



unattended, remotely distributed appliances, such as utility meters, to be communicatively connected inexpensively to each other and to a centrally located server.

### **PARTIES**

2. Plaintiff Mueller is a Delaware corporation having its principal place of business at 1200 Abernathy Road, Suite 1200, Atlanta, GA 30328.

3. Upon information and belief, Defendant Datamatic is a Texas limited partnership that maintains its principal place of business at 3600 K Avenue, Plano, TX 75074. Datamatic can be served with process through its registered agent, Kenneth Kercher, 3600 K Avenue, Plano, TX 75074.

### **JURISDICTION AND VENUE**

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

5. This Court has personal jurisdiction over Datamatic because, on information and belief, Datamatic has been and is doing business in this judicial district by manufacturing, distributing, marketing, using, selling and/or offering for

sale its products including, but not limited to, products that practice the subject matter claimed in the patents involved in this action, in this judicial district.

6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).

### **BACKGROUND FACTS**

7. Mueller is a subsidiary of Mueller Water Products, Inc. (“MWP”), which is a leading provider of services and products in the water infrastructure industry. MWP’s subsidiaries are leaders in the design, manufacturing, marketing, and distribution of devices and systems for automating utility meter reading and control.

### **The ‘401 Patent**

8. U.S. Patent No. 7,444,401 (hereinafter, “the ‘401 Patent”) is entitled “Method and Apparatus for Inexpensively Monitoring and Controlling Remotely Distributed Appliances.” A true and correct copy of the ‘401 patent is attached hereto as Exhibit A.

9. The ‘401 Patent duly and legally issued, after a full and fair examination from the United States Patent and Trademark Office (hereinafter “USPTO”), on October 28, 2008, with named inventors Seyamak Keyghobad and David Rodgers.

10. The '401 Patent was duly assigned such that Mueller retained the patent on September 30, 2010. Because Mueller is the current owner of all rights, title, and interest in and under the '401 Patent, Mueller has standing to sue for the past, present, and future infringement of the '401 Patent. Since its issuance, the '401 Patent has been in full force and effect.

11. The '401 Patent relates to methods and associated apparatus for enabling unattended, remotely distributed appliances, such as utility meters, to be communicatively connected inexpensively to each other and to a centrally located server.

### **The '309 Patent**

12. U.S. Patent No. 7,752,309 (hereinafter, “the '309 Patent”) is also entitled “Method and Apparatus for Inexpensively Monitoring and Controlling Remotely Distributed Appliances.” A true and correct copy of the '309 patent is attached hereto as Exhibit B.

13. The application that resulted in the '309 Patent (Application No. 12/243,452) is a continuation of Application No. 10/298,300 (filed November 18, 2002, now the '401 Patent).

14. The '309 Patent duly and legally issued, after a full and fair examination from the USPTO, on July 6, 2010, with named inventors Seyamak Keyghobad and David Rodgers.

15. The '309 Patent was duly assigned such that Mueller retained the patent on September 30, 2010. Because Mueller is the current owner of all rights, title, and interest in and under the '309 Patent, Mueller has standing to sue for the past, present, and future infringement of the '309 Patent. Since its issuance, the '309 Patent has been in full force and effect.

16. The '309 Patent relates to methods and associated apparatus for enabling unattended, remotely distributed appliances, such as utility meters, to be communicatively connected inexpensively to each other and to a centrally located server.

### **The '667 Patent**

17. U.S. Patent No. 8,140,667 (hereinafter, “the '667 Patent”) is also entitled “Method and Apparatus for Inexpensively Monitoring and Controlling Remotely Distributed Appliances.” A true and correct copy of the '667 patent is attached hereto as Exhibit C.

18. The application that resulted in the '667 Patent (Application No. 12/490,867) is a continuation of Application No. 12/243,452 (filed October 1,

2008, now the '309 Patent), which is a continuation of Application No. 10/298,300 (filed November 18, 2002, now the '401 Patent).

19. The '667 Patent duly and legally issued, after a full and fair examination from the USPTO, on March 20, 2012, with named inventors Seyamak Keyghobad and David Rodgers.

20. The '667 Patent was duly assigned such that Mueller retained the patent on September 30, 2010. Because Mueller is the current owner of all rights, title, and interest in and under the '667 Patent, Mueller has standing to sue for the past, present, and future infringement of the '667 Patent. Since its issuance, the '667 Patent has been in full force and effect.

21. The '667 Patent relates to methods and associated apparatus for enabling unattended, remotely distributed appliances, such as utility meters, to be communicatively connected inexpensively to each other and to a centrally located server.

22. The '401 Patent, the '309 Patent, and the '667 Patent are collectively referred to hereinafter as “the Mueller Patents.”

**Datamatic's Mosaic and Firefly Products**

23. Upon information and belief, and according to its website, advertisements, and other marketing materials, Datamatic is in the business of marketing and selling various devices and systems for automating utility meter reading and control, for products such as water meters, electric meters, and gas meters.

24. Specifically, Datamatic manufactures, uses, sells, and/or offers to sell its MOSAIC product, its FIREFLY product, and its Remote Shutoff Valve (RSV) product, which together form a mesh hybrid AMR/AMI system for collecting water, electric, and gas metering data using walk-by, mobile, and/or mesh network collection platforms, and controlling utility product delivery.

25. The MOSAIC product communicates with FIREFLY Meter Interface Units and RSV products using two-way, radio frequency communication, which in turn uses a frequency hopping spread spectrum schema within the unlicensed 902–928 ISM band. The MOSAIC product, combined with the FIREFLY units, creates a mesh network, which means that each FIREFLY unit functions as a repeater for the transmission of other FIREFLY units within range of it. Data is transmitted between a central office of the utility provider and utility meters by passing from one FIREFLY unit to another FIREFLY unit toward a gateway and from the

gateway to the central office of the utility provider via Ethernet, CDMA, GPRS, WiFi, or other communication protocols.

26. Each of the Datamatic FIREFLY Meter Interface Units may be connected to virtually any utility meter, including water meters, electric meters, and gas meters. Optic Sensor FIREFLY units automate direct read registers of existing utility meters with a visible sweep needle and wired models support all popular pulse and encoded registers of existing utility meters. In this way, the FIREFLY unit may be connected to an existing water, electric, or gas meter.

27. The FIREFLY units collect and archive consumption data from a utility meter at user-defined intervals and transmit reading and alert information over radio frequency to the utility provider via the mesh network.

28. The SRV product enables the utility provider to both remotely disconnect and reconnect utility service to a customer by controlling utility product delivery by sending and receiving commands through the mesh network formed by the MOSAIC product and the FIREFLY product.

**COUNT I – Infringement of U.S. Patent No. 7,444,401**

29. The allegations of paragraphs 1–28 above are incorporated by reference as if fully set forth herein.



30. Datamatic has infringed and is continuing to infringe the '401 Patent by engaging in acts that involve making, using, selling, and/or offering to sell within the United States, and/or importing into the United States, products that embody the patented invention described and claimed in the '401 Patent, including, for example, Datamatic's MOSAIC product and FIREFLY product.

31. Datamatic's activities have been without express or implied license or consent from Mueller.

32. Upon information and belief, Datamatic will continue to infringe the '401 Patent unless enjoined by this Court. As a result of Datamatic's infringing conduct, Mueller has suffered, and will continue to suffer, irreparable harm for which there is no adequate remedy at law. Mueller is entitled to preliminary and permanent injunctive relief against such infringement, pursuant to 35 U.S.C. § 283.

33. As a result of the infringement of the '401 Patent, Mueller has been damaged, will be further damaged, and is entitled to be compensated for such damages, pursuant to 35 U.S.C. § 284, in an amount to be determined at trial.

34. Datamatic's past and continuing infringement of the '401 Patent has been deliberate and willful, warranting an award of treble damages, pursuant to 35 U.S.C. § 284.

35. This is an exceptional case within the meaning of 35 U.S.C. § 285, justifying an award of attorney fees and costs to Mueller.

**COUNT II – Infringement of U.S. Patent No. 7,752,309**

36. The allegations of paragraphs 1–35 above are incorporated by reference as if fully set forth herein.

37. Datamatic has infringed and is continuing to infringe the '309 Patent by engaging in acts that involve making, using, selling, and/or offering to sell within the United States, and/or importing into the United States, products that embody the patented invention described and claimed in the '309 Patent, including, for example, Datamatic's MOSAIC product and FIREFLY product.

38. Datamatic's activities have been without express or implied license or consent from Mueller.

39. Upon information and belief, Datamatic will continue to infringe the '309 Patent unless enjoined by this Court. As a result of Datamatic's infringing conduct, Mueller has suffered, and will continue to suffer, irreparable harm for which there is no adequate remedy at law. Mueller is entitled to preliminary and permanent injunctive relief against such infringement, pursuant to 35 U.S.C. § 283.

40. As a result of the infringement of the '309 Patent, Mueller has been damaged, will be further damaged, and is entitled to be compensated for such damages, pursuant to 35 U.S.C. § 284, in an amount to be determined at trial.

41. Datamatic's past and continuing infringement of the '309 Patent has been deliberate and willful, warranting an award of treble damages, pursuant to 35 U.S.C. § 284.

42. This is an exceptional case within the meaning of 35 U.S.C. § 285, justifying an award of attorney fees and costs to Mueller.

**COUNT III – Infringement of U.S. Patent No. 8,140,667**

43. The allegations of paragraphs 1–42 above are incorporated by reference as if fully set forth herein.

44. Datamatic has infringed and is continuing to infringe the '667 Patent by engaging in acts that involve making, using, selling, and/or offering to sell within the United States, and/or importing into the United States, products that embody the patented invention described and claimed in the '667 Patent, including, for example, Datamatic's MOSAIC product and FIREFLY product.

45. Datamatic's activities have been without express or implied license or consent from Mueller.

46. Upon information and belief, Datamatic will continue to infringe the '667 Patent unless enjoined by this Court. As a result of Datamatic's infringing conduct, Mueller has suffered, and will continue to suffer, irreparable harm for which there is no adequate remedy at law. Mueller is entitled to preliminary and permanent injunctive relief against such infringement, pursuant to 35 U.S.C. § 283.

47. As a result of the infringement of the '667 Patent, Mueller has been damaged, will be further damaged, and is entitled to be compensated for such damages, pursuant to 35 U.S.C. § 284, in an amount to be determined at trial.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Mueller prays the Court enter judgment in its favor and grant the following relief:

- (a) a judgment that Datamatic has infringed the '401 Patent;
- (b) a judgment that Datamatic has infringed the '309 Patent;
- (c) a judgment that Datamatic has infringed the '667 Patent;
- (d) a judgment and order that permanently restrain and enjoin Datamatic, its directors, officers, employees, servants, agents, affiliates, subsidiaries, or others controlled by them, and all persons in active concert or participation with any of them, from further infringing the Mueller Patents in accordance with 35 U.S.C. § 283;

- (e) a judgment and order that require Datamatic to pay damages to Mueller adequate to compensate Mueller for Datamatic's wrongful infringing acts, in accordance with 35 U.S.C. § 284;
- (f) a judgment and order that require Datamatic to pay increased damages up to three times, in view of its willful and deliberate infringement of the '401 Patent and the '309 Patent, in accordance with 35 U.S.C. § 284;
- (g) a finding in favor of Mueller that this is an exceptional case under 35 U.S.C. § 285, and an award to Mueller of its costs, including its reasonable attorney fees and other expenses incurred in connection with this action;
- (h) a judgment and order that require Datamatic to pay to Mueller pre-judgment interest under 35 U.S.C. § 284, and post-judgment interest under 28 U.S.C. § 1961, on all damages awarded; and
- (i) such other costs and further relief to which Mueller is entitled.

**DEMAND FOR JURY TRIAL**

Pursuant to Fed.R.Civ.P. 38(b), Mueller demands a trial by jury on all issues triable by right of jury.

This 30th day of March, 2012.

Respectfully submitted,

/s/ Jeffrey R. Kuester

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**CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing pleading was prepared using Times New Roman, 14-point, and otherwise conforms with the requirements of Local Rule 5.1.

This 30th day of March, 2012.

/s/ Amanda G. Hyland

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