

**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.**

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**Civil Action No. 6:15-CV-907-JRG-KNM**

**DEFENDANTS' NOTICE REGARDING RELATED LITIGATION**

Defendants Emerson Electric Co., Emerson Process Management LLLP, Fisher-Rosemount Systems, Inc., and Rosemount Inc. (collectively, "Emerson") file this notice to apprise the Court of the status of the related litigation pending between Emerson<sup>1</sup> and Plaintiffs SIPCO LLC and IP CO., LLC (collectively, "SIPCO") pending in the U.S. District Court for the Northern District of Georgia ("the Georgia action").

SIPCO filed this action eight months after Emerson filed a declaratory judgment action against SIPCO in the Georgia action. More details about the relationship between the Georgia action and the present action are provided in Emerson's Motion to Dismiss or Transfer this Action (Doc. 10) based the First-to-File Rule and, alternatively, 28 U.S.C. § 1404(a), and the

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<sup>1</sup> Emerson Process Management LLLP is not named as a party in the Georgia action. The LLLP entity has two partners – Fisher-Rosemount Systems, Inc. and Rosemount Inc. Thus, the inclusion of Emerson Process Management LLLP in this case adds no additional real parties in interest to this case.

related briefing. That issue is also the subject of Emerson's related motion to stay the current action while the motion to dismiss or transfer is resolved. (*See* Doc. 13).

Emerson provides the present notice to the Court to advise it that, in the Georgia action, Emerson has filed a motion to enjoin SIPCO from prosecuting this action. (*See* Exh. 1).

Typically, under the First-to-File Rule, the Court hearing the first-filed action is the one to decide which case should proceed. *See RPost Holding, Inc. v. Trend Micro Inc.*, Case No. 2:13-cv-01065-JRG, Doc. No. 29 at 2-3 (E.D. Tex. 2014) (copy filed as Doc. 10-7). Emerson has now put the issue of which case should proceed before the first-filed Georgia Court. Emerson promptly will apprise this Court of any ruling issued by the Georgia court on Emerson's motion.

Dated: February 18, 2016

Respectfully submitted,

/s/ Melissa R. Smith

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***Attorneys for Defendants Emerson Electric Co.,  
Emerson Process Management LLLP, Fisher-  
Rosemount Systems, Inc., Rosemount Inc., BP  
America, Inc., and BP America Production  
Company.***

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 18<sup>th</sup> day of February, 2016, a true and correct copy of the foregoing document has been served via the Court's ECF system to all counsel of record.

*/s/ Melissa R. Smith* \_\_\_\_\_  
Melissa R. Smith