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8 Attorneys for Plaintiff
 ProtectConnect, Inc.

9

10 UNITED STATES DISTRICT COURT
 11 SOUTHERN DISTRICT OF CALIFORNIA

12

13 PROTECTCONNECT, INC.,

14

Plaintiff,

15

v.

16

17 LEVITON MANUFACTURING CO., INC.,
 EZE ROUGH SYSTEM, INC.,
 PASS & SEYMOUR, INC., AND
 CABLOFIL, INC.,

18

Defendants.

19

20

And Related Counterclaims

Case No. 3:10 CV 0758 MMA (BGS)

**PLAINTIFF PROTECTCONNECT,
 INC.'S FIRST AMENDED COMPLAINT
 FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

21 Plaintiff ProtectConnect, Inc. (“ProtectConnect”) complains and alleges as follows against
 22 Defendants Leviton Manufacturing Co., Inc., EZE Rough System, Inc., Pass & Seymour, Inc.,
 23 and Cablofil, Inc. (“Defendants”):

24 **THE PARTIES AND THE NATURE OF THIS ACTION**

- 25 1. This is a complaint for patent infringement.
 26 2. ProtectConnect was founded in 1999 and thereafter began developing innovative
 27 “modular” wiring devices and systems—products that would represent a paradigm shift for the
 28 electrical wiring industry. These modular wiring devices and modular wiring systems allow

1 contractors to simply snap into place electrical receptacles, switches, dimmers and other electrical
2 components during the final stages of industrial, commercial or residential construction while
3 traditional installation previously required time-consuming direct wiring of the devices to
4 electrical leads. The result is that these innovative products provide a quicker and safer
5 installation, which in turn results in significant labor cost savings and increased quality and
6 reliability.

7 3. ProtectConnect brought to market the first modular wiring device in 2003 and in
8 2004 brought to market its modular wiring systems. In addition, beginning in the year 2000,
9 ProtectConnect sought patent protection for its groundbreaking modular wiring innovations and
10 inventions and has since been granted a number of patents relating to this technology.

11 4. ProtectConnect and Defendants are competitors in the electrical wiring device and
12 system industry. For decades, Defendants marketed more traditional electrical wiring devices and
13 receptacles. Following ProtectConnect's introduction of its modular wiring devices, Defendants
14 subsequently began making and selling their own lines of modular wiring devices and systems,
15 each of which utilize ProtectConnect's patented technology.

16 5. Because Defendants are not in any way licensed to ProtectConnect's intellectual
17 property, Defendants are all infringing ProtectConnect's intellectual property rights.
18 ProtectConnect is entitled to compensation from Defendants for their patent infringement and to
19 an injunction against Defendants and their affiliates to halt their continued infringement and
20 unauthorized use of ProtectConnect's patented technology. Specifically, ProtectConnect alleges
21 that the Defendants infringe the following patents: U.S. Patent No. 6,341,981, U.S. Patent No.
22 7,052,313 and U.S. Patent No. 7,762,838 (collectively, the "patents in suit").

23 6. ProtectConnect is a California corporation with its headquarters and principal
24 place of business located in San Diego, California and its corporate mailing address at PO Box
25 5605, Oceanside, CA 92052.

26 7. ProtectConnect is informed and believes, and thereon alleges, that Defendant
27 Leviton Manufacturing Co., Inc. ("Leviton") is a company incorporated under the laws of
28 Delaware with its headquarters and principal place of business located at 201 N. Service Road,

1 Melville, New York 11747. ProtectConnect is informed and believes, and thereon alleges, that
2 Leviton is an affiliate of EZE Rough System, Inc.

3 8. ProtectConnect is informed and believes, and thereon alleges, that Defendant EZE
4 Rough System, Inc. (“EZE Rough”) is a company incorporated under the laws of Florida with its
5 headquarters and principal place of business located at 12400 SW 134th Court, Ste. 1, Miami,
6 Florida 33186. ProtectConnect is informed and believes, and thereon alleges, that EZE Rough is
7 an affiliate of Leviton.

8 9. ProtectConnect is informed and believes, and thereon alleges, that Defendant Pass
9 & Seymour, Inc. (“Pass & Seymour”) is a company incorporated under the laws of New York
10 with its headquarters and principal place of business located at 50 Boyd Ave., Solvay, New York
11 13209. ProtectConnect is informed and believes, and thereon alleges, that Pass & Seymour is a
12 subsidiary of parent Legrand (Limoges, France) and is an affiliate of Cablofil, Inc.

13 10. ProtectConnect is informed and believes, and thereon alleges, that Defendant
14 Cablofil, Inc. (“Cablofil”) is a company incorporated under the laws of Texas with its
15 headquarters and principal place of business located at 8319 State Route 4, Mascoutah, Illinois,
16 62258. ProtectConnect is informed and believes, and thereon alleges, that Cablofil is a subsidiary
17 of parent Legrand (Limoges, France) and is an affiliate of Pass & Seymour.

18 **JURISDICTION AND VENUE**

19 11. ProtectConnect is informed and believes, and thereon alleges, that Defendants
20 each transact business directly and/or through third parties or agents in this judicial district by at
21 least selling and/or offering to sell their infringing products, including modular wiring devices
22 and systems, and/or by conducting other business in this judicial district. ProtectConnect is
23 headquartered and has its principal place of business in this judicial district, sells competing
24 modular wiring devices and systems in this district, and has been harmed by Defendants’ conduct,
25 business transactions and sales here.

26 12. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338
27 since this is a civil action arising under the laws of the United States, specifically, the Patent and
28 Trademark Act, 35 U.S.C. § 1 *et seq.*

1 **A. The Leviton Defendants.**

2 17. On information and belief, Defendants Leviton Manufacturing Co., Inc. and EZE
3 Rough System, Inc. (the “Leviton Defendants”), and their agents, are infringing the ’981 patent
4 by making, using, offering for sale, and/or selling within the United States devices that embody
5 the inventions disclosed and claimed in the ’981 patent, and/or by importing into the United
6 States devices that embody the inventions disclosed and claimed in the ’981 patent. On
7 information and belief, at least the following Leviton Defendants’ products, alone and/or in
8 combination with other products, directly infringe the claims of the ’981 patent: Lev-Lok
9 Modular Receptacle System and/or PowerMount with Lev-Lok products.

10 18. By way of example and not limitation, the Leviton Defendants’ Lev-Lok Modular
11 Receptacle System and/or PowerMount with Lev-Lok products, alone and/or in combination with
12 other products, practice each of the limitations of at least independent claim 34 of the ’981 patent.
13 Lev-Lok Modular Receptacle System and/or PowerMount with Lev-Lok products are made, used,
14 sold, offered for sale, and/or imported by the Leviton Defendants in the United States without
15 authorization from ProtectConnect. Therefore, Lev-Lok Modular Receptacle System and/or
16 PowerMount with Lev-Lok products infringe said claim.

17 19. In addition to direct infringement, ProtectConnect is informed and believes, and on
18 that basis alleges, that the Leviton Defendants have induced and contributed to infringement by
19 others of the ’981 patent. By way of example and not limitation, the Leviton Defendants offer to
20 sell and/or sell within the United States to their customers or import into the United States
21 components of patented devices knowing the same to be especially made or especially adapted
22 for use in an infringement of the ’981 patent. Such components are not staple articles or
23 commodities of commerce suitable for substantial noninfringing use. On information and belief,
24 the Leviton Defendants also actively induce infringement of the ’981 patent by their customers
25 and/or others.

26 20. Based upon information and belief, the Leviton Defendants have notice of the ’981
27 patent. In addition, the Leviton Defendants were provided constructive notice of the ’981 patent
28 by virtue of ProtectConnect’s marking of its products.

1 21. On information and belief, the Leviton Defendants’ infringement of the ’981
2 patent has been willful.

3 22. As a result of the Leviton Defendants’ acts of infringement, ProtectConnect has
4 suffered and will continue to suffer damages in an amount to be proven at trial.

5 23. ProtectConnect has been irreparably harmed by the Leviton Defendants’ acts of
6 infringement, and will continue to be harmed unless and until the Leviton Defendants’ acts of
7 infringement are enjoined and restrained by order of this Court. ProtectConnect has no adequate
8 remedy at law and is entitled to a preliminary and permanent injunction against the Leviton
9 Defendants and their infringing products.

10 24. This case is an “exceptional” case within the meaning of 35 U.S.C. § 285.

11 **B. The Pass & Seymour Defendants.**

12 25. On information and belief, Defendants Pass & Seymour, Inc. and Cablofil, Inc.
13 (the “Pass & Seymour Defendants”), and their agents, are infringing the ’981 patent by making,
14 using, offering for sale, and/or selling within the United States devices that embody the
15 inventions disclosed and claimed in the ’981 patent, and/or by importing into the United States
16 devices that embody the inventions disclosed and claimed in the ’981 patent. On information and
17 belief, at least the following Pass & Seymour Defendants’ products, alone and/or in combination
18 with other products, directly infringe the claims of the ’981 patent: PlugTail Wiring Devices,
19 PlugTail Power Pre-Fabricated Wiring Assemblies and Systems, and/or FAS Power Pre-
20 fabricated Wiring Assemblies.

21 26. By way of example and not limitation, Pass & Seymour Defendants’ PlugTail
22 Wiring Devices, PlugTail Power Pre-Fabricated Wiring Assemblies and Systems, and/or FAS
23 Power Pre-fabricated Wiring Assemblies, alone and/or in combination with other products,
24 practice each of the limitations of at least independent claim 34 of the ’981 patent. PlugTail
25 Wiring Devices, PlugTail Power Pre-Fabricated Wiring Assemblies and Systems and/or FAS
26 Power Pre-fabricated Wiring Assemblies are made, used, sold, offered for sale, and/or imported
27 by the Pass & Seymour Defendants in the United States without authorization from
28 ProtectConnect. Therefore, PlugTail Wiring Devices, PlugTail Power Pre-Fabricated Wiring

1 Assemblies and Systems and/or FAS Power Pre-fabricated Wiring Assemblies infringe said
2 claim.

3 27. In addition to direct infringement, ProtectConnect is informed and believes, and on
4 that basis alleges, that the Pass & Seymour Defendants have induced and contributed to
5 infringement by others of the '981 patent. By way of example and not limitation, the Pass &
6 Seymour Defendants offer to sell and/or sell within the United States to their customers or import
7 into the United States components of patented devices knowing the same to be especially made or
8 especially adapted for use in an infringement of the '981 patent. Such components are not staple
9 articles or commodities of commerce suitable for substantial noninfringing use. On information
10 and belief, the Pass & Seymour Defendants also actively induce infringement of the '981 patent
11 by their customers and/or others.

12 28. Based upon information and belief, the Pass & Seymour Defendants have notice of
13 the '981 patent. In addition, the Pass & Seymour Defendants were provided constructive notice
14 of the '981 patent by virtue of ProtectConnect's marking of its products.

15 29. On information and belief, the Pass & Seymour Defendants' infringement of the
16 '981 patent has been willful.

17 30. As a result of the Pass & Seymour Defendants' acts of infringement,
18 ProtectConnect has suffered and will continue to suffer damages in an amount to be proven at
19 trial.

20 31. ProtectConnect has been irreparably harmed by the Pass & Seymour Defendants'
21 acts of infringement, and will continue to be harmed unless and until the Pass & Seymour
22 Defendants' acts of infringement are enjoined and restrained by order of this Court.
23 ProtectConnect has no adequate remedy at law and is entitled to a preliminary and permanent
24 injunction against the Pass & Seymour Defendants and their infringing products.

25 32. This case is an "exceptional" case within the meaning of 35 U.S.C. § 285 and
26 ProtectConnect is entitled to an award of attorneys' fees.

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SECOND CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 7,052,313)

1
2
3 33. ProtectConnect incorporates and realleges paragraphs 1-14 as if fully set forth
4 herein.

5 34. On May 30, 2006, United States Patent No. 7,052,313 (the '313 patent"), entitled
6 "Electrical Distribution Wiring Module" was duly and legally issued by the United States Patent
7 and Trademark Office. The named inventor is Michael P. Gorman. ProtectConnect is the
8 assignee and owner of the entire right, title and interest in and to the '313 patent. Accordingly,
9 ProtectConnect has the right to bring this suit for damages and injunctive relief. A true and
10 correct copy of the '313 patent is attached hereto as Exhibit B.

11 35. United States Patent Application Serial No. 11/110,351 was published by the
12 United States Patent and Trademark Office on December 8, 2005 as United States Patent
13 Application Publication No. US 2005/0272304 (the "Published '304 Application"), and issued as
14 the '313 patent with at least one claim in substantially identical form to the claims as published.
15 A copy of the Published '304 Application is attached as Exhibit C.

16 **A. The Leviton Defendants.**

17 36. On information and belief, Defendants Leviton Manufacturing Co., Inc. and EZE
18 Rough System, Inc. (the "Leviton Defendants"), and their agents, are infringing the '313 patent
19 by making, using, offering for sale, and/or selling within the United States devices that embody
20 the inventions disclosed and claimed in the '313 patent, and/or by importing into the United
21 States devices that embody the inventions disclosed and claimed in the '313 patent. On
22 information and belief, at least the following Leviton Defendants' products, alone and/or in
23 combination with other products, directly infringe the claims of the '313 patent: Lev-Lok
24 Modular Receptacle System and/or PowerMount with Lev-Lok products.

25 37. By way of example and not limitation, the Leviton Defendants' Lev-Lok Modular
26 Receptacle System and/or PowerMount with Lev-Lok products, alone and/or in combination with
27 other products, practice each of the limitations of at least independent claim 3 of the '313 patent.
28 Lev-Lok Modular Receptacle System and/or PowerMount with Lev-Lok products are made, used,

1 sold, offered for sale, and/or imported by the Leviton Defendants in the United States without
2 authorization from ProtectConnect. Therefore, Lev-Lok Modular Receptacle System and/or
3 PowerMount with Lev-Lok products infringe said claim.

4 38. In addition to direct infringement, ProtectConnect is informed and believes, and on
5 that basis alleges, that the Leviton Defendants have induced and contributed to infringement by
6 others of the '313 patent. By way of example and not limitation, the Leviton Defendants offer to
7 sell and/or sell within the United States to their customers or import into the United States
8 components of patented devices knowing the same to be especially made or especially adapted
9 for use in an infringement of the '313 patent. Such components are not staple articles or
10 commodities of commerce suitable for substantial noninfringing use. On information and belief,
11 the Leviton Defendants also actively induce infringement of the '313 patent by their customers
12 and/or others.

13 39. Based upon information and belief, the Leviton Defendants have notice of the '313
14 patent.

15 40. On information and belief, the Leviton Defendants' infringement of the '313
16 patent has been willful.

17 41. As a result of the Leviton Defendants' acts of infringement, ProtectConnect has
18 suffered and will continue to suffer damages in an amount to be proven at trial.

19 42. ProtectConnect has been irreparably harmed by the Leviton Defendants' acts of
20 infringement, and will continue to be harmed unless and until the Leviton Defendants' acts of
21 infringement are enjoined and restrained by order of this Court. ProtectConnect has no adequate
22 remedy at law and is entitled to a preliminary and permanent injunction against the Leviton
23 Defendants and their infringing products.

24 43. This case is an "exceptional" case within the meaning of 35 U.S.C. § 285.

25 **B. The Pass & Seymour Defendants.**

26 44. On information and belief, Defendants Pass & Seymour, Inc. and Cablofil, Inc.
27 (the "Pass & Seymour Defendants"), and their agents, are infringing the '313 patent by making,
28 using, offering for sale, and/or selling within the United States devices that embody the

1 inventions disclosed and claimed in the '313 patent, and/or by importing into the United States
2 devices that embody the inventions disclosed and claimed in the '313 patent. On information and
3 belief, at least the following Pass & Seymour Defendants' products, alone and/or in combination
4 with other products, directly infringe the claims of the '313 patent: PlugTail Wiring Devices,
5 PlugTail Power Pre-Fabricated Wiring Assemblies and Systems, and/or FAS Power Pre-
6 fabricated Wiring Assemblies.

7 45. By way of example and not limitation, Pass & Seymour Defendants' PlugTail
8 Wiring Devices, PlugTail Power Pre-Fabricated Wiring Assemblies and Systems, and/or FAS
9 Power Pre-fabricated Wiring Assemblies, alone and/or in combination with other products,
10 practice each of the limitations of at least independent claim 3 of the '313 patent. PlugTail
11 Wiring Devices, PlugTail Power Pre-Fabricated Wiring Assemblies and Systems and/or FAS
12 Power Pre-fabricated Wiring Assemblies are made, used, sold, offered for sale, and/or imported
13 by the Pass & Seymour Defendants in the United States without authorization from
14 ProtectConnect. Therefore, PlugTail Wiring Devices, PlugTail Power Pre-Fabricated Wiring
15 Assemblies and Systems and/or FAS Power Pre-fabricated Wiring Assemblies infringe said
16 claim.

17 46. In addition to direct infringement, ProtectConnect is informed and believes, and on
18 that basis alleges, that the Pass & Seymour Defendants have induced and contributed to
19 infringement by others of the '313 patent. By way of example and not limitation, the Pass &
20 Seymour Defendants offer to sell and/or sell within the United States to their customers or import
21 into the United States components of patented devices knowing the same to be especially made or
22 especially adapted for use in an infringement of the '313 patent. Such components are not staple
23 articles or commodities of commerce suitable for substantial noninfringing use. On information
24 and belief, the Pass & Seymour Defendants also actively induce infringement of the '313 patent
25 by their customers and/or others.

26 47. Based upon information and belief, the Pass & Seymour Defendants have notice of
27 the '313 patent.

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1 **A. The Leviton Defendants.**

2 55. On information and belief, Defendants Leviton Manufacturing Co., Inc. and EZE
3 Rough System, Inc. (the “Leviton Defendants”), and their agents, are infringing the ’838 patent
4 by making, using, offering for sale, and/or selling within the United States devices that embody
5 the inventions disclosed and claimed in the ’838 patent, and/or by importing into the United
6 States devices that embody the inventions disclosed and claimed in the ’838 patent. On
7 information and belief, at least the following Leviton Defendants’ products, alone and/or in
8 combination with other products, directly infringe the claims of the ’838 patent: Lev-Lok
9 Modular Receptacle System and/or PowerMount with Lev-Lok products.

10 56. By way of example and not limitation, the Leviton Defendants’ Lev-Lok Modular
11 Receptacle System and/or PowerMount with Lev-Lok products, alone and/or in combination with
12 other products, practice each of the limitations of at least independent claim 1 of the ’838 patent.
13 Lev-Lok Modular Receptacle System and/or PowerMount with Lev-Lok products are made, used,
14 sold, offered for sale, and/or imported by the Leviton Defendants in the United States without
15 authorization from ProtectConnect. Therefore, Lev-Lok Modular Receptacle System and/or
16 PowerMount with Lev-Lok products infringe said claim.

17 57. In addition to direct infringement, ProtectConnect is informed and believes, and on
18 that basis alleges, that the Leviton Defendants have induced and contributed to infringement by
19 others of the ’838 patent. By way of example and not limitation, the Leviton Defendants offer to
20 sell and/or sell within the United States to their customers or import into the United States
21 components of patented devices knowing the same to be especially made or especially adapted
22 for use in an infringement of the ’838 patent. Such components are not staple articles or
23 commodities of commerce suitable for substantial noninfringing use. On information and belief,
24 the Leviton Defendants also actively induce infringement of the ’838 patent by their customers
25 and/or others.

26 58. As a result of the Leviton Defendants’ acts of infringement, ProtectConnect has
27 suffered and will continue to suffer damages in an amount to be proven at trial.

28 /////

1 59. ProtectConnect has been irreparably harmed by the Leviton Defendants’ acts of
2 infringement, and will continue to be harmed unless and until the Leviton Defendants’ acts of
3 infringement are enjoined and restrained by order of this Court. ProtectConnect has no adequate
4 remedy at law and is entitled to a preliminary and permanent injunction against the Leviton
5 Defendants and their infringing products.

6 60. This case is an “exceptional” case within the meaning of 35 U.S.C. § 285 and
7 ProtectConnect is entitled to an award of attorneys’ fees.

8 **B. The Pass& Seymour Defendants.**

9 61. On information and belief, Defendants Pass & Seymour, Inc. and Cablofil, Inc.
10 (the “Pass & Seymour Defendants”), and their agents, are infringing the ’838 patent by making,
11 using, offering for sale, and/or selling within the United States devices that embody the
12 inventions disclosed and claimed in the ’838 patent, and/or by importing into the United States
13 devices that embody the inventions disclosed and claimed in the ’838 patent. On information and
14 belief, at least the following Pass & Seymour Defendants’ products, alone and/or in combination
15 with other products, directly infringe the claims of the ’838 patent: PlugTail Wiring Devices,
16 PlugTail Power Pre-Fabricated Wiring Assemblies and Systems, and/or FAS Power Pre-
17 fabricated Wiring Assemblies.

18 62. By way of example and not limitation, the Pass & Seymour Defendants’ PlugTail
19 Wiring Devices, PlugTail Power Pre-Fabricated Wiring Assemblies and Systems, and/or FAS
20 Power Pre-fabricated Wiring Assemblies, alone and/or in combination with other products,
21 practice each of the limitations of at least independent claim 1 of the ’838 patent. PlugTail
22 Wiring Devices, PlugTail Power Pre-Fabricated Wiring Assemblies and Systems and/or FAS
23 Power Pre-fabricated Wiring Assemblies are made, used, sold, offered for sale, and/or imported
24 by the Pass & Seymour Defendants in the United States without authorization from
25 ProtectConnect. Therefore, PlugTail Wiring Devices, PlugTail Power Pre-Fabricated Wiring
26 Assemblies and Systems and/or FAS Power Pre-fabricated Wiring Assemblies infringe said
27 claim.

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1 infringement, inducement of infringement, or contributory infringement of each of the patents in
2 suit;

3 4. An order directing each Defendant to account for and pay to ProtectConnect all
4 damages caused to ProtectConnect by reason of Defendants' patent infringement, pursuant to 35
5 U.S.C. § 284, including increased damages under 35 U.S.C. § 284;

6 5. An award of pre-judgment and post-judgment interest on the damages caused to
7 ProtectConnect by each Defendant;

8 6. A finding that this is an "exceptional" case and an order directing each Defendant
9 to pay ProtectConnect's costs, expenses and reasonable attorneys' fees pursuant to 35 U.S.C. §
10 285; and

11 7. Any other legal and/or equitable relief as the Court deems just and proper.

12 **DEMAND FOR JURY TRIAL**

13 ProtectConnect demands a trial by jury for all issues so triable pursuant to Federal Rule of
14 Civil Procedure 38(b).

15 Dated: February 9, 2011

16 DLA PIPER LLP (US)

17
18 By /s/ Jesse Hindman

19 John Allcock (Bar No. 098895)
20 Rick Mulloy (Bar No. 199278)
21 Ed Sikorski (Bar No. 208576)
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TABLE OF CONTENTS

EXHIBITS

<u>Exhibit</u>	<u>Description</u>	<u>Pages</u>
A	US Patent No. 6,341,981	17-78
B	US Patent No. 7,052,313	79-132
C	Published US Patent Application No. US 2005/0272304	133-187
D	US Patent No. 7,762,838	188-238
E	Published US Patent Application No. US 2008/0190640	239-288