

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NEXANS INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 12-1491-SLR
)	
BELDEN INC.)	DEMAND FOR JURY TRIAL
BELDEN TECHNOLOGIES, INC. and)	
BELDEN TECHNOLOGIES, LLC.)	
)	
Defendants.)	

AMENDED COMPLAINT

Plaintiff Nexans Inc. (“Plaintiff” or “Nexans”) files this complaint against defendants Belden Inc. and Belden Technologies, Inc. (“Belden”) and alleges as follows:

THE PARTIES

1. Nexans is a Delaware corporation having its principal place of business at 132 White Oak Road, New Holland PA 17557. Nexans is a worldwide leader in the cable industry and offers an extensive range of cables and cabling systems.

2. Upon information and belief, defendant Belden Inc. is a Delaware corporation with its principal place of business at 7733 Forsyth Boulevard, Suite 800, St. Louis, Missouri 63105.

3. Upon information and belief defendant Belden Technologies, Inc. is a Delaware corporation with its principal place of business at 7733 Forsyth Boulevard, Suite 800, St. Louis, Missouri 63105.

4. Upon information and belief defendant Belden Technologies, LLC. is a Delaware corporation with its principal place of business at 7733 Forsyth Boulevard, Suite 800, St. Louis, Missouri 63105.

5. Upon information and belief defendants Belden Inc., Belden Technologies, Inc. and/or Belden Technologies, LLC, alone or in combination, own United States Patent 7,135,641 (“the ’641 Patent”), entitled “Data cable with cross-twist cabled core profile,” which issued November 14, 2006. A copy of the ’641 Patent is attached hereto as Exhibit A.

6. Upon information and belief defendants Belden Inc., Belden Technologies, Inc. and/or Belden Technologies, LLC, alone or in combination, own United States Patent 6,074,503 (“the ’503 Patent”), entitled “Making enhanced data cable with cross-twist cabled core profile,” which issued June 13, 2000. A copy of the ’503 Patent is attached hereto as Exhibit B.

7. Upon information and belief defendant Belden Inc. is the assignee of United States Patent 7,977,575 (“the ’575 Patent”), entitled “High performance data cable,” which issued July 12, 2011. A copy of the ’575 Patent is attached hereto as Exhibit C.

8. Upon information and belief defendant Belden Inc. is the assignee of United States Patent 7,663,061 (“the ’061 Patent”), entitled “High performance data cable,” which issued February 16, 2010. A copy of the ’061 Patent is attached hereto as Exhibit D.

JURISDICTION AND VENUE

9. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), in that it involves substantial claims arising under the United States Patent Act, 35 U.S.C. § 1, *et seq.*

10. This Court may declare the rights and other legal relations of the parties pursuant to 28 U.S.C. §§ 2201 and 2202 because there is a case of actual controversy within the

Court's jurisdiction to provide a declaratory judgment that the '641, '575, '503 and '061 Patents are invalid and not infringed.

11. Personal jurisdiction exists over defendants Belden Inc. and Belden Technologies, Inc. because, *inter alia*, they are incorporated within this district.

12. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).

THE PRESENCE OF AN ACTUAL CONTROVERSY

13. On April 3, 2012 Christopher E. Allen, the Assistant General Counsel of Belden Inc., sent a letter to the former president of Berk-Tek (a division of Nexans). A copy of this letter is attached hereto as Exhibit E.

14. The April 3, 2012 letter stated that "Belden invests significantly in development of its innovative products and seeks intellectual property protection accordingly. We are writing because Berk-Tek is using that intellectual property."

15. The April 3, 2012 letter stated that "we ask that Berk-Tek make restitution for its past use of Belden's intellectual property and either cease infringing or enter into an appropriate license agreement."

16. The April 3, 2012 letter stated that "Belden has in the past been required to enforce its rights. As a result of that effort, Belden has secured judgments that certain of it [sic] patents are valid, enforceable and infringed by Superior Essex, due to its manufacture and sale (among other things) of tape separator and cross-web cables. That suit is now concluded and Superior Essex has taken a license, including payment of an on-going royalty. Since that suit was filed, Belden has also secured additional protection on this technology."

17. The April 3, 2012 letter stated that "after a preliminary review, we believe that the Berk-Tek LANmark 1000 Enhanced Category 6 products, the LANmark 2000 Premium

Category 6 products and the LANmark 10G2 Augmented Category 6 products are covered by Belden's patents."

18. The April 3, 2012 letter stated that "Belden is also prepared to materially discount what it would otherwise be entitled to receive for past sales, provided that the parties reach agreement expeditiously and without significant expense to Belden."

19. On June 25, 2012, Belden and Nexans entered into a Protected Communications and Standstill Agreement.

20. On September 21, 2012, Belden, Nexans and their respective outside litigation counsel met in New York City.

21. Since the September 21, 2012 meeting, Belden's Assistant General Counsel Christopher Allen, has repeatedly emailed and called Nexans' Vice-President & General Counsel of North America Area, Frank Ryan.

22. Since the September 21, 2012 meeting, Belden's outside litigation counsel, Matthew B. Lowrie, has also contacted Nexans' outside litigation counsel, James S. Blank.

23. The June 25, 2012 Protected Communications and Standstill Agreement expired on October 31, 2012.

24. On January 29, 2008, Belden filed a first lawsuit in the District of Delaware against Superior Essex Inc. and Superior Essex Communications LP alleging infringement of the '503 Patent. (*Belden Techs. Inc. et al v. Superior Essex Inc. et al.*, C.A. No. 08-063-SLR)

25. On October 31, 2008, Belden filed a second lawsuit in the District of Delaware against Superior Essex Inc., Superior Essex Communications LP, LS Corp., LS Cable

Ltd. and LS Cable America, Inc. alleging infringement of the '641 and '503 Patents. (*Belden Techs. Inc. et al v. LS Corp. et al.*, C.A. No. 08-823-SLR)

26. On August 1, 2011, Belden filed a third lawsuit in the District of Delaware against Superior Essex Inc. and Superior Essex Communications LP alleging infringement of the '575 Patent. (*Belden Inc. v. Superior Essex Inc. et al.*, C.A. No. 11-678-SLR)

27. Based on all the circumstances above, a definite and concrete controversy exists between Nexans and Belden that is both real and immediate with respect to the '641, '575 and '503 Patents. Nexans is reasonably apprehensive of a suit by Belden. Nexans believes that Belden intends to impact the business activities of Nexans in manufacturing and selling cables and cabling systems.

THE NEXANS PATENT-IN-SUIT

28. On August 18, 1998, United States Patent 5,796,046 ("the '046 Patent"), entitled "Communication cable having a striated cable jacket," was duly and lawfully issued by the United States Patent and Trademark Office. A true and correct copy of the '046 Patent and its associated reexamination certificate is attached hereto as Exhibit F.

29. Nexans is the assignee and owner of the right, title and interest in and to the '046 Patent, including the right to assert all causes arising under said patent and the right to any remedies for infringement of it.

COUNT I **Declaratory Judgment of Non-Infringement - U.S. Patent No. 6,074,503**

30. The allegations of paragraphs 1 to 27 are incorporated by reference as if fully set forth herein.

31. Nexans has not directly infringed, contributed to the infringement, or actively induced infringement of any claim of the '503 Patent, nor has it otherwise committed any acts of infringement on any rights of Belden Technologies, Inc.

COUNT II
Declaratory Judgment of Non-Infringement - U.S. Patent No. 7,135,641

32. The allegations of paragraphs 1 to 27 are incorporated by reference as if fully set forth herein.

33. Nexans has not directly infringed, contributed to the infringement, or actively induced infringement of any claim of the '641 Patent, nor has it otherwise committed any acts of infringement on any rights of Belden Technologies, Inc.

COUNT III
Declaratory Judgment of Non-Infringement - U.S. Patent No. 7,977,575

34. The allegations of paragraphs 1 to 27 are incorporated by reference as if fully set forth herein.

35. Nexans has not directly infringed, contributed to the infringement, or actively induced infringement of any claim of the '575 Patent, nor has it otherwise committed any acts of infringement on any rights of Belden Inc.

COUNT IV
Declaratory Judgment of Non-Infringement - U.S. Patent No. 7,663,061

36. The allegations of paragraphs 1 to 27 are incorporated by reference as if fully set forth herein.

37. Nexans has not directly infringed, contributed to the infringement, or actively induced infringement of any claim of the '061 Patent, nor has it otherwise committed any acts of infringement on any rights of Belden Inc.

COUNT V

Declaratory Judgment of Invalidity- U.S. Patent No. 6,074,503

38. The allegations of paragraphs 1 to 27 are incorporated by reference as if fully set forth herein.

39. Each of the claims of the '503 Patent is invalid for failure to satisfy the provisions of one or more sections of 102, 103, 112, 115 and 116 of Title 35 of the United States Code.

COUNT VI

Declaratory Judgment of Invalidity- U.S. Patent No. 7,135,641

40. The allegations of paragraphs 1 to 27 are incorporated by reference as if fully set forth herein.

41. Each of the claims of the '641 Patent is invalid for failure to satisfy the provisions of one or more sections of 102, 103, 112, 115 and 116 of Title 35 of the United States Code.

COUNT VII

Declaratory Judgment of Invalidity- U.S. Patent No. 7,977,575

42. The allegations of paragraphs 1 to 27 are incorporated by reference as if fully set forth herein.

43. Each of the claims of the '575 Patent is invalid for failure to satisfy the provisions of one or more sections of 102, 103, 112, 115 and 116 of Title 35 of the United States Code.

COUNT VIII

Declaratory Judgment of Invalidity- U.S. Patent No. 7,663,061

44. The allegations of paragraphs 1 to 27 are incorporated by reference as if fully set forth herein.

45 Each of the claims of the '061 Patent is invalid for failure to satisfy the provisions of one or more sections of 102, 103, 112, 115 and 116 of Title 35 of the United States Code.

COUNT IX

Infringement of U.S. Patent No. 5,796,046

46. The allegations of paragraphs 1 to 29 are incorporated by reference as if fully set forth herein.

47. Belden has infringed the '046 Patent and continues to do so by making, using, importing, selling, and/or offering to sell within the United States products covered by one or more of the '046 Patent claims, including, but not limited to, Belden's Mohawk GigaLAN10 Augmented Category 6 and Mohawk XGO Augmented Category 6 cables.

48. Belden has been aware of the '046 Patent and its relevance to its products since at least as early as October 23, 2009. On October 23, 2009 the United States Patent and Trademark Office ordered a reexamination of Belden's '641 Patent because Nexans' '046 Patent, among other patents, raised a substantial new question of patentability. In addition, during the first lawsuit filed January 29, 2008, the defendants in that case argued that Claim 13 of the '641 Patent was invalid under 35 U.S.C. § 103 because, among other reasons, it was rendered obvious in view of the '046 Patent and U.S. Patent No. 6,150,612.

49. Belden's infringement of the '046 Patent is and has been willful, has caused and will continue to cause Nexans to suffer substantial damages, and has caused and will continue to cause Nexans to suffer irreparable harm for which there is no adequate remedy at law.

JURY DEMAND

50. Nexans respectfully requests a jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Nexans prays that:

- a. The Court enter a declaratory judgment that each of the claims of the '503 Patent is invalid;
- b. The Court enter a declaratory judgment that each of the claims of the '641 Patent is invalid;
- c. The Court enter a declaratory judgment that each of the claims of the '575 Patent is invalid;
- d. The Court enter a declaratory judgment that each of the claims of the '061 Patent is invalid;
- e. The Court enter a declaratory judgment that Nexans has not directly infringed, contributed to the infringement, or actively induced infringement of any claim of the '503 Patent, and that it has not otherwise committed any acts of infringement on any rights of Belden;
- f. The Court enter a declaratory judgment that Nexans has not directly infringed, contributed to the infringement, or actively induced infringement of any claim of the '641 Patent, and that it has not otherwise committed any acts of infringement on any rights of Belden;
- g. The Court enter a declaratory judgment that Nexans has not directly infringed, contributed to the infringement, or actively induced infringement of any claim of the '575 Patent, and that it has not otherwise committed any acts of infringement on any rights of Belden;

h. The Court enter a declaratory judgment that Nexans has not directly infringed, contributed to the infringement, or actively induced infringement of any claim of the '061 Patent, and that it has not otherwise committed any acts of infringement on any rights of Belden;

i. The Court enter judgment that Belden has infringed, and continues to infringe, the '046 Patent by making, using, offering for sale, selling and/or offering to sell communications cables products that are covered by the '046 Patent claims within the United States;

j. The Court issue a permanent injunction, enjoining further acts of infringement by Belden and its affiliates, subsidiaries, assigns, employees, agents and anyone acting in privity or in concert with Belden, including divisions, successors, assigns, agents, suppliers, manufacturers, contractors and customers of Belden;

k. The Court enter judgment awarding Nexans compensatory damages;

l. The Court enter judgment awarding Nexans its costs in this action;

m. The Court enter judgment awarding Nexans treble damages for willful patent infringement;

n. The Court declare this an exceptional case and award Nexans its attorneys' fees pursuant to 35 U.S.C. § 285; and

o. Nexans be awarded such other and further relief as this Court deems is just and proper.

ASHBY & GEDDES

/s/ Andrew C. Mayo

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