

3. Defendants admit that Hikvision USA's principal place of business is located at 908 Canada Court, City of Industry, California 91748. Defendants deny the remaining allegations of Paragraph 3.

JURISDICTION AND VENUE

4. Defendants admit that Plaintiff purports to bring a claim for patent infringement.

5. Defendants do not dispute that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a).

6. Defendants admit that they conduct business within the State of Texas.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 6 and, therefore, deny those allegations.

7. Defendants do not dispute venue in the Eastern District of Texas for the above-captioned litigation.

GENERAL ALLEGATIONS OF PATENT INFRINGEMENT

8. Defendants admit that the alleged copy of the '669 patent attached to the Complaint is entitled "Facility Monitoring System with Image Memory and Correlation," that the patent bears on its face an issuance date of November 3, 1998, and that the alleged copy of the '699 Reexamination Certificate attached to the Complaint bears on its face an issuance date of August 21, 2012. Defendants deny that the '669 patent was duly or legally issued or that any of the '669 patent claims are valid or should have been allowed by the United States Patent & Trademark Office ("PTO"). Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 8 and, therefore, deny the remaining allegations of Paragraph 8.

9. Paragraph 9 is a legal conclusion for which no response is required.

COUNT I – PATENT INFRINGEMENT

10. Defendants incorporate by reference, as if fully restated herein, their responses to Paragraphs 1 through 9 of the Complaint.

11. Defendants deny the allegations of Paragraph 11.

12. Defendants admit that Hikvision USA sells, offers to sell and imports video surveillance cameras, software and network video cameras, including those products identified in Paragraph 12, that HDT manufactures, sells and offers to sell video surveillance cameras, software and network video cameras, and otherwise Defendants deny the remaining allegations in paragraph 12.

13. Defendants deny that any of the foregoing products infringe any valid, duly, or legally issued claim of the '669 patent, and Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 13 and, therefore, deny those allegations.

14. Defendants deny each and every allegation in Paragraph 14.

15. Defendants deny each and every allegation in Paragraph 15.

16. Defendants deny each and every allegation in Paragraph 16.

17. Defendants deny each and every allegation in Paragraph 17.

18. Defendants deny each and every allegation in Paragraph 18.

19. Defendants deny each and every allegation in Paragraph 19.

RELIEF

Defendants deny that Plaintiff is entitled to be awarded any of the relief sought in Plaintiff's prayer for relief against Defendants, or any other relief or remedy. Defendants deny that they have directly, indirectly, contributorily and/or by inducement, literally and/or by the doctrine of equivalents infringed the '669 patent. Defendants deny that Plaintiff is entitled to any

injunctive relief, damages, a declaration that this is an “exceptional” case under 35 U.S.C. § 285, pre- or post-judgment interest on such damages, costs or attorneys’ fees, or any other relief at law or in equity.

DEFENSES

Defendants assert, without assuming any burden of pleading or proof that would otherwise rest on Plaintiff, the following defenses and reserve the right to amend their answer as additional information becomes available.

FIRST DEFENSE

20. Defendants have not infringed, and do not infringe, any valid, enforceable claim of the ’669 patent, literally, under the doctrine of equivalents, directly, contributorily, by inducement or in any other manner.

SECOND DEFENSE

21. The asserted claims of the ’669 patent are invalid and void for failure to comply with the requirements of Title 35, United States Code, including, but not limited to, Sections 101, 102, 103, and 112.

THIRD DEFENSE

22. Plaintiff is estopped from construing any valid claim of the ’669 patent to cover or include, either literally or by application of the doctrine of equivalents, any of the Defendants’ products because of admissions and/or statements made to the United States Patent and Trademark Office in the specification of, and during prosecution of, the application leading to the issuance of the ’669 patent.

FOURTH DEFENSE

23. To the extent that Plaintiff or his licensees failed to properly mark any of his relevant products with the ’669 patent as required by 35 U.S.C. § 287 or to otherwise give proper

notice that Defendants' actions allegedly infringed the '669 patent, Defendants are not liable for any of their allegedly-infringing acts performed before they received actual notice of the alleged infringement. Plaintiff's right to seek damages for the alleged infringement of the '669 patent is also limited by 35 U.S.C. § 286.

FIFTH DEFENSE

24. The equitable doctrines of acquiescence, estoppel, laches, unclean hands, and/or waiver, bar some or all of Plaintiff's claims for damages and other relief.

SIXTH DEFENSE

25. Plaintiff has an adequate remedy at law, and no basis exists for the grant of equitable relief.

SEVENTH DEFENSE

26. Plaintiff's claims, in whole or in part, are barred by and Defendants are entitled to intervening rights pursuant to 35 U.S.C. §§ 252 and 307.

COUNTERCLAIMS

Defendants and Counterclaim Plaintiffs Hikvision USA Inc. ("Hikvision USA") and Hikvision Digital Technology Co., Ltd. ("HDT") (collectively, "Defendants") bring the following counterclaims against Plaintiff and Counterclaim Defendant John B. Adrain ("Plaintiff").

THE PARTIES

1. Hikvision USA is a California corporation with its principal place of business at 908 Canada Court, City of Industry, California 91748.

2. HDT is a Chinese corporation with its principal place of business at No. 700, Dongliu Road, Binjiang District, Hanagzhou 310052, China.

3. Plaintiff alleges that he is the inventor and owner of the '699 patent.

JURISDICTION AND VENUE

4. Under 28 U.S.C. §1338(a), this Court has subject matter jurisdiction over these counterclaims for declaratory judgment, brought pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

5. By filing his Complaint, Plaintiff has consented to personal jurisdiction of this Court.

6. Venue for this counterclaim is proper under 28 U.S.C. §§ 1391 and 1400(b).

7. Based upon Plaintiff's allegations of infringement within the Complaint, a justiciable and actual controversy exists between Defendants and Plaintiff concerning the alleged infringement and validity of the '669 patent.

FIRST COUNTERCLAIM

(Declaratory Judgment of Noninfringement)

8. Defendants reallege and incorporate by reference the allegations in Paragraphs 1 through 7 above.

9. Defendants have not infringed and are not infringing any claim of the '669 patent.

10. Because there exists a real and justiciable controversy between the parties regarding infringement of the patent-in-suit, this Court should make declarations that Defendants do not infringe the '669 patent.

SECOND COUNTERCLAIM

(Declaratory Judgment of Invalidity)

11. Defendants reallege and incorporate by reference the allegations in Paragraphs 1 through 10 above.

12. One or more claims of the '669 patent are void and invalid for failure to comply with the requirements of Title 35, United States Code, including, but not limited to, Sections 102, 103 and/or 112.

13. Because there exists a real and justiciable controversy between the parties regarding the validity of the '669 patent, this Court should make declarations that the '669 patent is invalid.

JURY DEMAND

Defendants respectfully demand a trial by jury on all issues so triable in this action, pursuant to Fed. R. Civ. P. 38.

PRAYER FOR RELIEF

WHEREFORE, Defendants respectfully request that the Court enter judgment for them, and award the following relief:

- A. Declaratory judgment that Defendants have not infringed, and do not infringe, any valid and enforceable claim of the '669 patent;
- B. Declaratory judgment that the claims of the '669 patent are invalid;
- C. Declaratory judgment that Plaintiff recover nothing from Defendants;
- D. Dismissal of all claims in the Complaint against Defendants with prejudice;
- E. A finding that this is an exceptional case under 35 U.S.C. § 285, and award Defendants their costs and reasonable attorneys' fees; and
- F. Judgment awarding Defendants such further necessary and proper relief as this Court may deem just and reasonable.

Dated: May 8, 2014

Respectfully submitted,

/s/ Geoffrey K. Gavin

Geoffrey K. Gavin
Georgia State Bar No. 288012
Email: ggavin@jonesday.com
JONES DAY
1420 Peachtree Street, N.E., Suite 800
Atlanta, GA 30309
Telephone: (404) 581-8646
Facsimile: (404) 581-8330
(Lead Lawyer)

Leozino Agozzino
Ohio State Bar No. 0033966
Email: lagozzino@jonesday.com
JONES DAY
North Point
901 Lakeside Avenue
Cleveland, OH 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212

Of Counsel:

Ryan B. McCrum (*pro hac vice* to be filed)
Ohio State Bar No. 0071519
Email: rbmccrum@jonesday.com
JONES DAY
North Point
901 Lakeside Avenue
Cleveland, OH 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212

Erin W. Crosby
Texas State Bar No. 24087358
Email: ecrosby@jonesday.com
JONES DAY
2727 North Harwood Street
Dallas, TX 75201
Telephone: (214) 220-3939
Facsimile: (214) 969-5100

ATTORNEYS FOR DEFENDANTS
Hikvision USA Inc. and Hikvision Digital
Technology Co., LTD

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed via CM/ECF on May 8, 2014, and was served upon the all counsel of record via CM/ECF.

/s/ Erin W. Crosby _____

Erin W. Crosby