

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MEMSMART SEMICONDUCTOR CORP.,

Plaintiff,

v.

**AAC TECHNOLOGIES PTE. LTD.,
AAC TECHNOLOGIES HOLDINGS INC. ,
and AMERICAN AUDIO COMPONENT,
INC.,**

Defendants.

CIVIL ACTION NO. 2:15-cv-531

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff MemSmart Semiconductor Corp. (“MemSmart”) for its Complaint against Defendants AAC Technologies Pte. Ltd., AAC Technologies Holdings Inc., and American Audio Component, Inc., (collectively, “the AAC Technologies Defendants”), demands a trial by jury and alleges as follows:

PARTIES

1. Plaintiff MemSmart Semiconductor Corp. is a Taiwanese corporation with a principal address of Room 301, Innovation Center, No. 101, Sec. 2, Kuang-Fu Rd., Hsinchu 30013, Taiwan R.O.C.

2. On information and belief, Defendant AAC Technologies Pte. Ltd. is a Singapore corporation with its principal place of business at 10 Ang Mo Kio Street 65, Singapore 569059. On information and belief, Defendant AAC Technologies Pte. Ltd. is a nonresident of Texas who engages in business in this state, but does not maintain a regular place of business in this state or a designated agent for service of process in this state. On information and belief, Defendant AAC Technologies Pte. Ltd. resides in this jurisdiction within the meaning of 28

U.S.C. § 1400(b). This proceeding arises, in part, out of business done by Defendant AAC Technologies Pte. Ltd. in this state. Defendant AAC Technologies Pte. Ltd. may be served with process in Singapore pursuant to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents, Article 1, November 15, 1965 T.I.A.S. No. 6638, 20 U.S.T. 361 (U.S. Treaty 1969). Defendant AAC Technologies Pte. Ltd. regularly conducts and transacts business in Texas, throughout the United States, and within the Eastern District of Texas, itself and/or through one or more subsidiaries, affiliates, business divisions, or business units.

3. On information and belief, Defendant AAC Technologies Holdings Inc. is a Chinese corporation with its principal place of business at 3 Xinchangcao Road, Wujin District, Changzhou, P.R. China. On information and belief, Defendant AAC Technologies Holdings Inc. (China) is a nonresident of Texas who engages in business in this state, but does not maintain a regular place of business in this state or a designated agent for service of process in this state. On information and belief, Defendant AAC Technologies Holdings Inc. resides in this jurisdiction within the meaning of 28 U.S.C. § 1400(b). This proceeding arises, in part, out of business done by Defendant AAC Technologies Holdings Inc. in this state. Defendant AAC Technologies Holdings Inc. may be served with process in China pursuant to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents, Article 1, November 15, 1965 T.I.A.S. No. 6638, 20 U.S.T. 361 (U.S. Treaty 1969). Defendant AAC Technologies Holdings Inc. regularly conducts and transacts business in Texas, throughout the United States, and within the Eastern District of Texas, itself and/or through one or more subsidiaries, affiliates, business divisions, or business units.

4. On information and belief, Defendant American Audio Component, Inc. is incorporated under the laws of California with its principal place of business at 1920 Wright

Street, LaVerne CA 91750. Defendant American Audio Component, Inc. engages in business in this state and has appointed Joe Kuan Mok at 20957 Currier Road, Unit A, Walnut, CA 91787 as its designated agent for service of process. On information and belief, Defendant American Audio Component, Inc. regularly conducts and transacts business in the United States, throughout the State of Texas, and within the Eastern District of Texas, either itself and/or through one or more subsidiaries, affiliates, business divisions, or business units and has committed acts of infringement within the meaning of 28 U.S.C. § 1400(b).

JURISDICTION AND VENUE

5. This action arises under the Patent Laws of the United States, namely, 35 U.S.C. §§ 1 et seq. This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this district under 28 U.S.C. §§ 1391(b)(2) and (c) and/or 1400(b). On information and belief, the AAC Technologies Defendants have transacted business in this district, and have committed acts of patent infringement in this district, by the making, using, selling and/or offering for sale infringing products including but not limited to AAC Technologies Acoustic MEMS microphones, including product numbers: SM0102B-L383-M02, SM0102B-N383-M02, SM0401L-F383-M02, SM0401L-F423-M02, SDM0401B-263-M02, SDM0401-263-M02, SDM0301-263-M02, SDM0102B-263-M02, AM0502B-NEA381-M02, SM0401L-NEA381-G02, SM0401BL-NEA381-M02, SM03022-A421-M02, SM0401L-D423-M02, SDM0401-263-M03, SDM0401L-D263-G04, SDM0401B-D263-M03, AM0502-NEA381-G02, SDM0502B-D263-M03, and SM0103-P383-M02.

7. On information and belief, the AAC Technologies Defendants are subject to this Court's general and specific personal jurisdiction because: the AAC Technologies Defendants

have minimum contacts within the State of Texas and the Eastern District of Texas and, pursuant to the due process and/or the Texas Long Arm Statute, the AAC Technologies Defendants have purposefully availed themselves of the privileges of conducting business in the State of Texas and in the Eastern District of Texas; the AAC Technologies Defendants regularly conduct and solicit business within the State of Texas and within the Eastern District of Texas; and causes of action arise directly from the AAC Technologies Defendants' business contacts and other activities in the State of Texas and in the Eastern District of Texas.

COUNT I

INFRINGEMENT OF UNITED STATES PATENT NO. 7,829,364

8. MemSmart Semiconductor Corp. is the owner of all rights, title and interest to United States Patent No. 7,829,364 ("the '364 Patent") entitled "Method Of Fabricating A Suspension Microstructure." The '364 Patent was issued on November 9, 2010 after a full and fair examination by the United States Patent and Trademark Office. The application leading to the '364 Patent was filed on October 2, 2008. Attached as Exhibit "A" is a copy of the '364 Patent.

9. The '364 Patent is directed generally to a method for fabricating a micro-electro-mechanical structure and more particularly to a suspension microstructure and its fabrication method which effectively avoids improper corrosion and exposure, and reduces cost.

10. On information and belief, the AAC Technologies Defendants have been and now are infringing the '364 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by making, using, importing, selling or offering to sell devices that have a suspension microstructure that incorporate methods according to the '364 Patent. On information and belief, examples of the AAC Technologies Defendants' products that infringe

the '364 Patent include, but are not limited to, all the AAC Technologies Defendants Acoustic MEMS microphones that have a suspension microstructure, including product numbers: SM0102B-L383-M02, SM0102B-N383-M02, SM0401L-F383-M02, SM0401L-F423-M02, SDM0401B-263-M02, SDM0401-263-M02, SDM0301-263-M02, SDM0102B-263-M02, AM0502B-NEA381-M02, SM0401L-NEA381-G02, SM0401BL-NEA381-M02, SM03022-A421-M02, SM0401L-D423-M02, SDM0401-263-M03, SDM0401L-D263-G04, SDM0401B-D263-M03, AM0502-NEA381-G02, SDM0502B-D263-M03, and SM0103-P383-M02. The AAC Technologies Defendants are thus liable for infringement of the '364 Patent pursuant to 35 U.S.C. § 271.

11. Upon information and belief, Defendants had knowledge or was aware of the '364 patents before the filing of this Complaint. The first named AAC Defendant filed an *partes* review of the '364 patent on August 5, 2014. Additionally, Plaintiff filed a lawsuit against the first and second named Defendants on December 11, 2014.

12. Upon information and belief, based on the above-identified knowledge, Defendants knew that they infringed the '364 patent and was aware of these patents and but acted with objectively reckless disregard for those patents by continuing to make, use, sell, and/or offer for sale products that infringe the '364 patent. As such, Defendants' infringement is willful.

13. As a result of the AAC Technologies Defendants' infringement of the '364 Patent, Plaintiff MemSmart Semiconductor Corp. has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless this Court enjoins the AAC Technologies Defendants' infringing activities.

14. Unless a permanent injunction is issued enjoining the AAC Technologies Defendants and their agent, servants, employees, representatives, affiliates, and all others acting on or in active concert therewith from infringing the '364 Patent, Plaintiff MemSmart Semiconductor Corp. will be greatly and irreparably harmed.

COUNT II

INFRINGEMENT OF UNITED STATES PATENT NO. 7,666,702

15. MemSmart Semiconductor Corp. is the owner of all rights, title and interest to United States Patent No. 7,666,702 ("the '702 Patent") entitled "Method For Fabricating A Microstructure." The '702 Patent was issued on February 23, 2010 after a full and fair examination by the United States Patent and Trademark Office. The application leading to the '364 Patent was filed on November 28, 2007. Attached as Exhibit "B" is a copy of the '702 Patent.

16. The '702 Patent is directed generally to a method for fabricating a microstructure, and more particularly, to a fabrication method which achieves microstructure suspension.

17. On information and belief, the AAC Technologies Defendants have been and now are infringing the '702 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by making, using, importing, selling or offering to sell devices that have a suspension microstructure that incorporate methods according to the '702 Patent. On information and belief, examples of the AAC Technologies Defendants' products that infringe the '702 Patent include, but are not limited to, all the AAC Technologies Defendants Acoustic MEMS microphones that have a suspension microstructure, including product numbers: SM0102B-L383-M02, SM0102B-N383-M02, SM0401L-F383-M02, SM0401L-F423-M02, SDM0401B-263-M02, SDM0401-263-M02, SDM0301-263-M02, SDM0102B-263-M02,

AM0502B-NEA381-M02, SM0401L-NEA381-G02, SM0401BL-NEA381-M02, SM03022-A421-M02, SM0401L-D423-M02, SDM0401-263-M03, SDM0401L-D263-G04, SDM0401B-D263-M03, AM0502-NEA381-G02, SDM0502B-D263-M03, and SM0103-P383-M02. The AAC Technologies Defendants are thus liable for infringement of the '364 Patent pursuant to 35 U.S.C. § 271.

18. As a result of the AAC Technologies Defendants' infringement of the '702 Patent, Plaintiff MemSmart Semiconductor Corp. has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless this Court enjoins the AAC Technologies Defendants' infringing activities.

19. Unless a permanent injunction is issued enjoining the AAC Technologies Defendants and their agent, servants, employees, representatives, affiliates, and all others acting on or in active concert therewith from infringing the '702 Patent, Plaintiff MemSmart Semiconductor Corp. will be greatly and irreparably harmed.

COUNT III

INFRINGEMENT OF UNITED STATES PATENT NO. 7,935,556

20. MemSmart Semiconductor Corp. is the owner of all rights, title and interest to United States Patent No. 7,935,556 ("the '556 Patent") entitled "Microelectromechanical System And Process of Making The Same." The '556 Patent was issued on May 3, 2011 after a full and fair examination by the United States Patent and Trademark Office. The application leading to the '556 Patent was filed on August 27, 2007. Attached as Exhibit "C" is a copy of the '556 Patent.

21. The '556 Patent is directed generally to a method for fabricating a microelectromechanical system, and more particularly, to a MEMS system and its fabrication method which effectively avoids circuit interference and over-etching.

22. On information and belief, the AAC Technologies Defendants have been and now are infringing the '556 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by making, using, importing, selling or offering to sell devices that have a suspension microstructure that incorporate methods according to the '556 Patent. On information and belief, examples of the AAC Technologies Defendants' products that infringe the '556 Patent include, but are not limited to, all the AAC Technologies Defendants Acoustic MEMS microphones that reduce circuit interference and over-etching, including product numbers: SM0102B-L383-M02, SM0102B-N383-M02, SM0401L-F383-M02, SM0401L-F423-M02, SDM0401B-263-M02, SDM0401-263-M02, SDM0301-263-M02, SDM0102B-263-M02, AM0502B-NEA381-M02, SM0401L-NEA381-G02, SM0401BL-NEA381-M02, SM03022-A421-M02, SM0401L-D423-M02, SDM0401-263-M03, SDM0401L-D263-G04, SDM0401B-D263-M03, AM0502-NEA381-G02, SDM0502B-D263-M03, and SM0103-P383-M02. The AAC Technologies Defendants are thus liable for infringement of the '556 Patent pursuant to 35 U.S.C. § 271.

23. As a result of the AAC Technologies Defendants' infringement of the '556 Patent, Plaintiff MemSmart Semiconductor Corp. has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless the AAC Technologies Defendants' infringing activities are enjoined by this Court.

24. Unless a permanent injunction is issued enjoining the AAC Technologies Defendants and their agent, servants, employees, representatives, affiliates, and all others acting

on or in active concert therewith from infringing the '556 Patent, Plaintiff MemSmart Semiconductor Corp. will be greatly and irreparably harmed.

COUNT IV

INFRINGEMENT OF UNITED STATES PATENT NO. 7,863,063

25. MemSmart Semiconductor Corp. is the owner of all rights, title and interest to United States Patent No. 7,863,063 ("the '063 Patent") entitled "Method For Fabricating A Sealed Cavity Microstructure." The '063 Patent was issued on January 4, 2011 after a full and fair examination by the United States Patent and Trademark Office. The application leading to the '063 Patent was filed on March 4, 2008. Attached as Exhibit "D" is a copy of the '063 Patent.

26. The '063 Patent is generally directed to a method for fabricating a sealed cavity microstructure, and more particularly, to a suspension microstructure and its fabrication method which effectively avoids improper exposure and reduces package cost.

27. On information and belief, the AAC Technologies Defendants have been and now are infringing the '063 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by making, using, importing, selling or offering to sell devices that have a suspension microstructure that incorporate methods according to the '063 Patent. On information and belief, examples of the AAC Technologies Defendants' products that infringe the '063 Patent include, but are not limited to, all the AAC Technologies Defendants Acoustic MEMS microphones that avoids improper exposure and reduces package cost, including product numbers: SM0102B-L383-M02, SM0102B-N383-M02, SM0401L-F383-M02, SM0401L-F423-M02, SDM0401B-263-M02, SDM0401-263-M02, SDM0301-263-M02, SDM0102B-263-M02, AM0502B-NEA381-M02, SM0401L-NEA381-G02, SM0401BL-NEA381-M02, SM03022-

A421-M02, SM0401L-D423-M02, SDM0401-263-M03, SDM0401L-D263-G04, SDM0401B-D263-M03, AM0502-NEA381-G02, SDM0502B-D263-M03, and SM0103-P383-M02. The AAC Technologies Defendants are thus liable for infringement of the '063 Patent pursuant to 35 U.S.C. § 271.

28. As a result of the AAC Technologies Defendants' infringement of the '063 Patent, Plaintiff MemSmart Semiconductor Corp. has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless this Court enjoins the AAC Technologies Defendants' infringing activities.

29. Unless a permanent injunction is issued enjoining the AAC Technologies Defendants and their agent, servants, employees, representatives, affiliates, and all others acting on or in active concert therewith from infringing the '063 Patent, Plaintiff MemSmart Semiconductor Corp. will be greatly and irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff MemSmart Semiconductor Corp. respectfully requests that this Court enter:

A. A judgment in favor of Plaintiff MemSmart Semiconductor Corp. that the AAC Technologies Defendants have infringed the '364, 702, 556, and 063 Patents and that infringement of at least the '364 Patent is willful;

B. A permanent injunction enjoining the AAC Technologies Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringing the '364, 702, 556, and 063 Patents;

C. A judgment and order requiring the AAC Technologies Defendants to pay Plaintiff MemSmart Semiconductor Corp. its damages, costs, expenses, and prejudgment and post-judgment interest for the AAC Technologies Defendants' infringement of the '364, 702, 556, and 063 Patents as provided under 35 U.S.C. § 284;

D. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff MemSmart Semiconductor Corp. its reasonable attorneys' fees; and

E. Any and all other relief to which Plaintiff MemSmart Semiconductor Corp. may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff MemSmart Semiconductor Corp., under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Respectfully Submitted,

Dated: April 21, 2015

By: /s/ Winston O. Huff
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**ATTORNEY FOR PLAINTIFF,
MEMSMART SEMICONDUCTOR
CORP.**

CERTIFICATE OF FILING

I hereby certify that on April 21, 2015, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system.

/s/ Winston O. Huff
Winston O. Huff