

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

IP CO., LLC, d/b/a Intus IQ

Plaintiff,

v.

CRESTRON ELECTRONICS, INC.

Defendant.

Civil Action No. 6:12-cv-821

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff IP CO, LLC d/b/a Intus IQ (“Intus IQ”) hereby makes this Complaint for patent infringement against Defendant CRESTRON ELECTRONICS, INC. (“Crestron” or “Defendant”), and in support alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement, brought under the Patent Act, 35 U.S.C. §§ 101 et seq. Plaintiff Intus IQ is the owner of a patent that, as set forth more fully below, Defendant is willfully infringing.

2. U.S. Patent No. 6,044,062 (the “‘062 Patent”), entitled “Wireless Network System And Method For Providing Same,” was duly and legally issued on March 28, 2000 by the U.S. Patent and Trademark Office to CommUnique, LLC, the assignee of the named inventors Edwin B. Brownrigg and Thomas W. Wilson. A copy of the ‘062 Patent, including the reexamination certificate issued on May 3, 2011, is attached hereto as Exhibit A.

3. Intus IQ is the sole owner of the entire right, title, and interest in the ‘062 Patent (“Patent-in-Suit”) by virtue of assignment.

4. Defendant Crestron, as provided in more detail below, has made, used, imported, and/or sold and/or continues to make, use, import, and/or sell the technology claimed by the '062 Patent in systems and methods without Intus IQ's permission.

5. Plaintiff Intus IQ seeks damages for Crestron's infringement of the '062 Patent.

PARTIES

6. Plaintiff IP CO, LLC d/b/a Intus IQ is a Georgia limited liability corporation. Intus IQ's offices are in Atlanta, Georgia and McKinney, Texas.

7. Upon information and belief, Defendant Crestron is a New Jersey corporation, having its principal place of business at 15 Volvo Drive, Rockleigh, New Jersey 07647.

JURISDICTION AND VENUE

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

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

10. This Court has personal jurisdiction over Crestron. Crestron regularly conducts business in the State of Texas and is subject to the jurisdiction of this Court. Crestron has been doing business in this judicial district by manufacturing, distributing, marketing, using, selling and/or offering for sale its products including, but not limited to, products that practice the subject matter claimed in the patent involved in this action, in this judicial district and elsewhere in the United States. Crestron can be served with process through its registered agent, Corporation Service Company, 830 Bear Tavern Road, West Trenton, New Jersey 08628.

11. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b). Defendant has done business in this District, committed acts of infringement in this District, and continues to commit acts of infringement in this District, all of which entitle Intus IQ to relief.

COUNT I – DIRECT INFRINGEMENT OF THE ‘062 PATENT

12. Intus IQ restates and realleges the allegations set forth in paragraphs 1 through 11 of this Complaint and incorporates them by reference.

13. Crestron has directly infringed and continues to infringe one or more claims of the ‘062 Patent, by making, using, selling, and/or offering for sale in this country, and/or importing into this country, without license, certain products that consist of and/or incorporate infringing wireless network systems, including without limitation Crestron’s infiNET automation systems, and all devices, services and components operating thereon, in violation of 35 U.S.C. § 271.

14. The acts of infringement of the ‘062 Patent by Crestron has caused damage to Intus IQ and Intus IQ is entitled to recover from Crestron the damages sustained by Intus IQ as a result of Crestron’s wrongful acts in an amount subject to proof at trial. The infringement of Intus IQ’s exclusive rights under the ‘062 Patent by Crestron will continue to damage Intus IQ, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

15. Crestron had actual or constructive knowledge of the ‘062 Patent, yet continues to infringe said patent. The infringement of the ‘062 Patent by Crestron is willful and deliberate, entitling Intus IQ to increased damages under 35 U.S.C. § 284 and to attorney’s fees and costs incurred in prosecuting this action under 35 U.S.C. §285.

COUNT II – INDUCED INFRINGEMENT OF THE ‘062 PATENT

16. Intus IQ restates and realleges the allegations set forth in paragraphs 1 through 15 of this Complaint and incorporates them by reference.

17. With knowledge of the ‘062 Patent, Crestron, at least through the use of its website, its instructions accompanying its infiNET systems, and/or its promotional materials

touting the benefits of its infiNET systems, and other means, intended to, and did, actively encourage and induce direct infringement by others.

18. Specifically, Crestron induces infringement by supplying infringing systems and components to its customers, who purchase systems and components thereof and operate such systems and components thereof in accordance with Crestron's instructions and therefore directly infringe one or more claims of the '062 Patent in violation of 35 U.S.C. § 271. By way of example only, Crestron's website boasts of case studies in which its infringing technology has been implemented in its customers' residences.

19. Crestron induced this infringement with knowledge of the '062 patent. Despite this knowledge, Crestron continues to actively urge its customers and others to use the accused infiNET systems. Thus, Crestron has actively induced its customers, potential customers, and others to infringe one or more claims of the '062 Patent, in violation of 35 U.S.C. §271.

20. The acts of induced infringement of the '062 Patent by Crestron have caused damage to Intus IQ, and Intus IQ is entitled to recover from Crestron the damages sustained by Intus IQ as a result of Crestron's wrongful acts in an amount subject to proof at trial. The infringement of Intus IQ's exclusive rights under the '062 Patent by Crestron will continue to damage Intus IQ, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

21. Crestron had actual or constructive knowledge of the '062 Patent, yet continues to induce infringement of said patent. The induced infringement of the '062 Patent by Crestron is thus willful and deliberate, entitling Intus IQ to enhanced damages under 35 U.S.C. §284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. §285.

COUNT III – CONTRIBUTORY INFRINGEMENT OF THE '062 PATENT

22. Intus IQ restates and realleges the allegations set forth in paragraphs 1 through 21 of this Complaint and incorporates them by reference.

23. With knowledge of the '062 Patent, Crestron, makes, uses, sells, offers for sale in this country, and/or imports into this country, a material or apparatus for use in practicing the patented invention claimed by the '062 Patent, and that "material or apparatus" is material to practicing the invention, has no substantial non-infringing uses, and is known by Crestron to be especially made or especially adapted for use in an infringement of the '062 Patent.

24. More specifically, the components used in Crestron's infiNET systems have no substantial non-infringing uses. Thus, Crestron has contributed to the infringement of one or more claims of the '062 Patent, in violation of 35 U.S.C. §271.

25. The acts of contributory infringement of the '062 Patent by Crestron have caused damage to Intus IQ, and Intus IQ is entitled to recover from Crestron the damages sustained by Intus IQ as a result of Crestron's wrongful acts in an amount subject to proof at trial. The infringement of Intus IQ's exclusive rights under the '062 Patent by Crestron will continue to damage Intus IQ, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

26. Crestron had actual or constructive knowledge of the '062 Patent, yet continues to contributorily infringe said patent. The contributory infringement of the '062 Patent by Crestron is thus willful and deliberate, entitling Intus IQ to enhanced damages under 35 U.S.C. §284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. §285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief against Defendant Crestron:

- A. A judgment that Crestron has directly infringed the '062 Patent, contributorily infringed the '062 Patent, and/or induced infringement of the '062 Patent;
- B. An award of all damages recoverable under the laws of the United States and the laws of the State of Texas in an amount to be proven at trial;
- C. An award of treble damages against Crestron as a result of Crestron's willful infringement;
- D. A preliminary, and thereafter permanent, injunction enjoining and restraining Crestron, and its 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 '062 Patent, as set forth herein;
- E. A judgment and order requiring Crestron to pay Plaintiff's pre-judgment and post-judgment interest on the full amounts of the damages awarded;
- F. A judgment requiring Crestron 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
- G. 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 29th day of October, 2012.

WARD & SMITH LAW FIRM

/s/ T. John Ward, Jr. _____

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