

**IN THE UNITED STATES DISTRICT COURT
FOR THE NOTHERN DISTRICT OF TEXAS**

INERGETIC AB

Plaintiff,

v.

**MURATA ELECTRONICS
NORTH AMERICA, INC.**

Defendant.

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CIVIL ACTION NO. 3:18-cv-1686

JURY TRIAL DEMANDED

COMPLAINT FOR INFRINGEMENT OF PATENT

COMES NOW, Plaintiff Inergetic AB (“Inergetic” or Plaintiff), through the undersigned attorneys, and respectfully alleges, states, and prays as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under the Patent Laws of the United States, Title 35 United States Code to prevent and enjoin Defendant Murata Electronics North America, Inc. (hereinafter “Defendant”), from infringing and profiting, in an illegal and unauthorized manner and without authorization and/or of the consent from Inergetic, from U.S. Patent No. 6,467,349 (the “‘349 patent”, attached hereto as Exhibit “A”) pursuant to 35 U.S.C. § 271, and to recover damages, attorney’s fees, and costs.

THE PARTIES

2. Plaintiff is a Sweden entity with its principal place of business at Inergetic AB Stockens Vag 13, Lindome, Sweden SE-43793.

3. Upon information and belief, Defendant is a corporation established under the laws of the State of Texas, having a principal place of business at 4100 Midway Road, Suite 2050,

Carrollton, TX 75007, USA. Upon information and belief, Defendant may be served with process at CSC-Lawyers, Inc., 211 E. 7th Street Suite 620 Austin, TX 78701.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.*

5. This Court has personal jurisdiction over Defendant by virtue of its systematic and continuous contacts with this jurisdiction, including being incorporated within this state and having branches and employees in Texas, as well as because of the injury to Inergetic, and the cause of action Inergetic has risen, as alleged herein.

6. Defendant is subject to this Court's personal jurisdiction pursuant to due process, due at least to its substantial business and purposeful availment of this forum, including: (i) at least a portion of the infringements alleged herein; (ii) being incorporated within the State of Texas; and (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this judicial district.

7. Upon information and belief, Defendant, directly and/or through its employees or agents, and/or its customers, uses products, as defined below, that contain each and every element of at least one claim of the '349 patent with the knowledge and/or understanding that such products are used or will be used in this District. For example, the accused instrumentality is a sensor adapted to respond to a rotation. Upon information and belief, Defendant has engaged in substantial and not isolated activity within this District. Therefore, exercise of jurisdiction over Defendant will not offend traditional notions of fair play and substantial justice.

8. Defendant has conducted and does conduct business within the state of Texas, including the geographic region within the Northern District of Texas, directly or through intermediaries, resellers or agents, or offers and advertises (including through the use of interactive web pages with promotional material) products or services, or uses services or products in Texas, including this judicial district, that infringe the '349 patent.

9. Specifically, Defendant solicits business from and markets its services to consumers within Texas, including the geographic region within the Northern District of Texas, by offering sensors adapted to respond to a rotation for said Texas consumers.

10. In addition to Defendant's continuously and systematically conducting business in Texas, the causes of action against Defendant are connected (but not limited) to Defendant's purposeful acts committed in the state of Texas, including the geographic region within the Northern District of Texas, such as Defendant's use of sensors adapted to respond to a rotation that include features that fall within the scope of at least one claim of the '349 patent.

11. Defendant is a company that has a regular and established presence in this district and makes and uses a sensor comprising a body formed from a substantially planar substrate, which incorporates a beam having a longitudinal axis with two opposed ends, each end being adapted to be fixed in position. Said beam is provided with inertia mass means connected to it, the body being associated with means for exciting a first oscillation of the inertia mass means, that first oscillation being an oscillation about an oscillation axis. The sensor further comprises means for detecting a second oscillation of the inertia mass means, substantially around an axis perpendicular to said oscillation axis, which second oscillation is caused by the Coriolis force which arises when the body is subjected to a rotation about an axis angularly displaced from perpendicular to the plane of said planar substrate, but perpendicular to the said axis of the beam. The inertia mass means

comprises at least two discrete inertia masses, located at different positions spaced from each other along the length of the beam, the said two masses being excited to oscillate in anti-phase.

12. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(b) because Defendant is a resident of this district.

FACTUAL ALLEGATIONS

13. On October 22, 2002, the United States Patent and Trademark Office (“USPTO”) duly and legally issued the ‘349 patent, entitled “Arrangement for Measuring Angular Velocity” after a full and fair examination (Exhibit A).

14. Inergetic is presently the owner of the patent, having received all right, title and interest in and to the ‘349 patent from the previous assignee of record. Inergetic possesses all rights of recovery under the ‘349 patent, including the exclusive right to recover for past infringement.

15. The ‘349 patent contains two independent claims and thirty-one dependent claims. Defendant commercializes, inter alia, systems that contain all the elements recited in at least one claim of the ‘349 patent.

16. The invention claimed in the ‘349 patent comprises an arrangement for a sensor for measuring angular velocity.

DEFENDANT’S PRODUCTS

17. Defendant offers sensors for individuals and businesses, such as the “SCC1300 Combined Gyro Sensor and Accelerometer” system (the “Accused Instrumentality”), that is adapted to respond to a rotation, as recited in the preamble of claim 20 of the ‘349 patent.¹ For example, as shown in Defendant’s website, the Accused Instrumentality provides angular rate measurement.²

¹<https://www.murata.com/en-eu/products/sensor/gyro/scc1300>

² *Id.*

18. As recited in claim 20, the Accused Instrumentality comprises a body formed from a substantially planar substrate. For example, the Accused Instrumentality is formed from a wafer.

19. As recited in claim 20, the Accused Instrumentality comprises a body incorporating a beam having a longitudinal axis, having two opposed ends, and each end being adapted to be fixed in position. For example, the Accused Instrumentality includes a beam which extends through its capacitive combs and has two opposed ends which attach to the body of the device.

20. As recited in claim 20, the Accused Instrumentality comprises inertia mass means connected to the beam. For example, the Accused Instrumentality contains seismic masses connected to the beam.

21. As recited in claim 20, the Accused Instrumentality comprises a body associated with means for exciting a first oscillation of the inertia mass means, that first oscillation being an oscillation about an oscillation axis. For example, the Accused Instrumentality generates an angular oscillation of the seismic masses in opposite phase about support areas attaching the masses to the body of the sensor.

22. As recited in claim 20, the Accused Instrumentality includes means for detecting a second oscillation of the inertia mass means, substantially around an axis perpendicular to said oscillation axis, which second oscillation is caused by the Coriolis force, which arises when the body is subjected to a rotation about an axis angularly displaced from perpendicular to the plane of said planar substrate, but perpendicular to the said axis of the beam. For example, the Accused Instrumentality measures out-of-plane movement as capacitance.³ Said movement is caused by Coriolis forces that are induced by an external angular velocity affecting the sensor in a direction perpendicular to the direction of motion of the resonators.

³ https://www.mouser.com/pdfdocs/82113000d_sce1300d02_datasheet.PDF, p. 13

23. As recited in claim 20, the Accused Instrumentality comprises inertia mass means that comprises at least two discrete inertia masses located at different positions spaced from each other along the length of the beam, said two masses being excited to oscillate in anti-phase. For example, the Accused Instrumentality comprises two seismic masses located at each side of the capacitive combs, which oscillation in opposite phase.

24. The elements described in paragraphs 17-23 are covered by at least claim 20 of the '349 patent. Thus, Defendant's use of the Accused Product is enabled by the system described in the '349 patent.

COUNT I
(DIRECT INFRINGEMENT OF THE '349 PATENT)

25. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1 to 24.

26. In violation of 35 U.S.C. § 271, Defendant is now, and has been directly infringing the '349 patent by making and using a product, at least during internal testing, that performs all the steps required by the method recited in claim 20 of the '349 patent, as outlined in paragraphs 17-23 of the present complaint.

27. Defendant has had knowledge of infringement of the '349 patent at least as of the service of the present complaint.

28. Defendant has directly infringed and continues to directly infringe at least claim 20 of the '349 patent by using the Accused Instrumentality without authority in the United States, and will continue to do so unless enjoined by this Court. As a direct and proximate result of Defendant's direct infringement of the '349 patent, Plaintiff has been and continues to be damaged.

29. By engaging in the conduct described herein, Defendant has injured Inergetic and is thus liable for infringement of the '349 patent, pursuant to 35 U.S.C. § 271.

30. Defendant has committed these acts of infringement without license or authorization.

31. As a result of Defendant's infringement of the '349 patent, Inergetic has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

32. Inergetic will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, Inergetic is entitled to compensation for any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

COUNT II
(INDIRECT INFRINGEMENT OF THE '349 PATENT)

33. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1 to 32.

34. In violation of 35 U.S.C. § 271, Defendant is now, and has been indirectly infringing the '349 patent.

35. Defendant has had knowledge of infringement of the '349 patent at least as of the service of the present complaint.

36. Defendant has indirectly infringed and continues to indirectly infringe at least claim 20 of the '349 patent by actively inducing its respective customers, users, and/or licensees to directly infringe by using the Accused Product. Defendant engaged or will have engaged in such inducement having knowledge of the '349 patent. Furthermore, Defendant knew or should have known that its action would induce direct infringement by others and intended that its actions would induce direct infringement by others. For example, Defendant sells, offers to sell and advertises the Accused Product through websites or digital distribution platforms that are available

in Texas, specifically intending that its customers use it.⁴ Furthermore, Defendant's customers' use of the Accused Product is facilitated by the use of the device described in the '349 patent. As a direct and proximate result of Defendant's indirect infringement by inducement of the '349 patent, Plaintiff has been and continues to be damaged.

37. By engaging in the conduct described herein, Defendant has injured Inergetic and is thus liable for infringement of the '349 patent, pursuant to 35 U.S.C. § 271.

38. Defendant has committed these acts of infringement without license or authorization.

39. As a result of Defendant's infringement of the '349 patent, Inergetic has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs. Inergetic will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, Inergetic is entitled to compensation for any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

DEMAND FOR JURY TRIAL

40. Inergetic demands a trial by jury of any and all causes of action.

PRAYER FOR RELIEF

WHEREFORE, Inergetic prays for the following relief:

a. That Defendant be adjudged to have directly infringed the '349 patent either literally or under the doctrine of equivalents;

b. An accounting of all infringing sales including, but not limited to, those sales not presented at trial;

⁴ <https://www.murata.com/en-eu/products/sensor/gyro/scc1300>

c. That Defendant, its officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with any of them, be permanently restrained and enjoined from directly infringing the '349 patent;

d. An award of damages pursuant to 35 U.S.C. §284 sufficient to compensate Inergetic for the Defendant's past infringement and any continuing or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement, including compensatory damages;

e. An assessment of pre-judgment and post-judgment interest and costs against Defendant, together with an award of such interest and costs, in accordance with 35 U.S.C. §284;

f. That Defendant be directed to pay enhanced damages, including Inergetic's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. §285; and

g. That Inergetic have such other and further relief as this Court may deem just and proper.

Dated: June 27, 2018

Respectfully Submitted,

/s/ Neal Massand

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