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SUMMONS ISSUED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LEVITON MANUFACTURING CO., INC., a
Delaware corporation,

Plaintiff,

v.

HUBBELL INCORPORATED, a Delaware
corporation,

Defendant.

CASE NO. **LONG ISLAND OFFICE**

**LEVITON MANUFACTURING CO.,
INC.'S COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

**SPATT, J.
BOYLE, M**

1 Plaintiff LEVITON MANUFACTURING CO., INC. (“Leviton” or “Plaintiff”), for its
2 Complaint, alleges as follows:

3 **THE PARTIES**

4 1. Leviton is incorporated under the laws of the State of Delaware, with its principal
5 executive office at 201 North Service Road, Melville, New York 11747.

6 2. Upon information and belief, Hubbell Incorporated (“Hubbell”), is a corporation
7 organized under the laws of the State of Delaware, having a place of business at 40 Waterview
8 Dr. Shelton, Connecticut 06484. Upon information and belief, Hubbell imports, distributes,
9 offers to sell, and/or sells ground fault circuit interrupters throughout the United States and in the
10 Eastern District of New York, including, but not limited to, ground fault circuit interrupters that
11 were manufactured by or on behalf of Hubbell.

12 **JURISDICTION AND VENUE**

13 3. This is an action for patent infringement arising in part under the patent laws of
14 the United States, codified at 35 U.S.C. § 1 *et seq.* This Court has subject matter jurisdiction
15 over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

16 4. Hubbell is subject to personal jurisdiction in this judicial district because
17 Hubbell’s infringement occurred in and continues to occur in the Eastern District of New York.
18 As described above, Hubbell imports, manufactures, sells and/or offers to sell in the United
19 States and in the Eastern District of New York, either directly or through intermediaries and/or
20 established distribution channels ground fault circuit interrupters that infringe one or more of
21 Leviton’s patents. Leviton is further informed and believes, and on that basis alleges, that the
22 accused products have been advertised, marketed, offered for sale and/or sold in this judicial
23 district and/or imported into this judicial district by Hubbell.

24 5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and (c)
25 and 28 U.S.C. § 1400(b).

26 **FACTUAL BACKGROUND**

27 6. Leviton is a leading United States producer of electrical and electronic products,
28 and is the largest North American manufacturer of electrical and electronic wiring devices.

1 Leviton is a third generation, family-owned business, founded in 1906 in a small shop in New
2 York at the dawn of the electrical era.

3 7. Over the last 100 plus years, Leviton has grown to become a leader in its industry.
4 Today, Leviton's product portfolio includes over 25,000 devices and systems used in homes,
5 businesses and industry. The vast majority of homes across North America use one or more
6 Leviton devices.

7 8. In the last 50 years, Leviton has set industry standards for product design,
8 innovation and safety, including innovations that are now required by the National Electrical
9 Code. Leviton currently holds over 870 active patents worldwide and its brands and products are
10 known throughout the world.

11 9. One of Leviton's most significant lines of electrical safety products are its Ground
12 Fault Interrupter devices ("GFCIs"). Leviton introduced this line in 1972. A GFCI protects
13 people from electrical shock and GFCIs can be found in virtually every home and building in the
14 United States. GFCIs have saved countless lives.

15 10. Through its focus on innovation and developing cutting-edge technological
16 solutions to problems that have arisen with GFCIs, Leviton has established itself as a technology
17 leader and innovator for GFCI products. Indeed, Leviton has obtained numerous patents related
18 to its innovation in GFCI products.

19 11. Leviton also protects its intellectual property through prosecution and acquisition
20 of industry-leading patents. Leviton devoted substantial resources to compilation of its patent
21 portfolio to protect its investment in its technology.

22 **FIRST CAUSE OF ACTION**

23 **(Infringement of U.S. Patent No. 7,463,124)**

24 12. Leviton adopts and incorporates by reference the allegations of paragraphs 1
25 through 11 above as if fully set forth herein.

26 13. On December 9, 2008, the United States Patent and Trademark Office
27 ("USPTO") duly, properly and legally issued U.S. Patent No. 7,463,124 ("the '124 patent"),
28 entitled "Circuit Interrupting Device with Reverse Wiring Protection" to Leviton Manufacturing

1 Co., Inc. as the assignee of inventors Nicholas L. Di Salvo and William R. Ziegler. The '124
2 patent is attached hereto as Exhibit A.

3 14. Leviton is the owner by assignment of all rights, title and interest in the '124
4 patent.

5 15. Leviton is informed and believes and on that basis alleges that, in violation of 35
6 U.S.C. § 271, Hubbell has infringed directly, indirectly, contributorily and/or by inducement, the
7 '124 patent by making, using, offering to sell, and/or selling within the United States and/or
8 importing into the United States GFCI products that embody the patented invention. By way of
9 example and without limiting the foregoing, Hubbell infringes at least claim 13 of the '124
10 patent by making, using, offering to sell, and/or selling within the United States and/or importing
11 into the United States at least the following: GFCIs bearing or associated with Underwriters
12 Laboratories listing number E41978 made, used, offered for sale, and/or sold in the United States
13 and/or imported into the United States by Hubbell.

14 16. On information and belief, Hubbell's infringement of the '124 patent has been
15 and continues to be willful and deliberate and with full knowledge of said patent.

16 17. As a result of Hubbell's acts of infringement Leviton has suffered and will
17 continue to suffer damages in an amount to be proven at trial.

18 18. On information and belief, Hubbell will continue to infringe the '124 patent, and
19 Leviton will be substantially and irreparably harmed as a result thereof, unless Hubbell's
20 infringement is enjoined by this Court.

21 **SECOND CAUSE OF ACTION**

22 **(Infringement of U.S. Patent No. 7,737,809)**

23 19. Leviton adopts and incorporates by reference the allegations of paragraphs 1
24 through 18 above as if fully set forth herein.

25 20. On June 15, 2010, the USPTO duly, properly and legally issued U.S. Patent No.
26 7,737,809 ("the '809 patent"), entitled "Circuit Interrupting Device and System Utilizing Bridge
27 Contact Mechanism and Reset Lockout" to Leviton Manufacturing Co., Inc. as the assignee of
28 inventors Frantz Germain, James Richter, David Herzfeld, Armando Calixto, David Chan and

1 Stephen Stewart. The '809 patent is attached hereto as Exhibit B.

2 21. Leviton is the owner by assignment of all rights, title and interest in the '809
3 patent.

4 22. Leviton is informed and believes and on that basis alleges that, in violation of 35
5 U.S.C. § 271, Hubbell has infringed directly, indirectly, contributorily and/or by inducement, the
6 '809 patent by making, using, offering to sell, and/or selling within the United States and/or
7 importing into the United States GFCI products that embody the patented invention. By way of
8 example and without limiting the foregoing, Hubbell infringes at least claim 1 of the '809 patent
9 by making, using, offering to sell, and/or selling within the United States and/or importing into
10 the United States at least the following: GFCIs bearing or associated with Underwriters
11 Laboratories listing number E41978 made, used, offered for sale, and/or sold in the United States
12 and/or imported into the United States by Hubbell.

13 23. As a result of Hubbell's acts of infringement Leviton has suffered and will
14 continue to suffer damages in an amount to be proven at trial.

15 24. On information and belief, Hubbell will continue to infringe the '809 patent, and
16 Leviton will be substantially and irreparably harmed as a result thereof, unless Hubbell's
17 infringement is enjoined by this Court.

18 **THIRD CAUSE OF ACTION**

19 **(Infringement of U.S. Patent No. 7,764,151)**

20 25. Leviton adopts and incorporates by reference the allegations of paragraphs 1
21 through 24 above as if fully set forth herein.

22 26. On July 27, 2010, the USPTO duly, properly and legally issued U.S. Patent No.
23 7,764,151 ("the '151 patent"), entitled "Circuit Interrupting Device with Reverse Wiring
24 Protection" to Leviton Manufacturing Co., Ltd. as the assignee of inventors Nicholas L. Di Salvo
25 and William R. Ziegler. The '151 patent is attached hereto as Exhibit C.

26 27. Leviton is the owner by assignment of all rights, title and interest in the '151
27 patent.

28 28. Leviton is informed and believes and on that basis alleges that, in violation of 35

1 U.S.C. § 271, Hubbell has infringed directly, indirectly, contributorily and/or by inducement, the
2 '151 patent by making, using, offering to sell, and/or selling within the United States and/or
3 importing into the United States GFCI products that embody the patented invention. By way of
4 example and without limiting the foregoing, Hubbell infringes at least claim 1 of the '151 patent
5 by making, using, offering to sell, and/or selling within the United States and/or importing into
6 the United States at least the following: GFCIs bearing or associated with Underwriters
7 Laboratories listing number E41978 made, used, offered for sale, and/or sold in the United States
8 and/or imported into the United States by Hubbell.

9 29. On information and belief, Hubbell's infringement of the '124 patent has been
10 and continues to be willful and deliberate and with full knowledge of said patent

11 30. As a result of Hubbell's acts of infringement Leviton has suffered and will
12 continue to suffer damages in an amount to be proven at trial.

13 31. On information and belief, Hubbell will continue to infringe the '151 patent, and
14 Leviton will be substantially and irreparably harmed as a result thereof, unless Hubbell's
15 infringement is enjoined by this Court.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff Leviton prays for relief as follows:

18 a. For a judgment declaring that Hubbell has directly, indirectly,
19 contributorily and/or by inducement, infringed U.S. Patent No. 7,463,124;

20 b. For a judgment declaring that Hubbell has willfully infringed U.S. Patent
21 No. 7,463,124;

22 c. For a judgment declaring that Hubbell has directly, indirectly,
23 contributorily and/or by inducement, infringed U.S. Patent No. 7,737,809;

24 d. For a judgment declaring that Hubbell has directly, indirectly,
25 contributorily and/or by inducement, infringed U.S. Patent No. 7,764,151;

26 e. For a judgment declaring that Hubbell has willfully infringed U.S. Patent
27 No. 7,764,151;

28 f. For a permanent injunction enjoining Hubbell and its officers, directors,

1 agents, servants, employees, attorneys, successors and assigns, and all other persons acting in
2 concert or participation with it, from infringing, inducing others to infringe or contributing to the
3 infringement of U.S. Patent No. 7,463,124, U.S. Patent No. 7,737,809 and U.S. Patent No.
4 7,764,151;

5 g. For an award of enhanced damages against Hubbell pursuant to 35 U.S.C.
6 § 284, including interest, for Hubbell's willful and deliberate acts of infringement;

7 h. For a judgment declaring this case exceptional under 35 U.S.C. § 285, and
8 for an award of attorneys' fees, costs and expenses;

9 i. For actual damages, including, but not limited to, lost profits, according to
10 proof at trial;

11 j. For pre-judgment and post-judgment interest;

12 k. For an award of reasonable attorneys' fees and costs; and

13 l. For such other and further relief as the Court deems proper.

14 Dated: Mineola, New York
15 May 7, 2012

16 **MELTZER, LIPPE, GOLDSTEIN & BREITSTONE, LLP**
17 *Local Counsel for Plaintiff*

18 By: _____



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24 -AND-

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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff hereby demands a jury trial of all issues triable by a jury.

Dated: Mineola, New York
May 7, 2012

By: 
THOMAS J. MCGOWAN, ESQ. (TM 2854)