

United States District Court,
W.D. Texas, San Antonio Division.

AIR MEASUREMENT TECHNOLOGIES, INC., North-South Corporation, and Louis Herbert Stumberg, Jr,
Plaintiffs.

v.

Gary W. HAMILTON, Hamilton & Terrile, L.L.P., Matthews & Branscomb, P.C. and Akin Gump Strauss Hauer & Feld, L.L.P,
Defendants.

No. SA-03-CA-0541-RF

Nov. 10, 2004.

Christopher James Kling, Paul V. Storm, Storm, LLP, Dallas, TX, Luther H. Soules, III, Soules & Wallace, San Antonio, TX, for Plaintiffs.

George H. Spencer, Jr., Jeffrey J. Jowers, Clemens & Spencer, San Antonio, TX, Keith B. Sieczkowski, Branscomb/PC, Corpus Christi, TX, Amy Clark-Meachum, Douglas D. Dodds, Travis C. Barton, Patton G. Lochridge, McGinnis, Lochridge & Kilgore, LLP, Austin, TX, David Lopez, Pulman, Cappuccio, Pullen & Benson, LLP, San Antonio, TX, for Defendants.

Agreed Order on the Markman Construction of the Existing Patent Claims

ROYAL FURGESON, District Judge.

WHEREAS, Plaintiffs Air Measurement Technologies, Inc., North-South Corporation, and Louis Herbert Stumberg, Jr. ("Plaintiffs") and Defendants Gary Hamilton, Hamilton & Terrile, L.L.P., Matthews & Branscomb, P.C. (now Branscomb, P.C.) and Akin Gump Strauss Hauer & Feld, L.L.P. ("Defendants") have reached an agreement regarding the construction of claims 1 through 12 of United States Patent No. 5,157,378 (the "'378 Patent"), claim 1 of United States Patent No. 5,689,234 (the "'234 Patent"), and claims 1 through 7 of United States Patent No. 5,910,771 (the "'771 Patent"), the Parties respectfully request that the Court enter an order showing that these claim terms shall be construed as set forth below:

CONSTRUCTION OF CLAIM TERMS FROM ISSUED PATENTS

('378 Patent, '234 Patent, **and** '771 Patent):

1. A "*monitoring and alarm system*" is a group of interconnected elements working together to accomplish the objectives of keeping track of, as if by electronic device, one or more stated parameters and warning of, by means of a signal, certain conditions of those one or more parameters.
2. A "*means for measuring air pressure*" is a combination of a pressure transducer, an analog-to-digital

converter and a microprocessor, and all equivalent structures.

3. A "*means for measuring ambient air temperature*" is the combination of a temperature sensor, analog-to-digital converter and microprocessor, and all equivalent structures.

4. A "*means for providing an audible alarm*" should be construed as the combination of an audible alarm and microprocessor, and all equivalent structures.

5. "*Predetermined*" means determined, decided or established in advance.

6. A "*means for repetitively sampling the air pressure*" is the combination of a pressure transducer, analog-to-digital converter and microprocessor, and all equivalent structures.

7. A "*means for calculating the remaining air time*" is a pressure transducer, microprocessor and stored algorithm combination and equivalent structure for calculating remaining air time.

8. A "*means for displaying said remaining air time*" is the combination of a microprocessor and a display, and all equivalent structures.

9. A "*means for detecting motion*" is the combination of a motion detector and microprocessor, and all equivalent structures.

10. An "[*A*] *audible alarm means*" has the same meaning as "means for providing an audible alarm," construed above.

11. The phrase "*being activated upon failure to detect motion*" has its ordinary meaning and does not need construction.

12. A "*means for producing first and second audible alarm signals*" is the combination of an audible alarm and a microprocessor, and all equivalent structures.

13. A "*Manually operated switching means*" is a manual panic switch and all equivalent structures.

14. A "*means for calculating a temperature factor*" is a microprocessor and all equivalent structures.

15. A "*pneumatic pressure transducer*" is a device that measures gas or air pressure and generates a usable output based upon the measured gas or air pressure.

16. A "*motion detector*" has its ordinary meaning and does not need construction.

17. "[*P*] *pneumatic pressure*" is air or gas pressure.

18. A "*predetermined level*" is a level that is determined, decided or established in advance.

19. "[*A*] *at least first and second alarms responsive to lack of motion*" has its ordinary meaning and does not need construction.

20. "[M]otion detector is activated by pneumatic pressure " / " [W]herein the motion detector is activated at air pressure above a predetermined level " means that the motion detector is automatically turned on when the air or gas pressure exceeds a previously determined or established level.

21. "[W]herein each of said alarms responsive to motion may be audibly distinguished" has its ordinary meaning and does not need construction.

22. "[T]ransducing pneumatic pressure " means generating a usable output from measured gas or air pressure.

23. "[A]ctivating the motion detector at pneumatic pressure above a predetermined level " means the motion detector is automatically turned on when the air or gas pressure exceeds a previously determined or established level.

24. "[A]t least one alarm responsive to lack of motion detected " has its ordinary meaning and does not need construction.

25. "[W]herein said at least one alarm may be activated by a manual switch " has its ordinary meaning and does not need construction.

IT IS THEREFORE ORDERED, ADJUDGED, and DECREED that claims 1 through 12 of United States Patent No. 5,157,378 (the "378 Patent"), claim 1 of United States Patent No. 5,689,234 (the "234 Patent"), and claims 1 through 7 of United States Patent No. 5,910,771 (the "771 Patent") shall be construed as set forth above.

W.D.Tex.,2004.

Air Measurement Technologies, Inc. v. Hamilton

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