

II. JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. The Court's jurisdiction over this action is proper under the above statutes, including 35 U.S.C. § 271 *et seq.* and 28 U.S.C. §§ 1331 and 1338(a).

4. Personal jurisdiction exists generally over GE Fanuc because it has sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and within the Eastern District of Texas. Personal jurisdiction also exists specifically over GE Fanuc because of its conduct in making, selling, offering to sell, or importing infringing products within the State of Texas and within the Eastern District of Texas.

5. Venue is proper in this Court under 28 U.S.C. §§ 1391(b), (c), and (d), as well as 28 U.S.C. § 1400(b).

III. PATENT INFRINGEMENT

6. Plaintiff repeats and realleges the allegations in paragraphs 1-5 as though fully set forth herein.

7. Plaintiff, USDATA, is the owner of all rights, title, and interest in and under United States Patent Nos. 4,908,746 ("the '746 Patent") and 5,325,522 ("the '522 Patent"), which duly and legally issued on March 13, 1990 and June 28, 1994, respectively.

8. The '746 Patent is for an invention titled "Industrial Control System." A true and correct copy of the '746 Patent is attached hereto as Exhibit A.

9. The '522 Patent is for an invention titled "Apparatus and Method for Communicating Between Devices Trough [sic] Use of a Real Time Data Base." A true and correct copy of the '522 Patent is attached hereto as Exhibit B.

10. Upon information and belief, GE Fanuc has infringed or is infringing the '746 and '522 Patents by making, using, selling, and/or offering for sale, without authority, products that fall within the scope of the claims of the '746 and '522 Patents, including, but not limited to, the product known as "iFix," manufactured by GE Fanuc. Further, upon information and belief, GE Fanuc has infringed or is infringing the '522 Patent by practicing the '522 Patent's methods and by making, using, selling, and/or offering for sale, without authority, products that practice the '522 Patent's methods, including, but not limited to, GE Fanuc's practices regarding iFix.

11. By such direct acts of infringing the '746 and '522 Patents, GE Fanuc has also induced infringement of the '746 and '522 Patents under 35 U.S.C. § 271(b), and has contributed to infringement of the '746 and '522 Patents under 35 U.S.C. § 271(c). The infringing products have no substantial non-infringing uses.

12. GE Fanuc's acts of direct, contributory, and inducing infringement have been willful.

13. As a direct and proximate result of GE Fanuc's acts of patent infringement, Plaintiff has been and continues to be injured and has sustained and will continue to sustain substantial damages in an amount not presently known. Plaintiff has complied with the applicable requirements of 35 U.S.C. § 287.

14. Plaintiff's claims and causes of action against Defendant constitute an exceptional case under 35 U.S.C. § 285 entitling Plaintiff to reasonable attorneys' fees.

IV. PRAYER FOR RELIEF

Plaintiff USDATA respectfully requests that judgment be entered in its favor and against Defendant GE Fanuc and that the Court grant the following relief to Plaintiff:

- A. Declare that the '746 and '522 Patents are valid and enforceable;
- B. Declare that Defendant has infringed the '746 and '522 Patents;
- C. Declare this to be an exceptional case under 35 U.S.C. § 285;

- D. Award to Plaintiff damages to which it is entitled for patent infringement;
- E. Award to Plaintiff damages, expenses, costs and attorneys' fees incurred by Plaintiff;
- F. Award interest on Plaintiff's damages; and
- G. Such other relief as the Court deems just and proper.

V. JURY DEMAND

In accordance with Federal Rules of Civil Procedure 38 and 39, Plaintiff asserts its rights under the Seventh Amendment of the United States Constitution and demands a trial by jury on all issues so triable.

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Respectfully submitted,

/s/ Kenneth Shore

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