

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

IP CO., LLC,)	
)	
Plaintiff,)	CIVIL ACTION FILE
)	
v.)	NO. _____
)	
CENTERPOINT ENERGY, INC.,)	
EATON CORPORATION, and)	
ITRON, INC.,)	<u>JURY TRIAL DEMANDED</u>
)	
Defendants.)	
_____)	

COMPLAINT

Plaintiff IP CO., LLC (“IPCO”) hereby makes this Complaint against defendants CENTERPOINT ENERGY, INC. (“CenterPoint”), EATON CORPORATION (“Eaton”), and ITRON, INC. (“Itron”), and in support alleges as follows:

PARTIES

1. Plaintiff IPCO is a Georgia limited liability corporation. IPCO’s principal place of business is in Atlanta, Georgia.
2. Upon information and belief, Defendant CenterPoint is a Texas corporation, having its principal place of business at 1111 Louisiana Street, Houston, Texas 77002.
3. Upon information and belief, Defendant Eaton is an Ohio corporation, having its principal place of business at 1111 Superior Avenue, Cleveland, Ohio 44114.

4. Upon information and belief, Defendant Itron is a Delaware corporation, having its principal place of business at 2110 N. Molter Road, Liberty Lake, Washington 99109.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101 *et seq.*

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

7. This Court has personal jurisdiction over CenterPoint. CenterPoint is a Texas corporation with its headquarters located in Houston. CenterPoint regularly conducts business in the State of Texas and is subject to the jurisdiction of this Court. CenterPoint has been and is doing business in this judicial district by manufacturing, distributing, marketing, using, selling and/or offering for sale its products including, but not limited to, products that practice the subject matter claimed in the patent involved in this action, in this judicial district and elsewhere in the United States.

8. This Court has personal jurisdiction over Itron. Itron regularly conducts business in the State of Texas and is subject to the jurisdiction of this Court. Itron has been and is doing business in this judicial district by manufacturing, distributing, marketing, using, selling and/or offering for sale its products including, but not limited to, products that practice the subject matter claimed in the patent involved in this action, in this judicial district and elsewhere in the United States.

9. This Court has personal jurisdiction over Eaton. Eaton regularly conducts business in the State of Texas and is subject to the jurisdiction of this Court. Eaton has been and is doing business in this judicial district by manufacturing, distributing, marketing, using, selling and/or offering for sale its products including, but not limited to, products that practice the subject matter claimed in the patent involved in this action, in this judicial district and elsewhere in the United States.

10. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b). Defendants have done business in this District, committed acts of infringement in this District, and continue to commit acts of infringement in this District, all of which entitle IPCO to relief.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 7,054,271

11. IPCO restates and realleges the allegations set forth in paragraphs 1 through 10 of this Complaint and incorporates them by reference.

12. U.S. Patent No. 7,054,271 (the “‘271 Patent”), entitled “Wireless Network System And Method For Providing Same,” was duly and legally issued on May 30, 2006 by the U.S. Patent and Trademark Office to IPCO, the assignee of the named inventors Edwin B. Brownrigg and Thomas W. Wilson. A copy of the ‘271 Patent is attached hereto as Exhibit A.

13. IPCO is the sole owner of the entire right, title, and interest in the ‘271 Patent by virtue of assignment.

14. Defendant CenterPoint has infringed and continues to infringe one or more claims of the '271 patent, directly, contributorily, and/or by inducement, by making, using, selling, and/or offering for sale in this country, and/or importing into this country, and inducing others to use, without license, certain products that consist of and/or incorporate infringing wireless network systems, including without limitation wireless network technology similar to that found in CenterPoint's Advanced Metering System, in violation of 35 U.S.C. § 271.

15. Defendant Itron has infringed and continues to infringe one or more claims of the '271 patent, directly, contributorily, and/or by inducement, by making, using, selling, and/or offering for sale in this country, and/or importing into this country, and inducing others to use, without license, certain products that consist of and/or incorporate infringing wireless network systems, including without limitation wireless network technology similar to that found in Itron's Open Way system, in violation of 35 U.S.C. § 271.

16. Defendant Eaton has infringed and continues to infringe one or more claims of the '271 patent, directly, contributorily, and/or by inducement, by making, using, selling, and/or offering for sale in this country, and/or importing into this country, and inducing others to use, without license, certain products that consist of and/or incorporate infringing wireless network systems, including without limitation wireless network technology similar to that found in Eaton's Home Heartbeat system, in violation of 35 U.S.C. § 271.

17. The acts of infringement of the '271 patent by the Defendants, and each of them, have caused damage to IPCO and IPCO is entitled to recover from the Defendants, and each of them, the damages sustained by IPCO as a result of their wrongful acts in an amount subject to proof at trial. The infringement of IPCO's exclusive rights under the '271 patent by the Defendants, and each of them, will continue to damage IPCO, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

18. The Defendants, and each of them, have had actual or constructive knowledge of the '271 patent, yet each of them continues to infringe said patent. The infringement of the '271 patent by the Defendants, and each of them, is willful and deliberate, entitling IPCO to increased damages under 35 U.S.C. § 284 and to attorney's fees and costs incurred in prosecuting this action under 35 U.S.C. §285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief against Defendants, and each of them:

A. A judgment that Defendants, and each of them, have directly infringed the '271 Patent, contributorily infringed the '271 Patent, and/or induced infringement of the '271 Patent;

B. An award of all damages recoverable under the laws of the United States and the laws of the State of Texas in an amount to be proven at trial;

C. An award of treble damages against Defendants, and each of them, as a result of their willful infringement;

D. A preliminary, and thereafter permanent, injunction enjoining and restraining Defendants, and each of them, and their officers, directors, agents, servants, employees, attorneys, and all others acting under, by or through them, from directly infringing, contributorily infringing, and inducing the infringement of the '271 Patent, as set forth herein;

E. A judgment and order requiring Defendants, and each of them, to pay Plaintiffs pre-judgment and post-judgment interest on the full amounts of the damages awarded;

F. A judgment requiring Defendants, and each of them, to pay the costs of this action (including all disbursements) and attorneys' fees as provided by 35 U.S.C. § 285, with prejudgment interest; and

G. Such other and further relief as this Court may deem just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands that all issues so triable be determined by a jury.

Dated: 3/20/2007

Respectfully submitted,

By: /s/ Joe Kendall

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