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

SIPCO, LLC, and IP CO, LLC (d/b/a INTUS IQ), Plaintiffs, v. EMERSON ELECTRIC CO., EMERSON PROCESS MANAGEMENT LLLP, FISHER-ROSEMOUNT SYSTEMS, INC., ROSEMOUNT INC., BP, p.l.c., BP AMERICA, INC., and BP AMERICA PRODUCTION COMPANY, Defendants.	Civil Action No. 6:15-cv-907

PLAINTIFFS' SUR-REPLY IN SUPPORT OF ITS OPPOSITION TO DEFENDANTS' MOTION TO STAY THIS ACTION PENDING DISMISSAL OR TRANSFER

SIPCO does not dispute that its opposition to the motion to stay is based, in part, on the merits of its opposition to the motion to dismiss or transfer. This makes sense because, if the Court ultimately determines that this case should remain in this judicial district, then no time will have been wasted by the parties.

SIPCO's opposition is also based on facts (cited by SIPCO in its opposition) that directly bear on whether a genuine necessity for a stay exists. *See Coastal (Bermuda)Ltd. v. E.W. Saybolt & Co.*, 761 F.2d 198, 203 n.6 (5th Cir. 1985). For example, because this Court controls the timeframe in which Emerson's motion to dismiss or transfer will be decided, no basis for a stay exists. *See Lone Star Steakhouse & Saloon, Inc. v. Adams*, 169 F. Supp. 2d 1197, 1208 (D. Kan. 2001). Additionally, even if this Court grants Emerson's motion to dismiss or transfer (which it respectfully should not do), the "work . . . do[ne] here" can be used in the Georgia action. *See* Hr'g Tr., *Datamize v. Fidelity Brokerage Servs., LLC*, No. 2:03-cv-321-DF (E.D. Tex. Mar. 11,

2004), ECF No. 87. It is beyond dispute that the parties will have to request and produce evidence, argue about claim construction, and make their respective infringement and invalidity cases for each and every asserted claim from each of the collective thirteen patents. Thus, none of the work on the eleven patents-in-suit here will go to waste. For whatever reason, Emerson ignored these arguments in its Reply.

Instead, Emerson interjects new issues that have no bearing on whether there is a genuine necessity for a stay. For example, Emerson raises General Order No. 13-20, which states that absent court-approved deviation from this general rule, claims will eventually be limited to a total of 16 claims from the patents-in-suit. But this rule has nothing to do with the motion to dismiss or transfer or the requested stay.

Emerson also interjects the argument that SIPCO "will obviously limit the number of patents and claims asserted at some future point" and further states that Emerson would like to avoid "plain wasteful" discovery on the thirteen collective patents. (Dkt. 37 at 3.) Yet, proceeding in this judicial district without delay is the fastest way to reach the point where a "narrowing" of the issues on the eleven patents-in-suit will actually take place. Accordingly, no reason exists to delay or stay this case.

For the foregoing reasons, SIPCO respectfully requests that this Court deny Emerson's Motion to Stay.

Dated: February 5, 2016

Respectfully Submitted,

/s/ Paul J. Cronin (by permission Claire A. Henry)
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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a). Therefore, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email on this the 5th day of February, 2016.

/s/ Claire Abernathy Henry