

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

L-3 COMMUNICATIONS SECURITY
AND DETECTION SYSTEMS
CORPORATION DELAWARE

Plaintiff,

v.

AMERICAN SCIENCE &
ENGINEERING, INC.

Defendant

Civil Action No. 04-10339-RWZ

**AMERICAN SCIENCE & ENGINEERING’S
MOTION TO STRIKE INEQUITABLE CONDUCT CLAIMS**

In but one paragraph of only three sentences in its complaint, the declaratory judgment plaintiff, L-3 Communications Security and Detection Systems Corporation Delaware (“L-3”), has attempted to allege two claims of inequitable conduct. Under Rule 9(b), however, the defendant-patentee, American Science & Engineering (“AS&E”), is entitled to know the precise time, place, and specific content, among other details, of the alleged misrepresentations forming the basis for that inequitable conduct. L-3 has failed to allege these details with the particularity that Rule 9(b) requires.

ACCORDINGLY, under Rule 12(f), this Court should strike L-3’s inequitable conduct claims. In the alternative, under Rule 12(e), this Court should require a more definite statement of those claims so that AS&E can prepare to rebut them.

CONCLUSION

For all of the foregoing reasons, AS&E respectfully requests that this Court strike Counts Three and Six of L-3's complaint or require a more definite statement.

CERTIFICATION UNDER LOCAL RULE 7.1

The undersigned certifies that, on June 3, 2004, counsel for the parties conferred by telephone in a good faith attempt to resolve or narrow the issue but were unable to do so.

Dated: June 3, 2004

AMERICAN SCIENCE AND
ENGINEERING, INC.

By its attorneys,

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