

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

INVENSYS SYSTEMS, INC.,	§	
	§	
Plaintiff,	§	C.A. No. 6:12-cv-00799-LED
v.	§	
	§	JURY TRIAL DEMANDED
EMERSON ELECTRIC CO. and	§	
MICRO MOTION INC.,	§	
	§	
Defendants.	§	

**PLAINTIFF'S FIRST AMENDED COMPLAINT**

Invensys Systems, Inc. ("Invensys"), brings this action under the patent laws of the United States (Title 35, United States Code, §§ 1-376) against Emerson Electric Company ("Emerson") and Micro Motion Inc. ("Micro Motion") for infringement of U.S. Patent Nos. 7,124,646, 7,136,761, 6,311,136, 7,505,854, 6,754,594, 7,571,062, and 8,000,906 (collectively, the "patents-in-suit").

**PARTIES**

1. Invensys Systems, Inc., is a Massachusetts corporation. Invensys Systems, Inc., through its operating division Invensys Operations Management, has a principal place of business at 10900 Equity Drive, Houston, Texas 77041, and does business in and has facilities in this District, including an office in Plano. Invensys Systems, Inc., and Invensys Operations Management are referred to herein as "Invensys."

2. Emerson Electric Company is a Missouri corporation with its principal place of business at 8000 W. Florissant Ave., St. Louis, Missouri. Emerson Electric Company through its Division, Emerson Process Management, does business in and has facilities in this District. Emerson and Emerson Process Management are referred to herein as "Emerson."

3. Micro Motion Inc., USA is a Colorado corporation with its principal place of business at 7070 Winchester Circle, Boulder, Colorado 80301-3506. Upon information and belief, Micro Motion is an incorporated division and/or wholly owned subsidiary of Emerson, and Micro Motion's products, including those accused of infringement herein, are sold, offered for sale and used in this District.

### **JURISDICTION**

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action concerns a federal question relating to patents arising under Title 35 of the United States Code.

5. This Court has personal jurisdiction over Emerson. Upon information and belief, Emerson conducts business in this State and is making, using, selling, importing, and/or offering for sale (and has, within a reasonable period prior to the filing of this action made, used, sold, imported and/or offered to sell) infringing products, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, to customers in this State and in this District, either directly or indirectly through distributors or other means. Upon information and belief, Emerson has placed infringing products into the stream of commerce, knowing or reasonably expecting that such products will be used, sold, or offered for sale in this State and in

this District. Upon information and belief, Emerson has intentionally established distribution channels to offer for sale and to sell the infringing products in this State and this District.

6. This Court has personal jurisdiction over Micro Motion. Upon information and belief, Micro Motion conducts business in this State and is making, using, selling, importing, and/or offering for sale (and has within a reasonable period prior to the filing of this action made, used, sold, imported and/or offered to sell) infringing products, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, to customers in this State and in this District, either directly or indirectly. Upon information and belief, Micro Motion has placed infringing products into the stream of commerce, knowing or reasonably expecting that such products will be used, sold, or offered to be sold in this State and in this District. Upon information and belief, Micro Motion has intentionally established distribution channels to offer for sale and to sell the infringing products in this State and this District.

### **VENUE**

7. Venue is proper in this Court under 28 U.S.C. §1400(b) because Emerson and Micro Motion reside in this District. In addition, venue is proper in this Court under 28 U.S.C. §§ 1391(b)-(c) because Emerson and Micro Motion reside in this District and/or a substantial part of the events or omissions giving rise to the claims occurred in this District.

### **BACKGROUND**

8. Invensys develops and applies advanced technologies that enable the world's manufacturing and energy-generating facilities, mainline and mass transit rail networks, and appliances to operate safely and in an energy-efficient manner. Among the technologies that Invensys has developed is the digital Coriolis flowmeter. Digital Coriolis flowmeters provide precise measurements of the mass flow rate of liquids, and have particular utility (and satisfied a long-felt industrial need) in measuring liquid mass flow in two phase (gas and liquid combined) or multi-phase settings. They are used in a variety of industries, including oil and gas, petrochemical, and food and beverage.

9. Invensys has been and is currently selling products incorporating its digital Coriolis flowmeter technologies. Invensys has marked its products with the numbers of the patents-in-suit.

10. Upon information and belief, Micro Motion is an incorporated division and/or wholly owned subsidiary of Emerson. Micro Motion is a direct competitor of Invensys in the digital Coriolis flowmeter market. Although Micro Motion initially discounted the feasibility of Coriolis flowmeters that could measure two-phase flow, in 2006, Micro Motion released Coriolis Meters and components thereof having a Micro Motion enhanced core processor, including, but not limited to, Micro Motion<sup>®</sup> Elite<sup>®</sup> Coriolis Meters, which claimed to measure two-phase flow. These products incorporate technology covered by a number of Invensys' patents.

11. Invensys Operations Management, the operating division that sells digital Coriolis flowmeters, has an office and a service center in this District. Both Micro Motion and Emerson have facilities in this District. Invensys sells to customers in this District through sales

representatives with offices in this District and directly competes with Micro Motion in the digital Coriolis flowmeter market in this District.

**FIRST CLAIM**

**(Patent Infringement of the '646 Patent)**

12. The allegations of paragraphs 1-11 are incorporated herein by reference.

13. Invensys is the sole owner of United States Patent No. 7,124,646, titled "Correcting for Two-Phase Flow in Digital Flowmeter" ("the '646 Patent"). The '646 Patent was duly and legally issued on October 24, 2006, to Manus P. Henry and Maria Jesus De La Fuente and was assigned to Invensys. A copy of the '646 patent is attached to this Complaint as Exhibit A.

14. Defendants Micro Motion and Emerson have been and currently are infringing, either literally or under the doctrine of equivalents, the '646 Patent by, among other things: (1) making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, products that are covered by one or more claims of the '646 Patent, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component; (2) contributing to the making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, of products that are covered by one or more claims of the '646 Patent by selling a material component of the patented invention that does not have substantial non-infringing uses, including but not limited to (i) Coriolis Meters (e.g., Micro

Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, with knowledge that it will be used in the infringement of the '646 Patent; and/or (3) inducing its customers, distributors and others in the chain of distribution to make, use, sell, import and/or offer for sale products that are covered by one or more claims of the '646 Patent, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, with knowledge of and intent that its customers, distributors and others in the chain of distribution infringe the '646 Patent.

15. Defendants Micro Motion's and Emerson's infringement, contributory infringement, and/or inducement to infringe has injured Invensys, and Invensys is entitled to recover damages adequate to compensate it for such infringement. Because Defendants' infringement has caused Invensys to lose sales and has eroded the price of Invensys's digital Coriolis flow-meters, Invensys is entitled to recover lost profits. Alternatively or in addition, Invensys is entitled to recover a reasonable royalty.

16. Defendants Micro Motion and Emerson know and have known (including but not limited to since the filing date of this lawsuit), that the '646 Patent was duly issued and assigned to Invensys and have proceeded with an objectively reckless disregard for Invensys's patent rights, without a sound or good faith basis to believe they had a right to continue their unlicensed making, using, selling, importing and/or offering for sale of the infringing products. For example, Micro Motion and/or Emerson cited to the U.S. Patent and Trademark Office ("USPTO") in at least one Information Disclosure Statements ("IDS") one or more Invensys assigned patents that are parents of the '646 Patent as well as other patents or applications that are in the '646 Patent's family. As a result of Micro Motion's and Emerson's willful and deliberate misconduct, Invensys seeks an enhancement of its damages up to three times the amount found or assessed pursuant to 35 U.S.C. § 284.

17. Defendants Micro Motion's and Emerson's infringement of the '646 Patent has caused and will continue to cause Invensys irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

## **SECOND CLAIM**

### **(Patent Infringement of the '761 Patent)**

18. The allegations of paragraphs 1-17 are incorporated herein by reference.

19. Invensys is the sole owner of United States Patent No. 7,136,761, titled "Digital Flowmeter" ("the '761 Patent"). The '761 Patent was duly and legally issued on November 14, 2006, to Manus P. Henry, David W. Clarke, and James H. Vignos and was assigned to Invensys. A copy of the '761 Patent is attached to this Complaint as Exhibit B.

20. Defendants Micro Motion and Emerson have been and currently are infringing, either literally or under the doctrine of equivalents, the '761 Patent by, among other things: (1)

making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, products that are covered by one or more claims of the '761 Patent, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component; (2) contributing to the making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, of products that are covered by one or more claims of the '761 Patent by selling a material component of the patented invention that does not have substantial non-infringing uses, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, with knowledge that it will be used in the infringement of the '761 Patent; or (3) inducing its customers, distributors and others in the chain of distribution to make, use, sell, import and/or offer for sale products that are covered by one or more claims of the '761 Patent, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000



transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, with knowledge of and intent that its customers, distributors and others in the chain of distribution infringe the '761 Patent.

21. Defendants Micro Motion's and Emerson's infringement, contributory infringement, and/or inducement to infringe has injured Invensys, and Invensys is entitled to recover damages adequate to compensate it for such infringement. Because Defendants' infringement has caused Invensys to lose sales and has eroded the price of Invensys's digital Coriolis flow-meters, Invensys is entitled to recover lost profits. Alternatively or in addition, Invensys is entitled to recover a reasonable royalty.

22. Defendants Micro Motion and Emerson know and have known (including but not limited to since the filing date of this lawsuit), that the '761 Patent was duly issued and assigned to Invensys and have proceeded with an objectively reckless disregard for Invensys's patent rights, without a sound or good faith basis to believe they had a right to continue their unlicensed making, using, selling, importing and/or offering for sale of the infringing products. For example, Micro Motion and/or Emerson cited to the USPTO in at least one IDS one or more Invensys assigned patents that are parents of the '761 Patent as well as other patents or applications that are in the '761 Patent's family. As a result of Micro Motion's and Emerson's willful and deliberate misconduct, Invensys seeks an enhancement of its damages up to three times the amount found or assessed pursuant to 35 U.S.C. § 284.

23. Defendants Micro Motion's and Emerson's infringement of the '761 Patent has caused and will continue to cause Invensys irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

### **THIRD CLAIM**

#### **(Patent Infringement of the '136 Patent)**

24. The allegations of paragraphs 1-23 are incorporated herein by reference.

25. Invensys is the sole owner of United States Patent No. 6,311,136, titled "Digital Flowmeter" ("the '136 Patent"). The '136 Patent was duly and legally issued on October 30, 2001, to Manus P. Henry, David W. Clarke, and James H. Vignos and was assigned to Invensys. A copy of the '136 Patent is attached to this Complaint as Exhibit C.

26. Defendants Micro Motion and Emerson have been and currently are infringing, either literally or under the doctrine of equivalents, the '136 Patent by, among other things: (1) making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, products that are covered by one or more claims of the '136 Patent, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component; (2) contributing to the making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, of products that are covered by one or more claims of the '136 Patent by selling a material component of the patented invention that does not have sub-

stantial non-infringing uses, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, with knowledge that it will be used in the infringement of the '136 Patent; or (3) inducing its customers, distributors and others in the chain of distribution to make, use, sell, import and/or offer for sale products that are covered by one or more claims of the '136 Patent, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, with knowledge of and intent that its customers, distributors and others in the chain of distribution infringe the '136 Patent.

27. Defendants Micro Motion's and Emerson's infringement, contributory infringement, and/or inducement to infringe has injured Invensys, and Invensys is entitled to recover damages adequate to compensate it for such infringement. Because Defendants' infringement has caused Invensys to lose sales and has eroded the price of Invensys's digital Coriolis flowmeters, Invensys is entitled to recover lost profits. Alternatively or in addition, Invensys is entitled to recover a reasonable royalty.

28. Defendants Micro Motion and Emerson know and have known (including but not limited to since the filing date of this lawsuit), that the '136 Patent was duly issued to Invensys and have proceeded with an objectively reckless disregard for Invensys's patent rights, without a sound or good faith basis to believe they had a right to continue their unlicensed making, using, selling, importing and/or offering for sale of the infringing products. Moreover, at least the following U.S. Patents assigned to Micro Motion or Emerson cite the '136 Patent as prior art in the References Cited section: 8,063,694 ("the '694 Patent"); 7,974,792 ("the '792 Patent"); 7,293,470 ("the '470 Patent"); 6,606,917; 6,487,507; and RE43,288 E.

29. On March 3, 2006, during prosecution of U.S. Patent No. 7,114,517 (the "'517 Patent"), Micro Motion and/or Emerson cited the '136 Patent on an IDS submitted to the USPTO. RE43,288 is a reissue of the '517 Patent. An assignment of the '517 Patent to Emerson was recorded with the USPTO on November 21, 2001.

30. On March 8, 2006, during prosecution of the '470 Patent, Micro Motion and/or Emerson cited the '136 Patent and U.S. Patent Application No. 2003/0154804 ("the '4804 Application"), which is in the same family as the '136 Patent, on an IDS submitted to the USPTO. That same day, an assignment of the '470 Patent to Micro Motion was recorded with the USPTO.

31. On September 11, 2007, during prosecution of the '792 Patent, Micro Motion and/or Emerson listed the '136 Patent on an IDS submitted to the USPTO. That same day, an assignment of the '792 Patent to Micro Motion was recorded with the USPTO.

32. On October 15, 2008, during prosecution of the '694 Patent, Micro Motion and/or Emerson listed the '136 Patent on an IDS submitted to the USPTO. That same day, an assignment of the '694 Patent to Micro Motion was recorded with the USPTO.

33. Additionally, in connection with Emerson and/or Micro Motion's prosecution of one or more other patent applications assigned to Micro Motion or Emerson, Micro Motion and/or Emerson cited one or more patents or applications that are in the same family as the '136 Patent.

34. As a result of Micro Motion's and Emerson's willful and deliberate misconduct, Invensys seeks an enhancement of its damages up to three times the amount found or assessed pursuant to 35 U.S.C. § 284.

35. Defendants Micro Motion's and Emerson's infringement of the '136 Patent has caused and will continue to cause irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

#### **FOURTH CLAIM**

##### **(Patent Infringement of the '854 Patent)**

36. The allegations of paragraphs 1-35 are incorporated herein by reference.

37. Invensys is the sole owner of United States Patent No. 7,505,854, titled "Startup Techniques for a Digital Flowmeter" ("the '854 Patent"). The '854 Patent was duly and legally issued on March 17, 2009, to Manus P. Henry and Mayela E. Zamora and was assigned to Invensys. A copy of the '854 Patent is attached to this Complaint as Exhibit D.

38. Defendants Micro Motion and Emerson have been and currently are infringing, either literally or under the doctrine of equivalents, the '854 Patent by, among other things: (1) making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, products that are covered by one or more claims of the '854 Patent, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion

Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component;

(2) contributing to the making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, of products that are covered by one or more claims of the '854 Patent by selling a material component of the patented invention that does not have substantial non-infringing uses, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, with knowledge that it will be used in the infringement of the '854 Patent; or (3) inducing its customers, distributors and others in the chain of distribution to make, use, sell, import and/or offer for sale products that are covered by one or more claims of the '854 Patent, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series

3000 transmitters) or any substantially similar component, with knowledge of and intent that its customers, distributors and others in the chain of distribution infringe the '854 Patent.

39. Defendants Micro Motion's and Emerson's infringement, contributory infringement, and/or inducement to infringe has injured Invensys, and Invensys is entitled to recover damages adequate to compensate it for such infringement. Because Defendants' infringement has caused Invensys to lose sales and has eroded the price of Invensys's digital Coriolis flow-meters, Invensys is entitled to recover lost profits. Alternatively or in addition, Invensys is entitled to recover a reasonable royalty.

40. Defendants Micro Motion and Emerson know and have known (including but not limited to since the filing date of this lawsuit), that the '854 Patent was duly issued to Invensys and have proceeded with an objectively reckless disregard for Invensys's patent rights, without a sound or good faith basis to believe they had a right to continue their unlicensed making, using, selling, importing and/or offering for sale of the infringing products. For example, in connection with Emerson and/or Micro Motion's prosecution of one or more patent applications assigned to Micro Motion or Emerson, Micro Motion and/or Emerson cited one or more patents or applications in the same family as the '854 Patent. As a result of Micro Motion's and Emerson's willful and deliberate misconduct, Invensys seeks an enhancement of its damages up to three times the amount found or assessed pursuant to 35 U.S.C. § 284.

41. Defendants Micro Motion's and Emerson's infringement of the '854 Patent has caused and will continue to cause Invensys irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

## **FIFTH CLAIM**

### **(Patent Infringement of the '594 Patent)**

42. The allegations of paragraphs 1-41 are incorporated herein by reference.

43. Invensys is the sole owner of United States Patent No. 6,754,594, titled "Digital Flowmeter" ("the '594 Patent"). The '594 Patent was duly and legally issued on June 22, 2004, to Manus P. Henry, David W. Clarke, and James H. Vignos and was assigned to Invensys. A copy of the '594 Patent is attached to this Complaint as Exhibit E.

44. Defendants Micro Motion and Emerson have been and currently are infringing, either literally or under the doctrine of equivalents, the '594 Patent by, among other things: (1) making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, products that are covered by one or more claims of the '594 Patent, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component; (2) contributing to the making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, of products that are covered by one or more claims of the '594 Patent by selling a material component of the patented invention that does not have substantial non-infringing uses, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000



transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, with knowledge that it will be used in the infringement of the '594 Patent; or (3) inducing its customers, distributors and others in the chain of distribution to make, use, sell, import and/or offer for sale products that are covered by one or more claims of the '594 Patent, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, with knowledge of and intent that its customers, distributors and others in the chain of distribution infringe the '594 Patent.

45. Defendants Micro Motion's and Emerson's infringement, contributory infringement, and/or inducement to infringe has injured Invensys, and Invensys is entitled to recover damages adequate to compensate it for such infringement. Because Defendants' infringement has caused Invensys to lose sales and has eroded the price of Invensys's digital Coriolis flowmeters, Invensys is entitled to recover lost profits. Alternatively or in addition, Invensys is entitled to recover a reasonable royalty.

46. Defendants Micro Motion and Emerson know and have known (including but not limited to since the filing date of this lawsuit), that the '594 Patent was duly issued to Invensys and have proceeded with an objectively reckless disregard for Invensys's patent rights, without a

sound or good faith basis to believe they had a right to continue their unlicensed making, using, selling, importing and/or offering for sale of the infringing products. For example, Micro Motion and/or Emerson cited to the USPTO in at least one IDS one or more Invensys assigned patents that are parents of the '594 Patent as well as other patents or applications that are in the '594 Patent's family. As a result of Micro Motion's and Emerson's willful and deliberate misconduct, Invensys seeks an enhancement of its damages up to three times the amount found or assessed pursuant to 35 U.S.C. § 284.

47. Defendants Micro Motion's and Emerson's infringement of the '594 Patent has caused and will continue to cause Invensys irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

#### **SIXTH CLAIM**

##### **(Patent Infringement of the '062 Patent)**

48. The allegations of paragraphs 1-47 are incorporated herein by reference.

49. Invensys is the sole owner of United States Patent No. 7,571,062, titled "Digital Flowmeter" ("the '062 Patent"). The '062 Patent was duly and legally issued on August 4, 2009, to Manus P. Henry, David W. Clarke, and James H. Vignos and was assigned to Invensys. A copy of the '062 Patent is attached to this Complaint as Exhibit F.

50. Defendants Micro Motion and Emerson have been and currently are infringing, either literally or under the doctrine of equivalents, the '062 Patent by, among other things: (1) making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, products that are covered by one or more claims of the '062 Patent, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion

Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component;

(2) contributing to the making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, of products that are covered by one or more claims of the '062 Patent by selling a material component of the patented invention that does not have substantial non-infringing uses, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, with knowledge that it will be used in the infringement of the '062 Patent; or (3) inducing its customers, distributors and others in the chain of distribution to make, use, sell, import and/or offer for sale products that are covered by one or more claims of the '062 Patent, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series

3000 transmitters) or any substantially similar component, with knowledge of and intent that its customers, distributors and others in the chain of distribution infringe the '062 Patent.

51. Defendants Micro Motion's and Emerson's infringement, contributory infringement, and/or inducement to infringe has injured Invensys, and Invensys is entitled to recover damages adequate to compensate it for such infringement. Because Defendants' infringement has caused Invensys to lose sales and has eroded the price of Invensys's digital Coriolis flow-meters, Invensys is entitled to recover lost profits. Alternatively or in addition, Invensys is entitled to recover a reasonable royalty.

52. Defendants Micro Motion and Emerson know and have known (including but not limited to since the filing date of this lawsuit), that the '062 Patent was duly issued to Invensys and have proceeded with an objectively reckless disregard for Invensys's patent rights, without a sound or good faith basis to believe they had a right to continue their unlicensed making, using, selling, importing and/or offering for sale of the infringing products. For example, at least the following U.S. Patents assigned to Micro Motion or Emerson cite the '062 Patent as prior art in the References Cited section: 8,289,179 ("the '179 Patent"). On November 4, 2009, an assignment of the '179 Patent to Micro Motion was recorded with the USPTO. On June 22, 2012, the Examiner issued a Notice of Allowability and a Notice of References Cited to Micro Motion and/or Emerson, which each listed the '062 Patent as well as the following patents that are in the same family as the '062 Patent: U.S. Patent. Nos. 6,917,887, 7,404,336, and 8,000,906.

53. Additionally, in connection with Emerson and/or Micro Motion's prosecution of one or more other patent applications assigned to Micro Motion or Emerson, Micro Motion and/or Emerson cited to the USPTO in at least one IDS one or more Invensys assigned patents

that are parents of the '062 Patent as well as other patents or applications that are in the '062 Patent's family.

54. As a result of Micro Motion's and Emerson's willful and deliberate misconduct, Invensys seeks an enhancement of its damages up to three times the amount found or assessed pursuant to 35 U.S.C. § 284.

55. Defendants Micro Motion's and Emerson's infringement of the '062 Patent has caused and will continue to cause Invensys irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

### **SEVENTH CLAIM**

#### **(Patent Infringement of the '906 Patent)**

56. The allegations of paragraphs 1-55 are incorporated herein by reference.

57. Invensys is the sole owner of United States Patent No. 8,000,906, titled "Digital Flowmeter" ("the '906 Patent"). The '906 Patent was duly and legally issued on August 16, 2011, to Manus P. Henry, David W. Clarke, and James H. Vignos and was assigned to Invensys. A copy of the '906 Patent is attached to this Complaint as Exhibit G.

58. Defendants Micro Motion and Emerson have been and currently are infringing, either literally or under the doctrine of equivalents, the '906 Patent by, among other things: (1) making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, products that are covered by one or more claims of the '906 Patent, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a

Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component;

(2) contributing to the making, using, selling, importing, and/or offering for sale, within the territorial boundaries of the United States, of products that are covered by one or more claims of the '906 Patent by selling a material component of the patented invention that does not have substantial non-infringing uses, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, with knowledge that it will be used in the infringement of the '906 Patent; or (3) inducing its customers, distributors and others in the chain of distribution to make, use, sell, import and/or offer for sale products that are covered by one or more claims of the '906 Patent, including but not limited to (i) Coriolis Meters (e.g., Micro Motion® Elite® Coriolis Meters) containing a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, and/or (ii) components of the aforementioned Coriolis Meters, including, but not limited to, a Micro Motion transmitter with a Micro Motion enhanced core processor (e.g., Micro Motion Model 2400S, 1700, 2700 and Series 3000 transmitters) or any substantially similar component, with knowledge of and intent that its customers, distributors and others in the chain of distribution infringe the '906 Patent.

59. Defendants Micro Motion's and Emerson's infringement, contributory infringement, and/or inducement to infringe has injured Invensys, and Invensys is entitled to recover damages adequate to compensate it for such infringement. Because Defendants' infringement has caused Invensys to lose sales and has eroded the price of Invensys's digital Coriolis flow-meters, Invensys is entitled to recover lost profits. Alternatively or in addition, Invensys is entitled to recover a reasonable royalty.

60. Defendants Micro Motion and Emerson know and have known (including but not limited to since the filing date of this lawsuit), that the '906 Patent was duly issued to Invensys and have proceeded with an objectively reckless disregard for Invensys's patent rights, without a sound or good faith basis to believe they had a right to continue their unlicensed making, using, selling, importing and/or offering for sale of the infringing products. For example, at least the following U.S. Patents assigned to Micro Motion or Emerson cite the '906 Patent as prior art in the References Cited section: the '179 Patent. On November 4, 2009, an assignment of the '179 Patent to Micro Motion was recorded with the USPTO. On June 22, 2012, the Examiner issued a Notice of Allowability and a Notice of References Cited to Micro Motion and/or Emerson, which each listed the '906 Patent as well as the following patents that are in the same family as the '906 Patent: U.S. Patent. Nos. 6,917,887, 7,404,336, and 7,571,062.

61. Additionally, in connection with Emerson and/or Micro Motion's prosecution of one or more other patent applications assigned to Micro Motion or Emerson, Micro Motion and/or Emerson cited to the USPTO in at least one IDS one or more Invensys assigned patents that are parents of the '906 Patent as well as other patents or applications that are in the '906 Patent's family.

62. As a result of Micro Motion's and Emerson's willful and deliberate misconduct, Invensys seeks an enhancement of its damages up to three times the amount found or assessed pursuant to 35 U.S.C. § 284.

63. Defendants Micro Motion's and Emerson's infringement of the '906 Patent has caused and will continue to cause Invensys irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

**DEMAND FOR A JURY TRIAL**

64. Invensys hereby demands a trial by jury as to all issues triable by a jury.

**PRAYER FOR RELIEF**

WHEREFORE, Invensys respectfully requests that the Court:

A. Enter judgment that Defendants Micro Motion and Emerson have infringed, directly or indirectly, the '646, '761, '136, '854, '594, '062, and '906 Patents;

B. Award damages adequate to compensate Invensys for the infringement that has occurred, including damages for lost profits and price erosion, but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;

C. Award enhanced damages of up to three times the amount found or assessed pursuant to 35 U.S.C. § 284 based on Defendants Micro Motion and Emerson's willful infringement;

D. Enter a permanent injunction enjoining and restraining Defendants Micro Motion and Emerson and their officers, directors, agents, servants, employees, and all others acting under, by, or through them from directly or indirectly infringing the '646, '761, '136, '854, '594, '062, and '906 Patents and/or grant such other injunctive relief as the Court deems just and appropriate;



E. Award pre-judgment and post-judgment interest;

F. Declare this an exceptional case pursuant to 35 U.S.C. § 285 and award Invensys its attorneys' fees and costs (including expert fees); and

G. Award Invensys such other and further relief as this Court may deem just and proper.

Date: January 31, 2013

Respectfully submitted,

/s/ Claudia Wilson Frost

Claudia Wilson Frost

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on January 31, 2013, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3). Any other counsel of record will be served by first class mail.

/s/ Claudia Wilson Frost  
Claudia Wilson Frost