

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

BIRO MONITORING SYSTEMS, LLC	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Case No. _____
	:	
OMEGA ENGINEERING, INC.	:	JURY TRIAL DEMANDED
	:	
Defendant.	:	
_____	:	

COMPLAINT

Plaintiff Biro Monitoring Systems, LLC ("Plaintiff"), for its Complaint against Defendant Omega Engineering, Inc. ("Defendant"), hereby alleges as follows:

PARTIES

1. Plaintiff is a Delaware limited liability company.
2. Upon information and belief, Defendant is a Delaware corporation having a principal place of business at 1 Omega Dr., Stamford, CT 06907. Upon information and belief, Defendant may be served with process through its registered agent, Corporation Service Company, at 2711 Centerville Road, Suite 400, Wilmington, DE 19808.

NATURE OF THE ACTION

3. This is a civil action for the infringement of United States Patent No. 6,243,654 (the "'654 Patent") under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the Patent Laws of the United

States, 35 U.S.C. § 271 *et seq.*

5. This Court has personal jurisdiction over Defendant because it is incorporated in Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

6. Upon information and belief, more specifically, Defendant, directly and/or through authorized intermediaries, ships, distributes, offers for sale, sells, and/or advertises its products and services (via a website) in the United States and the State of Delaware. Upon information and belief, Defendant has committed patent infringement in the State of Delaware. Defendant solicits customers in the State of Delaware. Defendant has many paying customers who are residents of the State of Delaware and who each use Defendant's products and services in the State of Delaware.

7. Venue is proper in this judicial district as to Defendant pursuant to 28 U.S.C. §§ 1391 and 1400(b).

THE PATENT-IN SUIT

8. Paragraphs 1-7 are incorporated by reference as if fully set forth herein.

9. On June 5, 2001, the '654 Patent entitled "Transducer Assembly With Smart Connector" was duly and lawfully issued by the United States Patent and Trademark Office ("PTO"). The '654 Patent is attached hereto as Exhibit A.

10. Plaintiff is the exclusive licensee of the '654 patent and possesses all rights of recovery under the '654 patent, including the right to sue and recover all damages for infringement thereof, including past infringement.

COUNT I – PATENT INFRINGEMENT

11. Paragraphs 1-10 are incorporated by reference as if fully restated herein.

12. Upon information and belief and in violation of 35 U.S.C. § 271(a), Omega has infringed and continues to infringe at least Claim 11 of the '654 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, at least its OS35 series infrared temperature sensors that implement a method of processing a transducer signal within a digital connector assembly to provide a conditioned signal. More specifically, and by way of non-limiting example, Omega offers for sale via the www.omega.com website its OS35 series infrared temperature sensors that include the OS35 platform connected to the OS36-SM temperature sensor.

13. For purposes of Claim 11, Omega's OS35 series is a transducer assembly including an analog transducer (e.g., the OS36-SM infrared temperature sensor) and a digital connector assembly (e.g., the OS35 platform) having a cable affixed there-between, wherein the digital connector assembly is movable relative to the analog transducer via the inter-connecting cable. Omega's OS35 series includes the OS35 platform (e.g., the digital connector assembly) having interface circuitry that includes a digital storage device, a microprocessor, and signal conditioning circuitry. Omega's OS35 series is a microprocessor based, all digital system that stores calibration and correction data in the digital storage device, retrieves the digital calibration and correction data from the digital storage device, and generates, via the microprocessor, digital corrections for the analog signal received from the OS36-SM analog transducer. The OS35 series continuously monitors and auto-calibrates itself using the digital corrections to provide a linearized output (i.e., conditioned transducer signal) to the digital signal processing system (e.g., "to the controller, PLC, etc."). *See Exhibit B.*

14. To the extent such notice may be required, Defendant received actual notice of its infringement of the '654 Patent at least as early as the filing of the original complaint in this action, pursuant to 35 U.S.C. § 287(a).

15. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

16. Plaintiff is entitled to recover from the Defendant the damages sustained by Plaintiff as a result of the Defendant's wrongful acts in an amount subject to proof at trial, 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.

17. Defendant's infringement of Plaintiff's exclusive rights under the '654 Patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Biro Monitoring Systems, LLC respectfully requests that this Court enter judgment against Defendant Omega Engineering, Inc. as follows:

- A. An adjudication that Defendant has infringed the '654 Patent;
- B. An award of damages to be paid by Defendant adequate to compensate Plaintiff for its past infringement and any continuing or future infringement up until the date such judgment is entered, including interest, costs and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Plaintiff for Defendant's infringement, and an accounting of all infringing sales including, but not limited to, those sales not presented at trial;

- C. A declaration that this case is exceptional under 35 U.S.C. § 285;
- D. An award to Plaintiff of its attorney fees, costs, and expenses incurred in prosecuting this action; and
- E. An award to Plaintiff of such further relief at law or in equity as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury on all claims and issues so triable.

Dated: January 25, 2012

STAMOULIS & WEINBLATT LLC

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