

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

LASERDYNAMICS, LLC,
a Limited Liability Company,

Plaintiff,

v.

ALCO ELECTRONICS LTD.,
ALCO ELECTRONICS INC.,
ALCO HOLDINGS LIMITED,
ALCO INVESTMENTS (B.V.I.) LIMITED and
AVC MULTIMEDIA INC.

Defendants.

Case No. 1:14-cv-01704-JGK

**FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

**PLAINTIFF LASERDYNAMICS, LLC'S
FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT
AND DEMAND FOR JURY TRIAL**

Plaintiff LaserDynamics, LLC (“LaserDynamics” or “Plaintiff”) by and for its Complaint against defendants Alco Electronics Ltd., Alco Electronics Inc., Alco Holdings Limited, Alco Investments (B.V.I.) Limited, and AVC Multimedia Inc. (“Alco” or “Defendants”) hereby alleges as follows:

NATURE OF THE CASE

1. This is an action for patent infringement arising under the patent laws of the United States. LaserDynamics holds the rights in U.S. Patent No. 5,587,981 (“the ’981 patent”). The United States patent laws grant the holder of a patent the right to exclude infringers from making, using, selling or importing the invention claimed in a patent, and to recover damages for the infringer’s violations of these rights, and to recover treble damages where the infringer willingly infringed the patent. Under 35 U.S.C. § 282(a), the ’981 Patent is entitled to a

presumption of validity. LaserDynamics is suing Defendants for infringing its patent, and doing so willfully. LaserDynamics seeks to recover damages from Defendants, including treble damages for willful infringement.

2. The '981 patent generally relates to methods for discriminating between different types of optical discs (e.g., a compact disc ("CD") versus a digital video disc ("DVD")) inserted into an optical disc drive. The '981 patent has been licensed extensively to many well-known electronics and optical disc drive manufacturers.

THE PARTIES

3. LaserDynamics is a limited liability company, organized and existing under the laws of the State of Delaware, having a place of business at 75 Montebello Road, Suffern, New York 10901-3740.

4. Upon information and belief, Alco Electronics Ltd. ("AEL") is, and at all relevant times mentioned herein was, a corporation existing under the laws of Hong Kong. Upon information and belief, AEL is a subsidiary of Alco Holdings Limited. Upon information and belief, AEL's corporate headquarters are located at 11th Floor, Zung Fu Industrial Building, 1067 King's Road, Quarry Bay, Hong Kong.

5. Upon information and belief, Alco Electronics Inc. ("AEI") is, and at all relevant times mentioned herein was, a corporation existing under the laws of Canada with a principal place of business located at 725 Denison Street, Markham, Ontario, L3R 1B8, Canada. Upon information and belief, AEI also maintains a sales and marketing office at 8392 Six Forks Rd., Suite 104, Raleigh, NC 27615, USA.

6. Upon information and belief, Alco Holdings Limited ("AHL") is, and at all relevant times mentioned herein was, a corporation existing under the laws of Hong Kong. Upon

information and belief, AEL and AEI are indirect wholly owned subsidiaries of AHL, which is publicly traded company listed on the Hong Kong Stock Exchange. Upon information and belief, AHL's corporate headquarters are located at 11th Floor, Zung Fu Industrial Building, 1067 King's Road, Quarry Bay, Hong Kong.

7. Upon information and belief, Alco Investments (B.V.I.) Limited ("AIL") is, and at all relevant times mentioned herein was, a corporation existing under the laws of the Territory of the British Virgin Islands. Upon information and belief, AIL maintains an office at Road Town, Tortola, Virgin Islands, UK. Upon information and belief AIL's registered agent is Codan Trust Company (B.V.I.) Ltd. at P.O. Box 3140, Road Town, Tortola, British Virgin Islands. Upon information and belief, AIL is a wholly-owned subsidiary of AHL and is a parent of AEI.

8. Upon information and belief, AVC Multimedia Inc. ("AVC") is, and at all relevant times mentioned herein was, a corporation existing under the laws of Canada. Upon information and belief, AVC maintains an office and a warehouse at Unit 6, 170 Esna Park Drive, Markham, Ontario L3R 1E3 for distribution purposes in the United States.

JURISDICTION

9. This is an action for patent infringement arising under the patent laws of the United States of America, more specifically under 35 U.S.C. § 100, *et seq.* Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 and 1338.

10. Personal jurisdiction is also proper in this Court and this judicial district under N.Y. Civ. Pract. L. R. § 302 because, upon information and belief, Defendants have sufficient contacts within the State of New York and within this judicial district to subject itself to the jurisdiction of this Court. Defendants have purposefully availed themselves of the privileges of conducting business in the State of New York and this judicial district. Defendants have sought

protection and benefit from the laws of the State of New York. Defendants regularly conduct business within the State of New York and within this judicial district. Plaintiff's cause of action arises directly from Defendants' business contacts and other activities in the State of New York and in this District.

11. More specifically, personal jurisdiction is proper in this judicial district because, upon information and belief, Defendants, directly and/or through its intermediaries, transact and, at all relevant times, have transacted business in this judicial district, including using, distributing, importing, making, offering for sale, selling, and/or marketing, supporting and advertising of its infringing products in the United States, the State of New York and the Southern District of New York. In particular, Defendants import into the United States, solicit, use and/or sell, and at all relevant times, have imported, solicited, used and/or sold in the United States, including within the Southern District of New York, standalone, portable and combination CD/DVD/Blu-Ray players under the RCA[®], Venturer[®], Durabrand[®], Audiovox[®] and Trutech[®] brand names ("Brand Names").

12. Upon information and belief, Defendants also directly or through its subsidiaries or intermediaries, make, use, offer for sale, sell, import, advertise, make available and/or market and, at all relevant time have made, used, offered for sale, sold, imported, advertised and made available and/or marketed products within the Southern District of New York, through their www.1800customersupport.com, www.venturer.com and www.rcaav.com websites thereby infringing the '981 patent.

VENUE

13. Venue properly lies within this judicial district and division, pursuant to 28 U.S.C. §§ 1391(b) and 1400(b).

INFRINGEMENT OF U.S. PATENT NO. 5,587,981

14. LaserDynamics incorporates by reference the allegations set forth in the preceding paragraphs.

15. On December 24, 1996, the '981 patent, entitled "Multi-standard Optical Disk Reading Method Having Distinction Process," was duly and lawfully issued based upon an application filed by the inventor, Yasuo Kamatani. A true and correct copy of the '981 Patent is attached hereto as Exhibit 1.

16. On December 15, 2009, the United States Patent and Trademark Office ("USPTO") issued a Reexamination Certificate for the '981 patent. A true and correct copy of the Reexamination Certificate is attached hereto as Exhibit 2.

17. LaserDynamics is the assignee and the owner of all right, title and interest in and to the '981 patent, and has the right to sue and recover damages for infringement thereof.

18. Upon information and belief, Defendants have been and continue to be engaged in making, using, importing, selling and/or offering for sale infringing products, including, but not limited to, standalone, portable and combination CD/DVD/Blu-Ray players under the Brand Names ("Accused Products") in the United States generally, and in the Southern District of New York specifically.

19. Upon information and belief, by acts including, but not limited to use, making, importation, offers to sell, sales and marketing of products that when used fall within the scope of at least Claim 3 of the '981 patent, Defendants have directly and/or indirectly (by inducement and/or contributory infringement) infringed literally and/or upon information and belief, equivalently, and are continuing to infringe the '981 patent and are thus liable to LaserDynamics pursuant to 35 U.S.C. § 271.

20. Defendants have indirectly infringed and continue to infringe claim 3 of the '981 patent by inducement under 35 U.S.C. 271(b). Defendants have induced and continue to induce users of the accused products to directly infringe claim 3 of the '981 patent. At the very latest, Defendants were given notice of their infringement of the '981 patent upon receiving a copy of the Complaint in this matter, which was filed with this Court on March 12, 2014. In addition, upon information and belief, Defendants knew or should have known of their infringement of the '981 patent from the widespread licensing campaign in the United States by Plaintiff and Plaintiff's predecessor company, LaserDynamics, Inc., which has resulted in licenses to the '981 patent by 29 companies that manufacture, sell and/or distribute products that are similar to and/or compete in the marketplace with Defendants' Accused Products, including licenses to companies that supply parts and/or components to make Defendants' Accused Products.

21. Upon information and belief, Defendants knowingly induced customers to use their Accused Products, including, for example, by promoting their Accused Products online (e.g., www.1800customersupport.com, www.venturer.com, www.rcaav.com) and/or providing customers with instructions and/or manuals for using the Accused Products.

22. Defendants' past and continued indirect infringement by inducement is without good-faith belief of non-infringement or invalidity based on the Federal Circuit's affirmance of the '981 patent's infringement of similar products in *LaserDynamics, Inc. v. Quanta Computer, Inc.*, 694 F.3d 51 (Fed. Cir. 2012).

23. Defendants also indirectly infringed and continue to infringe claim 3 of the '981 patent by contributory infringement under 35 U.S.C. 271(c). Upon information and belief, by providing the Accused Products especially designed for infringing use, Defendants contribute to the direct infringement of users of said products.

24. Defendants' infringement of the '981 patent is without consent of, authority of, or license from LaserDynamics.

25. Upon information and belief, Defendants' infringement of the '981 patent has been and is willful. This action, therefore, is "exceptional" within the meaning of 35 U.S.C. § 285 entitling LaserDynamics to its attorneys' fees and expenses.

26. As a result of Defendants' acts of infringement, LaserDynamics has suffered and will continue to suffer damages in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, LaserDynamics requests this Court enter judgment as follows:

- A. That the '981 patent is valid and enforceable;
- B. That Defendants have directly and indirectly infringed claim 3 of the '981 patent;
- C. That such infringement has been willful;
- D. That Defendants account for and pay to LaserDynamics all damages pursuant to 35 U.S.C. § 284 to adequately compensate LaserDynamics for Defendants' infringement of the '981 patent, but in no event less than a reasonable royalty for the use made by Defendants of the invention set forth in the '981 patent;
- E. That LaserDynamics receives enhanced damages, in the form of treble damages, pursuant to 35 U.S.C. § 284;
- F. That this is an exceptional case under 35 U.S.C. § 285;
- G. That Defendants pay LaserDynamics all of LaserDynamics' reasonable attorneys' fees and expenses pursuant to 35 U.S.C. § 285;

H. That LaserDynamics be granted pre-judgment and post-judgment interest in accordance with 35 U.S.C. § 284 on the damages caused to it by reason of Defendants' infringement of the '981 patent, including pre-judgment and post-judgment interest on any enhanced damages or attorneys' fees award;

I. That costs be awarded in accordance with 35 U.S.C. § 284 to LaserDynamics; and

J. That LaserDynamics be granted such other and further relief as the Court may deem just and proper under the circumstances.

DEMAND FOR JURY TRIAL

LaserDynamics hereby demands a trial by jury on all issues so triable in this action.

Dated: May 14, 2014

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