

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

SANMINA CORPORATION,

Plaintiff,

vs.

DIALIGHT PLC,

Defendant.

1:19-cv-11710-KPF

Related Case No.:

1:19-cv-11712-KPF

**SANMINA CORPORATION'S MEMORANDUM OF LAW IN SUPPORT OF ITS
MOTION FOR PREJUDGMENT INTEREST**

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Sanmina Corporation (“Sanmina”), by and through its attorneys of record Ervin Cohen & Jessup LLP and Rich, Intelisano & Katz, LLP, submits this Memorandum of Law, together with the Declaration of Jorge Camacho (“Camacho Declaration”) and exhibit thereto, in support of Sanmina’s Motion for Prejudgment Interest.

I. PRELIMINARY STATEMENT

This motion relates to Sanmina’s breach of contract claims arising out of the parties’ Manufacturing Services Agreement (“MSA”). On September 23, 2024, the jury returned a verdict finding in favor of Sanmina on its two claims for breach of contract against Dialight plc (“Dialight”), awarding Sanmina \$8,634,792.93. Sanmina submits this Motion to respectfully request that the Court award Sanmina interest on the jury’s \$8,634,792.93 award at the applicable 1% per month contractual rate set forth in Section 11.4 of the parties’ MSA (trial ex. 24)¹. Pursuant to the MSA, and calculated through December 31, 2024, interest owed to Sanmina totals \$8,768,870.56. Depending on the date judgment is entered, the daily rate of interest following December 31, 2024 would be \$5,802.18 per day in January 2025; \$5,859.23 per day in February 2025; and \$5,916.85 per day in March 2025, which Sanmina requests to be added to the interest award if judgment is entered after December 31, 2024. Details underlying these calculations are further described in the concurrently filed Declaration of Jorge Camacho and the exhibit thereto.

II. THE JURY’S AWARD

The trial in this action commenced on September 9, 2024, and a jury verdict was rendered on September 23, 2024. Specifically, on Sanmina’s Accounts Receivable breach of contract claim against Dialight, the jury awarded \$5,292,950.90 in damages to Sanmina for

¹ For the Court’s convenience, the trial exhibits referenced in this Motion, except for Trial Exhibit 24, which is filed under seal at Dkt. 30 and admitted into evidence at Dkt. 276, are attached to the compendium of evidence filed concurrently with Sanmina’s post-trial filings.

Dialight's failure to pay for finished goods and materials that Sanmina shipped to Dialight in response to Dialight's purchase orders ("AR Claim"). On Sanmina's Excess and Obsolete breach of contract claim against Dialight, the jury awarded \$3,341,842.03 in damages to Sanmina for Dialight's failure to pay for materials that Sanmina purchased to make Dialight's products ("E&O Claim"). In total, the jury awarded Sanmina \$8,634,792.93 on its claims—everything that Sanmina asked for.

III. SANMINA IS ENTITLED TO INTEREST ON THE JURY'S AWARD
PURSUANT TO SECTION 11.4 OF THE MSA

It is well settled in the Second Circuit that the entitlement to, and the amount of, interest in a breach of contract action is governed by the state law under which the contract is interpreted. *Fin. One Pub. Co. v. Lehman Bros. Special Fin.*, 2003 WL 21638214, at *1 (S.D.N.Y. July 11, 2003) modified 2003 WL 22056983 (S.D.N.Y. 2003) citing *Morse/Diesel, Inc. v. Trinity Indus., Inc.*, 875 F.Supp 165, 174 n. 10 (S.D.N.Y. 1994).

Under Sections 5001 and 5002 of the New York Civil Practice and Rules ("CPLR"), the party prevailing in a breach of contract action is entitled to prejudgment interest from the date that the breach occurred until the date of final judgment. *Nuera Commc'ns, Inc. v. Telron Commc'ns USA, Inc.*, 2002 WL 31778796, at *3 (S.D.N.Y. Nov. 15, 2002). Under CPLR 5004, the prevailing interest rate is fixed at nine percent per annum, except where otherwise provided by statute. *In re Best Payphones, Inc.*, 2003 WL 1089525, at *5 (Bankr. S.D.N.Y. Mar. 10, 2003). It is also well settled under New York Law that "if the contract between the parties provides for a different rate [than the statutory rate], that [contract] rate shall control." *Fin. One Pub. Co.*, 2003 WL 21638214, at *1; *Nuera*, 2002 WL 31778796, at *3; *In re Best Payphones, Inc.*, 2003 WL 1089525, at *5 (term that "[i]f any invoice is not paid when due, ... interest shall

accrue on the invoiced amount a monthly rate of one and one half (1.5%) percent ... beginning on the date payment was due....” controlled interest calculation).

Furthermore, while statutory interest is not compounded, a contractual compounded interest calculation specified in a contract will be enforced. *See Red Tree Invs., LLC v. Petroleos de Venezuela, S.A.*, 82 F.4th 161, 175 (2d Cir. 2023).

The MSA is governed by New York law (Section 25.10), and Sanmina and Dialight clearly agreed that Dialight’s unpaid debts to Sanmina would bear interest at the rate of 1% per month:

Interest. If DIALIGHT fails to make payment by the due date, SANMINA may, in addition to its other rights and remedies, charge a late payment charge of **one percent (1%) per month**, together with any additional out-of-pocket expenses incurred by SANMINA in collecting the overdue payment.

(Trial Ex. 24, § 11.4). (emphasis added).

Section 11.4 thus fixes prejudgment interest at 12% per year, and by expressing the calculation as 1% per month, requires that interest be compounded monthly. *See also Glob. Reinsurance Corp. of Am. v. Century Indem. Co.*, 22 F.4th 83, 95 (2d Cir. 2021) (Under New York law, “words and phrases should be given their plain meaning, and the contract should be construed so as to give full meaning and effect to all of its provisions.”)

IV. SANMINA’S INTEREST CALCULATION

Calculated through December 31, 2024, Sanmina is owed \$8,768,870.56 in interest on the jury’s \$8,634,792.93 award to Sanmina. Sanmina requests that if judgment is entered after that date, additional interest accrued is added to Sanmina’s award. As described above, the daily rate of interest would be \$5,802.18 per day in January; \$5,859.23 per day in February; and \$5,916.85 per day in March.

As discussed below, A/R interest begins accruing 30 days after the due date of each invoice; for the E&O interest calculation, interest starts to accrue as of January 31, 2019, the effective date of Dialight's termination of the MSA.

A. AR Verdict

Related to the AR Verdict of \$5,292,950.90, interest calculated pursuant to Section 11.4 of the MSA at 1% per month, compounding monthly, through December 31, 2024, totals \$5,267,360.66. The date on which interest began to accrue related to the AR Verdict is based on the invoice due date, which is 30 days after the invoice date. Accordingly, the calculation contemplates that each of the past due invoices bears interest at the rate of 1% per month commencing 30 days after the issuance of each invoice. Attached as Exhibit A to the Camacho Declaration is a spreadsheet that details Sanmina's calculation of interest on the AR Verdict. Tabs P2AR and P4AR include data related to the unpaid invoices that made up Sanmina's AR Claim, and which were presented to the jury in Trial Exhibit 1144.

B. E&O Verdict

Related to the E&O Verdict of \$3,341,842.03, interest calculated pursuant to Section 11.4 of the MSA at 1% per month, compounding monthly, through December 31, 2024, totals \$3,501,509.90.

For this interest calculation, Sanmina used the effective date of the termination of the MSA, January 31, 2019, as the date interest began to accrue on the E&O Verdict. By issuing the "Non-Binding Purchase Order" with a September 28, 2018 due date (trial ex. 76), Dialight acknowledged that interest should start to accrue within 30 days of September 28, 2018. And, in fact, the evidence at trial was that some of Dialight's E&O liability was already past due when it issued its Notice of Termination (trial ex. 59). Nonetheless, Sanmina has utilized the termination

date in Dialight's Notice of Termination in order to avoid any dispute on the issue.

V. **CONCLUSION**

For the foregoing reasons, Sanmina respectfully requests that the Court award it interest pursuant to Section 11.4 of the MSA.

DATED: October 30, 2024

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