

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

SIPCO, LLC,)	
)	
)	
Plaintiff,)	
)	
v.)	C.A. No. _____
)	
VERTIV GROUP CORPORATION,)	JURY TRIAL DEMANDED
and VERTIV CORPORATION,)	
)	
Defendants.)	
)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff SIPCO, LLC (“SIPCO” or “Plaintiff”), for its Complaint against Vertiv Group Corporation (“VGC”) and Vertiv Corporation, f/k/a Liebert Corporation (“VC”) (collectively, “Defendants” or “VERTIV”), 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 place of business at 13921 Park Center Road, Herndon, VA 20171.

3. On information and belief, VGC is a corporation organized under the laws of Delaware with a place of business at 1050 Dearborn Drive, Columbus, OH 43085. The Delaware Division of Corporations identifies VGC’s registered agent as The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

4. On information and belief, VC is a corporation organized under the laws of Ohio with a place of business at 1050 Dearborn Drive, Columbus, OH 43085. The Ohio Secretary of State identifies VC's registered agent as the CT Corporation System, 4400 Easton Commons Way, Suite 125, Columbus, OH 43219.

5. On information and belief, VGC is the parent company of VC.

6. On information and belief, Defendants sell and offer to sell products and services throughout the United States, including in this District, and introduce 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.

7. On information and belief, Defendants conduct a significant, persistent and regular amount of business in this District through product sales by their distributors, customers, and resellers and through online marketing, and derive substantial revenue from such business.

JURISDICTION AND VENUE

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

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

10. Venue is proper in this District under 28 U.S.C. §§ 1391(b), (c) and/or 1400(b).

On information and belief, Defendants have placed, and are continuing to place, infringing products into the stream of commerce, via an established distribution channel, with the knowledge and/or understanding that such products are sold in this District. Defendants, directly or through intermediaries, conduct business in this District, and at least a portion of the acts of infringement and claims alleged in this Complaint have taken place and are continuing to take place in this District.

11. On information and belief, this Court has personal jurisdiction over Defendant VGC 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 VGC is subject to this Court's general and specific personal jurisdiction because Defendant VGC has sufficient minimum contacts within the State of Delaware, pursuant to due process and/or the Delaware Long Arm Statute, because Defendant VGC 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 VGC'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 VGC would not offend traditional notions of fair play and substantial justice.

12. On information and belief, Defendant VC is subject to this Court's general and specific personal jurisdiction because Defendant VC has sufficient minimum contacts within the State of Delaware, pursuant to due process and/or the Delaware Long Arm Statute, because Defendant VC 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 VC'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 VC would not offend traditional notions of fair play and substantial justice.

13. In November 2018, in *Vertiv Corporation v. SVO Building One, LLC*, Civil Action No. 1:18-cv-01776-RGA, Defendant VC filed a lawsuit in this District asserting patent infringement, trade secret and state law claims against a third party, and has thereby consented to

personal jurisdiction and venue in this Court. The complaint in that action states that “Vertiv Corporation is a wholly-owned subsidiary of Vertiv Group Corporation.” The complaint further states that Vertiv Corporation was previously named Liebert Corporation and that Liebert Corporation was “consolidated into a new company called Vertiv Group Corporation” in December 2016.

14. Plaintiff’s right to relief against Defendants arises out of the same series of transactions or occurrences, namely their cooperation in planning, developing, designing, testing, operating, manufacturing, selling, maintaining, marketing, and offering customer support for the infringing products. Defendants are corporate affiliates. Joinder of Defendants is proper pursuant to 35 U.S.C. § 299(a).

BACKGROUND

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

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

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

22. The allegations set forth in the foregoing paragraphs 1 through 21 are incorporated by reference into this claim for relief.

23. 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 1. Related U.S. application data is set forth on the face of the patent.

24. 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.

25. Defendants have infringed and continue 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 products without authorization (hereafter, “’708 Infringing Instrumentalities”). At a minimum, ’708 Infringing Instrumentalities include all Defendants’ devices that operate pursuant to IEEE802.15.4 / wirelessHART (IEC62591) including the Liebert iCOM Thermal Control System; Liebert Wireless Mesh devices including, but not limited to, Wireless Mesh Site-controller (*e.g.*, Liebert iCOM-S system control + wireless Gateway included in Liebert iCOM-S system control’s package); and Wireless Mesh End-Devices (*e.g.*, integrated Liebert iCOM unit control with Liebert CRV™ Cooling System, integrated Liebert iCOM unit control with Liebert Mini-Mate Cooling System, etc.).

26. Defendants directly infringe and continue to directly infringe at least claim 1¹ of the '708 Patent by making, using, selling, offering to sell, importing and/or providing and causing to be used '708 Infringing Instrumentalities that are compliant with IEEE802.15.4 / wirelessHART (IEC62591) 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 such '708 Infringing Instrumentalities 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 IEEE802.15.4 / wirelessHART (IEC62591) specifications in the claim chart are required for a product configured to operate pursuant to IEEE802.15.4 / wirelessHART (IEC62591). Additional details relating to such '708 Infringing Instrumentalities and their infringement are within the possession, custody or control of Defendants.

27. Defendants provide users of '708 Infringing Instrumentalities with instructions to operate within an IEEE802.15.4 / wirelessHART (IEC62591) network and market IEEE802.15.4 / wirelessHART (IEC62591) connectivity in their promotional materials. To operate within a IEEE802.15.4 / wirelessHART (IEC62591) network, the '708 Infringing Instrumentalities need to operate pursuant to the IEEE802.15.4 / wirelessHART (IEC62591) specifications and the required portions of IEEE802.15.4 / wirelessHART (IEC62591) necessarily practice at least claim 1 of the '708 Patent.

28. On information and belief, any other product of Defendants that operates pursuant to the IEEE802.15.4 / wirelessHART (IEC62591) specifications is also a '708 Infringing

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.

Instrumentality. Additional details relating to '708 Infringing Instrumentalities and their infringement are within the possession, custody or control of Defendants.

29. 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.

30. On information and belief, discovery in this matter may reveal that Defendants had pre-suit knowledge that they were using the '708 Patent and are liable for willful infringement.

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

INFRINGEMENT OF U.S. PATENT NO. 6,914,893

32. The allegations set forth in the foregoing paragraphs 1 through 31 are incorporated by reference into this claim for relief.

33. On July 5, 2005, U.S. Patent No. 6,914,893 ("the '893 Patent"), entitled "System 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 '893 Patent is attached as Exhibit 3. Related U.S. application data is set forth on the face of the patent.

34. Plaintiff is the assignee and owner of the right, title, and interest in and to the '893 Patent, including the right to assert all causes of action arising under the '893 Patent and the right to any remedies for infringement of the '893 Patent.

35. Defendants have infringed and continue to infringe the '893 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 systems without authorization (hereafter, "'893 Infringing Systems"). At a minimum, '893 Infringing Systems include all Defendants' systems that operate pursuant to IEEE802.15.4 / wirelessHART (IEC62591). This includes systems that include Defendants' Liebert iCOM Thermal Control System; Liebert Wireless Mesh devices including, but not limited to, Wireless Mesh Site-controller (*e.g.*, Liebert iCOM-S system control + wireless Gateway included in Liebert iCOM-S system control's package); and Wireless Mesh End-Devices (*e.g.*, integrated Liebert iCOM unit control with Liebert CRVTM Cooling System, integrated Liebert iCOM unit control with Liebert Mini-Mate Cooling System, etc.) that are compliant with IEEE802.15.4 / wirelessHART (IEC62591).

36. Defendants directly infringe and continue to directly infringe at least claim 1² of the '893 Patent by making, using, selling, offering to sell, importing and/or providing and causing to be used systems that include '893 Infringing Systems that are compliant with IEEE802.15.4 / wirelessHART (IEC62591) which satisfy, literally or under the doctrine of equivalents, each and every claim limitation of claim 1 of the '893 Patent. The correspondence between the limitations of claim 1 of the '893 Patent and such systems is shown in the claim chart attached hereto as Exhibit 4. The claim chart is incorporated by reference as if set forth herein. The citations to the IEEE802.15.4 / wirelessHART (IEC62591) specifications in the claim chart are required for a product configured to operate pursuant to IEEE802.15.4 /

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.

wirelessHART (IEC62591). Additional details relating to such systems including '893 Infringing Systems and their infringement are within the possession, custody or control of Defendants.

37. Defendants provide users of infringing systems with instructions to operate within an IEEE802.15.4 / wirelessHART (IEC62591) network and market IEEE802.15.4 / wirelessHART (IEC62591) connectivity in their promotional materials. To operate within an IEEE802.15.4 / wirelessHART (IEC62591) network, infringing systems need to operate pursuant to the IEEE802.15.4 / wirelessHART (IEC62591) specification and the required portions of IEEE802.15.4 / wirelessHART (IEC62591) necessarily practice at least claim 1 of the '893 Patent.

38. On information and belief, any other system of Defendants that operates pursuant to the IEEE802.15.4 / wirelessHART (IEC62591) specification is also an '893 Infringing System. Additional details relating to '893 Infringing Systems and their infringement are within the possession, custody or control of Defendants.

39. 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.

40. On information and belief, discovery in this matter may reveal that Defendants had pre-suit knowledge that they were using the '893 Patent and are liable for willful infringement.

41. Defendants' acts of infringement involving the '893 Patent have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendants the damages it has sustained as a result of Defendants' wrongful acts in an amount subject to proof at trial.

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

42. The allegations set forth in the foregoing paragraphs 1 through 41 are incorporated by reference into this claim for relief.

43. 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 5. Related U.S. application data is set forth on the face of the patent.

44. 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.

45. Defendants have infringed and continue to infringe the ’511 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 systems without authorization (hereafter, “’511 Infringing Networks”). At a minimum, ’511 Infringing Networks include all Defendants’ systems that operate pursuant to IEEE802.15.4 / wirelessHART (IEC62591). This includes systems that include Defendants’ Liebert iCOM Thermal Control System; Liebert Wireless Mesh devices including, but not limited to, Wireless Mesh Site-controller (*e.g.*, Liebert iCOM-S system control + wireless Gateway included in Liebert iCOM-S system control’s package); Wireless Mesh End-Devices (*e.g.*, integrated Liebert iCOM unit control with Liebert CRV™ Cooling System, integrated Liebert iCOM unit control with Liebert Mini-Mate Cooling System, etc.); and Vertiv applications (*e.g.*, Trellis Mobile

Suite, Trellis Thermal System Manager) that are compliant with IEEE802.15.4 / wirelessHART (IEC62591).

46. Defendants directly infringe and continue to directly infringe at least claim 1³ of the '511 Patent by making, using, selling, offering to sell, importing and/or providing and causing to be used systems that include '511 Infringing Networks that are compliant with IEEE802.15.4 / wirelessHART (IEC62591) which satisfy, literally or under the doctrine of equivalents, each and every claim limitation of claim 1 of the '511 Patent. The correspondence between the limitations of claim 1 of the '511 Patent and such systems is shown in the claim chart attached hereto as Exhibit 6. The claim chart is incorporated by reference as if set forth herein. The citations to the IEEE802.15.4 / wirelessHART (IEC62591) specifications in the claim chart are required for a product configured to operate pursuant to IEEE802.15.4 / wirelessHART (IEC62591). Additional details relating to such systems including '511 Infringing Networks and their infringement are within the possession, custody or control of Defendants.

47. Defendants provide users of infringing systems with instructions to operate within an IEEE802.15.4 / wirelessHART (IEC62591) network and market IEEE802.15.4 / wirelessHART (IEC62591) connectivity in their promotional materials. To operate within an IEEE802.15.4 / wirelessHART (IEC62591) network, infringing systems need to operate pursuant to the IEEE802.15.4 / wirelessHART (IEC62591) specification and the required portions of IEEE802.15.4 / wirelessHART (IEC62591) necessarily practice at least claim 1 of the '511 Patent.

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.

48. On information and belief, any other systems of Defendants that operates pursuant to the IEEE802.15.4 / wirelessHART (IEC62591) specification is also an '511 Infringing Network. Additional details relating to '511 Infringing Networks and their infringement are within the possession, custody or control of Defendants.

49. 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.

50. On information and belief, discovery in this matter may reveal that Defendants had pre-suit knowledge that they were using the '511 Patent and are liable for willful infringement

51. Defendants' acts of infringement involving the '511 Patent have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendants the damages it has sustained as a result of Defendants' wrongful acts in an amount subject to proof at trial.

JURY DEMAND

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

- A. Declaring that Defendants have infringed the '708, '893, and '511 Patents.
- B. Awarding damages arising out of Defendants' infringement of the '708, '893, and '511 Patents to SIPCO, together with prejudgment and post-judgment interest, in an amount according to proof.
- C. Awarding attorneys' fees to SIPCO pursuant to 35 U.S.C. § 285 or as otherwise permitted by law.

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

DATED: July 23, 2019

DEVLIN LAW FIRM LLC

/s/ James M. Lennon

James M. Lennon (No. 4570)

James Gorman III (No. 6284)

1526 Gilpin Avenue

Wilmington, DE 19806

(302) 449-9010

jlennon@devlinlawfirm.com

jgorman@devlinlawfirm.com

Daniel S. Carlineo, Esq.

(*pro hac vice* motion to be filed)

CARLINEO KEE, PLLC

1517 17th Street, N.W., 3rd Floor

Washington, DC 20036

Telephone: (202) 780-6109

dcarlineo@ck-iplaw.com

Attorneys for Plaintiff

SIPCO, LLC