

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

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|--|---|----------------------------|
| SURPASS TECH INNOVATION LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 1:14-cv-00336-LPS |
| |) | |
| LG DISPLAY CO., LTD.; LG DISPLAY |) | JURY TRIAL DEMANDED |
| AMERICA, INC.; LG ELECTRONICS INC.; |) | |
| LG ELECTRONICS U.S.A., INC. VIZIO, |) | |
| INC., a Delaware corporation; and VIZIO, |) | |
| INC., a California corporation, |) | |
| |) | |
| Defendants. |) | |

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Surpass Tech Innovation LLC (“Plaintiff” or “Surpass Tech”), by and through its undersigned attorneys, hereby pleads the following claims of patent infringement against LG Display Co., Ltd.; LG Display America, Inc. (collectively, “LG Display”); LG Electronics Inc.; LG Electronics U.S.A., Inc. (collectively, “LG Electronics”); Vizio, Inc., a Delaware corporation; and Vizio, Inc., a California corporation (collectively, “Vizio”); and alleges as follows:

PARTIES

1. Plaintiff Surpass Tech is a Delaware limited liability company having an address at 3422 Old Capitol Trail, Suite 700, Wilmington, Delaware 19808-6192. Surpass Tech owns all title, rights and interest to United States Patent No. 7,202,843 (the “843 Patent”).

2. Upon information and belief, Defendant LG Display Co, Ltd. is a Korean corporation having its principal place of business at LG Twin Tower 128, Yeouido-Dong, Yeongdeungpo-Gu, Seoul, South Korea 150-721. LG Display Co., Ltd. may be served with

process pursuant to the Delaware long-arm statute, 10 *Del. C.* § 3104.

3. Upon information, Defendant LG Display America, Inc. is a California corporation having its principal place of business at 2540 N First Street, Suite 400, San Jose, California. Defendant LG Display America, Inc. can be served via its registered agent, Dong Hoon Han, 2540 N. First Street, Suite 400, San Jose, CA 95131.

4. Upon information and belief, Defendant LG Electronics Inc. is a Korean corporation having its principal place of business at LG Twin Tower 128, Yeoui-daero, Yeongdeungpo-gu, Seoul, South Korea 150-721. LG Electronics Inc. may be served with process pursuant to the Delaware long-arm statute, 10 *Del. C.* § 3104.

5. Upon information and belief, Defendant LG Electronics U.S.A., Inc. is a Delaware corporation having its principal place of business at 1000 Sylvan Avenue, Englewood Cliffs, New Jersey 07632. Defendant LG Electronics U.S.A., Inc. can be served via its registered agent, United States Corporation Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808.

6. Upon information and belief, Defendant Vizio, Inc. (“Vizio Delaware”) is a company incorporated in Delaware with offices at 39 Tesla, Irvine, California 92618. Upon information and belief, Vizio Delaware may be served with process by serving its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

7. Upon information and belief, Defendant Vizio, Inc. (“Vizio California”) is a company incorporated in California with offices at 39 Tesla, Irvine, California 92618. Upon information and belief, Vizio California may be served with process by serving its registered agent, CT Corporation System, 818 W. Seventh Street, Los Angeles, California 90017. Vizio

Delaware and Vizio California are collectively referred to herein as “Vizio.”

JURISDICTION AND VENUE

8. This is an action for patent infringement arising under the patent laws of the United States of America, Title 35 of the United States Code. This Court has subject matter jurisdiction over the matters plead herein under 28 U.S.C. §§ 1331 and 1338(a) in that this is a civil action arising out of the patent laws of the United States of America.

9. LG Electronics, LG Display and Vizio (collectively, “Defendants”) regularly and deliberately engaged in and continue to engage in activities that result in using, selling, offering for sale, and/or importing infringing products in and/or into the State of Delaware and this judicial district. These activities violate Surpass Tech’s rights under the ’843 Patent plead herein. This Court has personal jurisdiction over the Defendants because, among other things, Defendants conduct business in the State of Delaware and in this judicial district and thus enjoy the privileges and protections of Delaware law.

10. Venue is proper in the District of Delaware pursuant to 28 U.S.C. §§ 1391(b), (c) and (d) and 1400(b).

COUNT I INFRINGEMENT OF U.S. PATENT NO. 7,202,843

11. Plaintiff incorporates Paragraphs 1 through 10 herein by reference as if fully stated herein.

12. The ’843 Patent, entitled “Driving Circuit of A Liquid Crystal Display Panel and Related Driving Method,” issued on April 10, 2007. The ’843 Patent names Yung-Hung Shen, Shih-Chung Wang, Yuh-Ren Shen and Cheng-Jung Chen as inventors. Surpass Tech owns by assignment the entire right, title and interest in and to the ’843 Patent, including the sole right to

sue for past and present patent infringement thereof. A true and correct copy of the '843 Patent is attached hereto as Exhibit A.

13. Several of Defendants' products, including but not limited to LG Electronics' 55LA7400 television having LG Display's LC550EUH-PFF1 liquid crystal display ("LCD") module and Vizio's M3D470KD television having LG Display's LC470EUD-SEF4 LCD module, practice claims of the '843 Patent. Surpass Tech believes, and further alleges, that additional LG Display LCD modules, LG Electronics televisions having LG Display's LCD modules, and Vizio televisions having LG Display's LCD modules also practice claims of the '843 Patent (products covered by this paragraph are collectively referred to as "Accused Products"). Defendants have directly infringed, and continue to directly infringe, the '843 Patent by making, using, offering to sell, or selling within the United States, or importing into the United States, the Accused Products that practice claims of the '843 Patent.

14. Surpass Tech believes, and thereon alleges, that LG Display has sold and offered to sell and is selling and offering to sell infringing LCD modules for use in infringing televisions, and that these LCD modules are material to practicing the '843 Patent's invention, have no substantial non-infringing uses, and are known by Defendants, including LG Display, to be especially made or especially adapted for use in what constitutes infringement of the '843 Patent. At least as early as February 28, 2014, LG Display had actual knowledge of the '843 Patent and Plaintiff's claims that LG Display's LCD modules are covered by the '843 Patent. LG Display is contributing to the acts of using, offering to sell, and/or selling in the United States and/or importing into the United States the infringing Accused Products by LG Electronics and Vizio by intentionally supplying such material components to LG Electronics and Vizio with such knowledge of the '843 Patent.

15. Surpass Tech believes, and thereon alleges, that Defendants have and continue to indirectly infringe claims of the '843 Patent by inducing others (e.g., manufacturers, sellers, and end-user customers) to directly infringe in violation of 35 U.S.C. § 271(b) since at least March 5, 2014 for LG Display and LG Electronics and since at least May 6, 2014 for Vizio.

16. Surpass Tech believes, and thereon alleges, that at least since February 28, 2014, LG Display has induced and is inducing the infringement of at least claim 1 of the '843 Patent by Defendant LG Electronics Inc. ("Defendant Foreign Manufacturer"), Defendants LG Electronics U.S.A., Inc. and Vizio ("Defendant U.S. Companies"), retailers, and end-user customers with the knowledge that the induced acts constitute patent infringement. Upon information and belief, at least as early as February 28, 2014, LG Display had actual knowledge of the '843 Patent and Plaintiff's claims that LG Display's LCD modules are covered by the '843 Patent. Upon information and belief, LG Display has taken, and is taking, active steps with the intent to encourage and facilitate direct infringement by Defendant Foreign Manufacturer and Defendant U.S. Companies by providing modules which contain every element of at least claim 1 of the '843 Patent to Defendant Foreign Manufacturer and Defendant U.S. Companies, and by providing marketing materials, advertising materials, user guides, user manuals, user instructions, technical assistance, and technical support promoting use of the products containing the modules, which by their very use infringe at least claim 1 of the '843 Patent. Upon information and belief, LG Display's actions are made with the intent, at least through willful blindness, that Defendant Foreign Manufacturer and Defendant U.S. Companies would directly infringe by manufacturing and/or selling televisions containing LG Display's modules which, as provided, practice at least claim 1 of the '843 Patent. The reasonable inference to be drawn from LG Display's provision of these modules to Defendant Foreign Manufacturer and Defendant

U.S. Companies is that LG Display intends, knows, or is willfully blind to the fact that LG Display is actively inducing Defendant Foreign Manufacturer and Defendant U.S. Companies to infringe at least claim 1 of the '843 Patent. Upon information and belief, LG Display intends that the Defendant Foreign Manufacturer and Defendant U.S. Companies sell televisions containing LG Display's modules that practice at least claim 1 of the '843 Patent to retailers who in turn sell the televisions to end-user customers. Upon information and belief, LG Display intends that the retailers directly infringe by selling these televisions. Upon information and belief, and also common sense, LG Display also intends that the end-user customers are using the televisions. As such, another reasonable inference to be drawn is that LG Display is taking active steps to encourage and facilitate direct infringement by end-user customers by providing marketing materials, advertising materials, user guides, user manuals, user instructions, technical assistance, and technical support to end-user customers and by placing into the retail stream its modules containing every element of at least claim 1 of the '843 Patent with the intent, knowledge, or willful blindness to the fact that end-user customers are using the televisions containing the modules, which use constitutes direct infringement of at least claim 1 of the '843 Patent.

17. Surpass Tech believes, and thereon alleges, that since at least March 5, 2014 for LG Electronics U.S.A., Inc. and since at least May 6, 2014 for Vizio, Defendant U.S. Companies have induced and are inducing the infringement of at least claim 1 of the '843 Patent by retailers and end-user customers with the knowledge and intent that the induced acts constitute patent infringement. Upon information and belief, at least as early as March 5, 2014 for LG Electronics U.S.A., Inc. and at least as early as May 6, 2014 for Vizio, Defendant U.S. Companies had actual knowledge of the '843 Patent and Plaintiff's claims that Defendant U.S. Companies' products

are covered by the '843 Patent. Upon information and belief, Defendant U.S. Companies have taken, and are taking, active steps with the intent to encourage and facilitate direct infringement by retailers by selling the televisions to end-user customers, and by providing marketing materials, advertising materials, user guides, user manuals, user instructions, technical assistance, and technical support promoting use of the televisions containing the modules, which by their very use infringe at least claim 1 of the '843 Patent. Upon information and belief, Defendant U.S. Companies intend that the retailers directly infringe by selling these televisions. Upon information and belief, and also common sense, Defendant U.S. Companies also intend that the end-user customers are using the televisions. As such, a reasonable inference to be drawn is that Defendant U.S. Companies are taking active steps to encourage and facilitate direct infringement by end-user customers by providing marketing materials, advertising materials, user guides, user manuals, user instructions, technical assistance, and technical support to end-user customers and by placing into the retail stream LG Display's modules containing every element of at least claim 1 of the '843 Patent with the intent, knowledge, or willful blindness to the fact that end-user customers are using the televisions containing the modules, which use constitutes direct infringement of at least claim 1 of the '843 Patent.

18. Surpass Tech believes, and thereon alleges, that since at least March 5, 2014, Defendant Foreign Manufacturer has induced and is inducing the infringement of at least claim 1 of the '843 Patent by Defendant U.S. Companies, retailers, and end-user customers with the knowledge and intent that the induced acts constitute patent infringement. Upon information and belief, at least as early as March 5, 2014, Defendant Foreign Manufacturer had actual knowledge of the '843 Patent and Plaintiff's claims that Defendant Foreign Manufacturer's products are covered by the '843 Patent. Upon information and belief, Defendant Foreign Manufacturer has

taken, and is taking, active steps with the intent to encourage and facilitate direct infringement by Defendant U.S. Companies by providing Defendant U.S. Companies with televisions containing LG Display's modules which contain every element of at least claim 1 of the '843 Patent, and by providing marketing materials, advertising materials, user guides, user manuals, user instructions, technical assistance, and technical support use of the televisions containing the modules, which by their very use infringe at least claim 1 of the '843 Patent. Defendant Foreign Manufacturer provides these televisions to Defendant U.S. Companies, with the intent, knowledge, or willful blindness to the fact that Defendant U.S. Companies would sell, have sold, and are selling, televisions containing LG Display's modules that practice at least claim 1 of the '843 Patent, which selling constitutes direct infringement of at least claim 1 of the '843 Patent. The reasonable inference to be drawn from Defendant Foreign Manufacturer's provision of these televisions to Defendant U.S. Companies is that Defendant Foreign Manufacturer intends, knows, or is willfully blind to the fact that it is actively inducing Defendant U.S. Companies to infringe at least claim 1 of the '843 Patent. Upon information and belief, the Defendant U.S. Companies in turn are selling televisions containing LG Display's modules that practice at least claim 1 of the '843 Patent to retailers, with the intent to encourage and facilitate direct infringement by retailers by selling the televisions to end-user customers. Upon information and belief, Defendant Foreign Manufacturer intends that the retailers directly infringe by selling these televisions. Upon information and belief, and also common sense, Defendant Foreign Manufacturer also intends that the end-user customers use the televisions. As such, another reasonable inference to be drawn is that Defendant Foreign Manufacturer is taking active steps to encourage and facilitate direct infringement by end-user customers by providing marketing materials, advertising materials, user guides, user manuals, user instructions, technical assistance,

and technical support to end-user customers and by placing into the retail stream LG Display's modules containing every element of at least claim 1 of the '843 Patent with the intent, knowledge, or willful blindness to the fact that end-user customers are using the televisions containing the modules, which use constitutes direct infringement of the '843 Patent.

19. Surpass Tech believes, and thereon alleges, that at least since February 28, 2014, LG Display has induced and is inducing the infringement of at least claims 4, 8, and 9 of the '843 Patent by end-user customers with the knowledge that the induced acts constitute patent infringement. Upon information and belief, at least as early as February 28, 2014, LG Display had actual knowledge of the '843 Patent and Plaintiff's claims that LG Display's LCD modules are covered by the '843 Patent. Upon information and belief, LG Display has taken, and is taking, active steps with the intent to encourage and facilitate direct infringement by end-user customers by providing modules which contain every element of at least claims 4, 8, and 9 of the '843 Patent, and by providing marketing materials, advertising materials, user guides, user manuals, user instructions, technical assistance, and technical support promoting use of the products containing the modules, which by their very use infringe at least claims 4, 8, and 9 of the '843 Patent. Upon information and belief, LG Display intends that the Defendant U.S. Companies sell televisions containing LG Display's modules that practice at least claims 4, 8, and 9 of the '843 Patent to retailers who in turn sell the televisions to end-user customers. Upon information and belief, and also common sense, LG Display intends that the end-user customers are using the televisions. As such, a reasonable inference to be drawn is that LG Display is taking active steps to encourage and facilitate direct infringement by end-user customers by placing into the retail stream its modules containing every element of at least claims 4, 8, and 9 of the '843 Patent with the intent, knowledge, or willful blindness to the fact that end-user

customers are using the televisions containing the modules, which use constitutes direct infringement of the '843 Patent.

20. Surpass Tech believes, and thereon alleges, that since at least March 5, 2014 for LG Electronics U.S.A., Inc. and since at least May 6, 2014 for Vizio, Defendant U.S. Companies have induced and are inducing the infringement of at least claims 4, 8, and 9 of the '843 Patent by end-user customers with the knowledge and intent that the induced acts constitute patent infringement. Upon information and belief, at least as early as March 5, 2014 for LG Electronics U.S.A., Inc. and at least as early as May 6, 2014 for Vizio, Defendant U.S. Companies had actual knowledge of the '843 Patent and Plaintiff's claims that Defendant U.S. Companies' products are covered by the '843 Patent. Upon information and belief, Defendant U.S. Companies have taken, and are taking, active steps with the intent to encourage and facilitate direct infringement by end-user customers by providing modules which contain every element of at least claims 4, 8, and 9 of the '843 Patent, and by providing marketing materials, advertising materials, user guides, user manuals, user instructions, technical assistance, and technical support promoting use of the televisions containing the modules, which by their very use infringe at least claims 4, 8, and 9 of the '843 Patent. Upon information and belief, Defendant U.S. Companies intend that the retailers sell televisions containing LG Display's modules that practice at least claims 4, 8, and 9 of the '843 Patent to end-user customers. Upon information and belief, and also common sense, Defendant U.S. Companies intend that the end-user customers are using the televisions. As such, a reasonable inference to be drawn is that Defendant U.S. Companies are taking active steps to encourage and facilitate direct infringement by end-user customers by placing into the retail stream LG Display's modules containing every element of at least claims 4, 8, and 9 of the '843 Patent with the intent, knowledge, or willful blindness to the fact that end-user customers

are using the televisions containing the modules, which use constitutes direct infringement of the '843 Patent.

21. Surpass Tech believes, and thereon alleges, that since at least March 5, 2014, Defendant Foreign Manufacturer has induced and is inducing the infringement of at least claims 4, 8, and 9 of the '843 Patent by end-user customers with the knowledge and intent that the induced acts constitute patent infringement. Upon information and belief, at least as early as March 5, 2014, Defendant Foreign Manufacturer had actual knowledge of the '843 Patent and Plaintiff's claims that Defendant Foreign Manufacturer's products are covered by the '843 Patent. Upon information and belief, Defendant Foreign Manufacturer has taken, and is taking, active steps with the intent to encourage and facilitate direct infringement by end-user customers by providing modules which contain every element of at least claims 4, 8, and 9 of the '843 Patent, and by providing marketing materials, advertising materials, user guides, user manuals, user instructions, technical assistance, and technical support promoting use of the televisions containing the modules, which by their very use infringe at least claims 4, 8, and 9 of the '843 Patent. Upon information and belief, Defendant Foreign Manufacturer intends that the Defendant U.S. Companies sell televisions containing LG Display's modules that practice at least claims 4, 8, and 9 of the '843 Patent to retailers who in turn sell the televisions to end-user customers. Upon information and belief, and also common sense, Defendant Foreign Manufacturer intends that the end-user customers are using the televisions. As such, a reasonable inference to be drawn is that Defendant Foreign Manufacturer is taking active steps to encourage and facilitate direct infringement by end-user customers by placing into the retail stream LG Display's modules containing every element of at least claims 4, 8, and 9 of the '843 Patent with the intent, knowledge, or willful blindness to the fact that end-user customers are

using the televisions containing the modules, which use constitutes direct infringement of the '843 Patent.

22. Surpass Tech believes, and thereon alleges, that any applicable requirements of 35 U.S.C. § 287 have been satisfied.

23. Surpass Tech believes, and thereon alleges, that Defendants have each infringed, and continue to infringe, claims of the '843 Patent, in violation of 35 U.S.C. § 271, by among other things, making, using, offering to sell, selling and/or importing in and/or into the United States, without authority or license from Surpass Tech, the Accused Products falling within the scope of claims of the '843 Patent.

24. Defendants' acts of infringement have caused and will continue to cause substantial and irreparable damage to Surpass Tech.

25. As a result of the infringement of the '843 Patent by Defendants, Surpass Tech has been damaged. Surpass Tech is, therefore, entitled to such damages pursuant to 35 U.S.C. § 284 in an amount that presently cannot be pled but that will be determined at trial.

26. At least as early as March 5, 2014, both LG Electronics and LG Display had actual knowledge of the '843 Patent and Plaintiff's claims that LG Display's LCD modules and LG Electronics' televisions containing LG Display's LCD modules are covered by the '843 Patent. At least as early as May 6, 2014, Vizio had actual knowledge of the '843 Patent and Plaintiff's claims that LG Display's LCD modules and Vizio's televisions containing LG Display's LCD modules are covered by the '843 Patent. Upon information and belief, LG Electronics', LG Display's, and Vizio's acts of infringement of the '843 Patent have been willful and intentional. Since at least the above-mentioned dates of notice, LG Electronics, LG Display, and Vizio have acted with an objectively high likelihood that their actions constitute

infringement of the '843 Patent by refusing to take a license and continuing to make and sell infringing Accused Products. The objectively-defined risk was either known or was so obvious that it should have been known.

CONCLUSION

27. Plaintiff is entitled to recover from Defendants the damages sustained by Plaintiff as a result of Defendants' wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court.

28. Plaintiff has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute create an exceptional case within the meaning of 35 U.S.C. § 285, and Plaintiff is entitled to recover its reasonable and necessary attorneys' fees, costs, and expenses.

JURY DEMAND

29. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

30. Plaintiff respectfully requests that the Court find in its favor and against Defendants, and that the Court grant Plaintiff the following relief:

- A. A judgment that Defendants have infringed the '843 Patent as alleged herein, directly and/or indirectly by way of contributing and/or inducing infringement of the '843 Patent;
- B. A judgment for an accounting of all damages sustained by Plaintiff as a result of the acts of infringement by Defendants;
- C. A judgment and order requiring Defendants to pay Plaintiff damages under 35

- U.S.C. § 284, including up to treble damages for willful infringement as provided by 35 U.S.C. § 284, and any royalties determined to be appropriate;
- D. A permanent injunction enjoining Defendants and its officers, directors, agents, servants, employees, affiliates, divisions, branches, subsidiaries, parents and all others acting in concert or privity with them from direct and/or indirect infringement of the '843 Patent pursuant to 35 U.S.C. § 283;
- E. A judgment and order requiring Defendants to pay Plaintiff pre-judgment and post-judgment interest on the damages awarded;
- F. A judgment and order finding this to be an exceptional case and requiring Defendants to pay the costs of this action (including all disbursements) and attorneys' fees as provided by 35 U.S.C. § 285; and
- G. Such other and further relief as the Court deems just and equitable.

Dated: May 8, 2014

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