derives substantial revenue from such business.

JURISDICTION AND VENUE

6. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

7. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

8. Venue is proper in this District under 28 U.S.C. § 1400(b) as the Defendant is a Delaware limited liability company.

9. Upon information and belief, this Court has personal jurisdiction over Defendant because it is incorporated in Delaware and has purposefully availed itself of the privileges and benefits of the laws of the State of Delaware. Further, Defendant is subject to this Court's general and specific personal jurisdiction because Defendant has sufficient minimum contacts within the State of Delaware, pursuant to due process and/or the Delaware Long Arm Statute, because Defendant purposefully availed itself of the privileges of conducting business in the State of Delaware, and because Plaintiff's causes of action arise directly from Defendant's business contacts and other activities in the State of Delaware, including regularly doing or soliciting business and deriving substantial revenue from products and services provided to individuals in this District. The exercise of jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice.

BACKGROUND

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

11. In the 1990s, 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.

12. Through the 1990s and early 2000s 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.

13. 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 used across North America and throughout the world.

14. 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.

15. 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, more than 100 corporations have taken licenses to them. Licensees include companies operating in the vertical

markets of Industrial Controls, Lighting, 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 ZigBee and Z-Wave.

16. SIPCO is the exclusive owner of all rights, title, and interest in the patents in suit, including the right to exclude others and to enforce, sue and recover damages for past and future infringement thereof.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 8,335,304

17. Plaintiff hereby restates the allegations contained in the preceding paragraphs above as if fully set forth herein.

18. On December 18, 2012, U.S. Patent No. 8,335,304 (“the ‘304 Patent”), entitled “Multi-Function General Purpose Transceivers and Devices,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ‘304 Patent is attached as Exhibit 1. Related U.S. application data is set forth on the face of the patent.

19. Plaintiff is the assignee and owner of the right, title, and interest in and to the ‘304 Patent, including the right to assert all causes of action arising under the ‘304 Patent and the right to any remedies for infringement of the ‘304 Patent.

20. Defendant has infringed and continues to infringe the ‘304 Patent under 35 U.S.C. § 271, literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, infringing products without authorization (hereafter “Infringing Instrumentalities”). At a minimum, Infringing Instrumentalities include the eZLO Multisensor, eZLO Scene Switches, eZLODoor/Window

Sensor, eZLO Plug-in Smart Switches, eZLO In-wall Smart Switch devices (collectively, “eZLO End Devices”) that operate pursuant to the Z-Wave Protocol.

21. Defendant has been, and now is, indirectly infringing as a contributory infringer at least claim 1¹ of the ‘304 Patent by making, using, selling, offering to sell, importing and/or providing and causing to be used the eZLO End Devices which satisfy, literally or under the doctrine of equivalents, each and every claim limitation of claim 1 of the ‘304 Patent. The correspondence between the limitations of claim 1 of the ‘304 Patent and the eZLO End Devices is shown in the claim chart attached hereto as Exhibit 2. The claim chart is incorporated by reference as if set forth herein. The citations to the Z-Wave Protocol in the claim chart are required for a product configured to operate pursuant to the Z-Wave Protocol. Additional details relating to the eZLO End Devices and their infringement are within the possession, custody or control of Defendant.

22. Defendant provides users of the eZLO End Devices with instructions on how to operate within a Z-Wave network and markets Z-Wave connectivity in its promotional materials for the eZLO End Devices. In addition, Defendant provides users with an application which serves as a central location to which mesh devices may connect. To operate within a Z-Wave network, the eZLO End Devices need to operate pursuant to the Z-Wave Protocol and the required portions of the Z-Wave Protocol necessarily practice at least claim 1 of the ‘304 Patent.

23. On information and belief, any other of Defendant’s wireless mesh end-devices that operate pursuant to the Z-Wave Protocol are also Infringing Instrumentalities. Additional details

¹ Plaintiff reserves the right to identify additional asserted claims and accused products as this litigation proceeds. For example, Plaintiff expressly reserves the right to identify additional asserted claims and accused products in its infringement contentions to be served during the discovery process.

relating to Infringing Instrumentalities and their infringement are within the possession, custody or control of Defendant.

24. Plaintiff offers this preliminary identification and description of infringement without the benefit of discovery or claim construction in this action, and expressly reserves the right to augment, supplement, and revise its identification and description of infringement based on additional information obtained through discovery or otherwise.

25. On information and belief, Defendant had knowledge of and became aware of its infringement of the '304 Patent prior to the filing of this Complaint. By way of example, prior to the filing of this Complaint, representatives for SIPCO contacted Defendant about the infringement of the '304 Patent dating back to March 26, 2018.

26. Defendant has instructed its customers, including users of its eZLO End Devices, that its products support "more than 20 [Z-Wave] device connections at the same time." As reflected in Exhibit 2, Defendant's website further shows that Defendant has tested and verified that the eZLO End Devices work with the Z-Wave protocol and promotes the compatibility of thereof. In making these instructions and materials available to customers and touting the benefits of compatibility with the Z-Wave Protocol, Defendant specifically intended to encourage its customers to use the eZLO End Devices in an infringing matter, knowing that such use in accordance with its instructions and materials constituted infringement of the '304 Patent. Defendant has thus induced and is inducing its customers to infringe the '304 Patent.

27. On information and belief, Defendant acted with specific intent or with willful blindness to induce its customers to practice the '304 Patent by continuing the above-mentioned activities with knowledge of the '304 Patent.

28. Defendant had pre-suit knowledge that it was using the ‘304 Patent and has knowingly made, used, offered to sell, sold, and/or imported into the United States the Infringing Instrumentalities that infringed and continue to infringe the ‘304 Patent under 35 U.S.C. § 271. Because Defendant did so with such knowledge of the ‘304 Patent, Defendant is liable for willful infringement.

29. Defendant’s acts of infringement involving the ‘304 Patent have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages it has sustained as a result of Defendant’s wrongful acts in an amount subject to proof at trial.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 7,103,511

30. Plaintiff hereby restates the allegations contained in the preceding paragraphs above as if fully set forth herein.

31. On September 5, 2006, U.S. Patent No. 7,103,511 (“the ‘511 Patent”), entitled “Wireless Communication Networks For Providing Remote Monitoring Of Devices,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ‘511 Patent is attached as Exhibit 3. Related U.S. application data is set forth on the face of the patent.

32. Plaintiff is the assignee and owner of the right, title, and interest in and to the ‘511 Patent, including the right to assert all causes of action arising under the ‘511 Patent and the right to any remedies for infringement of the ‘511 Patent.

33. Defendant directly and indirectly infringed and continues to directly and indirectly infringe at least claim 1² of the ‘511 Patent by making, having had made, using, offering for sale, and selling the eZLO Atom, eZLO PlugHub, eZLO 100 devices (collectively, “eZLO Mesh Controllers”) and the eZLO End Devices (eZLO Mesh Controllers and eZLO End-devices collectively referred to as “eZLO Mesh Devices”) controlled through a host computer (together, “eZLO Mesh Network”) that operate pursuant to the Z-Wave standard wireless mesh protocol.

34. A claim chart, attached as Exhibit 4, explains how Defendant infringed, and is infringing, claim 1 of the ‘511 Patent.

35. Defendant has been, and now is, indirectly infringing as a contributory infringer under 35 U.S.C. § 271 at least claim 1 of the ‘511 Patent by making, having had made, using, offering for sale, and selling the eZLO Mesh Network that operates pursuant to the Z-Wave standard wireless mesh protocol, wherein the products that operate pursuant to the Z-Wave standard wireless mesh protocol are 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 non-infringing use.

36. On information and belief, Defendant had knowledge of and became aware of its infringement of the ‘511 Patent prior to the filing of this Complaint. By way of example, prior to the filing of this Complaint, representatives for SIPCO contacted Defendant about the infringement of the ‘511 Patent dating back to March 26, 2018.

² Plaintiff reserves the right to identify additional asserted claims and accused products as this litigation proceeds. For example, Plaintiff expressly reserves the right to identify additional asserted claims and accused products in its infringement contentions to be served during the discovery process.

37. Defendant had pre-suit knowledge that it was using the ‘511 Patent and has knowingly made, used, offered to sell, sold, and/or imported into the United States the Infringing Instrumentalities that infringed and continue to infringe the ‘511 Patent under 35 U.S.C. § 271. Because Defendant did so with such knowledge of the ‘511 Patent, Defendant is liable for willful infringement.

38. Defendant’s acts of infringement have caused and continue to cause damage to Plaintiff. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant’s wrongful acts.

COUNT III

INFRINGEMENT OF U.S. PATENT NO. 9,521,533

39. Plaintiff hereby restates the allegations contained in the preceding paragraphs above as if fully set forth herein.

40. On December 13, 2016, U.S. Patent No. 9,521,533 (“the ‘533 Patent”), entitled “Systems And Methods For Providing,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ‘533 Patent is attached as Exhibit 5. Related U.S. application data is set forth on the face of the patent.

41. Plaintiff is the assignee and owner of the right, title, and interest in and to the ‘533 Patent, including the right to assert all causes of action arising under the ‘533 Patent and the right to any remedies for infringement of the ‘533 Patent.

42. Defendant indirectly infringed and continues to indirectly infringe at least claim 1³ of the ‘533 Patent by making, having had made, using, offering for sale, and selling eZLO Mesh

³ Plaintiff reserves the right to identify additional asserted claims and accused products as this litigation proceeds. For example, Plaintiff expressly reserves the right to identify additional asserted claims and accused products in its infringement contentions to be served during the discovery process.

Devices which communicate via a mobile device (together “Mobile eZLO Mesh Network”) that operate pursuant to the Z-Wave standard wireless mesh protocol.

43. A claim chart, attached as Exhibit 6, explains how Defendant indirectly infringed, and is indirectly infringing, claim 1 of the ‘533 Patent.

44. Defendant has been, and now is, indirectly infringing as a contributory infringer under 35 U.S.C. § 271 at least claim 1 of the ‘533 Patent by making, having had made, using, offering for sale, and selling the Mobile eZLO Mesh Network that operate pursuant to the Z-Wave standard wireless mesh protocol, wherein the products that operate pursuant to the Z-Wave standard wireless mesh protocol are 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 non-infringing use.

45. On information and belief, Defendant had knowledge of and became aware of its infringement of the ‘533 Patent prior to the filing of this Complaint. By way of example, prior to the filing of this Complaint, representatives for SIPCO contacted Defendant about the infringement of the ‘533 Patent dating back to March 26, 2018.

46. Defendant had pre-suit knowledge that it was using the ‘533 Patent and has knowingly made, used, offered to sell, sold, and/or imported into the United States the Infringing Instrumentalities that infringed and continue to infringe the ‘533 Patent under 35 U.S.C. § 271. Because Defendant did so with such knowledge of the ‘533 Patent, Defendant is liable for willful infringement.

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

COUNT IV

INFRINGEMENT OF U.S. PATENT NO. 8,924,588

48. Plaintiff hereby restates the allegations contained in the preceding paragraphs above as if fully set forth herein.

49. On December 30, 2014, U.S. Patent No. 8,924,588 ("the '588 Patent"), entitled "Systems and Methods for Controlling Communication between a Host Computer and Communication Devices," was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '588 Patent is attached as Exhibit 7. Related U.S. application data is set forth on the face of the patent.

50. Plaintiff is the assignee and owner of the right, title, and interest in and to the '588 Patent, including the right to assert all causes of action arising under the '588 Patent and the right to any remedies for infringement of the '588 Patent.

51. Defendant has infringed and continues to infringe the '588 Patent under 35 U.S.C. § 271, literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, Infringing Instrumentalities including, without limitation, the eZLO Mesh Controllers.

52. Defendant directly infringed and continues to directly infringe at least claim 1⁴ of the '588 Patent by making, using, selling, offering to sell, importing and/or providing and causing

⁴ Plaintiff reserves the right to identify additional asserted claims and accused products as this litigation proceeds. For example, Plaintiff expressly reserves the right to identify additional asserted claims and accused products in its infringement contentions to be served during the discovery process.

to be used the eZLO Mesh Controllers which satisfy, literally or under the doctrine of equivalents, each and every claim limitation of claim 1 of the '588 Patent. The correspondence between the limitations of claim 1 of the '588 Patent and the eZLO Mesh Controllers is shown in the claim chart attached hereto as Exhibit 8. The claim chart is incorporated by reference as if set forth herein. The citations to the Z-Wave Protocol in the claim chart are required for a product configured to operate pursuant to the Z-Wave Protocol. Additional details relating to the eZLO Mesh Controllers and their infringement are within the possession, custody or control of Defendant.

53. Defendant provides users of the eZLO Mesh Controllers with instructions on how to operate within a Z-Wave network and markets Z-Wave connectivity in its promotional materials for the eZLO Mesh Controllers. To operate within a Z-Wave network, the eZLO Mesh Controllers need to operate pursuant to the Z-Wave Protocol and the required portions of the Z-Wave Protocol necessarily practice at least claim 1 of the '588 Patent.

54. On information and belief, any other of Defendant's wireless mesh controllers that operate pursuant to the Z-Wave Protocol are also Infringing Instrumentalities. Additional details relating to Infringing Instrumentalities and their infringement are within the possession, custody or control of Defendant.

55. On information and belief, Defendant had knowledge of and became aware of its infringement of the '588 Patent prior to the filing of this Complaint. By way of example, prior to the filing of this Complaint, representatives for SIPCO contacted Defendant about the infringement of the '588 Patent dating back March 26, 2018.

56. Defendant has instructed its customers, including users of its eZLO Mesh Controllers, that its products can support "more than 20 (Z-Wave) device connections at the same

time.” As reflected in Exhibit 8, Defendant’s website further shows that Defendant has tested and verified that the eZLO Mesh Devices work with Z-Wave devices. In making these instructions and materials available to customers and touting the benefits of compatibility with the Z-Wave Protocol, Defendant specifically intended to encourage its customers to use the eZLO Mesh Controllers in an infringing matter, knowing that such use in accordance with its instructions and materials constituted infringement of the ‘588 Patent. Defendant has thus induced and is inducing its customers to infringe the ‘588 Patent. On information and belief, Defendant acted with specific intent or with willful blindness to induce its customers to practice the ‘588 Patent by continuing the above-mentioned activities with knowledge of the ‘588 Patent.

57. Defendant had pre-suit knowledge that it was using the ‘588 Patent and has knowingly made, used, offered to sell, sold, and/or imported into the United States the Infringing Instrumentalities that infringed and continue to infringe the ‘588 Patent under 35 U.S.C. § 271. Because Defendant did so with such knowledge of the ‘588 Patent, Defendant is liable for willful infringement.

58. Defendant’s acts of infringement involving the ‘588 Patent have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages it has sustained as a result of Defendant’s wrongful acts in an amount subject to proof at trial.

COUNT V

INFRINGEMENT OF U.S. PATENT NO. 8,964,708

59. Plaintiff hereby restates the allegations contained in the preceding paragraphs above as if fully set forth herein.

60. On February 24, 2015, U.S. Patent No. 8,964,708 (“the ‘708 Patent”), entitled “Systems and Methods for Monitoring and Controlling Remote Devices,” was duly and legally

issued by the United States Patent and Trademark Office. A true and correct copy of the ‘708 Patent is attached as Exhibit 9. Related U.S. application data is set forth on the face of the patent.

61. Plaintiff is the assignee and owner of the right, title, and interest in and to the ‘708 Patent, including the right to assert all causes of action arising under the ‘708 Patent and the right to any remedies for infringement of the ‘708 Patent.

62. Defendant has infringed and continues to infringe the ‘708 Patent under 35 U.S.C. § 271, literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, Infringing Instrumentalities. At a minimum, Infringing Instrumentalities include the eZLO Mesh Devices that operate pursuant to the Z-Wave Protocol.

63. Defendant directly infringed and continues to directly infringe at least claim 1⁵ of the ‘708 Patent by making, using, selling, offering to sell, importing and/or providing and causing to be used the eZLO Mesh Devices which satisfy, literally or under the doctrine of equivalents, each and every claim limitation of claim 1 of the ‘708 Patent. The correspondence between the limitations of claim 1 of the ‘708 Patent and the eZLO Mesh Devices is shown in the claim chart attached hereto as Exhibit 10. The claim chart is incorporated by reference as if set forth herein. The citations to the Z-Wave Protocol in the claim chart are required for a product configured to operate pursuant to the Z-Wave Protocol. Additional details relating to the eZLO Mesh Devices and their infringement are within the possession, custody or control of Defendant.

64. Defendant provides users of the eZLO Mesh Devices with instructions on how to operate within a Z-Wave network and markets Z-Wave connectivity in its promotional materials

⁵ Plaintiff reserves the right to identify additional asserted claims and accused products as this litigation proceeds. For example, Plaintiff expressly reserves the right to identify additional asserted claims and accused products in its infringement contentions to be served during the discovery process.

for the eZLO Mesh Devices. To operate within a Z-Wave network, the eZLO Mesh Devices need to operate pursuant to the Z-Wave Protocol and the required portions of the Z-Wave Protocol necessarily practice at least claim 1 of the ‘708 Patent.

65. On information and belief, any other of Defendant’s wireless mesh devices that operate pursuant to the Z-Wave Protocol are also an Infringing Instrumentalities. Additional details relating to Infringing Instrumentalities and their infringement are within the possession, custody or control of Defendant.

66. On information and belief, Defendant had knowledge of and became aware of its infringement of the ‘708 Patent prior to the filing of this Complaint. By way of example, prior to the filing of this Complaint, representatives for SIPCO contacted Defendant about the infringement of the ‘708 Patent dating back to March 26, 2018.

67. Defendant has instructed its customers, including users of its eZLO Mesh Devices, that its products can support “more than 20 (Z-Wave) device connections at the same time.” As reflected in Exhibit 10, Defendant’s website further shows that Defendant has tested and verified that the eZLO Mesh Devices work with Z-Wave devices. In making these instructions and materials available to customers and touting the benefits of compatibility with the Z-Wave Protocol, Defendant specifically intended to encourage its customers to use the eZLO Mesh Devices in an infringing matter, knowing that such use in accordance with its instructions and materials constituted infringement of the ‘708 Patent. Defendant has thus induced and is inducing its customers to infringe the ‘708 Patent.

68. On information and belief, Defendant acted with specific intent or with willful blindness to induce its customers to practice the ‘708 Patent by continuing the above-mentioned activities with knowledge of the ‘708 Patent.

69. Defendant had pre-suit knowledge that it was using the '708 Patent and has knowingly made, used, offered to sell, sold, and/or imported into the United States the Infringing Instrumentalities that infringed and continue to infringe the '708 Patent under 35 U.S.C. § 271. Because Defendant did so with such knowledge of the '708 Patent, Defendant is liable for willful infringement.

70. Defendant's acts of infringement involving the '708 Patent have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages it has sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial.

JURY DEMAND

71. Plaintiff requests a jury trial of all issues in this action so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

72. Declaring that Defendant has infringed the '304, '511, '533, '588 and '708 Patents and that such infringement was willful.

73. Awarding damages arising out of Defendant's infringement of the '304, '511, '533, '588 and '708 Patents to SIPCO, together with prejudgment and post-judgment interest, in an amount according to proof.

74. Awarding attorneys' fees to SIPCO pursuant to 35 U.S.C. § 285 or as otherwise permitted by law.

75. Awarding such other costs and further relief as the Court may deem just and proper.

DATED: October 8, 2019

Respectfully Submitted by SIPCO, LLC,

By and through its attorneys,

/s/ James M. Lennon

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Motion for Admittance *Pro Hac Vice* Forthcoming

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