

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

SIPCO, LLC, *et al.*,

Plaintiffs,

v.

EMERSON ELECTRIC CO., *et al.*,

Defendants.

Civil Action No. 6:15-cv-907

JURY TRIAL DEMANDED

**PLAINTIFF SIPCO, LLC'S DISCLOSURE OF ASSERTED CLAIMS
AND INFRINGEMENT CONTENTIONS AGAINST
EMERSON ELECTRIC CO., EMERSON PROCESS MANAGEMENT, LLP,
FISHER-ROSEMOUNT SYSTEMS, INC., AND ROSEMOUNT, INC.**

Pursuant to P.R. 3-1 and 3-2 and the Court's Order dated January 26, 2016, plaintiff SIPCO, LLC hereby serves its Disclosure of Asserted Claims and Infringement Contentions on Defendants Emerson Electric Co., Emerson Process Management, LLP, Fisher-Rosemount Systems, Inc., and Rosemount Inc. (hereinafter, "Emerson" or "Defendants"). This disclosure is made solely for the purpose of this action. Because the Court has not yet construed the asserted claims, these contentions are based on Plaintiff's current understanding of the meanings of claim terms. In addition, discovery in this matter has not begun, and all evidence relied on by Plaintiff is based on Plaintiff's own investigation of publicly available information and product testing. Plaintiff therefore reserves the right to seek leave to supplement this disclosure in light of the Court's constructions of the asserted claims and/or if its understanding of the accused products changes as additional evidence (e.g., source code) is provided by the Defendants.

I. L.R. 3-1(a): Asserted Claims and (b): Accused Instrumentalities

A. Plaintiff asserts claims 1-4, 6, 8-11, 13-21, and 25 of U.S. Patent No. 7,697,492 ("the '492 patent") against the products identified in Exhibit A, attached hereto.

B. Plaintiff asserts claims 1, 3-8, 11-14, 24-32, 34, 36-38, 42, 43, 46-49, 51-57, and 59-64 of U.S. Patent No. 6,437,692 (“the ‘692 patent”) against the products identified in Exhibit B, attached hereto.

C. Plaintiff asserts claims 1, 5, 6, 8-12, and 14 of U.S. Patent No. 7,468,661 (“the ‘661 patent”) against the products identified in Exhibit C, attached hereto.

D. Plaintiff asserts claims 1-3, 10, 17, 18, and 37 of U.S. Patent No. 6,914,893 (“the ‘893 patent”) against the products identified in Exhibit D, attached hereto.

E. Plaintiff asserts claims 1, 2, and 4-8 of U.S. Patent No. 8,754,780 (“the ‘780 patent”) against the products identified in Exhibit E, attached hereto.

F. Plaintiff asserts claims 1, 7, 9, 16, and 17 of U.S. Patent No. 8,908,842 (“the ‘842 patent”) against the products identified in Exhibit F, attached hereto.

G. Plaintiff asserts claims 1, 13, 14, 16-19, and 31-35 of U.S. Patent No. 8,013,732 (“the ‘732 patent”) against the products identified in Exhibit G, attached hereto.

The Asserted Claims and Accused Products of Exhibits A-G are identified based on information that is publicly available and known to Plaintiff at this time. Plaintiff reserves all rights to assert additional or alternative claims and/or accused products in light of information gained during discovery and/or in light of the Court’s constructions of asserted claim terms.

II. L.R. 3-1(c): Claim Charts

A. Attached hereto as Exhibit H is a chart setting forth, separately for each asserted claim of the '492 patent, each accused apparatus, method, composition or other instrumentality (“Accused Products”).

B. Attached hereto as Exhibit I is a chart setting forth, separately for each asserted claim of the '692 patent, each accused apparatus, method, composition or other instrumentality (“Accused Products”).

C. Attached hereto as Exhibit J is a chart setting forth, separately for each asserted claim of the '661 patent, each accused apparatus, method, composition or other instrumentality (“Accused Products”).

D. Attached hereto as Exhibit K is a chart setting forth, separately for each asserted claim of the '893 patent, each accused apparatus, method, composition or other instrumentality (“Accused Products”).

E. Attached hereto as Exhibit L is a chart setting forth, separately for each asserted claim of the '780 patent, each accused apparatus, method, composition or other instrumentality (“Accused Products”).

F. Attached hereto as Exhibit M is a chart setting forth, separately for each asserted claim of the '842 patent, each accused apparatus, method, composition or other instrumentality (“Accused Products”).

G. Attached hereto as Exhibit N is a chart setting forth, separately for each asserted claim of the '732 patent, each accused apparatus, method, composition or other instrumentality (“Accused Products”).

III. L.R. 3-1(d): Literal Infringement/Doctrine of Equivalents

Based on current understanding of the claim language and publicly available information regarding the Accused Products, and without notice of any non-infringement position from the Defendants, Plaintiff currently asserts that each element of each asserted claim is literally infringed, directly and/or indirectly, by Defendants’ manufacture, sale, and offers to sell the Accused Products. Specifically, upon information and belief, Defendants directly infringe the asserted claims by making, using, selling and offering to sell WirelessHART enabled products, including those known to Plaintiff and listed on Exhibits A-G, in the United States. Also upon information and belief, Defendants indirectly infringe the asserted claims because they have had knowledge of the patents-in-suit and have induced their customers (including BP) to infringe the asserted claims and have sold or offered to sell the Accused Products knowing them to be especially made or especially adapted for use in infringement of the asserted claims and not a staple article or commodity of commerce suitable for substantial noninfringing use. Any claim element not literally present in the Accused Products as set forth in the Exhibits H-N is nonetheless met under the doctrine of equivalents because any differences between such claim element and the Accused Products are insubstantial and/or the Accused Products perform substantially the same function, in substantially the same way to achieve substantially the same result as the corresponding claim element. Plaintiff also specifically asserts that certain elements of the asserted claims are also infringed (in addition, or alternatively) under the doctrine of equivalents, as set forth in Exhibits H-N. In addition, Plaintiff reserves the right to request leave

to amend these contentions to assert infringement solely under the doctrine of equivalents with respect to any particular claim element(s) if warranted by discovery received from the plaintiffs, or a claim construction ruling from the Court, or both.

IV. L.R. 3-1(e): Priority

A. Upon current information and belief, Plaintiff understands that the asserted claims of the '492 patent claim priority to U.S. Patent Application No. 09/102,178, filed on June 22, 1998.

B. Upon current information and belief, Plaintiff understands that the asserted claims of the '692 patent claim priority to U.S. Patent Application No. 60/146,817, filed on June 22, 1998.

C. Upon current information and belief, Plaintiff understands that the asserted claims of the '661 patent claim priority to U.S. Patent Application No. 09/102,178, filed on June 22, 1998.

D. Upon current information and belief, Plaintiff understands that the asserted claims of the '893 patent claim priority to U.S. Patent Application No. 09/102,178, filed on June 22, 1998.

E. Upon current information and belief, Plaintiff understands that the asserted claims of the '780 patent claim priority to U.S. Patent Application No. 09/102,178, filed on June 22, 1998.

F. Upon current information and belief, Plaintiff understands that the asserted claims of the '842 patent claim priority to U.S. Patent Application No. 60/040,316, filed on February 14, 1997.

G. Upon current information and belief, Plaintiff understands that the asserted claims of the '732 patent claim priority to U.S. Patent Application No. 09/172,554, filed on June 22, 1998.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.