

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ROCKWELL AUTOMATION, INC.
Plaintiff,

v.

3S-SMART SOFTWARE SOLUTIONS,
GMBH
Defendant.

Civil Action No.

(JURY TRIAL DEMANDED)

COMPLAINT

Plaintiff Rockwell Automation, Inc., by its attorneys and for its complaint, alleges and states as follows:

THE PARTIES

1. Plaintiff Rockwell Automation, Inc. (“Rockwell”) is a corporation organized and existing under the laws of the State of Delaware having its principal place of business in Wisconsin.

2. On information and belief, defendant 3S-Smart Software Solutions, GmbH (“3S”) is a corporation organized and existing under the laws of Germany having its principal place of business at Memminger Str. 151, 87439 Kempten, Germany.

NATURE OF THE ACTION, JURISDICTION, AND VENUE

3. This is an action for patent infringement arising under the patent statutes, 35 U.S.C. § 101 *et seq.*, in particular 35 U.S.C. § 271.

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. 3S maintains an interactive website accessible in this forum which enables residents of this forum to interact with 3S, facilitate business with 3S, to exchange business

information with 3S, form contracts with 3S, and through which 3S offers products, such as its CoDeSys software platform and related products, including CoDeSys v2.3 and CoDeSys v3.5 (collectively the “Accused Products”) for sale in this forum that infringe, induce infringement of, and/or contribute to the infringement of the patents asserted in this litigation.

6. 3S, through its interactive website, provides instructions encouraging residents of this forum to purchase and use the Accused Products in a manner that infringes the patents asserted in this litigation.

7. 3S has offered for sale and sold one or more of the Accused Products in this forum that infringe, induce infringement of, and/or contribute to the infringement of the patents asserted in this litigation.

8. This Court has personal jurisdiction over 3S because, on information and belief, 3S has established minimum contacts with the forum. On information and belief 3S does business in this forum and by its acts has caused and continues to cause Rockwell injury in this forum, including by having committed and continuing to commit acts of patent infringement in this forum as alleged in this Complaint.

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

THE PATENTS-IN-SUIT

10. U.S. Patent No. 5,619,409 was duly and legally issued on April 8, 1997 (“the ’409 Patent”). The ’409 Patent is entitled “Program Analysis Circuitry for Multi-Tasking Industrial Controller.”

11. Rockwell is the owner of the ’409 Patent.

12. 3S had knowledge of the ’409 Patent before the Complaint was filed.

13. U.S. Patent No. 5,636,124 was duly and legally issued on June 3, 1997 (“the ’124 Patent”). The ’124 Patent is entitled “Multitasking Industrial Controller.”

14. Rockwell is the owner of the ’124 Patent.

15. 3S had knowledge of the ’124 Patent before the Complaint was filed.

16. U.S. Patent No. 5,812,133 was duly and legally issued on September 22, 1998 (“the ’133 Patent”). The ’133 Patent is entitled “Industrial Controller with Display of Rung Execution.”

17. Rockwell is the owner of the ’133 Patent.

18. 3S had knowledge of the ’133 Patent before the Complaint was filed.

19. U.S. Patent No. 5,818,711 was duly and legally issued on October 6, 1998 (“the ’711 Patent”). The ’711 Patent is entitled “Method for Visually Determining the Status of Program Edits in an On-Line Programming Environment.”

20. Rockwell is the owner of the ’711 Patent.

21. 3S had knowledge of the ’711 Patent before the Complaint was filed.

22. U.S. Patent No. 5,844,795 was duly and legally issued on December 1, 1998 (“the ’795 Patent”). The ’795 Patent is entitled “Diagnostic Aid for Industrial Controller Using Multi-Tasking Architecture.”

23. Rockwell is the owner of the ’795 Patent.

24. 3S had knowledge of the ’795 Patent before the Complaint was filed.

25. U.S. Patent No. 5,845,149 was duly and legally issued on December 1, 1998 (“the ’149 Patent”). The ’149 Patent is entitled “Industrial Controller with I/O Mapping Table for Linking Software Addresses to Physical Network Addresses.”

26. Rockwell is the owner of the ’149 Patent.

27. 3S had knowledge of the '149 Patent before the Complaint was filed.

28. U.S. Patent No. 5,940,293 was duly and legally issued on August 17, 1999 ("the '293 Patent"). The '293 Patent is entitled "Bar Chart Editor for Industrial Controller."

29. Rockwell is the owner of the '293 Patent.

30. 3S had knowledge of the '293 Patent before the Complaint was filed.

31. U.S. Patent No. 6,138,174 was duly and legally issued on October 24, 2000 ("the '174 Patent"). The '174 Patent is entitled "Industrial Control System Providing Remote Execution of Graphical Utility Programs."

32. Rockwell is the owner of the '174 Patent.

33. 3S had knowledge of the '174 Patent before the Complaint was filed.

34. U.S. Patent No. 6,247,168 was duly and legally issued on June 12, 2001 ("the '168 Patent"). The '168 Patent is entitled "Embedded Non-Volatile Programming Tool."

35. Rockwell is the owner of the '168 Patent.

36. 3S had knowledge of the '168 Patent before the Complaint was filed.

37. U.S. Patent No. 6,675,226 was duly and legally issued on January 6, 2004 ("the '226 Patent"). The '226 Patent is entitled "Network Interface for Industrial Controller Providing Application Programmer Interface."

38. Rockwell is the owner of the '226 Patent.

39. 3S had knowledge of the '226 Patent before the Complaint was filed.

40. U.S. Patent No. 6,816,817 was duly and legally issued on November 9, 2004 ("the '817 Patent"). The '817 Patent is entitled "Networked Control System with Real Time Monitoring."

41. Rockwell is the owner of the '817 Patent.

42. 3S had knowledge of the '817 Patent before the Complaint was filed.

43. U.S. Patent No. 6,978,225 was duly and legally issued on December 20, 2005 ("the '225 Patent"). The '225 Patent is entitled "Networked Control System with Real Time Monitoring."

44. Rockwell is the owner of the '225 Patent.

45. 3S had knowledge of the '225 Patent before the Complaint was filed.

46. U.S. Patent No. 7,130,704 was duly and legally issued on October 31, 2006 ("the '704 Patent"). The '704 Patent is entitled "Industrial Controller Automation Interface."

47. Rockwell is the owner of the '704 Patent.

48. 3S had knowledge of the '704 Patent before the Complaint was filed.

49. U.S. Patent No. 7,143,366 was duly and legally issued on November 28, 2006 ("the '366 Patent"). The '366 Patent is entitled "Graphical Compare Utility."

50. Rockwell is the owner of the '366 Patent.

51. 3S had knowledge of the '366 Patent before the Complaint was filed.

52. U.S. Patent No. 7,693,585 was duly and legally issued on April 6, 2010 ("the '585 Patent"). The '585 Patent is entitled "Enabling Object Oriented Capabilities in Automation Systems."

53. Rockwell is the owner of the '585 Patent.

54. 3S had knowledge of the '585 Patent before the Complaint was filed.

55. U.S. Patent No. 7,716,567 was duly and legally issued on May 11, 2010 ("the '567 Patent"). The '567 Patent is entitled "Multilinguistic Industrial Control and Monitoring System."

56. Rockwell is the owner of the '567 Patent.

57. 3S had knowledge of the '567 Patent before the Complaint was filed.

58. U.S. Patent No. 7,836,122 was duly and legally issued on November 16, 2010 (“the '122 Patent”). The '122 Patent is entitled “Industrial Controller Interface Providing Standardized Object Access to Proprietary Software Objects that Interact with Industrial Controllers.”

59. Rockwell is the owner of the '122 Patent.

60. 3S had knowledge of the '122 Patent before the Complaint was filed.

COUNT 1 – INFRINGEMENT OF U.S. PATENT NO. 5,619,409

61. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

62. On information and belief, 3S’s direct and indirect customers (“Customers”) have been and continue to directly infringe, literally or under the doctrine of equivalents, the '409 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing one or more of the Accused Products, that embody the invention claimed in the '409 Patent.

63. On information and belief, 3S’s Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '409 Patent pursuant to 35 U.S.C. § 271(a) by using one or more of the Accused Products to practice the invention claimed in the '409 Patent.

64. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '409 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so

unless enjoined by this Court. For example, upon information and belief, use of the Accused Products infringes the '409 Patent.

65. 3S provides instructions to its Customers to use the Accused Products to infringe the '409 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the alarm and breakpoint functions of the Accused Products.

66. On information and belief, 3S knew that the use of the alarm and breakpoint functions of its Accused Products by its Customers infringes the '409 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these products to infringe the '409 Patent, including without limitation by providing manuals which instruct Customers to use the alarm and breakpoint functions of the Accused Products to infringe the '409 Patent.

67. The Accused Products include components, including without limitation the alarm and breakpoint functions, which constitute a material part of the invention claimed in the '409 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the Accused Products, including without limitation the alarm and breakpoint functions, were especially made or especially adapted to infringe the '409 Patent

68. 3S is liable for infringement of the '409 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

69. Rockwell has been damaged and injured by the infringement of the '409 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '409 Patent.

70. Because 3S had knowledge of the '409 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the Accused Products to its Customers, along with information instructing its Customers to use the Accused Products to infringe the '409 Patent before the Complaint was filed, 3S's infringement of the '409 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

71. The infringement of the '409 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 2 – INFRINGEMENT OF U.S. PATENT NO. 5,636,124

72. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

73. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '124 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing one or more of the Accused Products, that embody the invention claimed in the '124 Patent.

74. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '124 Patent pursuant to 35 U.S.C. § 271(a) by using one or more of the Accused Products to practice the invention claimed in the '124 Patent.

75. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '124 Patent by making, offering to sell, selling,

importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the Accused Products infringes the '124 Patent.

76. 3S provides instructions to its Customers to use the Accused Products to infringe the '124 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the task scheduling functions of the Accused Products.

77. On information and belief, 3S knew that the use of the task scheduling functions of its Accused Products by its Customers infringes the '124 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these products to infringe the '124 Patent, including without limitation by providing manuals which instruct Customers to use the task scheduling functions of the Accused Products to infringe the '124 Patent.

78. The Accused Products include components, including without limitation the task scheduling functions, which constitute a material part of the invention claimed in the '124 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the Accused Products, including without limitation the task scheduling functions, were especially made or especially adapted to infringe the '124 Patent.

79. 3S is liable for infringement of the '124 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

80. Rockwell has been damaged and injured by the infringement of the '124 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '124 Patent.

81. Because 3S had knowledge of the '124 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the Accused Products to its Customers, along with information instructing its Customers to use the Accused Products to infringe the '124 Patent before the Complaint was filed, 3S's infringement of the '124 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

82. The infringement of the '124 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 3 – INFRINGEMENT OF U.S. PATENT NO. 5,812,133

83. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

84. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '133 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing one or more of the Accused Products, that embody the invention claimed in the '133 Patent.

85. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '133 Patent pursuant to 35 U.S.C. § 271(a) by using one or more of the Accused Products to practice the invention claimed in the '133 Patent.

86. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '133 Patent by making, offering to sell, selling,

importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the Accused Products infringes the '133 Patent.

87. 3S provides instructions to its Customers to use the Accused Products to infringe the '133 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the address monitoring functions of the Accused Products.

88. On information and belief, 3S knew that the use of the address monitoring functions of its Accused Products by its Customers infringes the '133 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these products to infringe the '133 Patent, including without limitation by providing manuals which instruct Customers to use the address monitoring functions of the Accused Products to infringe the '133 Patent.

89. The Accused Products include components, including without limitation the address monitoring functions, which constitute a material part of the invention claimed in the '133 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the Accused Products, including without limitation the address monitoring functions, were especially made or especially adapted to infringe the '133 Patent.

90. 3S is liable for infringement of the '133 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

91. Rockwell has been damaged and injured by the infringement of the '133 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '133 Patent.

92. Because 3S had knowledge of the '133 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the Accused Products to its Customers, along with information instructing its Customers to use the Accused Products to infringe the '133 Patent before the Complaint was filed, 3S's infringement of the '133 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

93. The infringement of the '133 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 4 – INFRINGEMENT OF U.S. PATENT NO. 5,818,711

94. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

95. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '711 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing one or more of the Accused Products, that embody the invention claimed in the '711 Patent.

96. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '711 Patent pursuant to 35 U.S.C. § 271(a) by using one or more of the Accused Products to practice the invention claimed in the '711 Patent.

97. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '711 Patent by making, offering to sell, selling,

importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the Accused Products infringes the '711 Patent.

98. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '711 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the Accused Products infringes the '711 Patent.

99. 3S provides instructions to its Customers to use the Accused Products to infringe the '711 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the visual comparison functions of the Accused Products.

100. On information and belief, 3S knew that the use of the visual comparison functions of its Accused Products by its Customers infringes the '711 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these products to infringe the '711 Patent, including without limitation by providing manuals which instruct Customers to use the visual comparison functions of the Accused Products to infringe the '711 Patent.

101. The Accused Products include components, including without limitation the visual comparison functions, which constitute a material part of the invention claimed in the '711 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the Accused Products, including without limitation the visual comparison functions, were especially made or especially adapted to infringe the '711 Patent.

102. 3S is liable for infringement of the '711 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

103. Rockwell has been damaged and injured by the infringement of the '711 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '711 Patent.

104. Because 3S had knowledge of the '711 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the Accused Products to its Customers, along with information instructing its Customers to use the Accused Products to infringe the '711 Patent before the Complaint was filed, 3S's infringement of the '711 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

105. The infringement of the '711 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 5 – INFRINGEMENT OF U.S. PATENT NO. 5,844,795

106. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

107. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '795 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing one or more of the Accused Products, that embody the invention claimed in the '795 Patent.

108. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '795 Patent pursuant to 35 U.S.C. § 271(a) by using one or more of the Accused Products to practice the invention claimed in the '795 Patent.

109. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '795 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the Accused Products infringes the '795 Patent.

110. 3S provides instructions to its Customers to use the Accused Products to infringe the '795 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the memory monitoring functions of the Accused Products.

111. On information and belief, 3S knew that the use of the memory monitoring functions of its Accused Products by its Customers infringes the '795 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these products to infringe the '795 Patent, including without limitation by providing manuals which instruct Customers to use the memory monitoring functions of the Accused Products to infringe the '795 Patent.

112. The Accused Products include components, including without limitation the memory monitoring functions, which constitute a material part of the invention claimed in the '795 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the Accused Products, including without limitation the memory monitoring functions, were especially made or especially adapted to infringe the '795 Patent.

113. 3S is liable for infringement of the '795 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

114. Rockwell has been damaged and injured by the infringement of the '795 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '795 Patent.

115. Because 3S had knowledge of the '795 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the Accused Products to its Customers, along with information instructing its Customers to use the Accused Products to infringe the '795 Patent before the Complaint was filed, 3S's infringement of the '795 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

116. The infringement of the '795 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 6 – INFRINGEMENT OF U.S. PATENT NO. 5,845,149

117. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

118. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '149 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing one or more of the Accused Products, that embody the invention claimed in the '149 Patent.

119. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '149 Patent pursuant to 35 U.S.C. § 271(a) by using one or more of the Accused Products to practice the invention claimed in the '149 Patent.

120. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '149 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the Accused Products infringes the '149 Patent.

121. 3S provides instructions to its Customers to use the Accused Products to infringe the '149 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the address mapping functions of the Accused Products.

122. On information and belief, 3S knew that the use of the address mapping functions of its Accused Products by its Customers infringes the '149 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these products to infringe the '149 Patent, including without limitation by providing manuals which instruct Customers to use the address mapping functions of the Accused Products to infringe the '149 Patent.

123. The Accused Products include components, including without limitation the address mapping functions, which constitute a material part of the invention claimed in the '149 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the Accused Products, including without limitation the address mapping functions, were especially made or especially adapted to infringe the '149 Patent.

124. 3S is liable for infringement of the '149 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

125. Rockwell has been damaged and injured by the infringement of the '149 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '149 Patent.

126. Because 3S had knowledge of the '149 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the Accused Products to its Customers, along with information instructing its Customers to use the Accused Products to infringe the '149 Patent before the Complaint was filed, 3S's infringement of the '149 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

127. The infringement of the '149 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 7 – INFRINGEMENT OF U.S. PATENT NO. 5,940,293

128. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

129. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '293 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing one or more of the Accused Products, that embody the invention claimed in the '293 Patent.

130. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '293 Patent pursuant to 35 U.S.C. § 271(a) by using one or more of the Accused Products to practice the invention claimed in the '293 Patent.

131. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '293 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the Accused Products infringes the '293 Patent.

132. 3S provides instructions to its Customers to use the Accused Products to infringe the '293 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the motion control behavior profile functions of the Accused Products.

133. On information and belief, 3S knew that the use of the motion control behavior profile functions of its Accused Products by its Customers infringes the '293 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these products to infringe the '293 Patent, including without limitation by providing manuals which instruct Customers to use the motion control behavior profile functions of the Accused Products to infringe the '293 Patent.

134. The Accused Products include components, including without limitation the motion control behavior profile functions, which constitute a material part of the invention claimed in the '293 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the Accused Products, including without limitation the

motion control behavior profile functions, were especially made or especially adapted to infringe the '293 Patent.

135. 3S is liable for infringement of the '293 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

136. Rockwell has been damaged and injured by the infringement of the '293 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '293 Patent.

137. Because 3S had knowledge of the '293 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the Accused Products to its Customers, along with information instructing its Customers to use the Accused Products to infringe the '293 Patent before the Complaint was filed, 3S's infringement of the '293 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

138. The infringement of the '293 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 8 – INFRINGEMENT OF U.S. PATENT NO. 6,138,174

139. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

140. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '174 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products,

including without limitation industrial control systems containing one or more of the Accused Products, that embody the invention claimed in the '174 Patent.

141. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '174 Patent pursuant to 35 U.S.C. § 271(a) by using one or more of the Accused Products to practice the invention claimed in the '174 Patent.

142. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '174 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the Accused Products infringes the '174 Patent.

143. 3S provides instructions to its Customers to use the Accused Products to infringe the '174 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the visualization utilities including graphical display functions of the Accused Products.

144. On information and belief, 3S knew that the use of the visualization utilities including graphical display functions of its Accused Products by its Customers infringes the '174 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these products to infringe the '174 Patent, including without limitation by providing manuals which instruct Customers to use the visualization utilities including graphical display functions of the Accused Products to infringe the '174 Patent.

145. The Accused Products include components, including without limitation the visualization utilities including graphical display functions, which constitute a material part of

the invention claimed in the '174 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the Accused Products, including without limitation the visualization utilities including graphical display functions, were especially made or especially adapted to infringe the '174 Patent.

146. 3S is liable for infringement of the '174 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

147. Rockwell has been damaged and injured by the infringement of the '174 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '174 Patent.

148. Because 3S had knowledge of the '174 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the Accused Products to its Customers, along with information instructing its Customers to use the Accused Products to infringe the '174 Patent before the Complaint was filed, 3S's infringement of the '174 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

149. The infringement of the '174 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 9 – INFRINGEMENT OF U.S. PATENT NO. 6,247,168

150. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

151. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '168 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing 3S's CoDeSys v3.5 software platform and related products, that embody the invention claimed in the '168 Patent.

152. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '168 Patent pursuant to 35 U.S.C. § 271(a) by using 3S's CoDeSys v3.5 software platform and related products ("CoDeSys v3.5 Software") to practice the invention claimed in the '168 Patent.

153. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '168 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the CoDeSys v3.5 Software infringes the '168 Patent.

154. 3S provides instructions to its Customers to use the CoDeSys v3.5 Software to infringe the '168 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the production object functions of the CoDeSys v3.5 Software.

155. On information and belief, 3S knew that the use of the production object functions of its CoDeSys v3.5 Software by its Customers infringes the '168 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these products to infringe the '168 Patent, including without limitation by providing manuals which instruct Customers to use the production object functions of the CoDeSys v3.5 Software to infringe the '168 Patent.

156. The CoDeSys v3.5 Software include components, including without limitation the production object functions, which constitute a material part of the invention claimed in the '168 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the CoDeSys v3.5 Software, including without limitation the production object functions, were especially made or especially adapted to infringe the '168 Patent.

157. 3S is liable for infringement of the '168 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

158. Rockwell has been damaged and injured by the infringement of the '168 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '168 Patent.

159. Because 3S had knowledge of the '168 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the CoDeSys v3.5 Software to its Customers, along with information instructing its Customers to use the CoDeSys v3.5 Software to infringe the '168 Patent before the Complaint was filed, 3S's infringement of the '168 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

160. The infringement of the '168 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 10 – INFRINGEMENT OF U.S. PATENT NO. 6,675,226

161. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

162. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '226 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing one or more of the Accused Products, that embody the invention claimed in the '226 Patent.

163. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '226 Patent pursuant to 35 U.S.C. § 271(a) by using one or more of the Accused Products to practice the invention claimed in the '226 Patent.

164. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '226 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the Accused Products infringes the '226 Patent.

165. 3S provides instructions to its Customers to use the Accused Products to infringe the '226 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the upgradeable application programmer's interface functions of the Accused Products.

166. On information and belief, 3S knew that the use of the upgradeable application programmer's interface functions of its Accused Products by its Customers infringes the '226 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these products to infringe the '226 Patent, including without limitation by

providing manuals which instruct Customers to use the upgradeable application programmer's interface functions of the Accused Products to infringe the '226 Patent.

167. The Accused Products include components, including without limitation the upgradeable application programmer's interface functions, which constitute a material part of the invention claimed in the '226 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the Accused Products, including without limitation the upgradeable application programmer's interface functions, were especially made or especially adapted to infringe the '226 Patent.

168. 3S is liable for infringement of the '226 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

169. Rockwell has been damaged and injured by the infringement of the '226 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '226 Patent.

170. Because 3S had knowledge of the '226 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the Accused Products to its Customers, along with information instructing its Customers to use the Accused Products to infringe the '226 Patent before the Complaint was filed, 3S's infringement of the '226 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

171. The infringement of the '226 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 11 – INFRINGEMENT OF U.S. PATENT NO. 6,816,817

172. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

173. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '817 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing the CoDeSys v3.5 Software, that embody the invention claimed in the '817 Patent.

174. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '817 Patent pursuant to 35 U.S.C. § 271(a) by using the CoDeSys v3.5 Software to practice the invention claimed in the '817 Patent.

175. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '817 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the CoDeSys v3.5 Software infringes the '817 Patent.

176. 3S provides instructions to its Customers to use the CoDeSys v3.5 Software to infringe the '817 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the visualization functions of the CoDeSys v3.5 Software.

177. On information and belief, 3S knew that the use of the visualization functions of its CoDeSys v3.5 Software by its Customers infringes the '817 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these products to infringe the '817 Patent, including without limitation by providing manuals which

instruct Customers to use the visualization functions of the CoDeSys v3.5 Software to infringe the '817 Patent.

178. The CoDeSys v3.5 Software include components, including without limitation the visualization functions, which constitute a material part of the invention claimed in the '817 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the CoDeSys v3.5 Software, including without limitation the visualization functions, were especially made or especially adapted to infringe the '817 Patent.

179. 3S is liable for infringement of the '817 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

180. Rockwell has been damaged and injured by the infringement of the '817 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '817 Patent.

181. Because 3S had knowledge of the '817 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the CoDeSys v3.5 Software to its Customers, along with information instructing its Customers to use the CoDeSys v3.5 Software to infringe the '817 Patent before the Complaint was filed, 3S's infringement of the '817 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

182. The infringement of the '817 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 12 – INFRINGEMENT OF U.S. PATENT NO. 6,978,225

183. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

184. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '225 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing the CoDeSys v3.5 Software, that embody the invention claimed in the '225 Patent.

185. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '225 Patent pursuant to 35 U.S.C. § 271(a) by using the CoDeSys v3.5 Software to practice the invention claimed in the '225 Patent.

186. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '225 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the CoDeSys v3.5 Software infringes the '225 Patent.

187. 3S provides instructions to its Customers to use the CoDeSys v3.5 Software to infringe the '225 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the trace visualization functions of the CoDeSys v3.5 Software.

188. On information and belief, 3S knew that the use of the trace visualization functions of its CoDeSys v3.5 Software by its Customers infringes the '225 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these products to infringe the '225 Patent, including without limitation by providing manuals

which instruct Customers to use the trace visualization functions of the CoDeSys v3.5 Software to infringe the '225 Patent.

189. The CoDeSys v3.5 Software include components, including without limitation the trace visualization functions, which constitute a material part of the invention claimed in the '225 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the CoDeSys v3.5 Software, including without limitation the trace visualization functions, were especially made or especially adapted to infringe the '225 Patent.

190. 3S is liable for infringement of the '225 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

191. Rockwell has been damaged and injured by the infringement of the '225 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '225 Patent.

192. Because 3S had knowledge of the '225 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the CoDeSys v3.5 Software to its Customers, along with information instructing its Customers to use the CoDeSys v3.5 Software to infringe the '225 Patent before the Complaint was filed, 3S's infringement of the '225 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

193. The infringement of the '225 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 13 – INFRINGEMENT OF U.S. PATENT NO. 7,130,704

194. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

195. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '704 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing the CoDeSys v3.5 Software, that embody the invention claimed in the '704 Patent.

196. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '704 Patent pursuant to 35 U.S.C. § 271(a) by using the CoDeSys v3.5 Software to practice the invention claimed in the '704 Patent.

197. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '704 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the CoDeSys v3.5 Software infringes the '704 Patent.

198. 3S provides instructions to its Customers to use the CoDeSys v3.5 Software to infringe the '704 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the automation interface functions of the CoDeSys v3.5 Software.

199. On information and belief, 3S knew that the use of the automation interface functions of its CoDeSys v3.5 Software by its Customers infringes the '704 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use

these products to infringe the '704 Patent, including without limitation by providing manuals which instruct Customers to use the automation interface functions of the CoDeSys v3.5 Software to infringe the '704 Patent.

200. The CoDeSys v3.5 Software include components, including without limitation the automation interface functions, which constitute a material part of the invention claimed in the '704 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the CoDeSys v3.5 Software, including without limitation the automation interface functions, were especially made or especially adapted to infringe the '704 Patent.

201. 3S is liable for infringement of the '704 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

202. Rockwell has been damaged and injured by the infringement of the '704 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '704 Patent.

203. Because 3S had knowledge of the '704 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the CoDeSys v3.5 Software to its Customers, along with information instructing its Customers to use the CoDeSys v3.5 Software to infringe the '704 Patent before the Complaint was filed, 3S's infringement of the '704 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

204. The infringement of the '704 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 14 – INFRINGEMENT OF U.S. PATENT NO. 7,143,366

205. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

206. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '366 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing one or more of the Accused Products, that embody the invention claimed in the '366 Patent.

207. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '366 Patent pursuant to 35 U.S.C. § 271(a) by using one or more of the Accused Products to practice the invention claimed in the '366 Patent.

208. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '366 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the Accused Products infringes the '366 Patent.

209. 3S provides instructions to its Customers to use the Accused Products to infringe the '366 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the visual comparison functions of the Accused Products.

210. On information and belief, 3S knew that the use of the visual comparison functions of its Accused Products by its Customers infringes the '366 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these

products to infringe the '366 Patent, including without limitation by providing manuals which instruct Customers to use the visual comparison functions of the Accused Products to infringe the '366 Patent.

211. The Accused Products include components, including without limitation the visual comparison functions, which constitute a material part of the invention claimed in the '366 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the Accused Products, including without limitation the visual comparison functions, were especially made or especially adapted to infringe the '366 Patent.

212. 3S is liable for infringement of the '366 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

213. Rockwell has been damaged and injured by the infringement of the '366 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '366 Patent.

214. Because 3S had knowledge of the '366 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the Accused Products to its Customers, along with information instructing its Customers to use the Accused Products to infringe to infringe the '366 Patent before the Complaint was filed, 3S's infringement of the '366 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

215. The infringement of the '366 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 15 – INFRINGEMENT OF U.S. PATENT NO. 7,693,585

216. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

217. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '585 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing the CoDeSys v3.5 Software, that embody the invention claimed in the '585 Patent.

218. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '585 Patent pursuant to 35 U.S.C. § 271(a) by using the CoDeSys v3.5 Software to practice the invention claimed in the '585 Patent.

219. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '585 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the CoDeSys v3.5 Software infringes the '585 Patent.

220. 3S provides instructions to its Customers to use the CoDeSys v3.5 Software to infringe the '585 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the object oriented programming enabling functions of the CoDeSys v3.5 Software.

221. On information and belief, 3S knew that the use of the object oriented programming enabling functions of its CoDeSys v3.5 Software by its Customers infringes the '585 Patent literally or under the doctrine of equivalents and 3S had the specific intent to

encourage its Customers to use these products to infringe the '585 Patent, including without limitation by providing manuals which instruct Customers to use the object oriented programming enabling functions of the CoDeSys v3.5 Software to infringe the '585 Patent.

222. The CoDeSys v3.5 Software include components, including without limitation the object oriented programming enabling functions, which constitute a material part of the invention claimed in the '585 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the CoDeSys v3.5 Software, including without limitation the object oriented programming enabling functions, were especially made or especially adapted to infringe the '585 Patent.

223. 3S is liable for infringement of the '585 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

224. Rockwell has been damaged and injured by the infringement of the '585 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '585 Patent.

225. Because 3S had knowledge of the '585 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the CoDeSys v3.5 Software to its Customers, along with information instructing its Customers to use the CoDeSys v3.5 Software to infringe the '585 Patent before the Complaint was filed, 3S's infringement of the '585 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

226. The infringement of the '585 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 16 – INFRINGEMENT OF U.S. PATENT NO. 7,716,567

227. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

228. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '567 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing one or more of the Accused Products, that embody the invention claimed in the '567 Patent.

229. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '567 Patent pursuant to 35 U.S.C. § 271(a) by using one or more of the Accused Products to practice the invention claimed in the '567 Patent.

230. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '567 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the Accused Products infringes the '567 Patent.

231. 3S provides instructions to its Customers to use the Accused Products to infringe the '567 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the multilinguistic visualization functions of the Accused Products.

232. On information and belief, 3S knew that the use of the multilinguistic visualization functions of its Accused Products by its Customers infringes the '567 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these products to infringe the '567 Patent, including without limitation by providing manuals which instruct Customers to use the multilinguistic visualization functions of the Accused Products to infringe the '567 Patent.

233. The Accused Products include components, including without limitation the multilinguistic visualization functions, which constitute a material part of the invention claimed in the '567 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the Accused Products, including without limitation the multilinguistic visualization functions, were especially made or especially adapted to infringe the '567 Patent.

234. 3S is liable for infringement of the '567 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

235. Rockwell has been damaged and injured by the infringement of the '567 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '567 Patent.

236. Because 3S had knowledge of the '567 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the Accused Products to its Customers, along with information instructing its Customers to use the Accused Products to infringe the '567 Patent before the Complaint was filed, 3S's infringement of the '567 Patent has been and

continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

237. The infringement of the '567 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

COUNT 17 – INFRINGEMENT OF U.S. PATENT NO. 7,836,122

238. Rockwell hereby restates and re-alleges the allegations set forth in the preceding paragraphs and incorporates them by reference.

239. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '122 Patent pursuant to 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing into the United States products, including without limitation industrial control systems containing the CoDeSys v3.5 Software, that embody the invention claimed in the '122 Patent.

240. On information and belief, 3S's Customers have been and continue to directly infringe, literally or under the doctrine of equivalents, the '122 Patent pursuant to 35 U.S.C. § 271(a) by using the CoDeSys v3.5 Software to practice the invention claimed in the '122 Patent.

241. On information and belief, 3S has been and continues to infringe (directly, contributorily and/or by inducement) the '122 Patent by making, offering to sell, selling, importing and/or using products embodying the patented invention and will continue to do so unless enjoined by this Court. For example, upon information and belief, use of the CoDeSys v3.5 Software infringes the '122 Patent.

242. 3S provides instructions to its Customers to use the CoDeSys v3.5 Software to infringe the '122 Patent literally or under the doctrine of equivalents, including but not limited to by instructing Customers to use the web visualization functions of the CoDeSys v3.5 Software.

243. On information and belief, 3S knew that the use of the web visualization functions of its CoDeSys v3.5 Software by its Customers infringes the '122 Patent literally or under the doctrine of equivalents and 3S had the specific intent to encourage its Customers to use these products to infringe the '122 Patent, including without limitation by providing manuals which instruct Customers to use the web visualization functions of the CoDeSys v3.5 Software to infringe the '122 Patent.

244. The CoDeSys v3.5 Software include components, including without limitation the web visualization functions, which constitute a material part of the invention claimed in the '122 Patent that are not staple articles or commodities of commerce suitable for non-infringing use and 3S knew that the CoDeSys v3.5 Software, including without limitation the web visualization functions, were especially made or especially adapted to infringe the '122 Patent.

245. 3S is liable for infringement of the '122 Patent pursuant to 35 U.S.C. § 271(a), (b) and/or (c).

246. Rockwell has been damaged and injured by the infringement of the '122 Patent by 3S. Because of its infringing acts, 3S is liable to Rockwell for damages in an amount of Rockwell's lost profits, and in any event no less than a reasonable royalty, for 3S's unauthorized use of the invention claimed in the '122 Patent.

247. Because 3S had knowledge of the '122 Patent and was put on notice by Rockwell that 3S infringes this patent by providing and/or selling the CoDeSys v3.5 Software to its Customers, along with information instructing its Customers to use the CoDeSys v3.5 Software

to infringe the '122 Patent before the Complaint was filed, 3S's infringement of the '122 Patent has been and continues to be willful, and therefore Rockwell is entitled to treble damages under 35 U.S.C. § 284.

248. The infringement of the '122 Patent by 3S has caused and will continue to cause irreparable harm to Rockwell, for which Rockwell has no adequate remedy at law, unless 3S is enjoined from further infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Rockwell Automation, Inc. requests that this Court enter an order for the following:

1. adjudging 3S-Smart Software Solutions, GmbH to have violated 35 U.S.C. § 271 by infringing one or more claims of U.S. Patent Nos. 5,619,409; 5,636,124; 5,812,133; 5,818,711; 5,844,795; 5,845,149; 5,940,293; 6,138,174; 6,247,168; 6,675,226; 6,816,817; 6,978,225; 7,130,704; 7,143,366; 7,693,585; 7,716,567; and 7,836,122;
2. holding that 3S-Smart Software Solutions, GmbH's patent infringement of U.S. Patent Nos. 5,619,409; 5,636,124; 5,812,133; 5,818,711; 5,844,795; 5,845,149; 5,940,293; 6,138,174; 6,247,168; 6,675,226; 6,816,817; 6,978,225; 7,130,704; 7,143,366; 7,693,585; 7,716,567; and 7,836,122; has been and continues to be willful and trebling 3S-Smart Software Solutions, GmbH's damages;
3. enjoining 3S-Smart Software Solutions, GmbH and its respective officers, agents, servants, employees, and attorneys, and all other persons who are in active concert or participation with them from further infringement of Rockwell's patent rights;
4. awarding Rockwell damages adequate to compensate for 3S-Smart Software Solutions, GmbH's infringement, but in no event less than a reasonable royalty, under 35 U.S.C. § 284, in an amount to be determined at trial;
5. awarding Rockwell pre-judgment and post-judgment interest;

6. a judicial determination and declaration that this case is “exceptional” under the Patent Act and awarding Rockwell its actual costs, expenses and reasonable attorneys’ fees incurred in connection with this action under 35 U.S.C. § 285; and
7. awarding Rockwell such other and further relief as this Court deems just and equitable.

DEMAND FOR A JURY TRIAL

Plaintiff Rockwell Automation, Inc. demands a trial by jury on all issues so triable.

Dated: September 18, 2015

Respectfully submitted,

/s/ Paul J. Tanck
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