

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

INVENSYS SYSTEMS, INC.,

Plaintiff,

vs.

EMERSON ELECTRIC CO. and
MICRO MOTION INC., USA,

Defendants,

and

MICRO MOTION INC., USA,

Counterclaim-Plaintiff,

vs.

INVENSYS SYSTEMS, INC.,

Counterclaim-Defendant.

Case No. 12-CV-00799-LED

JURY TRIAL DEMANDED

**MICRO MOTION, INC.'S AMENDED ANSWER, AFFIRMATIVE DEFENSES,
AND SECOND AMENDED COUNTERCLAIMS**

Defendant Micro Motion, Inc. (“Micro Motion”)¹ hereby responds to Plaintiff’s First Amended Complaint (“the Complaint”) as follows:

PARTIES

1. Micro Motion lacks knowledge or information sufficient to form a belief about the truth of the allegations in this Paragraph and therefore denies them.

¹ Invensys Systems, Inc. (“Invensys”) incorrectly identified Micro Motion Inc., USA as a Defendant in this action in the Original Complaint. The correct name is Micro Motion, Inc.

2. No response is required from Micro Motion to the extent that the allegations in this Paragraph are not directed to Micro Motion.

3. Micro Motion denies that its name is “Micro Motion Inc., USA” and affirmatively states that its correct name is “Micro Motion, Inc.” Micro Motion admits that it is a Colorado corporation with its principal place of business being at 7070 Winchester Circle, Boulder, Colorado 80301, and that it is an indirect wholly-owned subsidiary of Emerson Electric Co. (“Emerson”). Micro Motion also admits that certain of its products are sold, offered for sale, and used in this District. Micro Motion otherwise denies the remaining allegations in this Paragraph.

JURISDICTION

4. Micro Motion admits that Invensys purports to bring this action under Title 35 of the United States Code.

5. No response is required from Micro Motion to the extent that the allegations in this Paragraph are not directed to Micro Motion. To the extent that a response is required, Micro Motion denies the allegations in this Paragraph.

6. Micro Motion admits that it conducts business in Texas and that this Court has personal jurisdiction over Micro Motion. Micro Motion otherwise denies the remaining allegations in this Paragraph.

VENUE

7. No response is required from Micro Motion to the extent that the allegations in this Paragraph are not directed to Micro Motion. Micro Motion admits that because it is subject to this Court’s personal jurisdiction and therefore is deemed to reside in this District, venue is proper; however, Micro Motion affirmatively states that for the reasons set forth in Micro Motion’s previously filed motion to transfer pursuant to 28 U.S.C. §1404(a), this Court should

transfer venue to the District of Colorado. Micro Motion denies the remaining allegations in this Paragraph.

BACKGROUND

8. No response is required from Micro Motion to the extent that the allegations in this Paragraph are not directed to Micro Motion. Micro Motion admits that some digital Coriolis flowmeters provide precise measurements of the mass flow rate of liquids and that some digital Coriolis flowmeters are used in a variety of industries, including oil and gas, chemical, and food and beverage. Micro Motion lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this Paragraph and therefore denies them.

9. No response is required from Micro Motion to the extent that the allegations in this Paragraph are not directed to Micro Motion. To the extent that a response is required, Micro Motion lacks knowledge or information sufficient to form a belief about the truth of the allegations in this Paragraph and therefore denies them.

10. Micro Motion admits that it is an indirect wholly-owned subsidiary of Emerson. Micro Motion also admits that in or around 2006, it released certain Coriolis flowmeters having a Micro Motion enhanced core processor. Micro Motion otherwise denies the remaining allegations in this Paragraph.

11. No response is required from Micro Motion to the extent that the allegations in this Paragraph are not directed to Micro Motion. Micro Motion denies that it has facilities in this District. Micro Motion lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this Paragraph and therefore denies them.

FIRST CLAIM

(Alleged Patent Infringement of the '646 Patent)

12. Micro Motion repeats and incorporates herein by reference its responses to Paragraphs 1-11 of the Complaint.

13. Micro Motion admits U.S. Patent No. 7,124,646 (“the '646 patent”) states on its face that: (a) its title is “Correcting for Two-Phase Flow in a Digital Flowmeter”; (b) it issued on October 24, 2006; (c) the named inventors are Manus P. Henry and Maria Jesus De La Fuente; and (d) Invensys is the assignee. Micro Motion also admits that a copy of what purports to be the '646 patent is attached to the Complaint as Exhibit A. Micro Motion denies that the '646 patent was duly and legally issued. As for the remaining allegations, Micro Motion lacks knowledge or information sufficient to form a belief as to their truth and therefore denies them.

14. No response is required from Micro Motion to the extent that the allegations in this Paragraph are not directed to Micro Motion. To the extent that a response is required, Micro Motion admits that Micro Motion makes, offers for sale, and sells, within the territorial boundaries of the United States, Coriolis meters containing a Micro Motion transmitter with a Micro Motion enhanced core processor, and the components thereof. Micro Motion denies the remaining allegations in this Paragraph.

15. No response is required from Micro Motion to the extent that the allegations in this Paragraph are not directed to Micro Motion. To the extent that a response is required, Micro Motion denies the allegations in this Paragraph.

16. No response is required from Micro Motion to the extent that the allegations in this Paragraph are not directed to Micro Motion. To the extent that a response is required, Micro Motion lacks sufficient information to form a belief about the truth of the vague allegations

regarding “at least one Information Disclosure Statement[.]” in this Paragraph and therefore denies them. Further, Micro Motion denies the remaining allegations in this Paragraph.

17. No response is required from Micro Motion to the extent that the allegations in this Paragraph are not directed to Micro Motion. To the extent that a response is required, Micro Motion denies the allegations in this Paragraph.

SECOND CLAIM

(Alleged Patent Infringement of the '761 Patent)

18. Micro Motion repeats and incorporates herein by reference its responses to Paragraphs 1-17 of the Complaint.

19. Micro Motion admits U.S. Patent No. 7,136,761 (“the '761 patent”) states on its face that: (a) its title is “Digital Flowmeter”; (b) it issued on November 14, 2006; (c) the named inventors are Manus P. Henry, David W. Clarke, and James H. Vignos; and (d) Invensys is the assignee. Micro Motion also admits that a copy of what purports to be the '761 patent is attached to the Complaint as Exhibit B. Micro Motion denies that the '761 patent was duly and legally issued. As for the remaining allegations, Micro Motion lacks knowledge or information sufficient to form a belief as to their truth and therefore denies them.

20. No response is required from Micro Motion to the extent that the allegations in this Paragraph are not directed to Micro Motion. To the extent that a response is required, Micro Motion admits that Micro Motion makes, offers for sale, and sells, within the territorial boundaries of the United States, Coriolis meters containing a Micro Motion transmitter with a Micro Motion enhanced core processor, and the components thereof. Micro Motion denies the remaining allegations in this Paragraph.

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