

v.

Civil Action No. 6:15-cv-907

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.

**SUPPLEMENTAL DECLARATION OF ROBERT KARSCHNIA**

I, Robert Karschnia, do hereby declare as follows:

1. I am a competent adult over 18 years of age. I make the following statements based upon my personal knowledge or upon the corporate knowledge of Rosemount, Inc. (“Rosemount”) which I have obtained during the course of my employment with Rosemount.

2. I am the same Vice President/General Manager of Wireless Products, Rosemount Inc. who submitted an earlier declaration in this matter. I submit this declaration to supplement my earlier declaration and address issues raised in connection with the field testing of Emerson’s Smart Wireless products.

3. Emerson was involved in the manufacture and sale of process management products for years before it began development of its Smart Wireless products. Emerson made and sold sensors that communicate over wired connections long before it began development of the Smart Wireless line of products.

temperature, pressure, product flow, vibration and the like, and a processor that converted that measurement into a message that can be sent over the connecting wire network to the plant manager's work station computer.

6. I understand that an assertion has been made that BP jointly developed Emerson's Smart Wireless products. I have personal knowledge of the development of the Smart Wireless product line and the testing of that product at the test bed BP provided to test those products. I strongly disagree with the assertion that BP jointly developed Emerson's Smart Wireless products. I also strongly disagree with the assertion that BP directed or controlled Emerson's development of those products.

7. Emerson designed and developed its Smart Wireless products. Emerson worked with a vendor of wireless communication products as part of its development of the Smart Wireless products, but BP played no role in the development of those products. BP did, however, agree to "trial" the products Emerson developed in their plant in order to support our product introduction and as part of their process to evaluate new technology. The products BP tested were provided to BP at no expense to BP in test-ready form. BP obligated itself to allow Emerson to test the functionality and reliability of its Smart Wireless products within BP's facilities but BP exercised no control over that testing other than to reserve the right to object or terminate that testing if it felt that the testing was dangerous or created a possible safety issue

9. Emerson does not control BP's placement or use of the products BP buys from Emerson and BP does not control how Emerson, or any other purchaser of the Smart Wireless products, use those products.

10. Emerson solicits feedback as well as product requests and suggestions in order to improve its products or to promote additional sales of those products. That solicitation and customer involvement is a standard engineering practice at Emerson. Emerson researches market opportunities and current product offerings in order to determine which new products might present the biggest market opportunities. This practice involved, and continues to involve, significant research to gain an understanding of customer's problems. Emerson uses that research to identify products for development, whether it be just an extension of an existing product line or the creation of an entirely new product offering.

11. In addition to facilitating testing of the Smart Wireless products Emerson supplied and evaluated within their plant, BP was an early adopter of Emerson's Smart Wireless technology.


12. Emerson did not limit its testing of the Smart Wireless products to just BP. Multiple customers, including Pittsburgh Plate Glass (PPG), Exxon Mobile (XOM), Shell and BASF all provided test facilities in which to test products within the Smart Wireless product line.

13. Emerson evaluates potential component substitutions as part of its on-going development effort. Different antennae are something that Emerson works on all of the time.

That product solution is not exclusive to BP and Emerson has presented that same product to others customers.

14. I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 5, 2016

  
Robert Karschnia