

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**M&R PRINTING EQUIPMENT, INC.**

**Plaintiff,**

**vs.**

**REAL PERFORMANCE MACHINERY,  
L.L.C, RICK FUQUA, 2M CONTROL  
SYSTEMS, INC., and MARIUSZ  
SMIALEK,**

**Defendants.**

Case No.:

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND**

Plaintiff, M&R PRINTING EQUIPMENT, INC. brings this action for patent infringement against Defendants, REAL PERFORMANCE MACHINERY, L.L.C., 2M CONTROL SYSTEMS, INC., MARIUSZ SMIALEK, and RICK FUQUA, and alleges as follows:

**THE PARTIES**

1. M&R PRINTING EQUIPMENT, INC. ("M&R") is a corporation organized under the laws of the State of Delaware, having its principal place of business at 1 North 372 Main Street, Glen Ellyn, Illinois 60137.

2. On information and belief, REAL PERFORMANCE MACHINERY, L.L.C. ("RPM") is a limited liability company organized under the laws of the State of Indiana, having its principal place of business at 8565 Zionsville Road, Indianapolis, Indiana 46268.

3. On information and belief, RICK FUQUA ("FUQUA") is an individual residing in the State of Indiana and is the owner and operator of RPM, and controls and directs its activities.

4. On information and belief, 2M CONTROL SYSTEMS, INC. ("2M") is a corporation organized under the laws of the State of Illinois, having its principal place of business at 245 West Roosevelt Road, Suite 86, West Chicago, Illinois 60185.

5. On information and belief, MARIUSZ SMIALEK (“SMIALEK”) is an individual residing in the State of Illinois at 29W481 Morningside Drive, Bartlett, Illinois 60103 and is President of 2M, and controls and directs its activities. SMIALEK is a former employee of M&R.

### **JURISDICTION AND VENUE**

6. This action arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.* This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

7. Personal jurisdiction and venue are proper in this District as to 2M and SMIALEK under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b) because they reside in this District. In addition, a substantial part of the events or omissions involving such Defendants that give rise to M&R’s patent infringement claims have occurred within this District. Furthermore, 2M has committed acts of infringement and has a regular and established place of business within this District.

8. Venue is proper in this District as to RPM and FUQUA under 28 U.S. C. § 1391(a) because a substantial part of the events or omissions involving RPM and FUQUA which give rise to M&R’s claims occurred here. In addition, venue is proper in this District as to RPM under 28 U.S.C § 1391(c) because it is subject to personal jurisdiction here.

### **FACTUAL BACKGROUND**

9. M&R is in the business of manufacturing and selling screen printing and digital printing equipment for textiles and graphics.

10. M&R is the owner by assignment of U.S. Patent No. 5,592,877, titled “Screen Printing Apparatus With Data Storage” (“Data Storage Patent”), which duly and legally issued on January 14, 1997. A copy of the Data Storage Patent is attached as Exhibit A.

11. M&R is the owner by assignment of U.S. Patent No. 5,809,877, titled “Screen Printing Apparatus With Stroke Control” (“Stroke Control Patent”), which duly and legally issued on September 22, 1998. A copy of the Stroke Control Patent is attached as Exhibit B.

12. FUQUA and SMIALEK are named inventors on each of the Stroke Control and Data Storage Patents.

13. FUQUA and SMIALEK each assigned his rights in and to the inventions of the Stroke Control and Data Storage Patents to Elexon Ltd. These transfers were recorded in the U.S. Patent & Trademark Office on January 22, 1996 at Reel 007775, Frame 0582 and at Reel 007787, Frame 0659. (Exhibit C).

14. Thereafter, M&R purchased the Stroke Control and Data Storage Patents in a foreclosure sale on October 1998. These transfers were recorded in the U.S. Patent & Trademark Office on October 20, 1998 at Reel 009525, Frame 0286. (Exhibit C).

15. M&R is the sole owner of the Stroke Control and Data Storage Patents and has the right to sue for infringement of these patents, to collect past, present, and future damages, and to enforce all rights under these patents.

16. On information and belief, RPM and FUQUA are in the business of manufacturing and selling, and purchasing and re-selling printing equipment, including printing machines manufactured, offered for sale, and sold under the REVOLUTION trade name.

17. On information and belief, 2M and SMIALEK are in the business of designing, engineering, importing, manufacturing, and selling printing equipment, and 2M and SMIALEK designed and engineered printing machines for, and sold such machines to, RPM and FUQUA.

18. On information and belief, RPM and FUQUA have offered for sale and sold printing machines purchased from 2M and SMIALEK under the REVOLUTION trade name.

19. The REVOLUTION printing machines designed and sold by 2M and SMIALEK, and subsequently sold by RPM and FUQUA embody the inventions claimed in the Stroke Control and Data Storage Patents.

#### **COUNT 1: PATENT INFRINGEMENT AGAINST RPM**

20. M&R re-alleges each and every allegation set forth in paragraphs 1 through 19 above, inclusive, and incorporates them by reference herein.

21. Without M&R's authorization, RPM has made, assembled, used, offered to sell, sold, and/or imported into the United States, and still is using, offering to sell, assembling, selling, and/or importing into the United States, printing machines that embody the inventions claimed in the Stroke Control and Data Storage Patents.

22. By its conduct, RPM has infringed and continues to infringe the Stroke Control and Data Storage Patents within the meaning of 35 U.S.C. § 271(a), 35 U.S.C. § 271(b) and/or 35 U.S.C. § 271(c).

23. RPM's infringement has been intentional and willful.

24. M&R has been and will continue to be irreparably harmed by RPM's infringement of the Stroke Control and Data Storage Patents.

### **COUNT 2: PATENT INFRINGEMENT AGAINST FUQUA**

25. M&R re-alleges each and every allegation set forth in paragraphs 1 through 24 above, inclusive, and incorporates them by reference herein.

26. Without M&R's authorization, FUQUA has made, assembled, used, offered to sell, sold, and/or imported into the United States, and still is using, offering to sell, selling, assembling, and/or importing into the United States, printing machines that embody the inventions claimed in the Stroke Control and Data Storage Patents.

27. By his conduct, FUQUA has infringed and continues to infringe the Stroke Control and Data Storage Patents within the meaning of 35 U.S.C. § 271(a), 35 U.S.C. § 271(b) and/or 35 U.S.C. § 271(c).

28. FUQUA's infringement has been intentional and willful.

29. M&R has been and will continue to be irreparably harmed by FUQUA's infringement of the Stroke Control and Data Storage Patents.

### **COUNT 3: PATENT INFRINGEMENT AGAINST 2M**

30. M&R re-alleges each and every allegation set forth in paragraphs 1 through 29 above, inclusive, and incorporates them by reference herein.

31. Without M&R's authorization, 2M has made, assembled, used, offered to sell, sold, and/or imported into the United States, and still is using, offering to sell, assembling, selling, and/or importing into the United States, printing machines that embody the inventions claimed in the Stroke Control and Data Storage Patents.

32. By its conduct, 2M has infringed and continues to infringe the Stroke Control and Data Storage Patents within the meaning of 35 U.S.C. § 271(a), 35 U.S.C. § 271(b) and/or 35 U.S.C. § 271(c).

33. 2M's infringement has been intentional and willful.

34. M&R has been and will continue to be irreparably harmed by 2M's infringement of the Stroke Control and Data Storage Patents.

#### **COUNT 4: PATENT INFRINGEMENT AGAINST SMIALEK**

35. M&R re-alleges each and every allegation set forth in paragraphs 1 through 34 above, inclusive, and incorporates them by reference herein.

36. Without M&R's authorization, SMIALEK has made, assembled, used, offered to sell, sold, and/or imported into the United States, and still is using, offering to sell, assembling, selling, and/or importing into the United States, printing machines that embody the inventions claimed in the Stroke Control and Data Storage Patents

37. By his conduct, SMIALEK has infringed and continues to infringe the Stroke Control and Data Storage Patents within the meaning of 35 U.S.C. § 271(a), 35 U.S.C. § 271(b) and/or 35 U.S.C. § 271(c).

38. SMIALEK's infringement has been intentional and willful.

39. M&R has been and will continue to be irreparably harmed by SMIALEK's infringement of the Stroke Control and Data Storage Patents.

#### **RELIEF SOUGHT**

**WHEREFORE**, M&R respectfully prays for:

A. A judgment that Defendants have willfully infringed one or more claims of the Stroke Control Patent;

B. A judgment that Defendants have willfully infringed one or more claims of the Data Storage Patent;

C. An injunction against further infringement of the Stroke Control Patent by Defendants, their agents, servants, employees, officers, and all others controlled by them;

- D. An injunction against further infringement of the Data Storage Patent by Defendants, their agents, servants, employees, officers, and all others controlled by them;
- E. An award of damages adequate to compensate M&R for the Defendants' infringements pursuant to 35 U.S.C. § 284;
- F. An award of lost profits resulting from Defendants' infringements;
- G. A finding that this is an exceptional case under 35 U.S.C. § 285;
- H. Enhanced damages or profits as a result of Defendants' willful infringements;
- I. An assessment of costs, including reasonable attorney fees pursuant to 35 U.S.C. § 285;
- J. Prejudgment interest; and,
- K. Such other and further relief as this Court deems just and proper.

**JURY DEMAND**

M&R demands a trial by jury for all issues so triable.

Dated: August 19, 2010

Respectfully submitted,

**M&R PRINTING EQUIPMENT, INC.**

By: /s/ Roger H. Stein  
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