

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ALLTECH ASSOCIATES, INC.,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 13-425-RGA
v.	)	
	)	
TELEDYNE INSTRUMENTS, INC.,	)	
d/b/a TELEDYNE ISCO,	)	
	)	
Defendant.	)	

**ALLTECH’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Alltech Associates, Inc. (“Alltech”) files this complaint for patent infringement against Teledyne Instruments, Inc. (“Teledyne”) and states as follows:

**The Parties**

1. Alltech is a corporation organized under the laws of the State of Illinois with its principal place of business at 2051 Waukegan Road, Deerfield, IL 60015.

2. Upon information and belief, Defendant Teledyne is a corporation organized under the laws of the State of Delaware with its principal place of business at 16830 Chestnut St., City of Industry, CA 91748. Further upon information and belief, Teledyne does business through one or more business units, including Teledyne Isco (“Isco”), whose principal place of business is 4700 Superior Street, Lincoln, NE 68504.

3. Alltech is in the business, *inter alia*, of selling chromatography equipment, including flash chromatography (“FC”) equipment, and related consumables (such as separation columns and media), and has sold such chromatography equipment and consumables throughout the United States and in this District. Specifically, Alltech sells Reveleris<sup>®</sup> flash chromatography systems for use in laboratory research, with particular application in the field of drug discovery. In general, chromatography is a technique for the separation of a mixture of chemical

compounds into its components. The Reveleris<sup>®</sup> system, an embodiment of the Alltech patents that are the subject of this action, detects and collects the separated components through means of integrated destructive and non-destructive detectors

4. Isco is also in the business, *inter alia*, of selling chromatography equipment and related consumables and has sold and provided flash chromatography systems throughout the United States and, on information and belief, in this District. Specifically, Isco sells the CombiFlash<sup>®</sup> Rf+ Lumen and CombiFlash<sup>®</sup> Rf+ PurIon (-43 and -44 Models) integrated systems, which contain an integrated destructive and integrated non-destructive detector. Previously, Isco sold the CombiFlash<sup>®</sup> Rf200i, which also contains an integrated destructive and integrated non-destructive detector. Isco also sells the CombiFlash<sup>®</sup> Rf+ and the CombiFlash<sup>®</sup> Rf+ PurIon (-41 and -42 Models) systems, which contain integrated non-destructive detectors, and are adapted to work with an add-on external destructive detector. Previously, Isco sold the CombiFlash<sup>®</sup> Rf 200 system, which contains an integrated non-destructive detector and which is also adapted to work with an add-on, external, destructive detector. Additionally, Isco also sells the 340CF Preparative Evaporative Light Scattering Detector (“ELSD”), which is itself adapted to be used as an add-on destructive detector with systems such as the CombiFlash<sup>®</sup> Rf+, CombiFlash<sup>®</sup> Rf+ PurIon (-41 and -42 Models), and CombiFlash<sup>®</sup> Rf 200 systems. Previously, Isco sold the Model 330 ELSD, which is also adapted to be used as an add-on destructive detector with systems such as the CombiFlash<sup>®</sup> Rf+, CombiFlash<sup>®</sup> Rf+ PurIon (-41 and -42 Models), and CombiFlash<sup>®</sup> Rf 200 systems. The CombiFlash<sup>®</sup> systems infringe the Alltech patents asserted in this action. Isco also sells consumables for the systems and provides service on the systems for its customers.

5. With its CombiFlash<sup>®</sup> systems, Isco is a direct competitor of Alltech in the same geographical and product markets to which Alltech's Reveleris<sup>®</sup> systems are directed.

### **Jurisdiction and Venue**

6. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. Jurisdiction as to these claims is conferred on this Court by 35 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Defendant as Defendant is a resident corporation of Delaware and this District.

8. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c), and 1400(b).

### **Count I – Infringement of U.S. Patent 8,115,930**

9. Alltech incorporates by reference paragraphs 1-8 as if fully set forth herein.

10. On February 14, 2012, United States Patent No. 8,115,930 ("the 930 patent") entitled "Methods and Apparatus for Analyzing Samples and Collecting Sample Fractions" was duly and legally issued by the United States Patent and Trademark Office. Alltech is the owner of all right, title, and interest in and to the 930 patent by assignment, with full right to bring suit to enforce the patent, including the right to recover for past infringement damages. A copy of the 930 patent is attached hereto as Exhibit A.

11. Alltech has complied with applicable marking requirements of 35 U.S.C. § 287.

12. Isco has known of the 930 patent since at least as early as February 22, 2012, and on information and belief, Isco is aware of its infringement, as set out below.

13. Isco has directly infringed and continues to infringe apparatus claims 12, 15, and 21 of the 930 patent under 35 U.S.C. § 271(a) by making, using, selling, or offering for sale in

the United States at least its CombiFlash<sup>®</sup> Rf 200i, CombiFlash<sup>®</sup> Rf+ PurIon (-43 and -44 Models) and CombiFlash<sup>®</sup> Rf+ Lumen systems.

14. Isco has infringed and continues to infringe at least method claim 3 of the 930 patent under 35 U.S.C. § 271 (b) and (c) through the sale and supply of its CombiFlash<sup>®</sup> Rf 200i, CombiFlash<sup>®</sup> Rf+ PurIon (-43 and -44 Models), and CombiFlash<sup>®</sup> Rf+ Lumen systems and through sale and supply of related consumables to users in this country of CombiFlash<sup>®</sup> Rf 200i, CombiFlash<sup>®</sup> Rf+ PurIon (-43 and -44 Models), and CombiFlash<sup>®</sup> Rf+ Lumen systems. Isco's CombiFlash<sup>®</sup> Rf 200i, CombiFlash<sup>®</sup> Rf+ PurIon (-43 and -44 Models), and CombiFlash<sup>®</sup> Rf+ Lumen systems are especially made to perform the detection and collection methods of claim 3 of the 930 patent; are not staple articles of commerce; and have no substantial use except to perform the detection and collection methods of at least claim 3 of the 930 patent. Isco specifically advertises the CombiFlash<sup>®</sup> Rf 200i, CombiFlash<sup>®</sup> Rf+ PurIon (-43 and -44 Models), and CombiFlash<sup>®</sup> Rf+ Lumen systems for these methods and instructs customers and those to whom it supplies CombiFlash<sup>®</sup> Rf 200i, CombiFlash<sup>®</sup> Rf+ PurIon (-43 and -44 Models), and CombiFlash<sup>®</sup> Rf+ Lumen systems and related consumables in the performance of these methods. Isco's customers and those to whom it supplies, or causes to be supplied, CombiFlash<sup>®</sup> Rf 200i, CombiFlash<sup>®</sup> Rf+ PurIon (-43 and -44 Models), and CombiFlash<sup>®</sup> Rf+ Lumen systems and consumables use the systems to perform the methods of at least claim 3 of the 930 patent.

15. Isco sells and supplies its CombiFlash<sup>®</sup> Rf 200, CombiFlash<sup>®</sup> Rf+, CombiFlash<sup>®</sup>, and CombiFlash<sup>®</sup> Rf+ PurIon (-41 and -42 Models) systems and further sells, supplies, or causes to be supplied to users of that system a destructive detector, including at least an Evaporative Light Scattering Detector ("ELSD"), for external connection to and operation with the CombiFlash<sup>®</sup> Rf 200, CombiFlash<sup>®</sup> Rf+, and CombiFlash<sup>®</sup> Rf+ PurIon (-41 and -42 Models)

systems. The ELSD sold, supplied, or caused to be supplied by Isco is specially designed for use with the CombiFlash<sup>®</sup> Rf 200, CombiFlash<sup>®</sup> Rf+, and CombiFlash<sup>®</sup> Rf+ PurIon (-41 and -42 Models) systems to provide an additional detector for separated chemical compounds. With knowledge of the patent, Isco specifically instructs customers and those to whom it supplies and has supplied its CombiFlash<sup>®</sup> Rf 200, CombiFlash<sup>®</sup> Rf+, and CombiFlash<sup>®</sup> Rf+ PurIon (-41 and -42 Models) systems in the connection and combination of the ELSD to the CombiFlash<sup>®</sup> Rf 200, CombiFlash<sup>®</sup> Rf+, and CombiFlash<sup>®</sup> Rf+ PurIon (-41 and -42 Models) systems and the operation of the resulting combination (“combined apparatus”). Isco intends that the combined apparatus be made and the instructed operations be performed.

16. Isco’s customers and those to whom it supplies, or causes to be supplied, CombiFlash<sup>®</sup> Rf 200, CombiFlash<sup>®</sup> Rf+, and CombiFlash<sup>®</sup> Rf+ PurIon (-41 and -42 Models) systems and ELSD add-on detectors create a combined apparatus that infringes apparatus claims 12, 15 and 21 of the 930 patent and use the combined apparatus according to Isco’s instructions to perform the method of method claim 3 of the 930 patent.

17. Isco has infringed and continues to infringe method claim 3 and apparatus claims 12, 15, and 21 of the 930 patent under 35 U.S.C. § 271(b) and (f) through: (1) sale or supply of its CombiFlash<sup>®</sup> Rf 200, CombiFlash<sup>®</sup> Rf+, and CombiFlash<sup>®</sup> Rf+ PurIon (-41 and -42 Models) systems and ELSD, both inside and outside the United States, with instructions for their combination and operation; (2) sale or supply of its ELSD to third-parties, both inside and outside the United States, who already possessed a CombiFlash<sup>®</sup> Rf 200, CombiFlash<sup>®</sup> Rf+, or CombiFlash<sup>®</sup> Rf+ PurIon (-41 and -42 Models) system, with instructions for their combination and operation; and (3) sale or supply of related consumables to third-party users of the combined apparatus in the United States.

18. Isco has further infringed and continues to infringe at least claims 12, 15, and 21 of the 930 patent under 35 U.S.C. § 271(b) by providing services to customers and users of the CombiFlash® Rf 200i and CombiFlash® Rf+ Lumen systems and CombiFlash® Rf 200, CombiFlash® Rf+, and CombiFlash® Rf+ PurIon (-41 and -42 Models) (combined apparatus) systems, including customers and users who received the systems prior to issuance of the patent, by providing service to maintain the operation of the system during the life of the patent.

19. Isco has at no time been either expressly or impliedly licensed under the 930 patent.

### **Count II – Infringement of U.S. Patent 8,305,581**

20. Alltech incorporates by reference paragraphs 1-8 as if fully set forth herein.

21. On November 6, 2012, United States Patent No. 8,305,581 (“the 581 patent”) entitled “Methods and Apparatus for Analyzing Samples and Collecting Sample Fractions” was duly and legally issued by the United States Patent and Trademark Office. Alltech is the owner of all right, title, and interest in and to the ‘581 patent by assignment, with full right to bring suit to enforce the patent, including the right to recover for past infringement damages. A copy of the ‘581 patent is attached hereto as Exhibit B.

22. Alltech has complied with applicable marking requirements of 35 U.S.C. § 287.

23. Isco has known of the 581 patent, or the application leading to it, since at least as early as November 22, 2012, and on information and belief, Isco is aware of its infringement, as set out below.

24. Isco has directly infringed and continues to infringe at least apparatus claims 11, 12, 14, and 19 of the 581 patent under 35 U.S.C. § 271(a) by making, using, selling, or offering for sale in the United States at least its CombiFlash® Rf 200i, CombiFlash® Rf+ PurIon (-43 and -44 Models), and CombiFlash® Rf+ Lumen systems.

25. Isco has infringed and continues to infringe at least method claim 2 of the 581 patent under 35 U.S.C. § 271 (b) and (c) through the sale and supply of its CombiFlash® Rf 200i, CombiFlash® Rf+ PurIon (-43 and -44 Models), and CombiFlash® Rf+ Lumen systems and through sale and supply of related consumables to users in this country of the CombiFlash® Rf 200i, CombiFlash® Rf+ PurIon (-43 and -44 Models), and CombiFlash® Rf+ Lumen systems. Isco's CombiFlash® Rf 200i, CombiFlash® Rf+ PurIon (-43 and -44 Models), and CombiFlash® Rf+ Lumen systems are especially made to perform the detection and collection methods of at least claim 2 of the 581 patent; are not staple articles of commerce; and have no substantial uses except to perform the detection and collection methods of claim 2 of the 581 patent. Isco specifically advertises the CombiFlash® Rf 200i, CombiFlash® Rf+ PurIon (-43 and -44 Models), and CombiFlash® Rf+ Lumen systems for these methods and instructs customers and those to whom it supplies CombiFlash® Rf 200i, CombiFlash® Rf+ PurIon (-43 and -44 Models), and CombiFlash® Rf+ Lumen systems and related consumables in the performance of these methods. Isco's customers and those to whom it supplies, or causes to be supplied, CombiFlash® Rf 200i, CombiFlash® Rf+ PurIon (-43 and -44 Models), and CombiFlash® Rf+ Lumen systems and consumables use the systems to perform the methods of at least claim 2 of the 581 patent.

26. Alltech incorporates by reference paragraph 15 as if fully set forth herein.

27. Isco's customers and those to whom it supplies, or causes to be supplied, CombiFlash® Rf 200, CombiFlash® Rf+, and CombiFlash® Rf+ PurIon (-41 and -42 Models) systems and ELSD add-on detectors create a combined apparatus that infringes at least apparatus claims 11, 12, 14, and 19 of the 581 patent and use the combined apparatus according to Isco's instructions to perform the method of at least method claim 2 of the 581 patent.

28. Isco has infringed and continues to infringe at least method claim 2 and apparatus claims 11, 12, 14, and 19 of the 581 patent under 35 U.S.C. § 271(b) and (f) through (1) sale or supply of its CombiFlash® Rf 200, CombiFlash® Rf+, and CombiFlash® Rf+ PurIon (-41 and -42 Models) systems and ELSD, both inside and outside the United States, with instructions for their combination and operation; (2) sale or supply of its ELSD to third-parties, both inside and outside the United States, who already possessed a CombiFlash® Rf 200, CombiFlash® Rf+, and/or CombiFlash® Rf+ PurIon (-41 and -42 Models) system, with instructions for their combination and operation; and (3) sale or supply of related consumables to third-party users of the combined apparatus in the United States.

29. Isco has further infringed and continues to infringe the 581 patent under 35 U.S.C. § 271(b) by providing services to customers and users of the CombiFlash® Rf 200i, CombiFlash® Rf+ PurIon (-43 and -44 Models), and CombiFlash® Rf+ Lumen systems and CombiFlash® Rf 200, CombiFlash® Rf+, and CombiFlash® Rf+ PurIon (-41 and -42 Models) (combined apparatus) systems, including customers and users who received the systems prior to issuance of the patent, by providing service to maintain the operation of the system during the life of the patent.

30. Isco has at no time been either expressly or impliedly licensed under the ‘581 patent.

### **Count III – Infringement of U.S. Patent 8,305,582**

31. Alltech incorporates by reference paragraphs 1-8 as if fully set forth herein.

32. On November 6, 2012, United States Patent No. 8,305,582 (“the 582 patent”) entitled “Methods and Apparatus for Analyzing Samples and Collecting Sample Fractions” was duly and legally issued by the United States Patent and Trademark Office. Alltech is the owner of all right, title, and interest in and to the 582 patent by assignment, with full right to bring suit



to enforce the patent, including the right to recover for past infringement damages. A copy of the 582 patent is attached hereto as Exhibit C.

33. Alltech has complied with applicable marking requirements of 35 U.S.C. § 287.

34. Isco has known of the 582 patent, or the application leading to it, since at least as early as November 22, 2012, and on information and belief, Isco is aware of its infringement, as set out below.

35. Isco has directly infringed and continues to infringe at least apparatus claim 19 of the 582 patent under 35 U.S.C. § 271(a) by making, using, selling, or offering for sale in the United States at least its CombiFlash® Rf 200i, CombiFlash® Rf+ PurIon (-43 and -44 Models), and CombiFlash® Rf+ Lumen systems.

36. Alltech incorporates by reference paragraph 15 as if fully set forth herein.

37. Isco's customers and those to whom it supplies, or causes to be supplied, CombiFlash® Rf 200, CombiFlash® Rf+, or CombiFlash® Rf+ PurIon (-41 and -42 Models) systems and ELSD add-on detectors create a combined apparatus that infringes apparatus claim 19 of the 582 patent.

38. Isco has infringed and continues to infringe apparatus claim 19 of the 582 patent under 35 U.S.C. § 271(b) and (f) through (1) sale or supply of its CombiFlash® Rf 200, CombiFlash® Rf+, and CombiFlash® Rf+ PurIon (-41 and -42 Models) systems system and ELSD, both inside and outside the United States, with instructions for their combination and operation; (2) sale or supply of its ELSD to third-parties, both inside and outside the United States, who already possessed a CombiFlash® Rf 200, CombiFlash® Rf+, and/or CombiFlash® Rf+ PurIon (-41 and -42 Models) system, with instructions for their combination and operation;

and (3) sale or supply of related consumables to third-party users of the combined apparatus in the United States.

39. Isco has further infringed and continues to infringe the 582 patent under 35 U.S.C. § 271(b) by providing services to customers and users of the CombiFlash® Rf 200i, CombiFlash® Rf+ PurIon (-43 and -44 Models), and CombiFlash® Rf+ Lumen systems and CombiFlash® Rf 200, CombiFlash® Rf+, , and CombiFlash® Rf+ PurIon (-41 and -42 Models) systems (combined apparatus) systems, including customers and users who received the systems prior to issuance of the patent, by providing service to maintain the operation of the system during the life of the patent.

40. Isco has at no time been either expressly or impliedly licensed under the 582 patent.

#### **Count IV – Infringement of U.S. Patent 8,314,934**

41. Alltech incorporates by reference paragraphs 1-8 as if fully set forth herein.

42. On November 20, 2012, United States Patent No. 8,314,934 (“the 934 patent”) entitled “Methods and Apparatus for Analyzing Samples and Collecting Sample Fractions” was duly and legally issued by the United States Patent and Trademark Office. Alltech is the owner of all right, title, and interest in and to the 934 patent by assignment, with full right to bring suit to enforce the patent, including the right to recover for past infringement damages. A copy of the 934 patent is attached hereto as Exhibit D.

43. Alltech has complied with applicable marking requirements of 35 U.S.C. § 287.

44. Isco has known of the 934 patent, or the application leading to it, since at least as early as November 22, 2012 has known of the 934 patent, or the application leading to it, since at least as early as November 22, 2012, and on information and belief, Isco is aware of its infringement, as set out below.

45. Isco has directly infringed and continues to infringe at least apparatus claim 19 of the 934 patent under 35 U.S.C. § 271(a) by making, using, selling, or offering for sale in the United States its CombiFlash® Rf 200i, CombiFlash® Rf+ PurIon (-43 and -44 Models), and CombiFlash® Rf+ Lumen systems.

46. Alltech incorporates by reference paragraph 15 as if fully set forth herein.

47. Isco's customers and those to whom it supplies, or causes to be supplied, CombiFlash® Rf 200, CombiFlash® Rf+ and CombiFlash® Rf+ PurIon (-41 and -42 Models) systems and ELSD add-on detectors create a combined apparatus that infringes apparatus claim 19 of the 934.

48. Isco has infringed and continues to infringe apparatus claim 19 of the 934 patent under 35 U.S.C. § 271(b) and (f) through (1) sale or supply of its CombiFlash® Rf 200, CombiFlash® Rf+, and CombiFlash® Rf+ PurIon (-41 and -42 Models) systems system and ELSD, both inside and outside the United States, with instructions for their combination and operation; (2) sale or supply of its ELSD to third-parties, both inside and outside the United States, who already possessed a CombiFlash® Rf 200, CombiFlash® Rf+, and/or CombiFlash® Rf+ PurIon (-41 and -42 Models) system, with instructions for their combination and operation; and (3) sale or supply of related consumables to third-party users of the combined apparatus in the United States.

49. Isco has further infringed and continues to infringe the 934 patent under 35 U.S.C. § 271(b) by providing services to customers and users of the CombiFlash® Rf 200i, CombiFlash® Rf+ PurIon (-43 and -44 Models), and CombiFlash® Rf+ Lumen systems and CombiFlash® Rf 200, CombiFlash® Rf+, and CombiFlash® Rf+ PurIon (-41 and -42 Models) (combined apparatus) systems, including customers and users who received the systems prior to

issuance of the patent, by providing service to maintain the operation of the system during the life of the patent.

50. Isco has at no time been either expressly or impliedly licensed under the 934 patent.

51. Alltech incorporates by reference paragraphs 9-52, Counts I-IV, as if fully set forth herein. Isco's infringement has caused and will cause damages to Alltech, and Alltech is entitled to recover from Isco damages adequate to compensate it for the infringement. Isco will continue to infringe Alltech's patent rights, continuing to damage Alltech's business and causing irreparable harm, unless enjoined.

52. On information and belief, Isco's infringement has been and will continue to be willful.

### **PRAYER**

Alltech requests judgment that:

1. Defendant Teledyne, at least through its unit Isco, has infringed the Alltech patents enumerated above;
2. Alltech recover actual damages adequate to compensate it for all infringement occurring through the date of judgment, with prejudgment interest, and for any supplemental damages as appropriate and post-judgment interest after that date;
3. Alltech be awarded enhanced damages and counsel fees for willful infringement as permitted under the law;
4. Defendant Teledyne, through its unit Isco and otherwise, its agents, employees, representatives, successors, and assigns, and those acting in privity or in concert with any or all of them, be enjoined from further infringement of each of the Alltech patents enumerated above.

5. Alltech be awarded such other relief as the Court deems just and equitable.

Respectfully submitted,

POTTER ANDERSON & CORROON LLP

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