

JURISDICTION & VENUE

4. This action arises under the patent laws of the United States, 35 U.S.C. § 271 et seq. Accordingly, the Court has federal question jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has specific personal jurisdiction over Akurate because Akurate has committed acts of infringement giving rise to this action and has established more than minimum contacts within this judicial district, such that the exercise of jurisdiction over Akurate in this Court would not offend traditional notions of fair play and substantial justice.

6. This Court has general personal jurisdiction over Akurate because Akurate is engaged in substantial and not isolated activity at its regular and established place of business within this judicial district and regularly conducts business in Texas, including this district, and purposefully avails itself of the privileges of conducting business in Texas. Akurate, directly and/or through its agents and/or intermediaries, makes, uses, imports, offers for sale, sells, and/or advertises products in Texas, including in this district.

7. Venue is properly within this district in accordance with 28 U.S.C. § 1400(b) because Akurate maintains a regular and established place of business in this district and has committed acts of patent infringement within this district.

8. Venue is proper in this district because in accordance with 28 U.S.C. § 1400(b) Akurate resides in this district.

PATENT-IN-SUIT

9. Graco is the owner by assignment of all right, title, and interest in and to U.S. Patent No. 9,939,822 (the “’822 Patent”) entitled “Remote Monitoring for Fluid Applicator System,” which duly and legally issued on April 10, 2018. A copy of the ’822 Patent is attached as Exhibit A and incorporated herein.

10. The '822 Patent describes innovative aspects of remote monitoring systems for dual fluid applicators also known as multiple component spray applicators. Providing specific improvements over prior art and conventional systems, the claimed remote monitoring technology of the '822 Patent saves time and money in managing and diagnosing dual fluid applicators and related jobsite activity. In view of these improvements, the claimed technology of the '822 Patent is not well understood, conventional, routine or generic.

11. No single claim of the '822 Patent is representative of all other claims of the '822 Patent for purposes of determining subject matter eligibility under 35 U.S.C. § 101, and no single independent claim of the '822 Patent is representative of the other independent claims of the '822 Patent.

INFRINGEMENT BY AKURATE

12. Graco re-alleges and incorporates by reference each and every allegation contained in paragraphs 1-11 as if fully set forth herein.

13. Akurate makes, uses, offers for sale, sells, and/or imports its Rig Connect product alone or in combination with spray foam rig equipment (collectively "Rig Connect") into the United States.

14. In a notice letter dated January 28, 2020 from Graco, Akurate was made aware of the '822 Patent and that its Rig Connect product infringed the '822 Patent. Therefore, Akurate has been on notice of the '822 Patent at least since its receipt of this notice letter.

15. In Akurate's reply letter to Graco dated February 7, 2010, Akurate's counsel professed to having reviewed the '822 Patent, the file history of the '822 Patent, and Akurate's "product offering," but failed to identify any limitation of the claims, including claim 17, that could not be found in its Rig Connect product. Rather, Akurate responded that it "does not store operating data on a 'data storage server.'"

16. Quite the contrary, independent claims 1 and 17 of the '822 Patent do not recite a “data storage server” as a claim limitation. Further, claim 17 of the '822 Patent does not contain the phrase “data storage server” or “store.”

COUNT I

(AKURATE'S INFRINGEMENT OF U.S. PATENT NO. 9,939,822)

17. Graco re-alleges and incorporates by reference each and every allegation contained in paragraphs 1-16 as if fully set forth herein.

18. Akurate directly infringes at least claim 17 of the '822 Patent, literally and/or under the doctrine of equivalents by, without authority, making, using, offering for sale, and/or selling Rig Connect within the United States or importing Rig Connect into the United States in violation of 35 U.S.C. § 271(a).

19. Claim 17 of the '822 Patent recites:

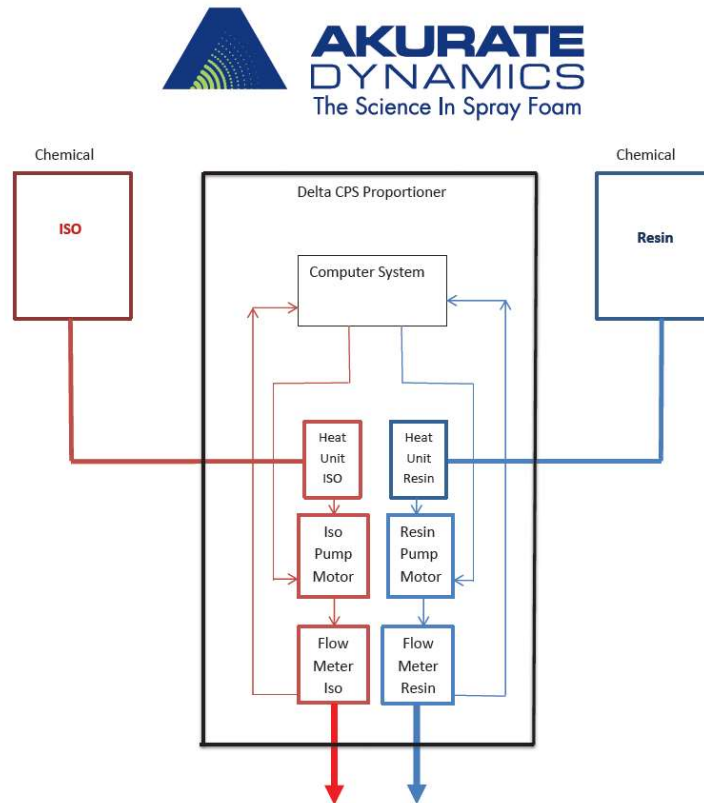
[preamble] A remote monitoring system for use with a fluid applicator system configured to pump two or more fluids, the fluid applicator system including an A-side fluid system with a[n] A-side pump and A-side heater, and a B-side fluid system with a B-side pump and a B-side heater, the remote monitoring system comprising:

[a] a communications module in communication with the fluid applicator system, the communications module including a communications module processor configured to retrieve a first data set comprising commanded pressures and temperatures of the A- and B-side pumps and heaters, respectively, and sensed pressures and temperatures of the A- and B-side pumps and heaters, respectively, and further configured to produce a second data set and transmit the second data set from a transceiver via a communication network to an end user interface; and

[b] an end user interface disposed to provide a graphical user interface for displaying the second data set, wherein the end user interface receives the second data set sent by the transceiver.

20. To the extent the preamble of the '822 Patent is limiting, Rig Connect includes a remote monitoring system for use with a fluid applicator system configured to pump two or more fluids, the fluid applicator system including an A-side fluid system with an A-side pump and A-side heater, and a B-side fluid system with a B-side pump and a B-side heater. For example, Rig Connect is used to remotely connect and diagnose spray foam rig equipment (*e.g.*, Akurate Delta CPS), which pumps multiple chemicals. For instance, a diagram from Akurate's Delta CPS equipment datasheet shows dual heaters and pumps to pump multiple chemicals.¹

¹ https://026e9319-62f6-46b3-9d1c-89ba80e59adb.filesusr.com/ugd/4983f4_28b5e7c5b6d4465085806e73a0244de1.pdf (last visited May 27, 2020)



21. With further respect to the preamble of claim 17, as indicated by Akurate’s Rig Connect datasheet, Rig Connect provides “remote system analysis and adjustment,” “virtual tech support in the field” and “real-time assistance.”² As reflected in Akurate’s press release dated January 20, 2020 announcing the Rig Connect product, “[r]emote access allows for customer support technicians to connect to [] manufactured systems to diagnose problems and issues in real time. Using remote diagnostic capabilities, technicians can troubleshoot common issues and provide guidance for correcting the problems. . . . Rig Connect is an available option on all new Akurate Dynamics systems and can also be retrofitted to existing systems.”³

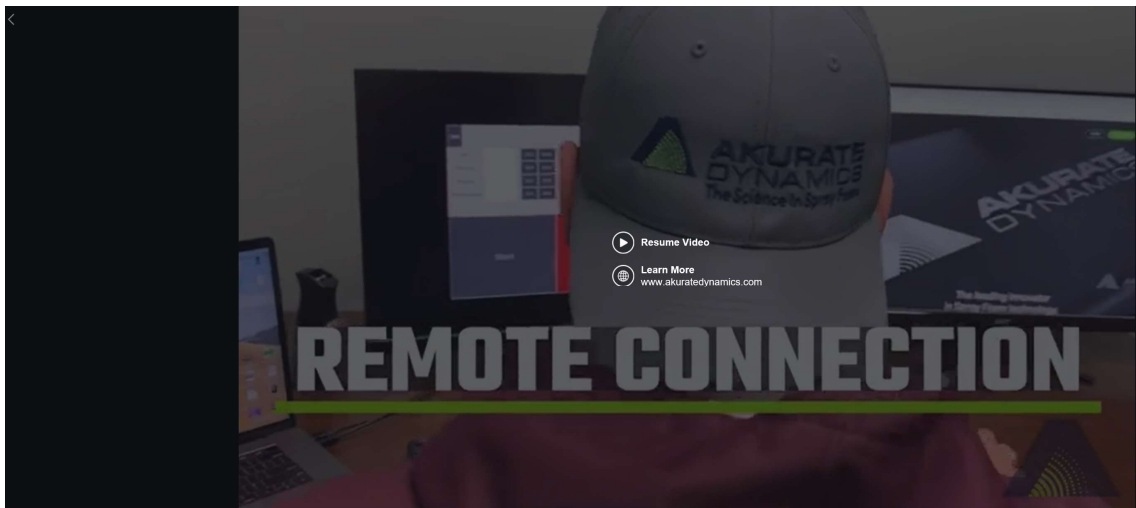
² https://026e9319-62f6-46b3-9d1c-89ba80e59adb.filesusr.com/ugd/3f899f_fe7010979cb74ea68d8fa6c339ab92c1.pdf (last visited May 27, 2020)

³ <https://www.akuratedynamics.com/News/Akurate-Dynamics-Announces-Rig-Connect> (last visited May 27, 2020)

22. With further respect to the preamble of claim 17, the below screen capture from Akurate's Rig Connect video shows Rig Connect providing "virtual tech support" via a "remote connection" to Akurate's "Delta CPS 2.2" equipment bearing serial number 18242.01 and date August 2018.⁴



RIG_CONNECT_VIDEO
Akurate Dynamics



RIG_CONNECT_VIDEO
Akurate Dynamics

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<https://www.facebook.com/AkurateDynamics/videos/vb.1385784018309983/845457152570651/?type=2&theater> (last visited May 27, 2020)

23. With respect to element 17[a], Rig Connect includes a communications module in communication with the fluid applicator system, the communications module including a communications module processor configured to retrieve a first data set comprising commanded pressures and temperatures of the A- and B-side pumps and heaters, respectively, and sensed pressures and temperatures of the A- and B-side pumps and heaters, respectively, and further configured to produce a second data set and transmit the second data set from a transceiver via a communication network to an end user interface. For example, the communications module includes the Inseego MiFi hotspot⁵ or other portable cellular module to connect to a cellular network and provide Internet access.

24. With further respect to element 17[a], Rig Connect provides “end-to-end encryption” and enables a “technical support team” to “analyze system performance, troubleshoot, and make adjustments to ratio, pressure and temperature remotely, as needed.”⁶ The analyzed system may for instance be the Akurate Delta CPS equipment, which includes dual pumps and dual heaters.

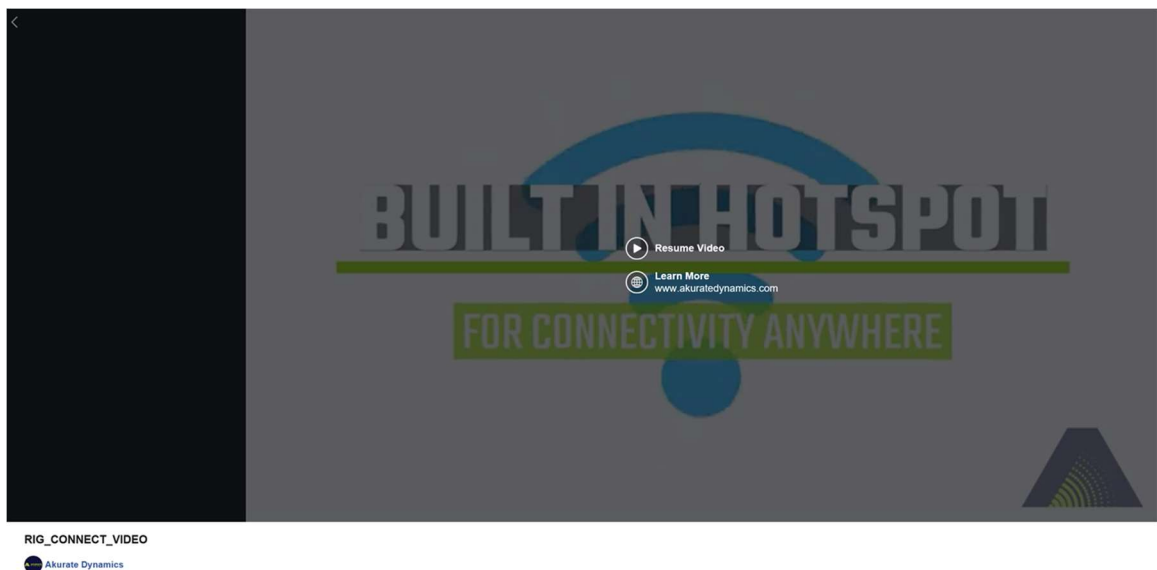
25. With further respect to element 17[a], Rig Connect provides “virtual tech support in the field,” “real-time assistance,” “secure, remote communication,” “end-to-end encryption,” “permission-based, secure encryption” and “remote system analysis and adjustment.”⁷

⁵ <https://www.verizon.com/internet-devices/inseego-jetpack-5g-mifi-m1000/> (last visited May 27, 2020)

⁶ <https://www.akuratedynamics.com/rigconnect> (last visited May 27, 2020)

⁷ https://026e9319-62f6-46b3-9d1c-89ba80e59adb.filesusr.com/ugd/3f899f_fe7010979cb74ea68d8fa6c339ab92c1.pdf (last visited May 27, 2020)

26. With further respect to element 17[a], the below screen capture from Akurate's Rig Connect video shows Rig Connect includes a built-in hotspot for connectivity:⁸



27. With further respect to element 17[a], Rig Connect provides “remote connectivity capability” for “remote access” allowing for “customer support technicians to connect” to “systems to diagnose problems and issues in real-time.”⁹

28. With respect to element 17[b], Rig Connect includes an end user interface disposed to provide a graphical user interface for displaying the second data set, wherein the end user interface receives the second data set sent by the transceiver. For example, Rig Connect includes an end

8

<https://www.facebook.com/AkurateDynamics/videos/vb.1385784018309983/845457152570651/?type=2&theater> (last visited May 27, 2020)

⁹ <https://www.akuratedynamics.com/News/Akurate-Dynamics-Announces-Rig-Connect> (last visited May 27, 2020)

user interface displaying system data communicated from spray foam rig equipment (e.g., Akurate Delta CPS) as shown below:¹⁰



VIRTUAL CUSTOMER SUPPORT ANYWHERE, ANY TIME

29. Akurate indirectly infringes the '822 Patent by inducing infringement under 35 U.S.C. § 271(c). Akurate has actively induced, and continues to actively induce, infringement of the '822 Patent by intending that others use, offer for sale, or sell in the United States, products covered by one or more claims of the '822 Patent, including but not limited to Rig Connect. Akurate provides these products to others, such as customers, resellers and end-user customers, who, in turn, use, provision for use, offer for sale, or sell in the United States products that directly infringe one or more claims of the '822 Patent. For example, since learning of the '822 Patent and by failing to cease offering Rig Connect, Akurate has knowingly and intentionally induced Rig Connect users

¹⁰ https://026e9319-62f6-46b3-9d1c-89ba80e59adb.filesusr.com/ugd/3f899f_fe7010979cb74ea68d8fa6c339ab92c1.pdf (last visited May 27, 2020)

to directly infringe one or more claims of the '822 Patent, *inter alia*, by (1) providing instructions or information, for example on publicly available websites (*see e.g.*, <https://www.akuratedynamics.com/rigconnect>, <https://www.facebook.com/AkurateDynamics> and linked pages), to explain how to use Rig Connect in an infringing manner, and (2) touting infringing uses of Rig Connect in demo offers and advertisements, including but not limited to those listed or available from Akurate's websites.

30. Akurate indirectly infringes the '822 Patent under 35 U.S.C. § 271(c) by contributing to the direct infringement by end users by providing Rig Connect, which, as evidenced by Akurate's websites and advertisements (*see e.g.*, <https://www.akuratedynamics.com/rigconnect>, <https://www.facebook.com/AkurateDynamics> and linked pages), is especially made or especially adapted for use in infringement of one or more claims of the '822 Patent as described herein and is not a staple article or commodity of commerce suitable for substantial non-infringing use.

31. Because Akurate was aware of the '822 Patent and has been at least since its receipt of the notice letter dated January 28, 2020, Akurate's infringement of the '822 Patent is willful. Akurate had knowledge of the '822 Patent at the time of its infringement.

32. Akurate's infringement of the '822 Patent is deliberate, intentional and egregious.

33. Graco has been and continues to be injured by Akurate's infringement of the '822 Patent. Graco is entitled to recover damages adequate to compensate it for Akurate's acts of infringement in an amount to be determined at trial, but in no event less than a reasonable royalty.

34. Unless enjoined by this Court, Akurate's acts of infringement will continue to damage and cause irreparable harm to Graco.

JURY DEMAND

35. Graco demands trial by jury of all claims so triable under Federal Rule of Civil Procedure

38.

PRAYER FOR RELIEF

WHEREFORE, Graco prays the Court to:

- (a) find that Akurate has infringed one or more claims of the '822 Patent, directly or indirectly, literally and/or under the doctrine of equivalents;
- (b) award damages of not less than a reasonable royalty and other monetary relief, including costs, pre- and post-judgment interest;
- (c) grant a permanent injunction restraining and enjoining Akurate, its affiliates, parents, subsidiaries, assigns, successors, and each of its officers, directors, agents, and employees and those acting in privity or concert with them, from directly or indirectly infringing the '822 Patent;
- (d) find that Akurate's infringement has been willful and under 35 U.S.C. § 284 increase such damages to three times the awarded amount;
- (e) find that this case is an exceptional case under 35 U.S.C. § 285 and award appropriate relief, including attorneys' fees; and
- (f) grant all other relief to which Graco is entitled.

Date: May 27, 2020

Respectfully submitted,

/s/ George W. Jordan III

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