

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

SIPCO, LLC,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action File
)	
CRESTRON ELECTRONICS, INC., EATON)	No. 2:08-cv-359-DF
CORPORATION, X10 WIRELESS)	
TECHNOLOGY, INC., and X10 (USA) INC.,)	
)	
Defendants.)	
)	
)	<u>JURY TRIAL DEMANDED</u>

SECOND AMENDED COMPLAINT

NOW COMES Plaintiff SIPCO, LLC (“SIPCO”) and hereby makes and files this First Amended Complaint and request for injunctive relief and monetary damages against Defendants CRESTRON ELECTRONICS, INC. (“Crestron”), EATON CORPORATION (“Eaton”), X10 WIRELESS TECHNOLOGY, INC. (“X10 Wireless”), and X10 (USA), INC. (“X10 USA”) (collectively “Defendants”), and in support thereof, respectfully shows the Court as follows:

PARTIES

1. Plaintiff SIPCO is a Georgia Limited Liability Company having its principal place of business at Overlook I, Suite 660, 2849 Paces Ferry Road, Atlanta, Georgia 30339.
2. Defendant Crestron is a New Jersey corporation, having its principal place of business at 15 Volvo Drive, Rockleigh, New Jersey 07647.

3. Defendant Eaton is an Ohio corporation, having its principal place of business at 1111 Superior Avenue, Cleveland, Ohio 44114.

4. Defendant X10 Wireless is a Delaware corporation having its principal place of business at 620 Naches Avenue Southwest, Renton, Washington 98057.

5. Upon information and believe, Defendant X10 USA is a New Jersey corporation having its principal place of business at 620 Naches Avenue Southwest, Renton, Washington 98057. Defendants X10 Wireless and X10 USA are collectively referred to herein as “X10.”

JURISDICTION AND VENUE

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

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

8. Defendant Crestron is subject to personal jurisdiction in this district by virtue of, among other things, doing business and committing acts of infringement in the State of Texas and this judicial district, through agents and representatives and/or otherwise having substantial contacts with the State of Texas and this judicial district. Crestron can be served with process through its registered agent, David Feldstein, 15 Volvo Drive, Rockleigh, New Jersey 07647.

9. Defendant Eaton is subject to personal jurisdiction in this district by virtue of, among other things, doing business and committing acts of infringement in the State of Texas and this judicial district, through agents and representatives and/or otherwise having substantial contacts with the State of Texas and this judicial district. Eaton can be served with process through its registered agent, CT Corporation, 350 N. St. Paul Street, Dallas, Texas 75201.

10. Upon information and belief, Defendant X10 Wireless is subject to personal jurisdiction in this district by virtue of, among other things, doing business and committing acts of

infringement in the State of Texas and this judicial district, through agents and representatives and/or otherwise having substantial contacts with the State of Texas and this judicial district. X10 Wireless can be served with process through its registered agent, Danial D. Pharris, 601 Union Street, Suite 2600, Seattle, Washington 98101.

11. Upon information and belief, Defendant X10 USA is subject to personal jurisdiction in this district by virtue of, among other things, doing business and committing acts of infringement in the State of Texas and this judicial district, through agents and representatives and/or otherwise having substantial contacts with the State of Texas and this judicial district. Upon information and believe, X10 USA can be served with process through its registered agent, Michael Sternlieb, c/o Sternlieb & Dowd, Attys., One University Plaza, Hackensack, NJ 07601-0000.

12. Venue is proper in this Court pursuant to 28 U.S.C. §§1391 and 1400(b).

FACTS GIVING RISE TO THIS ACTION

Patents-in-Suit

13. On May 10, 2005, United States Patent No. 6,891,838, entitled “SYSTEM AND METHOD FOR MONITORING AND CONTROLLING RESIDENTIAL DEVICES” (the “‘838 Patent”), was duly and legally issued by the United States Patent and Trademark Office (the “PTO”). A copy of the ‘838 Patent is attached hereto as Exhibit “A.”

14. On September 5, 2006, United States Patent No. 7,103,511, entitled “WIRELESS COMMUNICATION NETWORKS FOR PROVIDING REMOTE MONITORING OF DEVICES” (the “‘511 Patent”), was duly and legally issued by the PTO. A copy of the ‘511 Patent is attached hereto as Exhibit “B.”

15. SIPCO is the assignee of the ‘838 Patent and the ‘511 Patent (collectively, the “Patents-in-Suit”) and owns all right, title and interest in the Patents-in-Suit.

16. David Petite, the President of Plaintiff SIPCO, is the sole inventor of the technologies embodied in the '511 Patent and is one of two co-inventors of the technologies embodied in the '838 Patent. Mr. Petite is a pioneer in the field of wireless technology, and his inventions are widely deployed in a variety of products and networks throughout the United States.

Defendants' Acts of Infringement

17. Crestron makes, uses, sells, offers to sell, and/or imports wireless sensor network systems and the components of such systems.

18. These wireless Crestron systems and products include without limitation those marketed by Crestron under its infiNET brand.

19. Eaton makes, uses, sells, offers to sell, and/or imports wireless sensor network systems and the components of such systems.

20. These wireless Eaton systems and products include without limitation those marketed by Eaton under its Home Heartbeat brand.

21. X10 makes, uses, sells, offers to sell, and/or imports wireless network systems and the components of such systems.

22. These wireless X10 systems and products include without limitation those marketed by X10 under its ActiveHome brand.

23. All Defendants have infringed, contributed to the infringement of, and/or induced the infringement of the '838 Patent through actions undertaken in connection with wireless networks and related products.

24. Defendants Crestron and Eaton have contributed to the infringement of, and/or induced the infringement of the '511 Patent through actions undertaken in connection with wireless networks and related products.

COUNT I
Infringement of the '838 Patent

25. Plaintiff repeats and incorporates by reference the allegations in paragraphs 1 through 24 as if set forth fully verbatim herein.

26. Defendants are infringing the '838 Patent by making, selling, offering for sale, using, and/or importing products that consist of and/or incorporate infringing wireless network systems. In particular, Defendants are infringing the '838 Patent under 35 U.S.C. § 271 by performing, without authority, one or more of the following acts: (a) making, using, offering to sell, and/or selling within the United States products and services that practice the inventions of the '838 Patent; (b) importing into the United States the inventions of the '838 Patent; (c) contributing to the infringement of the '838 Patent by others in the United States; and/or (d) inducing others to infringe the '838 Patent within the United States.

27. Defendants' infringing systems are being manufactured, sold, offered for sale, used, and/or imported without permission or license from Plaintiff, and Defendants will continue such infringement unless enjoined by this Court.

28. Defendants had notice, either actual or constructive, of the '838 Patent.

29. Defendants' infringement of the '838 Patent has been willful and deliberate.

30. As a direct and proximate result of the Defendants' infringement of the '838 Patent, Plaintiff has suffered and will continue to suffer damages.

31. Plaintiff has no adequate remedy at law and will be irreparably injured unless Defendants' acts of infringement are enjoined by this Court.

COUNT II
Infringement of the '511 Patent

32. Plaintiff repeats and incorporates by reference the allegations in paragraphs 1 through 31 as if set forth fully verbatim herein.

33. Defendants Crestron and Eaton, are infringing the '511 Patent by making, selling, offering for sale, using, and/or importing products that consist of and/or incorporate infringing wireless network systems. In particular, these defendants are infringing the '511 Patent under 35 U.S.C. § 271 by performing, without authority, one or more of the following acts: (a) making, using, offering to sell, and/or selling within the United States products and services that practice the inventions of the '511 Patent; (b) importing into the United States the inventions of the '511 Patent; (c) contributing to the infringement of the '511 Patent by others in the United States; and/or (d) inducing others to infringe the '511 Patent within the United States.

34. The infringing systems of Crestron and Eaton are being made, sold, offered for sale, used, and/or imported without permission or license from Plaintiff, and these defendants will continue such infringement unless enjoined by this Court.

35. These defendants had notice, either actual or constructive, of the '511 Patent.

36. These defendants' infringement of the '511 Patent has been willful and deliberate.

37. As a direct and proximate result of these defendants' infringement of the '511 Patent, Plaintiff has suffered and will continue to suffer damages.

38. Plaintiff has no adequate remedy at law and will be irreparably injured unless these defendants' acts of infringement are enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief against Defendants:

A. A judgment that Defendants have infringed, actively induced infringement of, and/or contributorily infringed the '838 Patent, as set forth herein;

B. A judgment that defendants Crestron and Eaton have infringed, actively induced infringement of, and/or contributorily infringed the '511 Patent, as set forth herein;

C. An award of all damages recoverable under the United States Patent Laws, in an amount to be proven at trial;

D. An award of treble damages for Defendants' willful infringement;

E. A preliminary, and thereafter permanent, injunction enjoining and restraining Defendants and their respective 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 '838 Patent, as set forth herein;

F. A preliminary, and thereafter permanent, injunction enjoining and restraining defendants Crestron, Eaton and their respective 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 '511 Patent, as set forth herein;

G. A judgment and order requiring Defendants to pay Plaintiff's prejudgment and post-judgment interest on the damages awarded;

H. A judgment requiring Defendants 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

I. 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.

Respectfully submitted, this 1st day of April, 2010.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who have consented to electronic service are being served with a copy of the foregoing document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 1st day of April, 2010.

/s/ Ryan K. Walsh
Ryan K. Walsh