

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ICH Intellectual Capital Holdings, Inc.

Plaintiff

V.

Badger Meter, Inc.;

Mueller Water Products, Inc.;

Transparent Technologies, Inc.;

Metron-Farnier LLC;

Tantalus Systems Corp.;

Tantalus Systems, Inc.;

ESCO Technologies, Inc.;

Aclara Power-Line Systems Inc.;

Landis+Gyr Inc.;

Trilliant Networks, Inc.;

Tropos Networks, Inc.; and

The City of Winnsboro, Texas

Defendants



CIVIL ACTION NO: 6:11-cv-00468
JURY DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

COMES NOW Plaintiff ICH Intellectual Capital Holdings, Inc. (“ICH”) and files this its First Amended Complaint against Defendants Badger Meter, Inc.; Mueller Water Products, Inc.; Transparent Technologies, Inc.; Metron-Farnier, LLC; Tantalus Systems Corp.; Tantalus Systems, Inc.; ESCO Technologies, Inc.; Aclara Power-Line Systems Inc.; Landis+Gyr Inc.; Trilliant Networks Inc.; Tropos Networks, Inc.; and the City of Winnsboro, Texas; and alleges as follows:

I. NATURE OF THE SUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

II. THE PARTIES

2. Plaintiff **ICH Intellectual Capital Holdings, Inc.** is a Texas corporation that maintains its principal place of business at 2591 Dallas Parkway, Ste. 300, Frisco, Texas 75034.

3. Defendant **Badger Meter, Inc.** is a Wisconsin corporation that maintains its principal place of business at 4545 W. Brown Deer Road, Milwaukee, Wisconsin 53223. This defendant does business in Texas and can be served with process through its Registered Agent for Service, Corporation Service Company, d/b/a CSC-Lawyers Incorporating Service Company, at 25 West Main Street, Madison, Wisconsin 53703. This Defendant has been served with process in this case and has an upcoming date set by order of this Court to respond to Plaintiff's Original Complaint.

4 Defendant **Mueller Water Products, Inc.** is a Delaware corporation that maintains its principal place of business at 1200 Abernathy Road N.E., Suite 1200, Atlanta, Georgia 30328. This defendant does business in Texas and can be served with process through its Registered Agent for Service, Corporation Service Company, at 2711 Centerville Road, Suite 400, Wilmington, DE 19808. This Defendant has been served with process in this case and has an upcoming date set by order of this Court to respond to Plaintiff's Original Complaint.

5. Defendant **Transparent Technologies, Inc.** is a Colorado corporation that maintains its principal place of business at 5665 Airport Blvd., Suite 105, Boulder, Colorado 80301. This defendant does business in Texas and can be served with process through its Registered Agent for Service, Rodney Owen Ehlers, at 5665 Airport Blvd., Suite 105, Boulder,

Colorado 80301. This Defendant has been served with process in this case and has an upcoming date set by order of this Court to respond to Plaintiff's Original Complaint.

6. Defendant **Metron-Farnier, LLC** is a Colorado limited liability company that maintains its principal place of business at 5665 Airport Blvd., Suite 105, Boulder, Colorado 80301. It is a related entity to defendant Transparent Technologies, Inc. This defendant does business in Texas and can be served with process through its Registered Agent for Service, Matt Laird, at 5665 Airport Blvd., Suite 105, Boulder, Colorado 80301. This Defendant has been served with process in this case and has an upcoming date set by order of this Court to respond to Plaintiff's Original Complaint.

7. Defendant **Tantalus Systems Corp.** is a Canadian company that maintains its principal place of business at 301-3480 Gilmore Way, Burnaby, British Columbia, A1 V5G 4Y1, Canada. This defendant does business in Texas and can be served with process through its President, Eric Murray, at 2410 Flints Pond Circle, Apex, North Carolina 27523. This Defendant has been served with process in this case and has an upcoming date set by order of this Court to respond to Plaintiff's Original Complaint.

8. Defendant **Tantalus Systems, Inc.** is a Delaware corporation that maintains its principal place of business at 1121 Situs Court, #190, Raleigh, North Carolina 27606. This defendant does business in Texas and can be served with process through its Registered Agent for Service, Registered Agent Solutions, Inc., at 176 Mine Lake Court, #100, Raleigh, North Carolina 27615. This Defendant has been served with process in this case and has an upcoming date set by order of this Court to respond to Plaintiff's Original Complaint.

9. Defendant **ESCO Technologies, Inc.** is a Missouri corporation that maintains its principal place of business at 9900A Clayton Road, St. Louis, Missouri 63124-1188. This

defendant does business in Texas and can be served with process through its Registered Agent for Service, CSC – Lawyers Incorporating Service Company, at 221 Bolivar Street, Jefferson City, Missouri 65101. This Defendant has been served with process in this case and has an upcoming date set by order of this Court to respond to Plaintiff’s Original Complaint.

10. Defendant **Aclara Power-Line Systems Inc.** is subsidiary of defendant ESCO Technologies, Inc. and a Missouri corporation that maintains its principal place of business at 9900A Clayton Road, St. Louis, Missouri 63124. This defendant does business in Texas and can be served with process through its Registered Agent for Service, Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218. This Defendant has been served with process in this case and has an upcoming date set by order of this Court to respond to Plaintiff’s Original Complaint.

11. Defendant **Landis+Gyr Inc.** is a Delaware corporation that maintains its principal place of business at 6436 County Road 11, Pequot Lakes, Minnesota 56472. This defendant does business in Texas and can be served with process through its Registered Agent for Service, Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701. This Defendant has been served with process in this case and has an upcoming date set by order of this Court to respond to Plaintiff’s Original Complaint.

12. Defendant **Trilliant Networks, Inc.** is a Delaware corporation that maintains its principal place of business at 1100 Island Drive, Suite 201, Redwood City, California 94065. This defendant does business in Texas and can be served with process through its Registered Agent for Service, CT Corporation System, at 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201. This Defendant has been served with process in this case and has an upcoming date set by order of this Court to respond to Plaintiff’s Original Complaint.

13. Defendant **Tropos Networks, Inc.** is a Delaware corporation that maintains its principal place of business at 555 Del Rey Avenue, Sunnyvale, California 94085. This defendant does business in Texas and can be served with process through its Registered Agent for Service, Incorporating Services, Ltd., at 3500 South Dupont Highway, Dover, Delaware 19901. This Defendant has been served with process in this case and has an upcoming date set by order of this Court to respond to Plaintiff's Original Complaint.

14. Defendant **The City of Winnsboro, Texas** is a municipality in the State of Texas that maintains its administrative offices in the City Hall at 501 South Main Street, Winnsboro, Texas 75494. This defendant acts through the actions of its officials, agents and employees in Texas and can be served by delivering a copy of this Complaint to Carolyn Jones, Mayor of Winnsboro, at 501 South Main Street, Winnsboro, Texas 75494. This Defendant has been served with process in this case and has already appeared and filed an Answer.

III. JURISDICTION AND VENUE

15. The allegations of paragraphs 1-14 above are incorporated by reference as if fully set forth herein.

16. This action for patent infringement arises under the patent laws of the United States, Title 35 of the United States Code. The Court's jurisdiction over this action is proper under the above statutes, including 35 U.S.C. § 271 *et seq.*, 28 U.S.C. § 1332, and 28 U.S.C. § 1338.

17. Personal jurisdiction exists generally over Defendants pursuant to 28 U.S.C. § 1391 because they have sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and within this district. Personal jurisdiction also exists specifically over Defendants because of Defendants' conduct in making, using, selling, offering

to sell, and/or importing, directly, jointly, contributorily, and/or by inducement, infringing products and services within the State of Texas and within this district, as discussed in more detail herein. In particular, Defendants have provided services and sold products in this District separately and independently, and with or for other infringing entities and/or customers.

18. Venue is proper in this Court under 28 U.S.C. §§ 1391(b), (c), and (d), as well as 28 U.S.C. § 1400(b) for the reasons set forth above and below. Each act of Defendants' directly or indirectly infringing conduct in this district gives rise to proper venue.

IV. BACKGROUND

19. The allegations of paragraphs 1-18 above are incorporated by reference as if fully set forth herein.

20. This cause of action asserts infringement of United States Patent Nos. 7,248,181 B2 entitled "Automated Meter Reading System" ("the '181 Patent") and 7,315,257 B2 entitled "Automated Meter Reader Having High Product Delivery Rate Alert Generator" ("the '257 Patent"). A true and correct copy of the '181 Patent is attached hereto as Exhibit A, and a true and correct copy of the '257 Patent is attached hereto as Exhibit B. This is an exceptional case within the meaning of 35 U.S.C. § 285.

21. ICH is the current owner of all rights, title and interest in and under the '181 Patent, which duly and legally issued on July 24, 2007, with named inventors Tim Patterson, Erwin Holowick, and Kenneth J. Derry. The '181 Patent is for an invention in utility meter reading, specifically in automated meter reader (AMR) devices and systems and advanced metering infrastructure (AMI) devices and systems. The application that resulted in the '181 Patent (Application No. 11/144,993) is a continuation of Application No. 10/952,043 (filed Sept. 28, 2004), which is a continuation-in-part of Application No. 09/896,502 (filed June 29, 2001,

now U.S. Pat. No. 6,798,352), which is a continuation of Application No. 09/419,743 (filed Oct. 16, 1999, now U.S. Pat. No. 6,710,721). ICH has standing to sue for the infringement of the '181 Patent.

22. ICH is the current owner of all rights, title and interest in and under the '257 Patent, which duly and legally issued on January 1, 2008, with named inventors Tim Patterson, Erwin Holowick, and Kenneth J. Derry. The '257 Patent is for an invention in utility meter reading and infrastructure, specifically in automated meter reader (AMR) devices and systems and advanced metering infrastructure (AMI) devices and systems. The application that resulted in the '257 Patent (Application No. 10/952,043) is a continuation-in-part of Application No. 09/896,502 (filed June 29, 2001, now U.S. Pat. No. 6,798,352), which is a continuation of Application No. 09/419,743 (filed Oct. 16, 1999, now U.S. Pat. No. 6,710,721). ICH has standing to sue for the infringement of the '257 Patent.

23. Defendant Badger Meter, Inc. ("Badger Meter") manufactures and sells residential and commercial utility meters and related products and services, including its Badger Meter ORION® Automatic Meter Reading (AMR) system. This system is primarily deployed by utilities seeking to replace manual meter reading with drive-by meter reading and data profiling. Badger Meter's Orion® AMR System includes endpoints such as the CE ADE® Endpoint, CE RTR® Endpoint and SE/ME Endpoint; and encoders or transmitters such as the ORION® Recordall® Transmitter Register (RTR®) Transmitter, the RTR® for ORION® Integral or Remote, the ORION® Absolute Digital Encoder (ADE®), the ORION® Universal 1 Transmitter, and the ORION® ARB® V Transmitter. The encoder or transmitter is coupled to the meter and sends a digital signal to the endpoint. The endpoint sends radio frequency transmissions that are read by ORION reading equipment. Badger Meter also manufactures and

sells residential and commercial utility meters and related products and services, including its Badger Meter Galaxy Transmitter (TR3) for use with the Galaxy AMI Fixed Network. The Galaxy Transmitter stores and sends usage data and potential system leakage alerts. The Galaxy system allows for the creation of programmable alerts.

24. Defendant Mueller Water Products, Inc. (“Mueller”), which now includes Hersey Meters® as well as Mueller Systems, manufactures and sells residential and commercial utility meters and related products and services, including its AMR-Hot Rod™ System. This system is primarily deployed by utilities seeking to replace manual meter reading with drive-by meter reading and data profiling. Mueller Systems’ AMR-Hot Rod system includes transmitters such as the Hot Rod™ transmitter and the Integral Hot Rod™ transmitter. The Hot Rod™ modules transmit an encoded serial number, consumption, leak detection information and status data via radio frequency in FCC license exempt frequencies. The Hot Rod™ modules transmit or “bubble up” every 2 seconds on multiple frequencies. This meter data is received and collected by a receiver such as the Street Machine™ Mobile Data Collection Receiver for the AMR-Hot Rod™ System. Mueller also manufactures and sells residential and commercial utility meters and related products and services, including its Mueller Systems Mi.Node Meter Interface Units including the Mi.Node W Meter Interface Unit, the Mi.Node G Meter Interface Unit, the Mi.Node E Meter Interface Unit, and its Mi.Net AMI system. The Mi.Node W interface unit provides a direct connection to all Hersey water meters equipped with a Translator encoder register and provides full, two-way communications between the Mi.Net Mesh/Fixed AMI system and the smart meter. The Mi.Node W unit features an internal memory for storing data for on-demand reading and also features actionable alerts. The Mi.Node E interface unit provides a direct connection to all Landis + Gyr electric meters. Information retrieved from a water meter

is stored temporarily within the Mi.Node E unit's internal memory. At a time specified by the system or controlled by the user for an "On Demand" read, the Mi.Node E interface Unit will transmit all meter data. All interval and alert data is stored temporarily within the smart meter's solid state memory.

25. Defendants Transparent Technologies, Inc. and Metron-Farnier, LLC (collectively, "Transparent Technologies") provide AMR systems for water, gas, and electric utilities, including the T2 AMR or G2 Mobile AMR system. These systems are primarily deployed by utilities seeking to replace manual meter reading with drive-by meter reading and data profiling. Transparent Technologies' AMR systems include endpoint radios such as the M1, M1B, and M2 radios (M2w radio for water, the M2g radio for gas, and M2e radio for electricity). These endpoints transmit in unlicensed spread-spectrum radio frequency. The M2w water radios provide conservation, leak detection, high-usage, zero-usage, and backflow functions, plus on-demand remote datalogging. The M2e allows for consumption datalogging, instantaneous power/voltage monitoring, monthly peak power usage logging with date and time, and tamper and outage monitoring. The M2g gas radios provide continuous usage, high usage, and zero usage datalogging configurable for duration. In Transparent Technologies' T2 AMR or G2 Mobile AMR system, the meter data is received by a transceiver such as the R2 Mobile Transceiver. The M1B and M2 radios described above also feature programmable alerts.

26. Defendants Tantalus Systems Corp. and Tantalus Systems, Inc. (collectively, "Tantalus") provides Smart Grid communications, including power line carrier (PLC) solutions for electric, water, and gas utilities. They have worked with defendant Badger Meter to allow utilities to upgrade from mobile meter reading to a fixed network system. The ORION® AMR System can integrate seamlessly into the Tantalus Hybrid Wireless Network/Tantalus Utility

Network (TUNet®). Tantalus' 900-MHz transceivers located within nearby electric meters read the radio frequency signal from ORION® water and gas transmitters and collect the meter readings, instead of an operator with a mobile receiver reading the transmitter data. The transceivers send this information back to the utility via the TUNet®. No reprogramming is required; as soon as the TUNet® is deployed, the utility can stop mobile reading in the area and receive the data through the TUNet®. Interval data transmissions allow the utility to do customer profiling, daily leak detection, stop meter, and temper detection reports, high consumption, conservation monitor, area leak reports, and user-defined reports.

27. Defendants ESCO Technologies, Inc. and Aclara Power-Line Systems Inc. (collectively, "Aclara"), provide device networking, data-value management, and customer communications, including power line carrier solutions (PLC), to water, gas, and electric utilities. The Aclara® brand includes the Two-Way Automatic Communications System (TWACS®) advanced metering infrastructure. Aclara has worked with defendant Badger Meter to allow customers of the TWACS® power-line communication system to add gas and water meter information to the network. Badger Meter's ORION® transmitters send an RF signal with consumption data to an Aclara TWACS® EMT (Electric Meter Transceiver) or a TWACS® UMT (Universal Meter Transceiver), which in turn transmit the data through the TWACS network to the utility on a user-defined schedule.

28. Defendant Landis+Gyr Inc. ("Landis+Gyr") provides electricity metering and advanced metering infrastructure (AMI) systems. They also provide multi-utility systems such as the TS2 Multi-Utility system, a power line carrier (PLC)-based AMI system with integrated short-hop RF communication between electric, water and gas meters in a single network. The TS2 system is designed to work with defendant Badger Meter's ORION® transmitter for either

gas or water. The ORION® transmitter encodes at least the meter reading, meter identification number and tamper information, and transmits them in an unlicensed frequency band at predetermined intervals. This data is read by a multi-utility module equipped with an antenna that remains in constant communication with the data collector. Repeaters are used if necessary to allow communication between the transmitters, modules, power line and the utility. In addition, many Landis + Gyr electric meters include the Mueller Mi.Node E interface unit which provides a direct connection to the meter. These include the Focus and S4E meters. Information retrieved from a water meter is stored temporarily within the Mi.Node E unit's internal memory. At a time specified by the system or controlled by the user for an "On Demand" read, the Mi.Node E interface Unit will transmit all meter data. All interval and alert data is stored temporarily within the smart meter's solid state memory.

29. Defendant Trilliant Networks, Inc. ("Trilliant") provides long-range wireless mesh broadband equipment for a broadband wireless solution that addresses some common radio frequency communication issues such as interference, spectral efficiency, range, scalability, capacity, redundancy, and fault tolerance. They offer a total solution for service providers and municipalities that are ready to deploy broadband wireless networks. Trilliant's SkyPilot SyncMesh™ network solution assures superior RF performance and sophisticated mesh networking capabilities. Trilliant has partnered with defendant Badger Meter, allowing Badger Meter's ORION® water or gas transmitters to communicate with Trilliant's SkyPilot SyncMesh™ network system.

30. Defendant Tropos Networks, Inc. ("Tropos") delivers metro-scale Wi-Fi mesh network systems. They provide solutions for municipal utilities—water, gas, and electric—based on high-speed wireless broadband access and Automated Metering Infrastructure (AMI),

including their MetroMesh™ architecture. Tropos has partnered with defendant Badger Meter, allowing Badger Meter's ORION® transmitters to communicate with Tropos' Wi-Fi mesh network systems, such as the Metro Mesh™ system.

31. Defendant The City of Winnsboro, Texas ("Winnsboro") is located in the Eastern District of Texas, about 50 miles from Tyler. Winnsboro purchased and uses defendant Badger Meter's water meters and ORION® automated meter reading (AMR) system. Defendant Badger Meter's website features a "case study" describing the success of the ORION® system installation in Winnsboro, Texas.

V. CLAIMS

32. Based on the above-described services and products, Plaintiff asserts several causes of action against the Defendants. These causes of action are detailed as follows.

A. Direct Patent Infringement

33. The allegations of paragraphs 1-32 above are incorporated by reference as if fully set forth herein.

34. The Defendants have been and are infringing the '181 Patent and the '257 Patent by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, directly, contributorily, and/or by inducement, products and services that fall within the scope of the claims of the '181 Patent and the '257 Patent. Specifically, Defendants make, use, sell, offer to sell, and/or import systems and devices for automated meter reading and advanced metering infrastructure systems and devices. These systems and devices include modules for measuring a quantity of delivered product and transmitting signals with information regarding the delivered product, as well as modules for creating and storing usage profile data, and modules for generating programmable, intelligent alerts.

35. Defendant Badger Meter, Inc. (“Badger Meter”) infringes the ’181 Patent and the ’257 Patent by making, using, selling, offering to sell, and/or importing, without authority, systems and devices for automated meter reading and advanced metering infrastructure that include modules for measuring the delivered product, transmitting signals with information regarding the delivered product, creating and storing usage profile data, and/or generating intelligent alerts. Specifically, Badger Meter infringes, literally and/or under the doctrine of equivalents, at least through its Orion® Automatic Meter Reading (AMR) System and related products, and through at least its Galaxy Advanced Metering Infrastructure (AMI) System and related products.

36. Defendant Mueller Water Products, Inc. (“Mueller”) infringes the ’181 Patent and the ’257 Patent by making, using, selling, offering to sell, and/or importing, without authority, systems and devices for automated meter reading that include modules for measuring the delivered product, transmitting signals with information regarding the delivered product, creating and storing usage profile data, and/or generating intelligent alerts. Specifically, Mueller infringes, literally and/or under the doctrine of equivalents, at least through its Hot Rod™ Automatic Meter Reading (AMR) system and related products, as well as its Mi.Node interface units including its Mi.Node W Meter Interface, Mi.Node G Meter Interface, Mi.Node E Meter Interface, and its Mi.Net System.

37. Defendants Transparent Technologies, Inc. and Metron-Farnier, LLC (collectively, “Transparent Technologies”) infringe the ’181 Patent and the ’257 Patent by making, using, selling, offering to sell, and/or importing, without authority, systems and devices for automated meter reading that include modules for measuring the delivered product, transmitting signals with information regarding the delivered product, creating and storing usage

profile data, and/or generating intelligent alerts. Specifically, Transparent Technologies infringes, literally and/or under the doctrine of equivalents, at least through its G2 Mobile AMR system and related products.

38. Defendants Tantalus Systems Corp. and Tantalus Systems, Inc. (collectively, “Tantalus”) infringe the ’181 Patent and the ’257 Patent by making, using, selling, offering to sell, and/or importing, without authority, systems and devices for automated meter reading that include modules for measuring the delivered product, transmitting signals with information regarding the delivered product, creating and storing usage profile data, and/or generating intelligent alerts. Specifically, Tantalus infringes, literally and/or under the doctrine of equivalents, at least through its use and/or sale of ORION® transmitters as part of its network systems such as its Tantalus Hybrid Wireless network (TUNet) system.

39. Defendants ESCO Technologies, Inc. and Aclara Power-Line Systems Inc. (collectively, “Aclara”) infringe the ’181 Patent and the ’257 Patent by making, using, selling, offering to sell, and/or importing, without authority, systems and devices for automated meter reading that include modules for measuring the delivered product, transmitting signals with information regarding the delivered product, creating and storing usage profile data, and/or generating intelligent alerts. Specifically, Aclara infringes, literally and/or under the doctrine of equivalents, at least through its use and/or sale of ORION® transmitters as part of its network systems such as its Two-Way Automatic Communications System (TWACS®).

40. Defendant Defendant Landis+Gyr Inc. (“Landis+Gyr”) infringes the ’181 Patent and the ’257 Patent by making, using, selling, offering to sell, and/or importing, without authority, systems and devices for automated meter reading that include modules for measuring the delivered product, transmitting signals with information regarding the delivered product,

creating and storing usage profile data, and/or generating intelligent alerts. Specifically, Landis+Gyr infringes, literally and/or under the doctrine of equivalents, at least through its use and/or sale of ORION® transmitters as part of its network systems such as the TS2 Multi-utility system, as well as through its use and/or sale of its electric meters including the Mueller Mi.Node E Interface unit.

41. Defendant Trilliant Networks, Inc. (“Trilliant”) infringes the ’181 Patent and the ’257 Patent by making, using, selling, offering to sell, and/or importing, without authority, systems and devices for automated meter reading that include modules for measuring the delivered product, transmitting signals with information regarding the delivered product, creating and storing usage profile data, and/or generating intelligent alerts. Specifically, Trilliant infringes, literally and/or under the doctrine of equivalents, at least through its use and/or sale of ORION® transmitters as part of its broadband network systems such as the SkyPilot SyncMesh™ network system.

42. Defendant Tropos Networks, Inc. (“Tropos”) infringes the ’181 Patent and the ’257 Patent by making, using, selling, offering to sell, and/or importing, without authority, systems and devices for automated meter reading that include modules for measuring the delivered product, transmitting signals with information regarding the delivered product, creating and storing usage profile data, and/or generating intelligent alerts. Specifically, Tropos infringes, literally and/or under the doctrine of equivalents, at least through its use, sale, and/or offer for sale of ORION® transmitters as part of its Wi-Fi network systems such as the Tropos MetroMesh™ network system.

43. Defendant The City of Winnsboro, Texas (“Winnsboro”) infringes the ’181 Patent and the ’257 Patent by using, without authority, systems and devices for automated meter

reading that include modules for measuring the delivered product, transmitting signals with information regarding the delivered product, creating and storing usage profile data, and/or generating intelligent alerts. Specifically, Winnsboro infringes, literally and/or under the doctrine of equivalents, at least through its use of defendant Badger Meter's ORION® AMR system.

44. Further and in the alternative, manufacturer defendants Badger Meter, Mueller, and Transparent Technologies are liable for joint infringement with their partners and re-sellers Tantalus, Aclara, Landis+Gyr, Trilliant, and Tropos for joint infringement of the '181 Patent and the '257 Patent. These entities have formed alliances to make, use, sell, offer to sell, and/or import, without authority, systems and devices that infringe the '181 Patent and the '257 Patent including those described above. Moreover, defendant Badger Meter, Inc. is liable for joint infringement with its customer Winnsboro at least because it has made, used, sold, offered to sell, and/or imported, and provided and/or installed the infringing devices and systems, and has directed and/or controlled the actions of Winnsboro that infringe the '181 Patent and the '257 Patent. Furthermore, defendants Transparent Technologies, Inc. and Metron-Farnier, LLC infringe the '181 Patent and the '257 Patent jointly as one entity makes, uses, sells, offers to sell, and/or imports certain parts of the infringing system or device at the direction and/or control of the other.

B. Inducement of Patent Infringement

45. The allegations of paragraphs 1-44 above are incorporated by reference as if fully set forth herein.

46. In addition to the direct and joint infringement identified, or in the alternative, Defendant Badger Meter is liable for inducement of infringement of the '181 Patent and the '257

Patent by its customer Winnsboro. Badger Meter has been and is actively inducing the infringement of the '181 Patent and the '257 Patent, at least by making, using, selling, offering to sell, and/or importing, and providing and/or installing the infringing devices and systems, and directing and encouraging Winnsboro to infringe directly and participating with Winnsboro in directly infringing in its use of the infringing devices and systems.

47. Unless the Defendants are enjoined by this Court, ICH is without an adequate remedy at law.

48. The Defendants' infringement of the '181 Patent has been and is willful. Each Defendant listed herein has had notice and knowledge of the '181 Patent and their infringement.

49. The Defendants' infringement of the '257 Patent has been and is willful. Each Defendant listed herein has had notice and knowledge of the '257 Patent and their infringement.

VI. DAMAGES

50. The allegations of paragraphs 1-50 above are incorporated by reference as if fully set forth herein.

51. For the above-described infringement, Plaintiff has been injured and seeks damages to adequately compensate it for Defendants' infringement of the '181 Patent. Such damages should be no less than the amount of a reasonable royalty under 35 U.S.C. § 284.

52. ICH contends that Defendants willfully infringed the '181 Patent. Plaintiff requests that the Court enter a finding of willful infringement and enhanced damages under 35 U.S.C. § 284 up to three times the amount found by the trier of fact.

53. For the above-described infringement, Plaintiff has been injured and seeks damages to adequately compensate it for Defendants' infringement of the '257 Patent. Such damages should be no less than the amount of a reasonable royalty under 35 U.S.C. § 284.

54. ICH contends that Defendants willfully infringed the '257 Patent. Plaintiff requests that the Court enter a finding of willful infringement and enhanced damages under 35 U.S.C. § 284 up to three times the amount found by the trier of fact.

55. Plaintiff further requests that the Court enter an order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285. Pursuant to such an order Plaintiff seeks recovery of its reasonable attorneys' fees and expenses.

VII. JURY DEMAND

56. The allegations of paragraphs 1-56 above are incorporated by reference as if fully set forth herein.

57. Plaintiff requests a jury trial for all issues triable to a jury.

VIII. PRAYER FOR RELIEF

58. The allegations of paragraphs 1-58 above are incorporated by reference as if fully set forth herein.

59. ICH respectfully requests the following relief:

A. That the Court declare that the '181 Patent is valid and enforceable and that it is infringed by Defendants as described herein;

B. That the Court enter a permanent injunction against Defendants' direct infringement of the '181 Patent;

C. That the Court enter a permanent injunction against Defendants' joint infringement of the '181 Patent;

D. That the Court enter a permanent injunction against Defendants' active inducement of infringement of the '181 Patent;

E. That the Court declare that the '257 Patent is valid and enforceable and that it is infringed by Defendants as described herein;

F. That the Court enter a permanent injunction against Defendants' direct infringement of the '257 Patent;

G. That the Court enter a permanent injunction against Defendants' joint infringement of the '257 Patent;

H. That the Court enter a permanent injunction against Defendants' active inducement of infringement of the '257 Patent;

I. That the Court award damages to ICH to which it is entitled for patent infringement;

J. That the Court award pre-judgment and post-judgment interest on the damages awarded to ICH;

K. That the Court treble all damages and interest for willful infringement, and/or any other appropriate damages under 35 U.S.C. § 284, and supplemental damages for any continuing post-verdict infringement up until entry of the final Judgment with an accounting as needed;

L. That the Court find this to be an exceptional case under 35 U.S.C. § 285 and award to ICH its costs and attorneys fees incurred in this action; and

M. Any such other and further relief as the Court deems just and proper.

Dated: December 12, 2011

Respectfully submitted,



ANTHONY BRUSTER, Attorney in Charge

STATE BAR NO. 24036280
EDWARD CHIN
STATE BAR NO. 50511688
NICOLE REED KIEWER
STATE BAR NO. 24041759
ANDREW WRIGHT
STATE BAR NO. 24063927
NIX PATTERSON & ROACH, L.L.P.
5215 N. O'Connor Blvd., Suite 1900
Irving, Texas 75039
972.831.1188 (telephone)
972.444.0716 (facsimile)
akbruster@nixlawfirm.com
edchin@nixlawfirm.com
nicolekiewer@nixlawfirm.com
awright@nixlawfirm.com

DEREK GILLILAND
STATE BAR NO. 24007239
BRAD SEIDEL
STATE BAR NO. 24008008
JOHN HULL
STATE BAR NO. 24050791
NIX PATTERSON & ROACH, L.L.P.
205 LINDA DRIVE
DAINGERFIELD, TEXAS 75638
903.645.7333 (telephone)
903.645.5389
dgilliland@nixlawfirm.com
bradseidel@nixlawfirm.com
johnhull@nixlawfirm.com

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system December 12, 2011.

A handwritten signature in black ink, appearing to read "Anthony Bruster", is positioned above a horizontal line. The signature is stylized with a large, looped "B" and a cursive "A".

Anthony Bruster