

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**LEAD CASE:** ) Civil Action No.: 6:11-cv-00622  
 )  
ROY-G-BIV Corporation, )  
 ) Judge Leonard E. Davis  
 )  
Plaintiff/Counterclaim-Defendant, )  
 ) JURY TRIAL DEMANDED  
 )  
v. )  
 )  
ABB, Ltd., ABB Inc., MEADWESTVACO )  
 )  
TEXAS, LP and MEADWESTVACO )  
 )  
CORPORATION, )  
 )  
 )  
Defendants/Counterclaim-Plaintiffs. )  
 )

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)  
ROY-G-BIV Corporation, ) Civil Action No.: 6:11-cv-00623  
 )  
Plaintiff, ) Judge Leonard E. Davis  
 )  
v. ) JURY TRIAL DEMANDED  
 )  
 )  
HONEYWELL INTERNATIONAL, INC. )  
 )  
MOTIVA ENTERPRISES, LLC, )  
 )  
 )  
Defendants. )

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)  
ROY-G-BIV Corporation, ) Civil Action No.: 6:11-cv-00624  
 )  
Plaintiff, ) Judge Leonard E. Davis  
 )  
v. ) JURY TRIAL DEMANDED  
 )  
 )  
SIEMENS CORP., et al. )  
 )  
 )  
Defendants. )  
 )

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**ABB DEFENDANTS' FIRST SUPPLEMENTAL INITIAL DISCLOSURES**

Defendants ABB Inc., Meadwestvaco Texas, LP, and Meadwestvaco Corporation (collectively the “ABB Defendants”) make the following disclosures pursuant to Fed. R. Civ. P. 26(a)(1). These first supplemental initial disclosures (“supplemental disclosures”) are based upon information reasonably available to the ABB Defendants as of September 18, 2013. They are made based on a reasonable investigation to date and prior to the close of discovery in the case. Continuing investigation and additional discovery may alter these supplemental disclosures. The ABB Defendants reserve their right to further supplement these disclosures under Fed. R. Civ. P. 26(e).

These supplemental disclosures should not be construed as a representation that no other persons have knowledge of relevant facts or that no other relevant documents exist. Further, they are not an admission that any particular information is discoverable, relevant, or admissible for any specific purpose. The ABB Defendants provide these supplemental disclosures, without waiver of any applicable privilege or immunity, based on present information and its present understanding. These supplemental disclosures are made without in any way waiving (1) the right to object on the grounds of competency, privilege, relevancy, materiality, hearsay, or any other proper ground, or the use of any such information for any purpose, in whole or in part, in any subsequent proceeding in this action or in any other action; and (2) the right to object on any and all grounds, at any time, to any other discovery request or proceeding involving or relating to the subject matter of these supplemental disclosures.

**A. The Correct Names Of The Parties To The Lawsuit**

**Plaintiff:**

ROY-G-BIV Corporation

**Defendants:**

ABB Inc., MeadWestvaco Texas, LP, and MeadWestvaco Corporation; ABB Ltd. was dismissed on December 28, 2012 (Doc. 110)

**B. The Name, Address, And Telephone Number Of Any Potential Parties**

At this time, the ABB Defendants are not aware of any potential parties to this lawsuit but are continuing to investigate whether other parties should be added.

**C. The Legal Theories And, In General, The Factual Bases Of The Disclosing Party's Claims**

The legal theories and factual bases of the ABB Defendants' claims and defenses can be found in the ABB Defendants' First Amended Answer, Affirmative Defenses, and Counterclaims ("Amended Answer") (Doc. 138)..

In its Second Amended Complaint (Doc. 74), as amended, Plaintiff ROY-G-BIV Corporation ("Plaintiff") alleges that the ABB Defendants directly and indirectly infringe U.S. Patent Nos. 6,513,058, 6,516,236, 8,073,557, and 6,941,543 (the "Patents in Suit"). Plaintiff states in its P.R. 3-1 disclosures that:

"Accused Instrumentalities" means Industrial System 800xA Systems...systems incorporating an Industrial System 800xA Server, an Industrial System 800xA Application Program, a plurality of Industrial System 800xA Drivers, and...Industrial System 800xA Hardware...the software marketed by ABB as the "Connectivity Server" and/or the "Real Time Database" and any software implementing the same or similar functionality to that disclosed for Industrial System 800xA Servers[ ].

The ABB Defendants deny that they infringe any valid claim of the Patents in Suit, either directly, by contribution, or by inducement. None of the ABB products or the combination thereof identified above include, literally or equivalently, the limitations of any valid claim of the Patents in Suit.

As stated in its Amended Answer, the ABB Defendants state that the Patents in Suit and the asserted claims are invalid under 35 U.S.C. §§ 101, 102, 103, and/or 112. For example, the

prior art anticipates and renders obvious the asserted claims of the Patents in Suit. Additionally, the Patents in Suit fail to enable or describe the claimed subject matter, and some of the asserted claims are also indefinite and/or directed to non-statutory subject matter. The ABB Defendants have provided further information about its invalidity contentions under 35 U.S.C. §§ 101, 102 and 103 and the prior art, as well as under § 112, in its P.R. 3-3 and 3-4 disclosures, as well as its briefs and other litigation papers filed in relation to the court's Markman hearing and its motion for summary judgment of indefiniteness. The ABB Defendants will provide further information about its invalidity contentions as the case progresses and as it takes additional discovery.

Plaintiff is not entitled to damages because the ABB Defendants have not infringed any of the Patents in Suit. Additionally, Plaintiff has failed to allege or show compliance with 35 U.S.C. § 287. As a result, Plaintiff is not entitled to damages prior to the filing of suit. Plaintiff also is not entitled to injunctive relief because Plaintiff cannot show a likelihood of success on the merits (e.g., the ABB Defendants have not infringed any of the Patents in Suit) and, in all events, Plaintiff cannot show that money damages are inadequate to compensate Plaintiff for the ABB Defendants' alleged infringement, that Plaintiff has been irreparably harmed by the ABB Defendants' alleged infringement, that the balance of hardships favor Plaintiff, or that the public interest favors injunctive relief against the ABB Defendants.

The ABB Defendants incorporate herein the defenses alleged by the other defendants in this case and other cases involving the Patents in Suit, including those raised in the P.R. 3-3 and 3-4 disclosures. The ABB Defendants reserve the right to supplement, modify, or add to this disclosure as discovery proceeds.

**D. The Name, Address, And Telephone Number Of Persons Having Knowledge Of Relevant Facts, A Brief Statement Of Each Identified Person's Connection With The Case, And A Brief, Fair Summary Of The Substance Of The Information Known By Such Person**

<b>Name</b>	<b>Contact Information</b>	<b>Connection with the Case and Summary of Relevant Knowledge</b>
David W. Brown	Bingen, WA	Inventor of the Patents in Suit.
Jay S. Clark	Bingen, WA	Inventor of the Patents in Suit.
Michael Schacht	Schacht Law Office, Inc. ROY-G-BIV Corp. 2801 Meridian St., Ste. 202 Bellingham, WA	Attorney who prosecuted the Patents in Suit.
Richard Black	Schacht Law Office, Inc. ROY-G-BIV Corp. 2801 Meridian St., Ste. 202 Bellingham, WA	Attorney who prosecuted U.S. Patent No. 8,073,557 (one of the Patents in Suite) and business advisor to Plaintiff.
Joel Ard	Schacht Law Office, Inc. ROY-G-BIV Corp. 2801 Meridian St., Ste. 202 Bellingham, WA	Attorney who prosecuted U.S. Patent No. 8,073,557 (one of the Patents in Suit).
	Lowe Graham Jones, PLLC 701 Fifth Ave, Ste. 4800 Seattle, WA 98104	Attorneys who prosecuted the reexamination of U.S. Patent No. 6,516,236 (one of the Patents in Suit).
Stuart Goodnick	Parker Hannifan Corporation Compumotor Div. 5500 Rohnert Park, CA 94928	Mr. Goodnick may have knowledge concerning the conception of the subject matter disclosed in the Patents in Suit and knowledge concerning the design, development, manufacture, operation, marketing and/or sales of one or more prior art Parker systems, including Motion Toolbox and Motion Architect.
Mark McClung	former Parker Hannifan Corporation employee	Mr. McClung may have knowledge concerning the conception of the subject matter disclosed in the Patents in Suit and knowledge concerning the design, development, manufacture, operation, marketing and/or sales of one or more prior art Parker systems, including Motion Toolbox and Motion Architect.
Parker Hannifan Corporation	6035 Parkland Boulevard Cleveland, OH 44124	One or more present or former employees of Parker Hannifan Corporation may have knowledge concerning the subject matter disclosed in the Patents in Suit and knowledge concerning the design, development, manufacture, operation, marketing and/or sales of one or more prior art Parker systems, including Motion Toolbox and Motion Architect.

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