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4 UNITED STATES DISTRICT COURT  
5 EASTERN DISTRICT OF WISCONSIN

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7 Illinois Tool Works Inc. and )  
Miller Electric Mfg. Co., )  
8 Plaintiffs, ) CASE NO. 03-CV-966  
9 vs. ) JUDGE WILLIAM GRIESBACH  
10 Thermal Dynamics Corporation, )  
11 Defendant. )

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13 **THIRD AMENDED COMPLAINT**

14 Plaintiffs Illinois Tool Works Inc. (“ITW”) and Miller Electric Mfg. Co. (“Miller  
15 Electric”), bring this action for patent infringement against the defendant, Thermal Dynamics  
16 Corporation (“TDC”), and allege as follows:

17 **JURISDICTION AND VENUE**

18 1. This is an action for patent infringement arising under the Patent Laws of the United  
19 States, 35 U.S.C. § 1 *et seq.*, alleging infringement of United States Patent Nos. 6,236,014,  
20 6,239,407, 6,815,639, and 6,849,827.

21 2. This Court has exclusive subject matter jurisdiction over this action under 28 U.S.C.  
22 §§ 1331 and 1338(a).

23 3. This Court has personal jurisdiction because TDC conducts business within this  
24 District, employs numerous distributors in this District, offers and sells infringing products in this  
25 District, and actively induces infringement by TDC customers in this District.

26 4. Venue is proper under 28 U.S.C. § 1391(c) and § 1400(b).

27 **PARTIES**

28 5. ITW is a corporation organized and existing under the laws of Delaware, having its  
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1 principle place of business at 3600 West Lake Avenue, Glenview, Illinois 60025-5811.

2 6. Miller Electric is a corporation organized and existing under the laws of Wisconsin,  
3 having its principle place of business at 1635 West Spencer Street, Appleton, Wisconsin 54912-  
4 1079.

5 7. On information and belief, TDC is a corporation organized and existing under the  
6 laws of Delaware, having its principal place of business at 82 Benning St., West Lebanon, NH  
7 03784.

8 8. On information and belief, TDC designs, develops, offers for sale, and sells plasma  
9 cutting products.

### 10 THE PATENTS

11 9. U.S. Patent No. 6,236,014 (“the ‘014 patent”) entitled “Method and Apparatus for  
12 Providing Welding/Plasma Power,” duly and legally issued on May 22, 2001, to James F. Ulrich. A  
13 copy of the ‘014 patent is attached hereto as Exhibit A.

14 10. ITW is the assignee of the ‘014 patent.

15 11. Miller Electric is the exclusive licensee of the ‘014 patent.

16 12. The ‘014 patent is valid and enforceable.

17 13. U.S. Patent No. 6,239,407 (“the ‘407 patent”) entitled “Method and Apparatus for  
18 Receiving a Universal Input Voltage in a Welding Power Source,” duly and legally issued on May  
19 29, 2001, to James M. Thommes. A copy of the ‘407 patent is attached hereto as Exhibit B.

20 14. ITW is the assignee of the ‘407 patent.

21 15. Miller Electric is the exclusive licensee of the ‘407 patent.

22 16. The ‘407 patent is valid and enforceable.

23 17. U.S. Patent No. 6,815,639 (“the ‘639 patent”) entitled “Method and Apparatus for  
24 Receiving a Universal Input Voltage in Welding, Plasma or Heating Power Source,” duly and legally  
25 issued on November 9, 2004, to Steven J. Geissler. A copy of the ‘639 patent is attached hereto as  
26 Exhibit C.

27 18. ITW is the assignee of the ‘639 patent.

28 19. Miller Electric is the exclusive licensee of the ‘639 patent.



1 among other things, making, using, selling, and/or offering to sell the CutMaster™ 38 product.

2 34. TDC has caused and will continue to cause Plaintiffs substantial damage and  
3 irreparable injury by virtue of its continuing infringement of the ‘407 patent.

4 35. Plaintiffs will suffer further damages and irreparable injury unless and until TDC is  
5 enjoined by this Court from continuing such infringement.

6 36. Upon information and belief, TDC’s infringement of the ‘407 patent is willful and  
7 deliberate.

8 **COUNT III**

9 **INFRINGEMENT OF U.S. PATENT NO. 6,815,639**

10 37. Plaintiffs repeat and reallege the allegations in paragraphs 1-24 as though fully set  
11 forth herein.

12 38. TDC has infringed and induced others to infringe the ‘639 patent, by among other  
13 things, making, using, selling, and/or offering to sell the CutMaster™ 38 product.

14 39. Upon information and belief, TDC has contributorily infringed the ‘639 patent, by  
15 among other things, making, using, selling, and/or offering to sell the CutMaster™ 38 product.

16 40. TDC has caused and will continue to cause Plaintiffs substantial damage and  
17 irreparable injury by virtue of its continuing infringement of the ‘639 patent.

18 41. Plaintiffs will suffer further damages and irreparable injury unless and until TDC is  
19 enjoined by this Court from continuing such infringement.

20 42. Upon information and belief, TDC’s infringement of the ‘639 patent is willful and  
21 deliberate.

22 **COUNT IV**

23 **INFRINGEMENT OF U.S. PATENT NO. 6,849,827**

24 43. Plaintiffs repeat and reallege the allegations in paragraphs 1-24 as though fully set  
25 forth herein.

26 38. TDC has infringed and induced others to infringe the ‘827 patent, by among other  
27 things, making, using, selling, and/or offering to sell the CutMaster™ 38 product.

28 39. Upon information and belief, TDC has contributorily infringed the ‘827 patent, by

1 among other things, making, using, selling, and/or offering to sell the CutMaster™ 38 product.

2 40. TDC has caused and will continue to cause Plaintiffs substantial damage and  
3 irreparable injury by virtue of its continuing infringement of the '827 patent.

4 41. Plaintiffs will suffer further damages and irreparable injury unless and until TDC is  
5 enjoined by this Court from continuing such infringement.

6 42. Upon information and belief, TDC's infringement of the '827 patent is willful and  
7 deliberate.

8 WHEREFORE, Plaintiffs pray for the entry of judgment as follows:

9 A. Declaring that TDC has infringed the '014, '407, '639, and '827 patents;

10 B. Permanently enjoining and restraining TDC, its officers, directors, agents, servants,  
11 employees, licensees, successors, assigns, those in active concert and participation with them, and all  
12 persons acting on their behalf or within their control from:

13 1. Further acts of infringing the '014, '407, '639, and '827 patents, including, but  
14 not limited to, making, using, selling, offering to sell, importing, exporting, advertising, or otherwise  
15 using, contributing to the use of, or inducing the use of all products found to infringe the '014, '407,  
16 '639, and '827 patents.; and

17 2. Transferring, moving, or otherwise disposing of all products found to infringe  
18 the '014, '407, '639, and '827 patents.;

19 C. Requiring TDC to:

20 1. Send a copy of any decision in this case in favor of Plaintiffs to each person or  
21 entity to whom TDC has sold, or otherwise distributed all products found to infringe the '014, '407,  
22 '639, and '827 patents, and informing such persons or entities of the judgment and that the sale or  
23 solicited commercial transaction was wrongful.;

24 2. Take all necessary steps within their power to recall and collect from all  
25 persons and entities any and all products found to infringe the '014, '407, '639, and '827 patents,  
26 that were made, sold, or otherwise distributed by TDC or anyone acting on their behalf.;

27 3. File with the Court and serve upon Plaintiffs, within 30 days after entry of  
28 final judgment in this case, a report in writing and subscribed under oath setting forth in detail the

1 form and manner in which TDC has complied with the Court's orders as prayed for.;

2 D. Awarding Plaintiffs patent infringement damages and pre-judgment interest pursuant  
3 to 35 U.S.C. § 284;

4 E. Awarding Plaintiffs treble damages for willful infringement pursuant to 35 U.S.C. §  
5 284;

6 F. Declaring the case exceptional and awarding Plaintiffs reasonable costs and attorneys  
7 fees pursuant to 35 U.S.C. § 285; and

8 G. Granting Plaintiffs such other and further relief as justice and equity may require.

9 **JURY DEMAND**

10 Plaintiffs request a jury trial.  
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DATED: February 15, 2005

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