

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

Civil Action No: \_\_\_\_\_

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MEASUREMENT SPECIALTIES INC.,

Plaintiff,

v.

COMPONENT DISTRIBUTORS, INC., a Colorado  
Corporation,

Defendant.

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**COMPLAINT AND JURY DEMAND**

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Plaintiff MEASUREMENT SPECIALTIES, INC. (“MEAS” or “Plaintiff”), by and through its attorneys, DLA Piper US LLP and Heckenbach Thompson Suazo & Dave LLP, alleges as follows against Defendant COMPONENT DISTRIBUTORS, INC. (“CDI” or “Defendant”):

**I. NATURE OF THE CASE**

1. This is an action for patent infringement based on Defendant’s sales of sensor products that infringe one or more Patents held by MEAS, in violation of the Patent Laws of the United States, 35 U.S.C. § 101, *et seq.* MEAS seeks both monetary and injunctive relief for these violations.

2. This is also an action for common law trademark infringement and unfair competition in connection with Defendant's unauthorized acquisition, distribution, sale, and offer for sale of sensor products in connection with the designation "µFused," which designation is confusingly similar to Plaintiff's trademark MICROFUSED, in the State of Colorado and in interstate commerce, and which, accordingly, constitutes violations of the United States Trademark Act of 1946, 15 U.S.C. § 1051, *et seq.* (the "Lanham Act"). MEAS seeks monetary and injunctive relief for these violations.

## II. PARTIES

3. Plaintiff MEAS is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business located at 1000 Lucas Way, Hampton, VA 23666.

4. MEAS is a global designer and manufacturer of sensors and pressure transmitters. MEAS designs and manufactures sensors for original equipment manufacturers (OEMs) as well as end users. MEAS offers a large variety of sensor products to meet application requirements in many industries including automotive, off-road, medical, industrial, consumer, military/aerospace, test/measurement and traffic applications.

5. MEAS manufactures and sells pressure transducers, including but not limited to products with the following model numbers: MSP 100, MSP 300, MSP 340, M5100 and M7100 (the "MEAS Sensors").

6. Upon information and belief, Defendant CDI is a corporation organized and existing under the laws of the State of Colorado, with its principal place of business located at 2601 Blake Street, Suite 200, Denver, CO 80205.

7. Upon information and belief, CDI is a distributor of sensors and sensor products, including pressure transducers.

8. Upon information and belief, and according to CDI's Website ([www.cdiweb.com](http://www.cdiweb.com)) (the "Website"), CDI is a distributor of the following MEAS Sensors: MSP 300, MSP 340, and M5100.

9. Upon information and belief, CDI distributes pressure transducers that are directly competitive with the MEAS Sensors, including but not limited to products with the following model numbers: MLP312B92, MLP312B91, MLP312B82, MLP312B81, MLP312B72, MLP312B71, MLP312B62, MLP312B61, MLP312B52, MLP312B51, MLP312B42, MLP312B41, MLP312C31, MLP312B32, MLP312B31, and MLP810 (various models) (the "MLP Sensors"). *See Ex. A.*

### **III. JURISDICTION AND VENUE**

10. This is a civil action arising under the Patent Laws of the United States, including 35 U.S.C. § 271 *et seq.* Exclusive subject matter jurisdiction over this matter is conferred upon the Court pursuant to 28 U.S.C. §§ 1331 and 1338, and under the principles of pendant jurisdiction. Diversity jurisdiction is also conferred upon this Court pursuant to 28 U.S.C. § 1332, in that the Plaintiff and Defendant are citizens of different states, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

11. This is also a civil action arising under the trademark laws of the United States, including the Lanham Act. Exclusive subject matter jurisdiction over this matter is conferred upon the Court pursuant to 28 U.S.C. §§ 1331 and 1338, and under the principles of pendant jurisdiction. Diversity jurisdiction is also conferred upon this Court pursuant to 28 U.S.C. §

1332, in that the Plaintiff and Defendant are citizens of different states, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

12. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over Plaintiff's claims under Colorado Law.

13. This Court has personal jurisdiction over Defendant because it is a corporation with its principal place of business located in the District of Colorado, may be found here, transacts business in this District, markets infringing products to customers and prospective customers in this District and State, and is otherwise subject to jurisdiction pursuant to Colorado Revised Statutes § 13-1-124.

14. Venue is proper in this judicial district under 28 U.S.C. § 1391 because Defendant resides in or has its principal place of business in this District and, upon information and belief, a substantial part of the events or omissions giving rise to the claims herein occurred in this District.

15. Venue is also proper in this judicial district under 28 U.S.C. § 1400(b) because Defendant resides in or has its principal place of business in this District and, upon information and belief, a substantial part of the events or omissions giving rise to the claims herein occurred in this District.

#### **IV. FACTUAL BACKGROUND**

##### **A. Introduction**

16. Plaintiff MEAS manufactures and sells, in the United States and throughout the world, patented sensors and sensor devices under the trademark MICROFUSED, including but not limited to the MEAS Sensors.

17. Defendant CDI is presently selling sensors and sensor devices (for entities other than MEAS) under the designation “μFused,” including but not limited to the MLP Sensors. These sensors and sensor devices are nearly identical in construction to Plaintiff’s sensors and sensor devices, and infringe one or more of Plaintiff’s patents, as described below.

18. The designation “μFused” is meant to be pronounced “microfused,” in that “μ” is the Greek symbol for “m” and a commonly used designator in the electronics field for the word “micro.”

19. A former employee of MEAS (Scott Weatherwax), who now works for CDI, is directly responsible for the sale of sensors and sensor devices under the designation “μFused,” such as the MLP Sensors. *See Ex. B.*

20. It is beyond dispute that Mr. Weatherwax was employed by Defendant at the time Defendant began using the designation “μFused.”

21. Upon information and belief, Mr. Weatherwax was well aware of MEAS’s rights in the mark MICROFUSED at the time Defendant began using the term “μFused.”

22. Plaintiff seeks injunctive relief and damages against Defendant for patent infringement, trademark infringement, false designation of origin, common law unfair competition, and unjust enrichment.

## **B. The Patent**

23. Plaintiff MEAS is the owner of United States Letters Patent No. US 6,635,910 (the “’910 Patent”) which issued on October 21, 2003.

24. The United States Government duly and legally issued the ‘910 Patent for a “SILICON STRAIN GAGE HAVING A THIN LAYER OF HIGHLY CONDUCTIVE

SILICON” to Chris Gross (“Gross”). The ‘910 Patent was assigned to MEAS by Gross, and MEAS is the lawful owner of the ‘910 Patent, and has had the right to sue and to recover for any and all infringements of the ‘910 Patent.

25. The ‘910 Patent is valid and enforceable.

26. The ‘910 Patent describes and claims a force measuring and detecting device (i.e., a pressure sensor) including a silicon strain gage.

27. Upon information and belief, Defendant has made, used, sold, and/or offered for sale within this judicial district a number of sensors and sensor devices that infringe one or more claims of the ‘910 Patent, including but not limited to the MLP Sensors.

28. Upon information and belief, Defendant has actively induced others to make, use, offer to sell, and sell sensors and sensor devices that infringe one or more claims of the ‘910 Patent, including but not limited to the MLP Sensors. Specifically, all of the MLP Sensors infringe at least claim 1 of the ‘910 Patent.

29. Upon information and belief, Defendant has contributed to the manufacture, use, or sale of sensors and sensor devices that infringe one or more claims of the ‘910 Patent, including but not limited to the MLP Sensors.

30. At no time has MEAS given Defendant permission, license, or authorization to manufacture, use or sell products covered by the claims of ‘910 Patent.

31. In accordance with allegations above, Defendant has been and is infringing, actively induced the infringement of, and/or contributorily infringing the ‘910 Patent within the United States, including without limitation, through advertising, marketing, selling and/or offering to sell products and services, and products to facilitate such services, both within and

outside the state of Colorado, all of which infringe the '910 Patent, including but not limited to the MLP Sensors.

32. Defendant has therefore infringed, actively induced the infringement of and/or contributorily infringed the '910 Patent within the state of Colorado and within the United States by advertising, marketing, selling and/or offering to sell such infringing products and services, and that its infringement, active inducement of infringement and/or contributory infringement of the '910 Patent has been willful and will continue unless rectified by this Court.

33. Upon information and belief, MEAS has been and will continue to be damaged by Defendant's infringing activities, in an amount to be proven at trial (but in no event less than \$75,000) and in a manner that cannot be fully measured or compensated in economic terms for which there is no adequate remedy at law.

34. Defendant's wrongful acts have damaged, and will continue to damage, MEAS irreparably, and MEAS has no adequate remedy at law for those wrongs and injuries. The damages to MEAS include harm to it and its products, goodwill and reputation in the marketplace that money cannot compensate. In addition to its actual damages, MEAS is entitled to injunctive relief restraining and enjoining Defendant and its officers, agents, servants, employees, and those persons in active concert or participation with them, from infringing the '910 Patent, including without limitation, restraining and enjoining the advertising, marketing, selling and/or offering for sale of infringing products and services that infringe the '910 Patent within the United States, including the state of Colorado.

### **C. The Trademark**

35. Plaintiff MEAS has been using the trademark MICROFUSED in commerce in connection with the sale of electrical sensors, including but not limited to pressure transducers, since at least as early as 2001.

36. Due to the efforts of MEAS, the trademark MICROFUSED has acquired considerable goodwill and renown, particularly among manufacturers and distributors of electrical sensors and sensor devices.

37. The trademark MICROFUSED has acquired secondary meaning through over ten (10) years of substantially continuous and exclusive use in interstate commerce.

38. MEAS is the exclusive owner of all rights in the trademark MICROFUSED, and at no time has MEAS authorized Defendant (or any third party) to use that mark, or any mark substantially or confusingly similar thereto, such as the designation “ $\mu$ Fused.”

39. Defendant is not now, nor has it ever been, a licensee of the trademark MICROFUSED.

40. Defendant is in no way affiliated with MEAS, other than that it is a distributor of certain MEAS products.

41. Defendant began using the term “ $\mu$ Fused” on its Website after MEAS began its use of the mark MICROFUSED.

42. Upon information and belief, Defendant began such usage of the term “ $\mu$ Fused” without regard to the rights MEAS had established in the MICROFUSED mark.

43. Upon information and belief, at the time of adopting the term “ $\mu$ Fused,” Defendant was aware of Plaintiff’s MICROFUSED trademark.



44. Upon information and belief, Defendant intended to trade off MEAS's substantial rights and goodwill in the mark MICROFUSED through its use of the designation "μFused."

45. Defendant offers for sale and sells products on behalf of third party competitors of MEAS under the designation "μFused," including for a competitor named "Measurement Ltd." These products are essentially identical to those that Defendant offers for sale and sells on behalf of MEAS. Such products are offered or sold to the same customers, and used for the same purposes. *See Ex. C.*

46. In addition to directly infringing MEAS's rights in the mark MICROFUSED, Defendant has contributed to, induced and/or aided trademark infringement by certain third party competitors by advertising and selling such competitors' products using the designation "μFused."

**D. Defendant's Wrongful Activities**

47. Defendant has never been licensed by MEAS to sell products covered by the claims of the '910 Patent.

48. Furthermore, the third party competitors for which Defendant distributes the MLP Sensors, have never been licensed by MEAS to sell products covered by the claims of the '910 Patent, including but not limited to the MLP Sensors.

49. Defendant's making, using, selling, offering for sale and/or importing the MLP Sensors constitutes patent infringement.

50. MEAS has been damaged by Defendant's acts of patent infringement in the manner described above, and in an amount to be determined at trial, but not less than \$75,000.

51. Unless these acts of the Defendant are permanently restrained by this Court, they will continue to cause irreparable injury to MEAS, and to the public, for which there is no adequate remedy at law.

52. Moreover, while Defendant is an authorized distributor of certain MEAS products, Defendant has never been authorized by MEAS to use the mark MICROFUSED in connection with the sale of sensors.

53. Despite the fact that Defendant has never been authorized to use the mark MICROFUSED, and without the authorization or prior knowledge of MEAS, Defendant has advertised and sold products marketed as “μFused” on its Website, including but not limited to the MLP Sensors.

54. Defendant’s unauthorized use of the term “μFused” in the manner described above: (a) is likely to cause confusion, to cause mistake, and/or to deceive the consuming public and the industry, as to the origin, sponsorship, or approval of Defendant’s products, or as to some affiliation, connection, or association of Defendant with MEAS, and the authenticity and quality of products; (b) is a misappropriation of the goodwill MEAS has developed, maintains, and holds with the consuming public and the industry.

55. Defendant’s actions also: (a) unlawfully remove from MEAS the ability to control the nature and quality of products provided under the MICROFUSED mark and places the goodwill and valuable reputation of MEAS in the hands of Defendant, over which MEAS has no control; and (b) unjustly enriches Defendant.

56. MEAS has been damaged by Defendant's unauthorized use of the "μFused" mark in the manner described above, and in an amount to be determined at trial, but not less than \$75,000.

57. Unless these acts of the Defendant are permanently restrained by this Court, they will continue to cause irreparable injury to MEAS, and to the public, for which there is no adequate remedy at law.

**FIRST CLAIM FOR RELIEF**

**Patent Infringement  
(35 U.S.C. § 271)**

58. MEAS repeats and realleges each and every allegation of the Complaint contained in Paragraphs 1 through 57 as if fully set forth herein.

59. Without authority from MEAS, Defendant has, upon information and belief, engaged in making, using, selling, and offering for sale in the United States, and have imported into the United States, sensors and sensor devices which embody the invention of one or more claims of Plaintiff's '910 Patent.

60. Defendant's acts described above constitute patent infringement in violation of 35 USC § 271 *et seq.*

61. Upon information and belief, Defendant's infringement of the '910 Patent has been and continues to be willful and intentional and with full knowledge of the existence and validity of Plaintiff's '910 Patent.

62. The above infringement is injuring Plaintiff, causing financial damage, and threatening to destroy its sensor and sensor device business.

63. Upon information and belief, Defendant's infringement of the '910 Patent will continue unless enjoined by this Court.

64. Unless Defendant's infringement of the '910 Patent is enjoined, Plaintiff will suffer irreparable injury for which there is no adequate remedy at law.

**SECOND CLAIM FOR RELIEF**

**Federal Unfair Competition, False Designation of Origin  
and Trademark Infringement  
(Lanham Act § 43(a), 15 U.S.C. §1125)**

65. MEAS repeats and realleges each and every allegation of the Complaint contained in Paragraphs 1 through 64 as if fully set forth herein.

66. The trademark MICROFUSED operates as an indicator of source and/or origin, and has acquired distinctiveness via secondary meaning.

67. Defendant's unauthorized sales of sensor products and unauthorized use of the trademark MICROFUSED falsely indicates that Defendant is connected with, sponsored by, affiliated with or related to MEAS.

68. Defendant's unauthorized use of the MICROFUSED trademark has caused, and is likely to continue to cause, confusion, mistake or deception as to the origin, source or sponsorship of Defendant's and their goods, and the authenticity and quality of the associated sensor products.

69. Defendant's unauthorized use of the trademark MICROFUSED in connection with their goods allows Defendant to receive the benefit of MEAS goodwill, which MEAS has established at great labor and expense, and further allows Defendant to gain acceptance of its goods, based not on their own qualities, but on the reputation and goodwill of MEAS.

70. Upon information and belief, Defendant, with full knowledge of the rights of MEAS in the MICROFUSED trademark, and of the valuable goodwill associated therewith, has committed the acts alleged herein willfully, with the intent to trade off, or in complete disregard of, MEAS goodwill and the goodwill associated with the trademark MICROFUSED, and the distribution and quality maintenance standards of MEAS.

71. The acts of Defendant complained of herein constitute unfair competition and trademark infringement in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

72. As a direct and proximate cause of Defendant's creation of a false impression of association between MEAS and Defendant, and Defendant's use of a false designation of origin and false or misleading representation of fact in connection with Defendant's services, MEAS has been damaged and will continue to be damaged, in an amount to be determined at trial, but not less than \$75,000.

73. Additionally, Defendant has contributed to the creation of a false impression of association between MEAS and certain third party competitors of MEAS, by advertising and selling such competitors' products under the designation "µFused," and these acts of Defendant also constitute unfair competition and trademark infringement in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

74. Pursuant to 15 U.S.C. § 1116(a), MEAS is entitled to an order enjoining Defendant from using the mark MICROFUSED, and any other name confusingly similar thereto, such as the designation "µFused".

75. Defendant's conduct alleged herein was intentional and in conscious disregard of Plaintiff's rights.

76. Defendant's acts make this an exceptional case under 15 U.S.C. § 1117(a), and Plaintiff is entitled to an award of attorneys' fees and costs.

77. Unless the foregoing actions of Defendant are permanently enjoined, MEAS will continue to suffer irreparable injury and damage.

### **THIRD CLAIM FOR RELIEF**

#### **Trademark Infringement (Common Law of Colorado)**

78. MEAS repeats and realleges each and every allegation of the Complaint contained in Paragraphs 1 through 77 as if fully set forth herein.

79. The trademark MICROFUSED operates as an indicator of source and/or origin, and has acquired distinctiveness via secondary meaning.

80. Defendant's unauthorized use of the MICROFUSED trademark as described above has caused, is causing and, unless enjoined by this Court, will continue to cause confusion and mistake in the marketplace and deception of the trade and public as to the relationship or affiliation of the parties and the source, origin, or sponsorship and quality of their respective products.

81. Upon information and belief, Defendant, with full knowledge of the rights of MEAS in its MICROFUSED trademark, and of the valuable goodwill associated therewith, has committed the acts alleged herein willfully, with the intent to trade off, or in complete disregard of, MEAS goodwill and the goodwill associated with the trademark MICROFUSED, and the distribution and quality maintenance standards of MEAS.

82. The acts complained of herein constitutes trademark infringement in violation of the common law of Colorado.

83. Additionally, Defendant has contributed to the creation of a false impression of association between MEAS and certain third party competitors of MEAS, by advertising and selling such competitors' products under the designation "µFused," and these acts of Defendant also constitute trademark infringement in violation of the common law of Colorado.

84. Defendant's unauthorized use of the trademark MICROFUSED as described above has impaired, is impairing and, unless enjoined by this Court, will continue to cause injury and damage to MEAS for which MEAS is entitled to relief under the common law.

85. As a result of the foregoing alleged actions of Defendant, Defendant has been unjustly enriched and MEAS has been injured and damaged, in an amount to be determined at trial, but not less than \$75,000.

86. Unless the foregoing actions of Defendant are permanently enjoined, MEAS will continue to suffer irreparable injury and damage.

#### **FOURTH CLAIM FOR RELIEF**

##### **Deceptive Trade Practices (Colorado Consumer Protection Act § 6-1-101 to 115)**

87. MEAS repeats and realleges each and every allegation of the Complaint contained in Paragraphs 1 through 86 as if fully set forth herein.

88. The trademark MICROFUSED operates as an indicator of source and/or origin, and has acquired distinctiveness via secondary meaning.

89. The acts of Defendant complained of herein constitute deceptive trade practices in violation of Colorado Revised Statutes § 6-1-105, including but not limited to:

- (a) C.R.S. § 6-1-105(1)(a) (knowingly passing off goods, services, or property as those of another);

- (b) C.R.S. § 6-1-105(1)(b)(knowingly making a false representation as to the source, sponsorship, approval or certification of goods, services or property);
- (c) C.R.S. § 6-1-105(1)(c)(knowingly making a false representation as to affiliation, connection, or association with or certification by another); and,
- (d) C.R.S. § 6-1-105(1)(e)(knowingly making a false representation as to the characteristics, ingredients, uses, benefits, alternations or quantities of goods, food, services or properly and/or knowingly making a false representation as to the sponsorship, approval, status, affiliation or connection of a person therewith).

90. Upon information and belief, in violation of each of these provisions (without limitation) of the Colorado Consumer Protection Act, Defendant is using MICROFUSED trademark to mislead consumers into believing Defendant's goods are somehow related to or affiliated with those of MEAS, when in fact those goods are stolen, counterfeit or illicitly obtained and/or adulterated, and failing to disclose the stolen, counterfeit, illicitly obtained or adulterated character of those goods to the consuming public and to purchasers.

91. Upon information and belief, Defendant, with full knowledge of the rights of MEAS in its MICROFUSED trademark, and of the valuable goodwill associated therewith, has committed the acts alleged herein willfully, with the intent to trade off, or in complete disregard of, MEAS goodwill and the goodwill associated with the trademark MICROFUSED, and the distribution and quality maintenance standards of MEAS.

92. As a result of Defendant's unfair competitive acts and practices, MEAS has been injured and damaged, in an amount to be determined at trial, but not less than \$75,000.



93. Unless the foregoing actions of Defendant are permanently enjoined, MEAS will continue to suffer irreparable injury and damage.

**FIFTH CLAIM FOR RELIEF**

**Unfair Competition  
(Common Law of Colorado)**

94. MEAS repeats and realleges each and every allegation of the Complaint contained in Paragraphs 1 through 93 as if fully set forth herein.

95. The trademark MICROFUSED operates as an indicator of source and/or origin, and has acquired distinctiveness via secondary meaning.

96. Defendant's unauthorized use of the trademark MICROFUSED as described above has caused, is causing and, unless enjoined by this Court, will continue to cause confusion and mistake in the marketplace and deception of the trade and public as to the relationship or affiliation of the parties and the source, origin, or sponsorship and quality of their respective products.

97. Upon information and belief, Defendant, with full knowledge of the rights of MEAS in its MICROFUSED trademark, and of the valuable goodwill associated therewith, has committed the acts alleged herein willfully, with the intent to trade off, or in complete disregard of, MEAS goodwill and the goodwill associated with trademark MICROFUSED, and the distribution and quality maintenance standards of MEAS.

98. The acts of Defendant complained of herein constitute unfair competition in violation of the common law of Colorado.

99. Additionally, Defendant has contributed to the creation of a false impression of association between MEAS and certain third party competitors of MEAS, by advertising and

selling such competitors' products under the designation "µFused," and these acts of Defendant also constitute unfair competition in violation of the common law of Colorado.

100. As a result of Defendant's unfair competitive acts and practices, MEAS has been injured and damaged, in an amount to be determined at trial, but not less than \$75,000.

101. Unless the foregoing actions of Defendant are permanently enjoined, MEAS will continue to suffer irreparable injury and damage.

### **SIXTH CLAIM FOR RELIEF**

#### **Unjust Enrichment (Common Law of Colorado)**

102. MEAS repeats and realleges each and every allegation of the Complaint contained in Paragraphs 1 through 101 as if fully set forth herein.

103. Defendant's foregoing acts of patent and trademark infringement have conferred a benefit upon Defendant, and Defendant appreciated that benefit under circumstances where it would be inequitable for Defendant to retain the benefit without payment of its value to MEAS.

104. Defendant's retention of the benefits of MEAS's labor, time, and investment violates principles of justice, equity and good conscience.

105. Defendant's unauthorized use of the designation "µFused," and selling of the MLP Sensors in violation of the '910 Patent, has caused Defendant to be unjustly enriched to the detriment of MEAS.

106. Accordingly, MEAS is entitled to restitution in the amount of Defendant's unjust enrichment.

## **JURY DEMAND**

MEAS hereby demands trial by jury as to all claims and defenses in this action pursuant to Fed. R. Civ. Pro. 38(b).

## **REQUEST FOR RELIEF**

WHEREFORE, Plaintiff Measurement Specialties, Inc. (“Plaintiff” or “MEAS”), requests the following relief against Defendant CDI, as well as CDI’s employees and/or agents:

A. Entry of a judgment that:

1. MEAS is the record owner of all right, title, and interest in and to United States Patent No. 6,635,910 (the “’910 Patent”);
2. The ‘910 Patent is good and valid in law, and has been infringed by CDI, through CDI’s distribution and sale of sensors and sensor products, including but not limited to the MLP Sensors;
3. CDI’s distribution and sale of sensors and sensor products under the designation “μFused” constitutes unfair competition under Section 43(a) of the Lanham Act, and CDI has infringed MEAS’s common law trademark rights in the mark MICROFUSED by distributing and selling sensors and sensor products under the designation “μFused”;
4. CDI’s distribution and sale of sensors and sensor products in connection with the designation “μFused” constitutes common law trademark infringement under Colorado law;
5. CDI’s distribution and sale of sensors and sensor products in connection with the designation “μFused” constitutes deceptive trade practices under Colorado law;
6. CDI’s distribution and sale of sensors and sensor products in connection with the designation “μFused” constitutes common law unfair competition under Colorado law; and,

7. CDI has been unjustly enriched by the sale of sensors and sensor products in connection with the designation “ $\mu$ Fused”.

B. Entry of judgment that CDI’s acts of patent infringement, trademark infringement and unfair competition detailed herein have been, and continue to be, willful and deliberate.

C. Entry of preliminary and permanent injunctions enjoining CDI, their agents, servants and employees, and those people in active concert or participation with it from:

1. making, using, advertising, offering for sale, or selling sensors or sensor devices which infringe upon the ‘910 Patent, including but not limited to the MLP Sensors;

2. displaying, advertising, or otherwise using the mark MICROFUSED, any colorable imitation thereof, or any mark or designation that is confusingly similar or substantially similar to the same, including but not limited to the designation “ $\mu$ Fused”;

3. using, infringing, contributing to, inducing and/or aiding in infringement of the MEAS’s common law trademarks, including but not limited to the mark MICROFUSED;

4. using any false designation, description or representation regarding the source or sponsorship of its goods and/or services, or stating or implying that CDI or its agents are connected with the goods and/or services of MEAS, thereby damaging MEAS’s goodwill and reputation;

5. causing a likelihood of confusion or misunderstanding as to the source or sponsorship of CDI’s business and/or CDI’s goods or services, including but not limited to causing a likelihood of confusion or misunderstanding as to CDI’s affiliation, connection or association with MEAS or any of MEAS’s goods and/or services;

6. otherwise infringing MEAS's common law trademarks and service marks, or otherwise unfairly competing with MEAS; and

7. doing any other act or thing likely to confuse, mislead, or deceive others into believing that CDI, or their products, emanate from, or are connected with, sponsored by or approved by MEAS.

D. Entry of judgment requiring CDI to offer up for destruction all articles, displays, advertisements, labels, signs, prints, packages, packaging, wrappers, receptacles, brochures, catalogs, plates, molds, uniforms, and logo items in its possession or control (including but not limited to all products and marketing materials associated with the MLP Sensors) which display a mark which is identical to, or confusingly similar with, MEAS's mark MICROFUSED, as provided by Section 36 of the Lanham Act (15 U.S.C. §1118).

E. Entry of judgment requiring CDI to file with the Court and to serve upon MEAS's counsel within thirty (30) days after entry of any injunction or order issued herein, a written report, under oath, setting forth in detail the manner in which it has complied with such injunction or order pursuant to Section 34 of the Lanham Act (15 U.S.C. §1116(a)).

F. Entry of judgment requiring CDI to produce to MEAS, on an expedited basis, all information in its possession, custody and/or control with respect to CDI's source of the products sold under the designation "μFused," along with the names and contact information of any and all those who purchased such products from CDI.

G. Entry of judgment:

1. awarding MEAS damages adequate to compensate for CDI's acts of patent infringement, together with an award of triple the amount of actual damages because of the willful and deliberate character of the infringement, as provided by 35 U.S.C § 284;

2. awarding MEAS attorneys' fees, costs, and disbursements as provided by 35 U.S.C § 285, *et seq.*, and otherwise to the extent permitted by law; and,

3. awarding MEAS interest, including statutory and prejudgment interest, from the time of any infringement, and costs, including expert witness fees, as provided by 35 U.S.C § 284, 28 U.S.C § 1961, and otherwise.

H. Entry of judgment:

1. awarding MEAS such actual damages as it has sustained by reason of CDI's acts of unfair competition in violation of Section 43(a)(1)(A) of the Lanham Act (15 U.S.C. §1125(a)(1)(A)) (including, but not limited to, a disgorgement of CDI's profits, MEAS's lost profits, and the costs of this action);

2. awarding MEAS treble its actual damages or such acts of unfair competition;

3. awarding MEAS its attorney's fees in bringing and maintaining this action, which should be deemed exceptional, for such acts of unfair competition; and

4. requiring CDI to account to MEAS for any and all profits derived by it from sales of infringing sensors and sensor products, and to compensate MEAS for all damages sustained by reason of such acts of unfair competition and the other acts complained of herein; all pursuant to Section 35 of the Lanham Act (15 U.S.C. §1117).

- I. Entry of judgment ordering CDI to compensate MEAS for the advertising or other expenses necessary to dispel any confusion caused by CDI's trademark infringement, unfair competition and other unlawful acts (including but not limited to the costs of an appropriate corrective advertising campaign), pursuant to Section 35 of the Lanham Act (15 U.S.C. §1117).
- J. Entry of judgment awarding MEAS such damages as it has sustained by reason of CDI's acts of common law unfair competition, including but not limited to compensatory damages, attorneys' fees, costs and/or punitive damages.
- K. Entry of judgment awarding MEAS such damages as it has sustained by reason of CDI's deceptive trade practices pursuant to the Colorado Consumer Protection Act, C.R.S. § 6-1-105, and also including treble damages and attorneys' fees pursuant to the Colorado Consumer Protection Act, C.R.S. § 6-1-113.
- L. Entry of judgment awarding MEAS the amount of CDI's unjust enrichment.
- M. Affording MEAS such further and other relief as this Court may deem just and proper.

[Signature page follows.]

Dated: May 3, 2012

Respectfully submitted,

By: *s/ James R. Thompson*

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**Heckenbach Thompson Suazo & Dave  
LLP**

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