

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

International Controls and Measurements Corp. and ICM Controls Corp.,)	
)	
Plaintiffs,)	Case No.:
)	5:12-CV-1766 (LEK/ATB)
v.)	
)	
Honeywell International, Inc. and Resideo Technologies, Inc.)	
)	
Defendants.)	

**STIPULATION AND ORDER REGARDING DEPOSITION OF LAURIE KADAH
AND ICM 30(b)(6) DESIGNEE ON FINANCIAL TOPICS**

Plaintiffs and Defendants, by their undersigned counsel, hereby stipulate and agree as follows:

WHEREAS, Defendants noticed the personal deposition of Laurie Kadah, ICM’s Chief Financial Officer, in advance of the fact discovery deadline; and

WHEREAS, Defendants noticed the deposition of Plaintiffs pursuant to Federal Rule of Civil Procedure 30(b)(6) in advance of the fact discovery deadline; and

WHEREAS, Plaintiffs designated Laurie Kadah as their 30(b)(6) designee on certain financial topics; and

WHEREAS, the parties set the deposition of Ms. Kadah in both her individual and corporate representative capacities for March 12 and 13, 2020.

WHEREAS, on March 3, 2020 counsel for Plaintiffs informed counsel for Defendants that Ms. Kadah had suffered a traumatic injury, necessitating postponing her deposition for an undetermined time; and

WHEREAS, Defendants desired to accommodate Ms. Kadah’s situation, but needed authentication of basic financial information of Plaintiffs for use in the upcoming expert report on invalidity, due on April 16, 2020; and

WHEREAS, in view of Ms. Kadah’s condition, on March 13, 2020 Plaintiffs notified Defendants that a replacement 30(b)(6) witness on financial topics was available for deposition on April 1, 2020; and

WHEREAS, while this situation was unfolding, the Country experienced the impact of the COVID-19 pandemic and an in-person deposition on April 1, 2020 became inadvisable, and Defendants did not desire at that time to proceed with a virtual deposition; and

WHEREAS, New York, Minnesota, and Washington, D.C. are now subject to shelter in place orders of indeterminate length; and

WHEREAS, Defendants do not intend to waive their right to proceed with both an individual deposition of Ms. Kadah and a corporate deposition regarding financial topics, notwithstanding the expiration of fact discovery; and

WHEREAS, Plaintiffs agree not to treat Defendants' accommodation as a waiver of the right to depose Ms. Kadah in her individual capacity or for corporate testimony regarding financial topics, and will endeavor to produce Ms. Kadah and a corporate designee for deposition reasonably in advance of the June 1, 2020 deadline for responsive expert reports, subject to Ms. Kadah's health condition; and

WHEREAS, the parties acknowledge that, due to the COVID-19 pandemic, in order to complete Ms. Kadah's deposition in her individual capacity and to depose a corporate designee on certain financial topics reasonably in advance of June 1, 2020, such depositions may have to proceed virtually.

NOW THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE PARTIES, BY THEIR UNDERSIGNED COUNSEL, AGREE AS FOLLOWS:

1. Plaintiffs make the follow representations for all purposes in the case:
 - **ICMNY0187268:** Based on the information currently available to ICM, this document is a comprehensive list identifying sales of the ICM1501; ICM1502; ICM1503; AJ1003; ICM1511; ICM1512; ICM1513; ICM1514; ICM290A; ICM2902; AM1004; AK1004; AN1007; AM1005; AK1005; AN1008; AN1009; AM1006; AT1001; AT1002; AT1003; AT1004; AT1005; AL1006; AL1007; and ICM290 from Feb. 1, 2002 through Dec. 31, 2019 and of the ICM2901 from August 5, 2014 through Dec. 31, 2019 made by ICM to entities located in the United States. The document also reflects product returns to ICM for the same list of products and the same time period. ICM believes the sales and revenue data (e.g., unit price, quantity shipped, and sales amount) displayed in the document to be accurate, and to accurately reflect the information stored in ICM's present and historical sales databases. Upon review, ICM determined that the sales data associated with the ICM2901 that is stored in ICM's historical Macola database inadvertently failed to transfer over when this spreadsheet was created. Further, in attempting to verify the accuracy of the cost information reported in this document, ICM noticed an issue with the transfer of certain cost data (specifically, cur_lbr STD, Ext Lab STD, cur_mat STD, Ext Matl STD, Std Burden, Ext Burd, and Total Cost) from ICM's databases into the spreadsheet for certain line entries. On April 9, 2020, ICM produced a supplemental spreadsheet (ICMNY0187278) that corrected these issues.

- **ICMNY0060206:** Based on the information currently available to ICM, this document is a comprehensive list identifying sales of the ICM290A from September 23, 2011 through July 24, 2014. ICM believes the sales and revenue data (i.e., quantity sold and sales amount) associated with these sales to be accurately and fairly presented in this document.
 - **ICMNY0060210:** Based on the information currently available to ICM, this document is a comprehensive list identifying sales of the following:
 - ICM290 from September 9, 2009 through August 16, 2013;
 - ICM290-MCS from August 19, 2009 through October 7, 2009;
 - ICM290A from September 23, 2011 through July 24, 2014;
 - ICM2901 from September 29, 2011 through June 13, 2014; and
 - ICM2902 from September 29, 2011 through July 21, 2014.
 ICM believes the sales and revenue data (i.e., quantity sold and sales amount) associated with these sales to be accurately and fairly presented in this document.
2. Plaintiffs will communicate with Defendants about Ms. Kadah's health situation, with a view of producing her for deposition reasonably in advance of June 1, 2020.
 3. If due to Ms. Kadah's health situation Plaintiffs are unable to produce Ms. Kadah in accordance with Point No. 2, then the parties will meet and confer and provide the Court with a status report and proposed solutions.
 4. Plaintiffs will also endeavor to produce a corporate representative on financial topics for deposition reasonably in advance of June 1, 2020.
 5. The parties agree that, if Ms. Kadah and a corporate designee on financial topics are not available for in-person depositions reasonably in advance of June 1, 2020 due to the COVID-19 virus, those depositions will proceed virtually so as to ensure this case remains on schedule.
 6. In view of the unknown situation with Ms. Kadah's health, and the COVID-19 virus, neither side waives any rights except as expressly stated herein.

DATED: April 10, 2020

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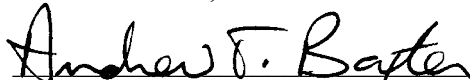
DATED: April 14, 2020

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***Attorneys for Plaintiffs International Controls
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SO ORDERED,



Honorable Andrew T. Baxter
United States Magistrate Judge