

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

INTUITIVE BUILDING CONTROLS, INC.,

Plaintiff,

v.

AMX LLC,

Defendant.

Case No. 2:15-cv-500

PATENT CASE

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Intuitive Building Controls, Inc. (“Plaintiff” or “IBC”) files this Complaint against Defendant AMX LLC for infringement of United States Patent Nos. 6,118,230 (the “’230 patent”), 6,160,359 (the “’359 patent”) and 5,945,993 (the “’993 patent”).

THE PARTIES

PLAINTIFF

1. IBC is a Texas company with its principal place of business at 505 East Travis Street, Suite 203, Marshall, Texas 75670.

DEFENDANT

2. On information and belief, AMX LLC (“Defendant” or “AMX”) is a Delaware corporation with its principal place of business located at 3000 Research Drive, Richardson, Texas 75082. On information and belief, AMX may be served with process by serving its registered agent, The Corporation Trust Company, Corporation Trust Center 1209 Orange St., Wilmington, Delaware 19801. On information and belief, this Court has personal jurisdiction over AMX because AMX has committed, and continues to commit, acts of infringement in the

State of Texas, has conducted business in the State of Texas, and/or has engaged in continuous and systematic activities in the State of Texas.

JURISDICTION AND VENUE

3. This is an action for patent infringement under Title 35 of the United States Code. IBC is seeking injunctive relief as well as damages.

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States' patent statutes, 35 U.S.C. § 101 *et seq.*

5. Venue is proper under 28 U.S.C. §§ 1391(c) and 1400(b) because Defendant has committed acts of infringement in this district and/or is deemed to reside in this district.

6. This Court has personal jurisdiction over Defendant and venue is proper in this district because Defendant has committed, and continues to commit, acts of infringement in the state of Texas, including in this district, has conducted business in the state of Texas, including in this district, and/or has engaged in continuous and systematic activities in the state of Texas, including in this district.

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 6,118,230)

7. IBC incorporates paragraphs 1 through 6 herein by reference.

8. Plaintiff is the owner and assignee of the '230 patent, entitled "Lighting Control System Including Server for Receiving and Processing Lighting Control Requests," with ownership of all substantial rights in the '230 patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement. A true and correct copy of the '230 patent is attached as Exhibit A.

9. The '230 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

10. IBC has been damaged as a result of AMX's infringing conduct described in this Count. AMX is thus liable to IBC in an amount that adequately compensates it for its infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

Direct Infringement

11. On information and belief, AMX has and continues to directly infringe one or more claims of the '230 patent in this judicial district and/or elsewhere in Texas and the United States, including at least claim 29, by, among other things, making, using, offering for sale, selling and/or importing infringing lighting control systems, and/or practicing infringing methods related to lighting control systems, including but not limited to the NX-1200 NetLinx NX Integrated Controller ("NX-1200"). AMX is thereby liable for infringement of the '230 patent pursuant to 35 U.S.C. § 271.

Indirect Infringement – Inducement

12. Based on the information presently available to IBC, absent discovery, and in addition or in the alternative to direct infringement, IBC contends that AMX has and continues to indirectly infringe one or more claims of the '230 patent, including at least claim 29, by inducing others, including customers, end-users, and/or installers of AMX's lighting control hardware and/or software, including but not limited to the NX-1200, to make, use, sell, offer for sale, and/or import infringing lighting control systems and/or to practice infringing methods in violation of one or more claims of the '230 patent, including at least claim 29.

13. AMX has been on notice of the '230 patent since at least service of this action, or before, but has continued since that time to cause others to directly infringe the '230 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), IBC will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

14. On information and belief, since AMX has been on notice of the '230 patent, AMX has knowingly induced infringement of the '230 patent, including at least claim 29 of the '230 patent, and possessed specific intent to encourage others' infringement.

15. On information and belief, since AMX has been on notice of the '230 patent, AMX knew or should have known that its actions would induce actual infringement of the '230 patent, including at least claim 29 of the '230 patent, by customers, end-users, and/or installers of lighting control lighting control hardware and/or software, including but not limited to the NX-1200.

16. For example, since AMX has been on notice of the '230 patent, AMX has purposefully and voluntarily made available lighting control hardware and/or software with the expectation that they would be utilized by customers, end-users, and/or installers in the United States in a way that infringes at least claim 29 of the '230 patent.

17. Since AMX has been on notice of the '230 patent, AMX has also provided support to customers, end-users, and/or installers of AMX's lighting control hardware and/or software, including but not limited to the NX-1200.

18. AMX has not produced or relied upon an opinion of counsel suggesting that the '230 patent is invalid or is not infringed by AMX's lighting control systems, including but not

limited to the NX-1200. In accordance with Fed. R. Civ. P. 11(b)(3), IBC will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

19. AMX has not produced any evidence as to any investigation, design around or that any remedial action was taken with respect to the '230 patent. In accordance with Fed. R. Civ. P. 11(b)(3), IBC will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

COUNT II

(INFRINGEMENT OF U.S. PATENT NO. 6,160,359)

20. IBC incorporates paragraphs 1 through 19 herein by reference.

21. Plaintiff is the owner and assignee of the '359 patent, entitled "Apparatus for Communicating with a Remote Computer to Control an Assigned Lighting Load," with ownership of all substantial rights in the '359 patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement. A true and correct copy of the '359 patent is attached as Exhibit B.

22. The '359 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

23. IBC has been damaged as a result of AMX's infringing conduct described in this Count. AMX is thus liable to IBC in an amount that adequately compensates it for its infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

Direct Infringement

24. On information and belief, AMX has and continues to directly infringe one or more claims of the '359 patent in this judicial district and/or elsewhere in Texas and the United

States, including at least claim 9, by, among other things, making, using, offering for sale, selling and/or importing infringing lighting control systems, and/or practicing infringing methods related to lighting control systems, including but not limited to the MXT-1900L-PAN 19.4” Modero X® Series Panoramic Tabletop Touch Panel (“MXT-1900L-PAN”). AMX is thereby liable for infringement of the ’359 patent pursuant to 35 U.S.C. § 271.

Indirect Infringement – Inducement

25. Based on the information presently available to IBC, absent discovery, and in the alternative to direct infringement, IBC contends that AMX has and continues to indirectly infringe one or more claims of the ’359 patent, including at least claim 9, by inducing others, including customers, end-users, and/or installers of AMX’s lighting control hardware and/or software, including but not limited to the MXT-1900L-PAN, to make, use, sell, offer for sale, and/or import infringing lighting control systems and/or to practice infringing methods in violation of one or more claims of the ’359 patent, including at least claim 9.

26. AMX has been on notice of the ’359 patent since at least service of this action, or before, but has continued since that time to cause others to directly infringe the ’359 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), IBC will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

27. On information and belief, since AMX has been on notice of the ’359 patent, AMX has knowingly induced infringement of the ’359 patent, including at least claim 9 of the ’359 patent, and possessed specific intent to encourage others’ infringement.

28. On information and belief, since AMX has been on notice of the ’359 patent, AMX knew or should have known that its actions would induce actual infringement of the ’359

patent, including at least claim 9 of the '359 patent, by customers, end-users, and/or installers of lighting control hardware and/or software, including but not limited to the MXT-1900L-PAN.

29. For example, since AMX has been on notice of the '359 patent, AMX has purposefully and voluntarily made available hardware and/or software with the expectation that they would be utilized by customers, end-users, and/or installers in the United States in a way that infringes at least claim 9 of the '359 patent.

30. Since AMX has been on notice of the '359 patent, AMX has also provided support to customers, end-users, and/or installers of AMX's lighting control hardware and/or software, including but not limited to the MXT-1900L-PAN.

31. AMX has not produced or relied upon an opinion of counsel suggesting that the '359 patent is invalid or is not infringed by AMX's lighting control systems, including but not limited to the MXT-1900L-PAN. In accordance with Fed. R. Civ. P. 11(b)(3), IBC will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

32. AMX has not produced any evidence as to any investigation, design around or that any remedial action was taken with respect to the '359 patent. In accordance with Fed. R. Civ. P. 11(b)(3), IBC will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

COUNT III

(INFRINGEMENT OF U.S. PATENT NO. 5,945,993)

33. IBC incorporates paragraphs 1 through 32 herein by reference.

34. Plaintiff is the owner and assignee of the '993 patent, entitled "Pictograph-Based Method and Apparatus for Controlling a Plurality of Lighting Loads," with ownership of all substantial rights in the '993 patent, including the right to exclude others and to enforce, sue and

recover damages for past and future infringement. A true and correct copy of the '993 patent is attached as Exhibit C.

35. The '993 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

36. IBC has been damaged as a result of AMX's infringing conduct described in this Count. AMX is thus liable to IBC in an amount that adequately compensates it for its infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

Direct Infringement

37. On information and belief, AMX has and continues to directly infringe one or more claims of the '993 patent in this judicial district and/or elsewhere in Texas and the United States, including at least claim 1, by, among other things, making, using, offering for sale, selling and/or importing infringing lighting control systems, and/or practicing infringing methods related to lighting control systems, including but not limited to the MXT-1900L-PAN 19.4" Modero X® Series Panoramic Tabletop Touch Panel ("MXT-1900L-PAN"). AMX is thereby liable for infringement of the '993 patent pursuant to 35 U.S.C. § 271.

Indirect Infringement – Inducement

38. Based on the information presently available to IBC, absent discovery, and in the alternative to direct infringement, IBC contends that AMX has and continues to indirectly infringe one or more claims of the '993 patent, including at least claim 1, by inducing others, including customers, end-users, and/or installers of AMX's lighting control hardware and/or software, including but not limited to the MXT-1900L-PAN, to make, use, sell, offer for sale,

and/or import infringing lighting control systems and/or to practice infringing methods in violation of one or more claims of the '993 patent, including at least claim 1.

39. AMX has been on notice of the '993 patent since at least service of this action, or before, but has continued since that time to cause others to directly infringe the '993 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), IBC will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

40. On information and belief, since AMX has been on notice of the '993 patent, AMX has knowingly induced infringement of the '993 patent, including at least claim 1 of the '993 patent, and possessed specific intent to encourage others' infringement.

41. On information and belief, since AMX has been on notice of the '993 patent, AMX knew or should have known that its actions would induce actual infringement of the '993 patent, including at least claim 1 of the '993 patent, by customers, end-users, and/or installers of lighting control hardware and/or software, including but not limited to the MXT-1900L-PAN.

42. For example, since AMX has been on notice of the '993 patent, AMX has purposefully and voluntarily made available infringing hardware and/or software with the expectation that they would be utilized by customers, end-users, and/or installers in the United States in a way that infringes at least claim 1 of the '993 patent.

43. Since AMX has been on notice of the '993 patent, AMX has also provided support to customers, end-users, and/or installers of AMX's lighting control hardware and/or software, including but not limited to the MXT-1900L-PAN.

44. AMX has not produced or relied upon an opinion of counsel suggesting that the '993 patent is invalid or is not infringed by AMX's lighting control systems, including but not

limited to the MXT-1900L-PAN. In accordance with Fed. R. Civ. P. 11(b)(3), IBC will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

45. AMX has not produced any evidence as to any investigation, design around or that any remedial action was taken with respect to the '993 patent. In accordance with Fed. R. Civ. P. 11(b)(3), IBC will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

ADDITIONAL ALLEGATIONS

46. Plaintiff has been damaged as a result of Defendant's infringing conduct described herein. AMX is thus liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by the Court under 35 U.S.C. § 284.

47. Defendant's actions complained of herein will continue unless Defendant is enjoined by this Court.

48. Plaintiff has complied with 35 U.S.C. § 287.

49. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

JURY DEMAND

IBC hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

IBC requests that this Court find in its favor and against Defendant, and that this Court grant IBC the following relief:

- a. Enter judgment for Plaintiff on this Complaint;
- b. Enter judgment that one or more claims of the '230, '359, and '993 patents have been infringed, either directly or indirectly by Defendant;
- c. Enter judgment that Defendant account for and pays to IBC all damages to and costs incurred by IBC because of Defendant's infringing activities and other conduct complained of herein;
- d. Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;
- e. Enter a permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with them, from infringing or inducing infringement of the '230, '359, and '993 patents, or, in the alternative, judgment that Defendant accounts for and pays to IBC a reasonable royalty and an ongoing post-judgment royalty because of Defendant's past, present and future infringing activities and other conduct complained of herein;
- f. That IBC be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;
- g. Find the case to be exceptional under the provisions of 35 U.S.C. § 285;
- h. That IBC be granted such other and further relief as the Court may deem just and proper under the circumstances.

DATED: April 14, 2015

Respectfully submitted,

THE SIMON LAW FIRM, P.C.

/s/ Anthony G. Simon

Anthony G. Simon

Michael P. Kella

Benjamin R. Askew

Timothy D. Krieger

800 Market Street, Suite 1700

St. Louis, Missouri 63101

P. 314.241.2929

F. 314.241.2029

asimon@simonlawpc.com

mkella@simonlawpc.com

baskew@simonlawpc.com

tkrieger@simonlawpc.com

Wesley Hill

Texas State Bar No. 24032294

WARD, SMITH & HILL, PLLC

P.O. Box 1231

1127 Judson Road, Ste. 220

Longview, Texas 75606-1231

(903) 757-6400

(903) 757-2323 (fax)

wh@wsfirm.com

***ATTORNEYS FOR PLAINTIFF
INTUITIVE BUILDING CONTROLS,
INC.***