

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

INVENSYS SYSTEMS, INC.	§	
	§	
Plaintiff,	§	C.A. No.: _____
v.	§	
	§	JURY TRIAL DEMANDED
EMERSON ELECTRIC CO. and	§	
MICRO MOTION INC., USA,	§	
	§	
Defendants.	§	

PLAINTIFF’S ORIGINAL COMPLAINT

Invensys Systems, Inc. (“Invensys”), brings this action under the patent laws of the United States (Title 35, United States Code, §§ 1-376) against Emerson Electric Company (“Emerson”) and Micro Motion Inc., USA (“Micro Motion”) for infringement of U.S. Patent Nos. 7,124,646, 7,136,761, 6,311,136, and 7,505,854 (collectively, the “patents-in-suit”).

PARTIES

1. Invensys Systems, Inc., is a Massachusetts corporation. Invensys Systems, Inc., through its operating division Invensys Operations Management, has a principal place of business at 10900 Equity Drive, Houston, Texas 77041, and does business in and has facilities in this District, including an office in Plano. Invensys Systems, Inc., and Invensys Operations Management are referred to herein as “Invensys.”

2. Emerson Electric Company is a Missouri corporation with its principal place of business at 8000 W. Florissant Ave., St. Louis, Missouri. Emerson Electric Company through its Division, Emerson Process Management, does business in and has facilities in this District. Emerson and Emerson Process Management are referred to herein as “Emerson.”

3. Micro Motion Inc., USA is a Colorado corporation with its principal place of business at 7070 Winchester Circle, Boulder, Colorado 80301-3506. Upon information and belief, Micro Motion is a wholly owned subsidiary of Emerson, and Micro Motion Inc., USA's products, including those accused of infringement herein, are sold, offered for sale and used in this District.

JURISDICTION

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action concerns a federal question relating to patents arising under Title 35 of the United States Code.

5. This Court has personal jurisdiction over Emerson. Upon information and belief, Emerson conducts business in this State and is making, using, selling, importing, and/or offering for sale (and has, within a reasonable period prior to the filing of this action made, used, sold, imported and/or offered to sell) infringing products, including but not limited to Coriolis Meters (containing a Micro Motion enhanced core processor, Micro Motion Model 2400S transmitters (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component) (e.g., Micro Motion[®] Elite[®] Coriolis Meters) and/or components thereof, including, but not limited to, Micro Motion Model 2400S transmitters, transmitters that have a Micro Motion enhanced core processor (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component, to customers in this State and in this District, either directly or indirectly through distributors or other means. Upon information and belief, Emerson has placed infringing products into the stream of commerce, knowing or reasonably expecting that such products will be used, sold, or offered for sale in this State and in this

District. Upon information and belief, Emerson has intentionally established distribution channels to offer for sale and to sell the infringing products in this State and this District.

6. This Court has personal jurisdiction over Micro Motion. Upon information and belief, Micro Motion conducts business in this State and is making, using, selling, importing, and/or offering for sale (and has within a reasonable period prior to the filing of this action made, used, sold, imported and/or offered to sell) infringing products, including but not limited to Coriolis Meters (containing a Micro Motion enhanced core processor, Micro Motion Model 2400S transmitters (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component) (e.g., Micro Motion[®] Elite[®] Coriolis Meters) and/or components thereof, including, but not limited to, Micro Motion Model 2400S transmitters, transmitters that have a Micro Motion enhanced core processor (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component, to customers in this State and in this District, either directly or indirectly. Upon information and belief, Micro Motion has placed infringing products into the stream of commerce, knowing or reasonably expecting that such products will be used, sold, or offered to be sold in this State and in this District. Upon information and belief, Micro Motion has intentionally established distribution channels to offer for sale and to sell the infringing products in this State and this District.

VENUE

7. Venue is proper in this Court under 28 U.S.C. §1400(b) because Emerson and Micro Motion reside in this District. In addition, venue is proper in this Court under 28 U.S.C. §§ 1391(b)-(c) because Emerson and Micro Motion reside in this District and/or a substantial part of the events or omissions giving rise to the claims occurred in this District.

BACKGROUND

8. Invensys develops and applies advanced technologies that enable the world's manufacturing and energy-generating facilities, mainline and mass transit rail networks, and appliances to operate safely and in an energy-efficient manner. Among the technologies that Invensys has developed is the digital Coriolis flowmeter. Digital Coriolis flowmeters provide precise measurements of the mass flow rate of liquids, and have particular utility (and satisfied a long-felt industrial need) in measuring liquid mass flow in two phase (gas and liquid combined) or multi-phase settings. They are used in a variety of industries, including oil and gas, petrochemical, and food and beverage.

9. Invensys has been and is currently selling products incorporating its digital Coriolis flowmeter technologies. Invensys has marked its products with the some or all of the numbers of the patents-in-suit.

10. Upon information and belief, Micro Motion is a wholly owned subsidiary of Emerson. Micro Motion is a direct competitor of Invensys in the digital Coriolis flowmeter market. Although Micro Motion initially discounted the feasibility of Coriolis flowmeters that could measure two-phase flow, in 2006, Micro Motion released Coriolis Meters and components thereof having a Micro Motion enhanced core processor and/or Micro Motion Model 2400S transmitters including, but not limited to, Micro Motion[®] Elite[®] Coriolis Meters, which claimed to measure two-phase flow. These products incorporate technology covered by several of Invensys' patents.

11. Invensys Operations Management, the operating division that sells digital Coriolis flowmeters, has an office a service center in this District. Both Micro Motion and Emerson have facilities in this District. Invensys sells to customers in this District through sales representatives

with offices in this District and directly competes with Micro Motion in the digital Coriolis flowmeter market in this District.

FIRST CLAIM

(Patent Infringement of the '646 Patent)

12. The allegations of paragraphs 1-11 are incorporated herein by reference.

13. Invensys is the sole owner of United States Patent No. 7,124,646, titled "Correcting for Two-Phase Flow in Digital Flowmeter" ("the '646 Patent"). The '646 Patent was duly and legally issued on October 24, 2006, to Manus P. Henry and Maria Jesus De La Fuente and was assigned to Invensys. A copy of the '646 patent is attached to this Complaint as Exhibit A.

14. Defendants Micro Motion and Emerson have been and currently are infringing, either literally or under the doctrine of equivalents, the '646 Patent by, among other things: (1) making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, products that are covered by one or more claims of the '646 Patent, including but not limited to Coriolis Meters (containing a Micro Motion enhanced core processor, Micro Motion Model 2400S transmitters (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component) (e.g., Micro Motion[®] Elite[®] Coriolis Meters) and/or components thereof, including, but not limited to, Micro Motion Model 2400S transmitters, transmitters that have a Micro Motion enhanced core processor (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component; (2) contributing to the making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, of products that are covered by one or more claims of the '646 Patent by selling a material component of the patented invention that does not have substantial non-infringing uses, including but not limited to Coriolis Meters (containing a Micro Motion

enhanced core processor, Micro Motion Model 2400S transmitters (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component) (e.g., Micro Motion[®] Elite[®] Coriolis Meters) and/or components thereof, including, but not limited to, Micro Motion Model 2400S transmitters, transmitters that have a Micro Motion enhanced core processor (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component, with knowledge that it will be used in the infringement of the '646 Patent; and/or (3) inducing its customers, distributors and others in the chain of distribution to make, use, sell, import and/or offer for sale products that are covered by one or more claims of the '646 Patent, including but not limited to Coriolis Meters (containing a Micro Motion enhanced core processor, Micro Motion Model 2400S transmitters (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component) (e.g., Micro Motion[®] Elite[®] Coriolis Meters) and/or components thereof, including, but not limited to, Micro Motion Model 2400S transmitters, transmitters that have a Micro Motion enhanced core processor (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component, with knowledge of and intent that its customers, distributors and others in the chain of distribution infringe the '646 Patent.

15. Defendants Micro Motion's and Emerson's infringement, contributory infringement, and/or inducement to infringe has injured Invensys, and Invensys is entitled to recover damages adequate to compensate it for such infringement. Because Defendants' infringement has caused Invensys to lose sales and has eroded the price of Invensys's digital Coriolis flowmeters, Invensys is entitled to recover lost profits. Alternatively or in addition, Invensys is entitled to recover a reasonable royalty.

16. Defendants Micro Motion's and Emerson's infringement of the '646 Patent has caused and will continue to cause Invensys irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

SECOND CLAIM

(Patent Infringement of the '761 Patent)

17. The allegations of paragraphs 1-16 are incorporated herein by reference.

18. Invensys is the sole owner of United States Patent No. 7,136,761, titled "Digital Flowmeter" ("the '761 Patent"). The '761 Patent was duly and legally issued on November 14, 2006, to Manus P. Henry, David W. Clarke, and James H. Vignos and was assigned to Invensys. A copy of the '761 Patent is attached to this Complaint as Exhibit B.

19. Defendants Micro Motion and Emerson have been and currently are infringing, either literally or under the doctrine of equivalents, the '761 Patent by, among other things: (1) making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, products that are covered by one or more claims of the '761 Patent, including but not limited to Coriolis Meters (containing a Micro Motion enhanced core processor, Micro Motion Model 2400S transmitters (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component) (e.g., Micro Motion[®] Elite[®] Coriolis Meters) and/or components thereof, including, but not limited to, Micro Motion Model 2400S transmitters, transmitters that have a Micro Motion enhanced core processor (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component; (2) contributing to the making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, of products that are covered by one or more claims of the '761 Patent by selling a material component of the patented invention that does not have substantial

non-infringing uses, including but not limited to Coriolis Meters (containing a Micro Motion enhanced core processor, Micro Motion Model 2400S transmitters (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component) (e.g., Micro Motion[®] Elite[®] Coriolis Meters) and/or components thereof, including, but not limited to, Micro Motion Model 2400S transmitters, transmitters that have a Micro Motion enhanced core processor (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component, with knowledge that it will be used in the infringement of the '761 Patent; or (3) inducing its customers, distributors and others in the chain of distribution to make, use, sell, import and/or offer for sale products that are covered by one or more claims of the '761 Patent, including but not limited to Coriolis Meters (containing a Micro Motion enhanced core processor, Micro Motion Model 2400S transmitters (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component) (e.g., Micro Motion[®] Elite[®] Coriolis Meters) and/or components thereof, including, but not limited to, Micro Motion Model 2400S transmitters, transmitters that have a Micro Motion enhanced core processor (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component, with knowledge of and intent that its customers, distributors and others in the chain of distribution infringe the '761 Patent.

20. Defendants Micro Motion's and Emerson's infringement, contributory infringement, and/or inducement to infringe has injured Invensys, and Invensys is entitled to recover damages adequate to compensate it for such infringement. Because Defendants' infringement has caused Invensys to lose sales and has eroded the price of Invensys's digital Coriolis flowmeters, Invensys is entitled to recover lost profits. Alternatively or in addition, Invensys is entitled to recover a reasonable royalty.

21. Defendants Micro Motion's and Emerson's infringement of the '761 Patent has caused and will continue to cause Invensys irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

THIRD CLAIM

(Patent Infringement of the '136 Patent)

22. The allegations of paragraphs 1-21 are incorporated herein by reference.

23. Invensys is the sole owner of United States Patent No. 6,311,136, titled "Digital Flowmeter" ("the '136 Patent"). The '136 Patent was duly and legally issued on October 30, 2001, to Manus P. Henry, David W. Clarke, and James H. Vignos and was assigned to Invensys. A copy of the '136 Patent is attached to this Complaint as Exhibit C.

24. Defendants Micro Motion and Emerson have been and currently are infringing, either literally or under the doctrine of equivalents, the '136 Patent by, among other things: (1) making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, products that are covered by one or more claims of the '136 Patent, including but not limited to Coriolis Meters (containing a Micro Motion enhanced core processor, Micro Motion Model 2400S transmitters (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component) (e.g., Micro Motion[®] Elite[®] Coriolis Meters) and/or components thereof, including, but not limited to, Micro Motion Model 2400S transmitters, transmitters that have a Micro Motion enhanced core processor (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component; (2) contributing to the making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, of products that are covered by one or more claims of the '136 Patent by selling a material component of the patented invention that does not have sub-

stantial non-infringing uses, including but not limited to Coriolis Meters (containing a Micro Motion enhanced core processor, Micro Motion Model 2400S transmitters (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component) (e.g., Micro Motion® Elite® Coriolis Meters) and/or components thereof, including, but not limited to, Micro Motion Model 2400S transmitters, transmitters that have a Micro Motion enhanced core processor (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component, with knowledge that it will be used in the infringement of the '136 Patent; or (3) inducing its customers, distributors and others in the chain of distribution to make, use, sell, import and/or offer for sale products that are covered by one or more claims of the '136 Patent, including but not limited to Coriolis Meters (containing a Micro Motion enhanced core processor, Micro Motion Model 2400S transmitters (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component) (e.g., Micro Motion® Elite® Coriolis Meters) and/or components thereof, including, but not limited to, Micro Motion Model 2400S transmitters, transmitters that have a Micro Motion enhanced core processor (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component, with knowledge of and intent that its customers, distributors and others in the chain of distribution infringe the '136 Patent.

25. Defendants Micro Motion's and Emerson's infringement, contributory infringement, and/or inducement to infringe has injured Invensys, and Invensys is entitled to recover damages adequate to compensate it for such infringement. Because Defendants' infringement has caused Invensys to lose sales and has eroded the price of Invensys's digital Coriolis flowmeters, Invensys is entitled to recover lost profits. Alternatively or in addition, Invensys is entitled to recover a reasonable royalty.

26. Defendants Micro Motion's and Emerson's infringement of the '136 Patent has caused and will continue to cause irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

FOURTH CLAIM

(Patent Infringement of the '854 Patent)

27. The allegations of paragraphs 1-26 are incorporated herein by reference.

28. Invensys is the sole owner of United States Patent No. 7,505,854, titled "Startup Techniques for a Digital Flowmeter" ("the '854 Patent"). The '854 Patent was duly and legally issued on March 17, 2009, to Manus P. Henry and Mayela E. Zamora and was assigned to Invensys. A copy of the '854 Patent is attached to this Complaint as Exhibit D.

29. Defendants Micro Motion and Emerson have been and currently are infringing, either literally or under the doctrine of equivalents, the '854 Patent by, among other things: (1) making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, products that are covered by one or more claims of the '854 Patent, including but not limited to Coriolis Meters (containing a Micro Motion enhanced core processor, Micro Motion Model 2400S transmitters (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component) (e.g., Micro Motion[®] Elite[®] Coriolis Meters) and/or components thereof, including, but not limited to, Micro Motion Model 2400S transmitters, transmitters that have a Micro Motion enhanced core processor (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component; (2) contributing to the making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, of products that are covered by one or more claims of the '854 Patent by selling a material component of the patented invention that does not have

substantial non-infringing uses, including but not limited to Coriolis Meters (containing a Micro Motion enhanced core processor, Micro Motion Model 2400S transmitters (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component) (e.g., Micro Motion[®] Elite[®] Coriolis Meters) and/or components thereof, including, but not limited to, Micro Motion Model 2400S transmitters, transmitters that have a Micro Motion enhanced core processor (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component, with knowledge that it will be used in the infringement of the '854 Patent; or (3) inducing its customers, distributors and others in the chain of distribution to make, use, sell, import and/or offer for sale products that are covered by one or more claims of the '854 Patent, including but not limited to Coriolis Meters (containing a Micro Motion enhanced core processor, Micro Motion Model 2400S transmitters (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component) (e.g., Micro Motion[®] Elite[®] Coriolis Meters) and/or components thereof, including, but not limited to, Micro Motion Model 2400S transmitters, transmitters that have a Micro Motion enhanced core processor (e.g., Micro Motion transmitter Models 1700, 2700 and Series 3000) or any substantially similar component, with knowledge of and intent that its customers, distributors and others in the chain of distribution infringe the '854 Patent.

30. Defendants Micro Motion's and Emerson's infringement, contributory infringement, and/or inducement to infringe has injured Invensys, and Invensys is entitled to recover damages adequate to compensate it for such infringement. Because Defendants' infringement has caused Invensys to lose sales and has eroded the price of Invensys's digital Coriolis flowmeters, Invensys is entitled to recover lost profits. Alternatively or in addition, Invensys is entitled to recover a reasonable royalty.

31. Defendants Micro Motion's and Emerson's infringement of the '854 Patent has caused and will continue to cause Invensys irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

DEMAND FOR A JURY TRIAL

32. Invensys hereby demands a trial by jury as to all issues triable by a jury.

PRAYER FOR RELIEF

WHEREFORE, Invensys respectfully requests that the Court:

A. Enter judgment that Defendants Micro Motion and Emerson have infringed, directly or indirectly, the '646, '761, '136 and '854 Patents;

B. Award damages adequate to compensate Invensys for the infringement that has occurred, including damages for lost profits and price erosion, but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;

C. Enter a permanent injunction enjoining and restraining Defendants Micro Motion and Emerson and their officers, directors, agents, servants, employees, and all others acting under, by, or through them from directly or indirectly infringing the '646, '761, '136 and '854 Patents and/or grant such other injunctive relief as the Court deems just and appropriate;

D. Award pre-judgment and post-judgment interest;

E. Declare this an exceptional case pursuant to 35 U.S.C. § 285 and award Invensys its attorneys' fees and costs (including expert fees); and

F. Award Invensys such other and further relief as this Court may deem just and proper.

Date: October 22, 2012

Respectfully submitted,

/s/ Claudia Wilson Frost

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