

Miscellaneous Docket No. \_\_\_\_\_

---

---

**United States Court of Appeals  
for the Federal Circuit**

---

IN RE EMERSON ELECTRIC CO.  
and MICRO MOTION, INC.,

*Petitioners.*

---

---

*Petition for Writ of Mandamus to the United States District Court for the Eastern  
District of Texas in Case No. 6:12-cv-799, Leonard Davis, Judge.*

---

---

**PETITION FOR WRIT OF MANDAMUS**

FOLEY & LARDNER LLP  
Linda E.B. Hansen  
Richard S. Florsheim  
Jeffrey N. Costakos  
Kadie M. Jelenchick  
777 East Wisconsin Avenue  
Milwaukee, WI 53202  
Phone: 414.271.2400  
Facsimile: 414.297.4900

*Counsel for Petitioners Emerson  
Electric Co. and Micro Motion, Inc.*

November 25, 2013

## CERTIFICATE OF INTEREST

Counsel for Petitioners Emerson Electric Co. and Micro Motion, Inc. certifies the following:

1. The full name of every party or amicus represented by me is:  
Emerson Electric Co. and Micro Motion, Inc.
2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is: None.
3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are: Emerson Electric Co. and Micro Motion, Inc., a wholly-owned subsidiary of Emerson Electric Co., a publicly held corporation. No publicly held corporation other than Emerson Electric Co. owns 10 percent or more of the stock of Micro Motion, Inc. Emerson Electric Co. is a publicly held corporation that has neither a parent corporation nor a publicly held corporation owning 10 percent or more of its stock.
4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this Court, are: Linda E.B. Hansen, Richard S. Florsheim, Jeffrey N. Costakos, and Kadie M. Jelenchick of Foley & Lardner LLP.

Dated: November 22, 2013

Respectfully submitted,



---

FOLEY & LARDNER LLP

Linda E.B. Hansen

Richard S. Florsheim

Jeffrey N. Costakos

Kadie M. Jelenchick

Foley & Lardner LLP

777 East Wisconsin Avenue

Milwaukee, WI 53202

Telephone: 414.271.2400

Facsimile: 414.297.4900

*Attorneys for Petitioners Emerson  
Electric Co. and Micro Motion, Inc.*

## TABLE OF CONTENTS

	Page(s)
TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES .....	iii
I. INTRODUCTION .....	1
II. RELIEF SOUGHT.....	3
III. ISSUE PRESENTED .....	3
IV. STATEMENT OF FACTS .....	4
A. Relevant Procedural Background.....	4
B. Invensys And The Majority Of Its Relevant Evidence Are Located Outside The Eastern District Of Texas .....	5
C. Micro Motion And Its Relevant Evidence Are Located In The District Of Colorado .....	8
D. Emerson Does Not Have Any Relevant Documents Or Witnesses In This Case That Justify Venue In The Eastern District Of Texas .....	10
E. Third-Party Witnesses And Documents Are Not Primarily Located in the Eastern District of Texas .....	11
V. ARGUMENT SUPPORTING ISSUANCE OF THE WRIT .....	12
A. Petitioners Meet The Legal Standards For Issuance Of A Writ of Mandamus .....	14
B. The District Court Clearly Abused Its Discretion By Denying Petitioners’ Motion To Transfer.....	16
1. Petitioners presented facts clearly sufficient for a transfer.....	16
2. The <i>Volkswagen</i> private interest factors favor transfer to the District of Colorado .....	17

a.	<i>The majority of the most relevant sources of proof are in Colorado</i> .....	17
b.	<i>Invensys’s third-party witnesses were cherry-picked from Texas</i> .....	19
c.	<i>Considering all relevant, willing witnesses in this case, the District of Colorado is a more convenient and less costly forum than the Eastern District of Texas</i> .....	19
3.	The <i>Volkswagen</i> public interest factors favor transfer .....	23
a.	<i>Patent cases are resolved more quickly in Colorado than in the Eastern District of Texas</i> .....	23
b.	<i>Colorado has the strongest local interest in resolving this case</i> .....	23
C.	The Court Should Issue A Writ Because Petitioners Have No Other Means Of Obtaining The Relief Sought .....	27
VI.	CONCLUSION.....	28

# 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.