

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ABB INC.,)	
)	
Plaintiff,)	
)	Case No. _____
vs.)	
)	
CERTIFIED MEASUREMENT, LLC,)	JURY TRIAL DEMANDED
)	
Defendant.)	

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff ABB Inc. (“ABB”), by and through its attorneys, alleges as follows for its Complaint against Defendant Certified Measurement, LLC (“CML”).

THE PARTIES

1. CML has asserted that ABB infringes one or more claims of United States Patent Nos. 5,828,751 (“the ’751 patent”); 6,282,648 (“the ’648 patent”); 6,289,453 (“the ’453 patent”); and 8,549,310 (“the ’310 patent”) (collectively, the “Patents-in-Suit”). ABB brings this action seeking a declaratory judgment that each asserted claim of the Patents-in-Suit is not infringed, invalid, or both.

2. Plaintiff ABB is a company organized under the laws of Delaware with a principal place of business at 12040 Regency Parkway, Suite 200, Cary, North Carolina 27518. ABB is a leading innovator of advanced power and automation technologies. It has been selling products, systems and services in these fields for decades.

3. Upon information and belief, Defendant CML is a limited liability company that was formed on May 5, 2014 under the laws of the State of Delaware, with a principal place of business at 2 High Ridge Park, Stamford, Connecticut 06905. ABB is informed and believes that

CML is registered to do business in Delaware and has named Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808 as its registered agent.

4. CML claims to be the assignee of the Patents-in-Suit. Upon information and belief, CML does not make or sell any products.

JURISDICTION

5. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, 1338, 1367 and 2201.

6. This Court has personal jurisdiction over CML at least because CML is incorporated in this District and is registered to do business in this District.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391 at least because CML is incorporated in this District and resides in this District.

BACKGROUND

8. Upon information and belief, on October 27, 1998, the United States Patent and Trademark Office (“USPTO”) issued the ’751 patent, which is titled “Method and Apparatus for Secure Measurement Certification.” A copy of the ’751 patent is attached as Exhibit A.

9. Upon information and belief, on August 28, 2001, the USPTO issued the ’648 patent, which is titled “Method and Apparatus for Secure Measurement Certification.” A copy of the ’648 patent is attached as Exhibit B.

10. Upon information and belief, on September 11, 2001, the USPTO issued the ’453 patent, which is titled “Method and Apparatus for Secure Measurement Certification.” A copy of the ’453 patent is attached as Exhibit C.

11. Upon information and belief, on October 1, 2013, the USPTO issued the '310 patent, which is titled "Method and Apparatus for Secure Measurement Certification." A copy of the '310 patent is attached as Exhibit D.

12. On January 6, 2015, CML sent an infringement notification letter to ABB alleging that certain of ABB's supervisory control and data acquisition ("SCADA") systems, including "those SCADA systems using ABB Inc.'s RTU 560 and/or its MicroSCADA ProSys 600C," "directly or indirectly infringe one or more claims" of the Patents-in-Suit. A copy of the letter is attached as Exhibit E.

13. On March 23, 2015, CML sent an infringement notification letter to ABB alleging that certain of ABB's "fire detectors and systems," including "the KNX Security Panel GM/A 8.1 in combination with ... ABB's model SGL, FC650/O, and/or FC600/BREL" fire detectors "directly or indirectly infring[e] one or more claims" of the Patents-in-Suit. A copy of the letter is attached as Exhibit F.

14. ABB wishes to continue offering for sale and selling its products and systems free from the specter of CML's allegations of infringement of the Patents-in-Suit.

15. Therefore, an actual controversy exists between ABB and CML regarding the invalidity and non-infringement of the asserted claims of the Patents-in-Suit. The controversy between the parties is real and substantial and of sufficient immediacy and reality to warrant specific relief through a decree of a conclusive character.

**COUNT I -- DECLARATORY JUDGMENT OF NONINFRINGEMENT AND
INVALIDITY OF '751 PATENT**

16. ABB incorporates herein by reference the preceding paragraphs of its Complaint.

17. ABB denies CML's claim in its letter dated January 6, 2015 that ABB's RTU 560 and MicroSCADA ProSys 600C system infringes a valid and enforceable claim '751 patent.

18. ABB denies CML's claim in its letter dated March 23, 2015 that ABB's KNX Security Panel GM/A 8.1 in combination with its model SGL, FC650/O, and/or FC600/BREL fire detectors infringe a valid and enforceable claim '751 patent.

19. Furthermore, to the extent that CML asserts the '751 patent against ABB's products and systems, one or more of its claims is invalid for failing to meet at least one of the standards for patentability provided in 35 U.S.C. §§ 101, 102, 103, 112, *et al.*

20. To afford ABB, its customers, and the marketplace relief from uncertainty and controversy caused by CML's infringement claims, the Court should issue a declaratory judgment that ABB, its products, and its services do not directly or indirectly infringe any valid or enforceable claim of the '751 patent and/or hold that one or more asserted claims of the '751 patent is invalid.

**COUNT II -- DECLARATORY JUDGMENT OF NONINFRINGEMENT AND
INVALIDITY OF '648 PATENT**

21. ABB incorporates herein by reference the preceding paragraphs of its Complaint.

22. ABB denies CML's claim in its letter dated January 6, 2015 that ABB's RTU 560 and MicroSCADA ProSys 600C system infringes a valid and enforceable claim '648 patent.

23. ABB denies CML's claim in its letter dated March 23, 2015 that ABB's KNX Security Panel GM/A 8.1 in combination with its model SGL, FC650/O, and/or FC600/BREL fire detectors infringe a valid and enforceable claim '648 patent.

24. Furthermore, to the extent that CML asserts the '648 patent against ABB's products and systems, one or more of its claims is invalid for failing to meet at least one of the standards for patentability provided in 35 U.S.C. §§ 101, 102, 103, 112, *et al.*

25. To afford ABB, its customers, and the marketplace relief from uncertainty and controversy caused by CML's infringement claims, the Court should issue a declaratory

judgment that ABB, its products, and its services do not directly or indirectly infringe any valid or enforceable claim of the '648 patent and/or hold that one or more asserted claims of the '648 patent is invalid.

**COUNT III -- DECLARATORY JUDGMENT OF NONINFRINGEMENT AND
INVALIDITY OF '453 PATENT**

26. ABB incorporates herein by reference the preceding paragraphs of its Complaint.

27. ABB denies CML's claim in its letter dated January 6, 2015 that ABB's RTU 560 and MicroSCADA ProSys 600C system infringes a valid and enforceable claim '453 patent.

28. ABB denies CML's claim in its letter dated March 23, 2015 that ABB's KNX Security Panel GM/A 8.1 in combination with its model SGL, FC650/O, and/or FC600/BREL fire detectors infringe a valid and enforceable claim '453 patent.

29. Furthermore, to the extent that CML asserts the '453 patent against ABB's products and systems, one or more of its claims is invalid for failing to meet at least one of the standards for patentability provided in 35 U.S.C. §§ 101, 102, 103, 112, *et al.*

30. To afford ABB, its customers, and the marketplace relief from uncertainty and controversy caused by CML's infringement claims, the Court should issue a declaratory judgment that ABB, its products, and its services do not directly or indirectly infringe any valid or enforceable claim of the '453 patent and/or hold that one or more asserted claims of the '453 patent is invalid.

**COUNT IV -- DECLARATORY JUDGMENT OF NONINFRINGEMENT AND
INVALIDITY OF '310 PATENT**

31. ABB incorporates herein by reference the preceding paragraphs of its Complaint.

32. ABB denies CML's claim in its letter dated January 6, 2015 that ABB's RTU 560 and MicroSCADA ProSys 600C system infringes a valid and enforceable claim '310 patent.

33. ABB denies CML's claim in its letter dated March 23, 2015 that ABB's KNX Security Panel GM/A 8.1 in combination with its model SGL, FC650/O, and/or FC600/BREL fire detectors infringe a valid and enforceable claim '310 patent.

34. Furthermore, to the extent that CML asserts the '310 patent against ABB's products and systems, one or more of its claims is invalid for failing to meet at least one of the standards for patentability provided in 35 U.S.C. §§ 101, 102, 103, 112, *et al.*

35. To afford ABB, its customers, and the marketplace relief from uncertainty and controversy caused by CML's infringement claims, the Court should issue a declaratory judgment that ABB, its products, and its services do not directly or indirectly infringe any valid or enforceable claim of the '310 patent and/or hold that one or more asserted claims of the '310 patent is invalid.

WHEREFORE, ABB respectfully prays that the Court will grant it the following relief:

- A. A declaratory judgment that ABB does not infringe any claim of any valid, enforceable and asserted claim of Patents-In-Suit, as set forth hereinabove, under any theory of infringement (*e.g.*, direct, indirect, or joint);
- B. A declaratory judgment that at least one claim of the Patents-in-Suit is invalid;
- C. A judgment that this case is exceptional under 35 U.S.C. § 285, entitling ABB to recover its reasonable attorneys' fees and all other relief provided for under law;
- D. An award of ABB's costs and expenses, as provided by statute or law; and
- E. All other legitimate relief as provided by statute, law, or equity.

JURY DEMAND

ABB requests a trial by jury on all issues so triable.

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Dated: June 5, 2015