

# LEWIS RICE<sub>LLC</sub>

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Via Email: [jnemunaitis@caldwellcc.com](mailto:jnemunaitis@caldwellcc.com)

Justin T. Nemunaitis, Esq.  
Caldwell Cassady Curry  
2101 Cedar Springs Road, Suite 1000  
Dallas, Texas 75201

Re: Midwest Energy Emissions Corp.

Dear Mr. Nemunaitis,

Further to my letter dated March 30, 2021, I represent Ameren Missouri with respect to the allegations asserted in your letter to Mr. Ajay Arora dated February 5, 2021. Please send all future correspondence in this regard to my attention.

I have now carefully reviewed the contents of your letter and note in particular your description of Midwest's patent portfolio as defining a "two-part process for mercury control" – "injection of halogens/halides ... on the coal or in the furnace and carbon/noncarbon sorbents injected upstream of particulate control devices ..." I also reviewed the press releases accessed through the hyperlinks in your letter, including the press release announcing that Midwest filed a lawsuit asserting U.S. Patent Nos. 8,168,147 and 10,343,114 and seeking a permanent injunction and damages. Many of the patents identified in the chart that accompanied your letter are in the same family as the '147 and '114 patents.

While your letter trumpeted the '147 and '114 patents, it failed to explain: (1) both of these patents were the subject of multiple IPR proceedings that were *instituted* by the PTAB with detailed findings proving a "reasonable likelihood" that every challenged claim is invalid; and (2) Midwest permanently disclaimed claims 1-16 and 21-25 of the '147 patent rendering these claims invalid and unenforceable for all time.

I carefully reviewed the four IPR Institution Decisions, the prior art cited therein, the file histories, and still other prior art and information. The intellectual underpinnings for the Institution Decisions are compelling. Indeed, they prove that every challenged claim in the '147 and 114 patents is invalid. Rather than pursuing reversal of these findings during the IPR proceedings, a hopeless task, Midwest instead dismissed the underlying litigation with prejudice and then obtained dismissal of the IPR proceedings so as to avoid final judgment of invalidity by the PTAB. If Midwest had a meritorious position on any of the challenged patent claims, then Midwest would have pursued that relief through the IPR process. Again, Midwest's failure to complete the IPR process further proves the invalidity of every challenged claim.

*Established 1909*

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I have also reviewed the other patents listed in the chart that accompanied your letter. I focused in particular on the nine other patents in the same patent family as the '147 and '114 patents. Every single claim in each of these nine patents was either facially irrelevant to Ameren's processes or suffered the same infirmities that the PTAB has already concluded show the invalidity of all of the challenged claims in the '147 and 114 patents.

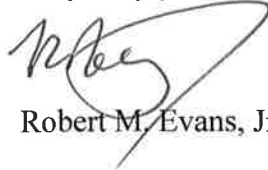
As you well know, it is improper to knowingly assert an invalid patent. Should you pursue Ameren with a patent claim known to be invalid, please be advised that Ameren will pursue all appropriate relief.

The above said, I recognize that there are other patents in the chart that accompanied your letter. While I have reviewed them and it appears they are not relevant to Ameren's processes, my review of them has been less focused than my review of the above eleven patents. If you believe that one or more of such other patents remain relevant to Ameren's processes, then please identify such patent(s) and patent claim(s) and explain the purported relevance. If you do that, Ameren will give such patent(s) and patent claim(s) full consideration and will respond to you substantively on the merits. Failing same, Ameren would not be in a position to consider this matter further.

Finally, you have requested a meeting with Ameren to discuss Midwest's patents. Given the above analysis, such a meeting is at best premature and not appropriate at this time.

I look forward to hearing back from you. Please let me know if you have any questions.

Very truly yours,



Robert M. Evans, Jr.

RME/hms