IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

Southern States, LLC)
Plaintiff,))) Civil Action: TBD
V.)
) Jury Trial Demanded
Cleaveland/Price, Inc.)
)
Defendant.)

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Southern States, LLC ("Southern States"), for its Complaint against Defendant Cleaveland/Price, Inc. ("Cleaveland/Price") alleges as follows:

PARTIES

1.

Plaintiff Southern States is a Georgia limited liability company with its principal place of business at 30 Georgia Avenue, Hampton, Georgia 30228 which is located in the Northern District of Georgia.

2.

On information and belief, Defendant Cleaveland/Price is a corporation identified as a "foreign corporation" in its Pennsylvania incorporation record with its principal place of business at 14000 Route 993, Trafford, Pennsylvania 15085.

On information and belief, Cleaveland/Price can be served with process at its principal place of business at 14000 Route 993, Trafford, Pennsylvania 15085.

JURISDICTION AND VENUE

4.

This is an action for injunctive and monetary relief for patent infringement by Cleaveland/Price under the Patent Act, 35 U.S.C. § 100 *et seq.* and, more particularly, under 35 U.S.C. §§ 271 and 281-285. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5.

On information and belief, Defendant conducts business throughout the United States including in the Northern District of Georgia, has sold infringing products in the United States, and has offered to sell infringing products in the Northern District of Georgia.

6.

On or about August 26, 2016, representatives of Plaintiff met with representatives of Georgia Power Company at Georgia Power's offices located at 62 Lake Mirror Road, Building 6, Forest Park Georgia 30297. During this meeting, a representative of Georgia Power stated that Cleaveland/Price had offered to sell Georgia Power a product for reading current, voltage and VARS at

Case 1:16-cv-03506-TWT Document 1 Filed 09/19/16 Page 3 of 19

high voltage that competes directly with a product offered for sale by Southern States. The Georgia Power representative identified Cleaveland/Price as the vendor offering that product for sale. It is apparent from Cleaveland/Price's product offering that the Georgia Power representative was referring to the LineScope product on sale by Cleaveland/Price.

7.

This Court has jurisdiction over the Defendant due to its systematic and continuous contacts with the State of Georgia and the Northern District of Georgia including, among other things, selling products and offering to sell infringing products in the Northern District of Georgia.

8.

Venue is proper pursuant to 28 U.S.C. § 1400(b) and 28 U.S.C. §§ 1391 because a substantial portion of the events that give rise to the claims occurred in the Northern District of Georgia.

FACTS

9.

Southern States owns U.S. Patent Nos. 8,392,130 ("the '130 Patent"), which was legally issued and remains in force. A copy of the '130 is attached as "Exhibit-A" to this Complaint.

The '130 Patent discloses and claims a "High Voltage Power Line Communication System Using and Energy Harvesting Power Supply."

11.

On May 24, 2016, Cleaveland/Price announced the acquisition of Reliatronics Inc. of Johnson City, Texas. The acquisition is publicized on the Cleaveland/Price website at https://www.cleavelandprice.com/acquisition-announcement. On information and belief, the LineScope was a joint development between Cleaveland/Price and Reliatronics acquired by Cleaveland/Price through the Reliatronics acquisition.

12.

Cleaveland/Price is currently advertising the LineScope product for sale on its website at https://www.cleavelandprice.com/LineScope-power-quality-monitor. This website provides download access to a brochure describing the LineScope product identified as "Bulletin DB50B16." A copy of the Bulletin DB50B16 is attached as "Exhibit-B" to this Complaint.

13.

Southern States has conducted an analysis comparing the claims of the '130 Patent to the LineScope product described in Bulletin DB50B16 and determined in

Case 1:16-cv-03506-TWT Document 1 Filed 09/19/16 Page 5 of 19

good faith that the LineScope product infringes at least one or more of claims 1, 6, 8, 9 and 10 of the '130 Patent.

14.

A claim chart comparing claims 1, 6, 8, 9 and 10 of the '130 Patent to the description of the LineScope as described in Bulletin DB50B16 is included in "Exhibit-C" to this Complaint.

15.

On July 25, 2016, counsel for Southern States sent a letter to Cleaveland/Price providing notice that "the LineScope as described in the Bulletin DB50B16 infringes at least claim 1 of the '130 patent and several of the dependent claims based on claim 1." A copy of this letter (Exhibit-A and Exhibit-B to this Complaint are the attachments referenced in the letter) along with a delivery confirmation dated July 25, 2016 are attached as "Exhibit-D" to this Complaint.

16.

As of the date of this Complaint, Southern States has received no response to its letter dated July 25, 2016 to Cleaveland/Price and no other communication from Cleaveland/Price indicating an intention to stop its infringement of the '130 Patent or otherwise relating to the '130 Patent.

Reliatronics, Inc. filed U.S. Trademark Application Serial No. 86613218 for the mark LINE SCOPE on April 28, 2015 for goods identified as "electric meters." The Statement of Use file on July 12, 2016 states that the mark is now in commercial use and was first used in commerce in the United States at least as early as May 1, 2015. Copies of the Trademark Status & Document Retrieval (TSDR) record for U.S. Trademark Application Serial No. 86613218 and the Statement of Use filed with the U.S. Patent and Trademark Office in connection with this application are attached as "Exhibit-E" to this Complaint.

18.

Southern States sells products known as the ICS that are covered by one or more claims of the '130 patent.

19.

Southern States has marked and follows an established practice of marking the ICS products as covered by the '130 patent.

20.

The ICS products sold by Southern States compete directly against the LineScope product sold by Cleaveland/Price.

The preamble of claim 1 of the '130 patent states, "[a] communication and control system for a high voltage electric power line operating at a line voltage, comprising." Bulletin DB50B16 indicates that the LineScope product is a corresponding product by stating that, "the LineScopeTM is a highly accurate three phase power monitoring system for use on circuits up to 115 kV" and listing a number of high voltage electric power line communication and control applications" listing the following:

- Grid monitoring
- Fault detection, location, and system restoration
- PQ voltage, current, and power measurements
- Volt/Var optimization
- Power factor correction
- Line temperature monitoring
- DER (distributed energy resources) monitoring
- Calibrating the measurements of other metering equipment

- Remote switch operation when installed in a Cleaveland/Price motor operator The term "three phase power monitoring system" refers to "a communication and control system for a high voltage electric power line operating at a line voltage" and the list of applications stated in the Bulletin include "communication and control" for a high voltage electric power line.

22.

Claim 1 of the '130 patent further requires, "a transceiver maintained at ground potential." Bulletin DB50B16 indicates that the LineScope product has a corresponding structure by stating that, "[t]he system consists of three conductormount LineProbe sensors and a data consolidating RTU that can be housed in a CommBridge communication node, a customer's communication node, or integrated into a Cleaveland/Price ADMO or PTAD switch controller." Bulletin DB50B16 further contains a description and photograph of the "CommBridge RTU" indicating that it is a transceiver ordinarily maintained at ground potential. The term "a customer's communication node" refers to a transceiver ordinarily maintained at ground potential. On information and belief, the terms "ADMO or PTAD switch controller" refer to transceivers ordinarily maintained at ground potential or devices configured to communicate electric powerline data to transceivers maintained at ground potential.

23.

Claim 1 of the '130 patent further requires, "communication equipment maintained at the line voltage." Bulletin DB50B16 indicates that the LineScope product has a corresponding structure by stating that, "[t]he sensing portion of the

Case 1:16-cv-03506-TWT Document 1 Filed 09/19/16 Page 9 of 19

LineScope[™] system is the LineProbe, a lightweight sensor that can be attached to the conductor with a hotstick or gloved hand. The sensor head contains the sensing module, a power harvesting module, spread spectrum radio, and supercap reserve power supply." The term "spread spectrum radio" forming part of the "sensor head" refers to communication equipment maintained at the line voltage.

24.

Claim 1 of the '130 patent further requires, "one or more low power transducers for obtaining measured parameters indicating operating conditions of the power line." Bulletin DB50B16 indicates that the LineScope product has a corresponding structure by stating that, "[t]he factory calibrated sensors have demonstrated an *accuracy of 0.5% for both voltage and current measurement*" and "[p]owered by line voltage, the sensor continuously streams current, voltage, and line temperature data to the data consolidating RTU." The term "sensors" refers to low power transducers for obtaining measured parameters indicating operating conditions of the power line.

25.

Claim 1 of the '130 patent further requires, "a microcontroller for processing the measured parameters." Bulletin DB50B16 indicates that the LineScope product has a corresponding structure by stating that, "[t]he sensor head contains the sensing module, a power harvesting module, spread spectrum

Case 1:16-cv-03506-TWT Document 1 Filed 09/19/16 Page 10 of 19

radio, and supercap reserve power supply." The "sensing module" necessarily includes a microcontroller for processing measured parameters into representative signals suitable for transmission and the "spread spectrum radio" necessarily includes a microcontroller for modulating the representative signals for radio frequency transmission.

26.

Claim 1 of the '130 patent further requires, "an antenna for communicating the measured parameters via a beam of energy propagating through ambient atmosphere to the transceiver maintained at ground potential." Bulletin DB50B16 indicates that the LineScope product has a corresponding structure by stating that, "[t]he sensor head contains the... spread spectrum radio." The term "spread spectrum radio" located in the "sensor head" refers to a device that includes an antenna for communicating the measured parameters via a beam of energy propagating through ambient atmosphere to the transceiver maintained at ground potential.

27.

Claim 1 of the '130 patent further requires, "and a battery-free energy harvesting power supply maintained at the line voltage providing electric power to electronic components of the communication equipment maintained at the line voltage." Bulletin DB50B16 indicates that the LineScope product has a

- 10 -

corresponding structure by stating that, "[p]owered by line voltage, the sensor continuously streams current, voltage, and line temperature data to the data consolidating RTU"; "The sensor head contains... a power harvesting module..."; and "The unit is battery-free so maintenance is never an issue." Bulletin DB50B16 thus describes a "battery-free energy harvesting power supply maintained at the line voltage providing electric power to electronic components of the communication equipment maintained at the line voltage."

28.

Claim 1 of the '130 patent further requires, "response equipment coupled to the transceiver maintained at ground potential for implementing one or more response actions in response to the measured parameters." Bulletin DB50B16 indicates that the LineScope product has a corresponding structure by stating that, "[a]pplications for the LineScope[™] are numerous" including a list of such applications:

- Grid monitoring
- Fault detection, location, and system restoration
- PQ voltage, current, and power measurements
- Volt/Var optimization
- Power factor correction
- Line temperature monitoring

- DER (distributed energy resources) monitoring
- Calibrating the measurements of other metering equipment
- Remote switch operation when installed in a Cleaveland/Price motor operator

The listed applications utilize "response equipment coupled to the transceiver maintained at ground potential for implementing one or more response actions in response to the measured parameters."

29.

Claim 1 of the '130 patent further requires, "wherein the energy harvesting power supply obtains power from an electromagnetic field in ambient atmosphere around the energy harvesting power supply." Bulletin DB50B16 indicates that the LineScope product has a corresponding structure by stating that, "[t]he LineProbe sensor is powered by line voltage, which enables it to stream voltage, current, and conductor temperature data as long as there is voltage on the line" and "The voltage divider string has sheds of hydrophobic silicone polymer that are molded to the resistor string." The term "voltage divider string" refers to a type of "energy harvesting power supply obtains power from an electromagnetic field in ambient atmosphere around the energy harvesting power supply."

Claim 6 of the '130 patent further requires, "wherein the response equipment includes power control equipment selected from the group consisting of a capacitor bank, a voltage regulator, a voltage sag supporter, and a circuit interrupter." Bulletin DB50B16 indicates that the LineScope product has a corresponding structure by stating that, "[a]pplications for the LineScopeTM are numerous and include... Volt/Var optimization; Fault detection, location, and system restoration; and Power factor correction." The term "Volt/Var optimization" refers to use of a "voltage regulator." The term "fault detection, location, and system restoration" refers to use of a "circuit interrupter." The term "power factor correction" refers to use of a "capacitor bank."

31.

Claim 8 of the '130 patent further requires, "wherein the response equipment includes communication equipment for transmitting the measured parameters to a remote location that enters the measured parameters into a reporting and analysis system." Bulletin DB50B16 indicates that the LineScope product has a corresponding structure by stating that, "[a]pplications for the LineScopeTM are numerous and include... Grid monitoring." The term "grid monitoring" refers to use of "communication equipment for transmitting the

Case 1:16-cv-03506-TWT Document 1 Filed 09/19/16 Page 14 of 19

measured parameters to a remote location that enters the measured parameters into a reporting and analysis system."

32.

Claim 9 of the '130 patent further requires, "wherein the response equipment includes communication equipment for transmitting the measured parameters to a remote location that remotely control power control equipment affecting the operation of the power line." Bulletin DB50B16 indicates that the LineScope product has a corresponding structure by stating that, "[a]pplications for the LineScopeTM are numerous and include... Remote switch operation when installed in a Cleaveland/Price motor operator." The term "remote switch operation" refers to use of "communication equipment for transmitting the measured parameters to a remote location that remotely control power control equipment affecting the operation of the power line."

33.

Claim 10 of the '130 patent further requires, "wherein the power control equipment includes a capacitor bank, a voltage regulator, a voltage sag supporter, or a circuit interrupter." Bulletin DB50B16 indicates that the LineScope product has a corresponding structure by stating that, "[a]pplications for the LineScopeTM are numerous and include... Volt/Var optimization; Fault detection, location, and system restoration; and Power factor correction." The term "Volt/Var

optimization" refers to use of a "voltage regulator." The term "fault detection, location, and system restoration" refers to use of a "circuit interrupter." The term "power factor correction" refers to use of a "capacitor bank."

34.

The term "remote switch operation when installed in a Cleaveland/Price motor operator" in Bulletin DB50B16 refers to response equipment sold by Cleaveland/Price.

COUNT I <u>PATENT INFRINGEMENT</u>

35.

Southern States realleges all prior allegations and incorporates them herein by this reference.

36.

The actions of Cleaveland/Price alleged above constitute infringement of at least one or more of claims 1, 6, 8, 9, and 10 of the '130 Patent under the Patent Act, 35 U.S.C. § 271 including direct infringement under 35 U.S.C. § 271 (a).

37.

Cleaveland/Price induces infringement of at least one or more of claims 1,

6, 8, 9, and 10 of the '130 patent 35 U.S.C. § 271(b) by selling the LinsScope

product and publishing information encouraging customers of the LineScope product to use the product with customer-supplied response equipment.

38.

The actions of Cleaveland/Price alleged above entitle Southern States to civil remedies for patent infringement under 35 U.S.C. § 281.

39.

The actions of Cleaveland/Price alleged above entitle Southern States to injunctive relief for patent infringement under 35 U.S.C. § 283.

40.

The actions of Cleaveland/Price alleged above entitle Southern States to remedies to monetary damages for patent infringement under 35 U.S.C. § 284.

41.

The actions of Cleaveland/Price alleged above constitute willful patent infringement warranting increased monetary damages under 35 U.S.C. § 284.

42.

The actions of Cleaveland/Price alleged above constitute an exceptional case warranting an award of attorney fees under 35 U.S.C. § 285.

43.

Damages in this action are not time barred under 35 U.S.C. § 286.

Southern States has marked patented products in compliance with 35 U.S.C. § 287.

45.

Southern States has been and will continue to be damaged by Cleaveland/Price's patent infringement.

46.

Unless enjoined by this Court, Cleaveland/Price's patent infringement will continue.

47.

Cleaveland/Price's continuing acts of infringement are irreparably harming and causing damage to Southern States. Southern States will be substantially and irreparably damaged and harmed if Cleaveland/Price's patent infringement is not enjoined.

48.

Southern States has no adequate remedy at law to redress Cleaveland/Price's continuing acts of patent infringement. The hardships that would be imposed by an injunction are less than those faced by Southern States should an injunction not issue. The public interest would be served by issuance of an injunction.

PRAYER FOR RELIEF

THEREFORE, Southern States prays for the following relief:

A. An order adjudging that the LineScope product previously sold and currently offered for sale by Cleaveland/Price infringes at least one or more of claims 1, 6, 8, 9 and 10 of the '130 Patent.

B. An order adjudging that Cleaveland/Price's patent infringement has been willful.

C. An order adjudging that Cleaveland/Price's patent infringement constitutes an exceptional case.

D. An accounting of all gains, profits, and advantages derived Cleaveland/Price through infringement of the '130 Patent and an award of damages adequate to compensate Southern States for the patent infringement.

E. An award of increased damages for willful infringement up to three times the amount of damages assessed for patent infringement.

F. An award of attorney fees for an exceptional case.

G. A permanent injunction enjoining Cleaveland/Price and all others in active concert or participation with Cleaveland/Price from making, using, selling, importing, or offering to make, use, sell or import the LineScope product and any other products that infringe the '130 Patent.

H. An award of costs of the litigation to Southern States as the prevailing party.

I. An award of pre-judgment and post-judgment interest on monetary damages awarded in this action.

J. Such other and further relief as this Court deems just and equitable under the circumstances of the case.

Plaintiff Southern States demands a jury trial.

Respectfully Submitted,

MEHRMAN LAW OFFICE, P.C.

<u>/s/ Michael J. Mehrman</u> Michael J. Mehrman Georgia Bar No.: 500975

MEHRMAN LAW OFFICE, P.C. P.O. Box 420797 Atlanta, Georgia 30342 404 497 7400 (phone) 404 420 2435 (facsimile)

Counsel for Plaintiff Southern States Corporation, Inc.