

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

M2M SOLUTIONS LLC,
a Delaware limited liability company,

Plaintiff,

v.

SIERRA WIRELESS AMERICA, INC.,
a Delaware corporation, and
SIERRA WIRELESS, INC.,
a Canadian corporation,

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff M2M Solutions LLC (“M2M Solutions”) brings this action for patent infringement under the laws of the United States relating to patents, 35 U.S.C. §§1 et seq., against Defendants Sierra Wireless America, Inc. and Sierra Wireless, Inc. (collectively, “Sierra Wireless”), hereby alleging as follows:

THE PARTIES

1. Plaintiff M2M Solutions is a limited liability company organized and existing under the laws of the State of Delaware, having its principal place of business at Camden House, School Lane, Tiddington, Stratford-upon-Avon, CV37 7AJ, United Kingdom.

2. Upon information and belief, Defendant Sierra Wireless America, Inc. is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 2200 Faraday Avenue, Suite 150, Carlsbad, California 92008. Upon information and belief, Sierra Wireless America, Inc. is a wholly-owned subsidiary of Defendant

Sierra Wireless, Inc, and has appointed RL&F Service Corp., 920 North King Street, 2nd Floor, Wilmington, Delaware 19801 as its registered agent for service of process.

3. Upon information and belief, Defendant Sierra Wireless, Inc. is a foreign corporation organized and existing under the laws of Canada, having its principal place of business at 13811 Wireless Way, Richmond, B.C., VDV 3A4, Canada. Upon information and belief, Sierra Wireless, Inc. is the ultimate parent company of Defendant Sierra Wireless America, Inc.

JURISDICTION AND VENUE

4. This Court has exclusive subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a) because this action arises under the patent laws of the United States.

5. Upon information and belief, Sierra Wireless has submitted to the personal jurisdiction of this Court by committing acts that establish its legal presence within the State of Delaware, including acting directly, and/or through its third-party distribution network, to sell and offer for sale to Delaware residents infringing products and related services that practice, embody, and/or facilitate unauthorized use of the claimed inventions of the patent-in-suit. Upon information and belief, Sierra Wireless has also generally acted to place these infringing products and related services into the stream of commerce with the intent, purpose, and reasonably foreseeable result of supplying the Delaware market therewith. Moreover, upon information and belief, Sierra Wireless has actively induced Delaware residents to use these products and services in an infringing manner by making available and/or disseminating within this judicial district promotional and marketing materials, instructional materials, product manuals, and technical materials illustrating and advocating such infringing uses. By virtue of its above-described actions, Sierra Wireless has transacted business, performed services, contracted to supply services, caused tortious injury, regularly done or solicited business, engaged in a persistent

course of conduct, and/or derived substantial revenues from infringing products and services used in Delaware. In light of Sierra Wireless' aforementioned contacts with the State of Delaware and its purposeful availment of the rights and benefits of Delaware law, maintenance of this suit would not offend traditional notions of fair play and substantial justice.

6. This Court has further grounds for exercising personal jurisdiction over Defendant Sierra Wireless America, Inc. in particular which, upon information and belief, is a Delaware corporation. By virtue of its incorporation under Delaware law, Sierra Wireless America, Inc. has acquiesced to personal jurisdiction in the courts of the State of Delaware.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391(b), (c), and (d) and 1400(b) because, *inter alia*, a substantial part of the events or omissions giving rise to the claim occurred in this judicial district, Sierra Wireless is subject to personal jurisdiction in and therefore resides in this judicial district, and Sierra Wireless has committed acts of patent infringement and has a regular presence in this judicial district.

THE PATENTS-IN-SUIT

8. On September 1, 2009, United States Patent No. 7,583,197 (the "'197 patent-in-suit"), entitled "Programmable Communicator," was duly and legally issued by the United States Patent and Trademark Office to inventor Eveline Wesby-van Swaay. M2M Solutions is the sole owner by assignment of the entire rights, title, and interest in and to the '197 patent-in-suit, including the rights to sue on and recover damages for any past, current, or future infringements thereof. A true and correct copy of the '197 patent-in-suit is attached hereto as Exhibit A.

9. On January 10, 2012, United States Patent No. 8,094,010 (the "'010 patent-in-suit"), entitled "Programmable Communicator," was duly and legally issued by the United States Patent and Trademark Office to inventor Eveline Wesby-van Swaay. M2M

Solutions is the sole owner by assignment of the entire rights, title, and interest in and to the '010 patent-in-suit, including the rights to sue on and recover damages for any past, current, or future infringements thereof. A true and correct copy of the '010 patent-in-suit is attached hereto as Exhibit B.

10. The claimed inventions of the '197 and '010 patents-in-suit relate in relevant part to wireless modules and related devices designed and intended for use in machine-to-machine ("M2M") communications. So-called M2M communications encompass a variety of applications in which one machine is able to remotely monitor a second machine in a relatively autonomous fashion by communicating with or through a wireless module that is embedded in or otherwise linked to that second machine. By way of limited examples, M2M applications are prevalent in the fields of automated meter reading, asset tracking and fleet management, automotive telematics, commercial and residential security systems, wireless telemedicine and healthcare devices, industrial automation and controls, remote information displays and digital signage, and the remote control of certain consumer devices and appliances, point of sale payment systems, vending machines, kiosks, and ATM and banking machines.

11. Sierra Wireless became aware of the existence of the '197 patent-in-suit by not later than the September 19, 2009 date on which e-mail notification of the same was provided to its employees David McLennan, Dan Schieler, and Phillipe Guillemette.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,583,197

12. M2M Solutions realleges and incorporates by reference each and every allegation of Paragraphs 1-11 above as if fully set forth herein.

13. Sierra Wireless has directly infringed, and continues to directly infringe, one or more claims of the '197 patent-in-suit under 35 U.S.C. §271(a), either literally and/or

under the doctrine of equivalents, by without authority making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, its Airprime embedded wireless module products, related Airlink products, and related services that are designed and promoted for use in M2M communications applications, and that embody and/or practice the inventions of one or more claims of the '197 patent-in-suit.

14. Sierra Wireless has had actual and/or constructive knowledge of the existence of the '197 patent-in-suit since at least September 19, 2009 for the reasons detailed above in Paragraph 11. In addition, Sierra Wireless will receive further confirmatory notice as to the existence of the '197 patent-in-suit upon the service of this Complaint by M2M Solutions at the addresses referenced herein, concurrently with this filing.

15. With knowledge of the '197 patent-in-suit, Sierra Wireless has indirectly infringed, and continues to indirectly infringe, one or more claims thereof under 35 U.S.C. §271(b) through the active inducement of direct infringement by intending to encourage, and in fact encouraging, its customers to configure Sierra Wireless' Airprime embedded wireless module products and related Airlink products in an infringing manner that embodies and/or practices the claimed inventions of the '197 patent-in-suit, and to without authority use, import, offer for sale, and/or sell those products so configured within or into the United States. Sierra Wireless has actively induced direct infringement by, *inter alia*, designing and introducing into the stream of commerce its Airprime embedded wireless module products and related Airlink products suitable for infringing uses in M2M communications applications, by publishing manuals and promotional literature describing and instructing the configuration and operation of those products in an infringing manner by its customers, and by offering support and technical assistance to its customers that encourage use of those products in ways that directly infringe one

or more claims of the '197 patent-in-suit. Upon information and belief, Sierra Wireless has performed the acts that constitute inducement of infringement with the knowledge or willful blindness that the acts induced thereby would constitute direct infringement by its customers.

16. Sierra Wireless has also indirectly infringed, and continues to indirectly infringe, one or more claims of the '197 patent-in-suit under 35 U.S.C. §271(c) by selling, offering for sale, and/or importing its Airprime embedded wireless module products and related Airlink products within or into the United States knowing that those products are especially made or especially adapted for use in direct infringements of the '197 patent-in-suit by its customers, and knowing that those products are not a staple article or commodity of commerce suitable for substantial noninfringing use.

17. Upon information and belief, Sierra Wireless' acts of infringing the '197 patent-in-suit have been willful and undertaken in knowing and deliberate disregard of M2M Solutions' patent rights.

18. M2M Solutions has been and continues to be damaged by Sierra Wireless' infringements of the '197 patent-in-suit in an amount to be determined at trial.

19. M2M Solutions has suffered irreparable injury for which there is no adequate remedy at law, and will continue to suffer such irreparable injury, unless Sierra Wireless' infringements of the '197 patent-in-suit are enjoined by this Court.

20. Upon information and belief, Sierra Wireless' willful infringements, together with its other potential conduct in this action, have or will render this case exceptional under 35 U.S.C. §285 and thereby entitle M2M Solutions to recovery of its attorneys fees and costs incurred in prosecuting this action.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 8,094,010

21. M2M Solutions realleges and incorporates by reference each and every allegation of Paragraphs 1-20 above as if fully set forth herein.

22. Sierra Wireless has directly infringed, and continues to directly infringe, one or more claims of the '010 patent-in-suit under 35 U.S.C. §271(a), either literally and/or under the doctrine of equivalents, by without authority making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, its Airprime embedded wireless module products, related Airlink products, and related services that are designed and promoted for use in M2M communications applications, and that embody and/or practice the inventions of one or more claims of the '010 patent-in-suit.

23. Upon information and belief, Sierra Wireless has had actual and/or constructive knowledge of the existence of the '010 patent-in-suit since prior to the filing of this Complaint. In addition, Sierra Wireless will receive further confirmatory notice as to the existence of the '010 patent-in-suit upon the service of this Complaint by M2M Solutions at the addresses referenced herein, concurrently with this filing.

24. Upon information and belief, with knowledge of the '010 patent-in-suit, Sierra Wireless has indirectly infringed, and continues to indirectly infringe, one or more claims thereof under 35 U.S.C. §271(b) through the active inducement of direct infringement by intending to encourage, and in fact encouraging, its customers to configure Sierra Wireless' Airprime embedded wireless module products and related Airlink products in an infringing manner that embodies and/or practices the claimed inventions of the '010 patent-in-suit, and to without authority use, import, offer for sale, and/or sell those products so configured within or into the United States. Sierra Wireless has actively induced direct infringement by, *inter alia*,

designing and introducing into the stream of commerce its Airprime embedded wireless module products and related Airlink products suitable for infringing uses in M2M communications applications, by publishing manuals and promotional literature describing and instructing the configuration and operation of those products in an infringing manner by its customers, and by offering support and technical assistance to its customers that encourage use of those products in ways that directly infringe one or more claims of the '010 patent-in-suit. Upon information and belief, Sierra Wireless has performed the acts that constitute inducement of infringement with the knowledge or willful blindness that the acts induced thereby would constitute direct infringement by its customers.

25. Upon information and belief, Sierra Wireless has also indirectly infringed, and continues to indirectly infringe, one or more claims of the '010 patent-in-suit under 35 U.S.C. §271(c) by selling, offering for sale, and/or importing its Airprime embedded wireless module products and related Airlink products within or into the United States knowing that those products are especially made or especially adapted for use in direct infringements of the '010 patent-in-suit by its customers, and knowing that those products are not a staple article or commodity of commerce suitable for substantial noninfringing use.

26. Upon information and belief, Sierra Wireless' acts of infringing the '010 patent-in-suit have been willful and undertaken in knowing and deliberate disregard of M2M Solutions' patent rights.

27. M2M Solutions has been and continues to be damaged by Sierra Wireless' infringements of the '010 patent-in-suit in an amount to be determined at trial.

28. M2M Solutions has suffered irreparable injury for which there is no adequate remedy at law, and will continue to suffer such irreparable injury, unless Sierra Wireless' infringements of the '010 patent-in-suit are enjoined by this Court.

29. Upon information and belief, Sierra Wireless' willful infringements, together with its other potential conduct in this action, have or will render this case exceptional under 35 U.S.C. §285 and thereby entitle M2M Solutions to recovery of its attorneys fees and costs incurred in prosecuting this action.

PRAYER FOR RELIEF

WHEREFORE, M2M Solutions respectfully requests that this Court enter a judgment in its favor and against Sierra Wireless as follows:

(a) Declaring that Sierra Wireless has directly infringed, induced others to infringe, and/or committed acts of contributory infringement with regard to one or more claims of the '197 and/or '010 patents-in-suit;

(b) Awarding damages adequate to fully compensate M2M Solutions within the meaning of 35 U.S.C. §284 for the past acts of infringement committed by Sierra Wireless, as well as any applicable prejudgment and post-judgment interest thereon at the maximum rates allowed by law;

(c) Awarding an accounting and supplemental damages adequate to fully compensate M2M Solutions within the meaning of 35 U.S.C. §284 for any continuing or future acts of infringement committed by Sierra Wireless subsequent to the discovery cut-off date in this action, as well as any applicable prejudgment and post-judgment interest thereon at the maximum rates allowed by law;

(d) Awarding treble or otherwise enhanced damages to M2M Solutions pursuant to 35 U.S.C. §284 for the acts of willful infringement committed by Sierra Wireless, as

well as any applicable prejudgment and post-judgment interest thereon at the maximum rates allowed by law;

(e) Declaring that this action is exceptional within the meaning of 35 U.S.C. §285, and concomitantly awarding M2M Solutions its attorneys fees as the prevailing party in this action, as well as any applicable prejudgment and post-judgment interest thereon at the maximum rates allowed by law;

(f) Awarding M2M Solutions its costs and expenses incurred in this action;

(g) Ordering that Sierra Wireless and its parents, subsidiaries, affiliates, successors, predecessors, assigns, and the officers, directors, agents, servants and employees of each of the foregoing, customers and/or licensees, and those persons acting in concert or participation with any of them, be preliminarily and permanently enjoined and restrained from continued infringement, including but not limited to using, making, offering for sale, and/or selling within the United States, and/or importing into the United States, products and related services that infringe the '197 and/or '010 patents-in-suit, and from contributing to and/or inducing the infringement by others of the '197 and/or '010 patents-in-suit, at all times prior to its expiration, including any extensions thereof; and

(h) Awarding any further relief to M2M Solutions that this Court deems just and proper.

DEMAND FOR JURY TRIAL

M2M Solutions demands a jury trial as to all issues arising in this action that are so triable.

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Dated: January 13, 2012

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