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STEVEN F. REIBER

8
9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA
11

12 STEVEN F. REIBER,
13 Plaintiff,

14 v.

15 WESTERN DIGITAL CORPORATION, a
Delaware corporation, WESTERN DIGITAL
16 TECHNOLOGIES, INC., a Delaware
corporation, HITACHI GLOBAL STORAGE
17 TECHNOLOGIES, INC., a Delaware
corporation, SILICONSYSTEMS, INC., a
18 California corporation, and STEC, INC., a
Delaware corporation,

19 Defendant.
20

CASE NO. 2:14-cv-00763-KJM-EFB

**THIRD AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

(U.S. Patent Nos. 6,354,479, 6,651,864,
6,935,548, 7,124,927, and 7,389,905)

DEMAND FOR JURY TRIAL

21 Plaintiff Steven F. Reiber (“Plaintiff” or “Mr. Reiber”) hereby alleges for his Third
22 Amended Complaint against defendants Western Digital Corporation (“WDC”), Western Digital
23 Technologies, Inc. (“WDT”), Hitachi Global Storage Technologies, Inc. (“HGST”),
24 SiliconSystems, Inc. (“SiliconSystems”), and sTec, Inc. (“sTec”) (collectively, “WD” or
25 “Defendant”) as follows.

26 **JURISDICTION AND VENUE**

27 1. The United States District Court for the Eastern District of California (the “Court”)
28 has jurisdiction over this matter because it is an action for infringement arising under the United

States Patent Act (35 U.S.C. § 1 *et seq.*). Accordingly, the Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2. Plaintiff is informed and believes, and thereon alleges, that Defendant is subject to personal jurisdiction in the Eastern District of California (the “District”), because Defendant has caused tortious injury in this District by acts committed both inside and outside this District. Defendant regularly solicits business in this District and derives substantial revenue from the sale of goods, including infringing goods, in this District. Defendant has, notwithstanding the foregoing, engaged in a persistent course of conduct in this District.

3. Venue for this action is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400 because a significant portion of Defendant's infringing activities have occurred in this District.

THE PARTIES

4. Plaintiff Steven F. Reiber is an individual residing in this District with a principal place of business at 4121 Citrus Avenue Suite 4, Rocklin, California.

5. Plaintiff is informed and believes, and thereon alleges, that defendant WDC is a corporation formed under the laws of Delaware with its principal place of business at 3355 Michelson Drive, Suite 100, Irvine, California 92612. WDC is the parent company of numerous subsidiaries, including defendants WDT, HGST, Silicon Systems, and sTec. WDC is, among other things, a major producer of hard disk drive (“HDD”) heads, head gimbal assemblies (“HGAs”), and head stack assemblies (“HSAs”). Plaintiff is informed and believes, and thereon alleges, that the HDD heads manufactured and assembled by WDC are supplied to HDD manufacturers in the United States and around the world. In addition to HDD heads that WDC itself manufactures, WDC also purchases HDD heads and HGAs from other manufacturers. WDC performs bonding on these components to create HGAs and HSAs. Plaintiff is informed and believes, and thereon alleges, that WDC, either alone and/or through its subsidiaries, is also a substantial producer of solid state drives (“SSDs”) which are manufactured via flip chip bonding processes. WDC conducts substantial business in this District, including at least a portion of the infringement alleged in this Complaint.

6. Plaintiff is informed and believes, and thereon alleges, that defendant WDT is a wholly owned subsidiary of defendant WDC with its principal place of business in Irvine, California.

7. Plaintiff is informed and believes, and thereon alleges, that defendant HGST is a wholly owned subsidiary of defendant WDC with its principal place of business at 3403 Yerba Buena Road, San Jose, California 95135. On March 8, 2012, WDC completed its acquisition of HGST, a provider of high-value storage in enterprise markets that delivers, among other products, a line of SSDs for the high end of the performance market.

8. Plaintiff is informed and believes, and thereon alleges, that defendant SiliconSystems is a wholly owned subsidiary of defendant WDC with its principal place of business in California. In March 2009, WDC completed its acquisition of SiliconSystems, a leading supplier of solid-state drives for the embedded systems market.

9. Plaintiff is informed and believes, and thereon alleges, that defendant sTec, Inc. is a wholly owned subsidiary of defendant WDC with its principal place of business in California. On September 12, 2013, WDC completed its acquisition of sTec, a provider of enterprise solid-state drives. As a result of the acquisition, sTec has been fully integrated into the WDC's HGST subsidiary. The acquisition augmented HGST's existing solid-state storage capabilities.

GENERAL ALLEGATIONS

The Patents-in-Suit

10. Plaintiff has developed – and continues to develop – an intellectual property portfolio related to his bonding machine business, including United States Patent Nos. 6,354,479, 6,651,864, 6,935,548, 7,124,927 and 7,389,905 (collectively, the “Patents-in-Suit”).

11. On March 12, 2002, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,354,479 (the “‘479 Patent”), entitled *Dissipative Ceramic Bonding Tip*. (Dkt. No. 15-1). Steven F. Reiber is a named inventor and the owner of the ‘479 Patent.

12. On November 25, 2003, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,651,864 (the “‘864 Patent”), entitled *Dissipative Ceramic Bonding Tool Tip*. (Dkt. No. 15-2). Steven F. Reiber is a named inventor and the owner of the

1 '864 Patent.

2 13. On August 30, 2005, the United States Patent and Trademark Office duly and legally
3 issued United States Patent No. 6,935,548 (the "'548 Patent"), entitled *Dissipative Ceramic*
4 *Bonding Tool Tip*. (Dkt. No. 15-3). Steven F. Reiber is a named inventor and the owner of the
5 '548 Patent.

6 14. On October 24, 2006, the United States Patent and Trademark Office duly and
7 legally issued United States Patent No. 7,124,927 (the "'927 Patent"), entitled *Flip Chip Bonding*
8 *Tool and Ball Placement Capillary*. (Dkt. No. 15-4). Steven F. Reiber is the named inventor and
9 owner of the '927 Patent.

10 15. On June 24, 2008, the United States Patent and Trademark Office duly and legally
11 issued United States Patent No. 7,389,905 (the "'905 Patent"), entitled *Flip Chip Bonding Tool Tip*.
12 (Dkt. No. 15-5). Steven F. Reiber is the named inventor and owner of the '905 Patent.

13 16. In general terms, the Patents-in-Suit are directed to dissipative bonding tools and tips
14 used to form electrical connections and methods of using such bonding tools and tips. The patented
15 bonding tools and tips and methods of using them enable bonding of delicate electronic devices
16 while avoiding damage caused by electrostatic discharge. Such damage is avoided because the
17 patented dissipative bonding tools and tips conduct electricity at a rate sufficient to prevent
18 electrostatic charge buildup, but are sufficiently resistive as to prevent damage to the device being
19 bonded. The dissipative bonding tools and tips claimed by the Patents-in-Suit are used in the
20 manufacture of HDDs, including HDD components such as HGAs and HSAs.

21 17. In addition, the '927 and '905 Patents are further generally directed to dissipative
22 flip chip bonding tools (including bonding tips), ball placement capillaries, and systems used to
23 form electrical connections, as well as methods of using such devices. The patented bonding tools,
24 ball placement capillaries, systems, and methods enable bonding of delicate electronic devices
25 while avoiding damage caused by electrostatic discharge. Such damage is avoided because the
26 patented dissipative flip chip bonding tools, ball placement capillaries, and systems conduct
27 electricity at a rate sufficient to prevent electrostatic charge buildup, but are sufficiently resistive as
28 to prevent damage to the device being bonded.

1 18. The '479 Patent generally discloses a bonding tip which uses a dissipative material,
2 as well as methods of using and manufacturing such a tip. The '479 Patent also discloses a
3 dissipative ceramic and a bonding device that uses a dissipative material.

4 19. The '864 Patent generally discloses a bonding tip which uses a dissipative material,
5 as well as methods of using and manufacturing such a tip.

6 20. The '548 Patent generally discloses a bonding tip which uses a dissipative material,
7 as well as a method of using such a tip.

8 21. The '927 Patent generally discloses a flip chip bonding tool and ball placement
9 capillary system which uses a dissipative material. The '927 Patent also discloses an ESD-
10 preventive device which uses a flip chip bonding tool and ball placement capillary, as well as
11 methods of using such a device.

12 22. The '905 Patent generally discloses a flip chip bonding tool tip which uses a
13 dissipative material. The '905 Patent also discloses methods of using such a bonding tool tip, as
14 well as methods related to manufacturing a dissipative material for use in a flip chip bonding tool
15 tip.

16 23. By virtue of the Patents-in-Suit, Mr. Reiber has the exclusive right to exclude others
17 from making, using, offering to sell, and selling in the United States, or importing into the United
18 States, the articles claimed therein and articles made by the methods claimed therein. Mr. Reiber
19 has not licensed or otherwise authorized Defendant to make, use, offer to sell, sell or import the
20 articles claimed in the Patents-in-Suit and has not licensed or otherwise authorized Defendant to
21 practice the methods claimed in the Patents-in-Suit.

22 **Defendant's Unlawful Conduct Relating to the Patents-in-Suit**

23 24. The dissipative bonding tools (including bonding tips), flip chip bonding tools
24 (including bonding tips), and ball placement capillaries claimed by the Patents-in-Suit are used by
25 WD in the manufacture of HDD heads, HGAs, HSAs, and SSDs.

26 25. Plaintiff is informed and believes, and thereon alleges, that WD, without authority,
27 makes, uses, offers to sell, and sells in the United States, and imports into the United States,
28 including within this District, HDD heads, HGAs, HSAs, and SSDs that infringe the Patents-in-

1 Suit. Plaintiff is informed and believes, and thereon alleges, that these HDD heads, HGAs, HSAs,
2 and SSDs are manufactured using infringing bonding tools (including bonding tips) and ball
3 placement capillaries.

4 26. Plaintiff is informed and believes, and thereon alleges, that WD infringes the
5 Patents-in-Suit through its manufacturing processes at multiple facilities in the United States,
6 including, but not limited to, its facilities in Fremont, California. For example, a number of WD
7 SSDs manufactured during the last several years prominently advertise that they were manufactured
8 in the United States. Sample images of some of these drives are attached hereto as follows: WD
9 SiliconEdge Blue 128 GB SATA, manufactured in the U.S. in October 2013 (“Exhibit A”); WD
10 SiliconEdge Blue 64 GB SATA, manufactured in the U.S. in October 2013 (“Exhibit B”); WD
11 SiliconDrive A100 32 GB SATA, manufactured in the U.S. on December 2, 2011 (“Exhibit C”).

12 27. Plaintiff is informed and believes, and thereon alleges, that as recently as February
13 2014, WD has been fabricating wafers in photolithography bays and performing other bonding
14 processes at its facilities in Fremont, California.

15 28. Plaintiff is informed and believes, and thereon alleges, that Defendant infringes the
16 Patents-in-Suit through its manufacturing processes at multiple facilities in the United States,
17 including, but not limited to, HGST facilities in San Jose, California. HGST is “a Western Digital
18 company,” that manufactures and sells “high-quality hard disk and solid state drives that store,
19 manage and protect the world’s data.” See <http://www.hgst.com/about-hgst-storage>. Plaintiff is
20 further informed and believes, and thereon alleges, that the manufacturing processes that occur at
21 HGST, including at its San Jose, California facilities, include, among others, CMP and lapping
22 processes and wafer fabrication. Plaintiff is further informed and believes, and thereon alleges, that
23 as recently as February 2014, WD and HGST employed at least 1,200 manufacturing jobs at their
24 facilities in San Jose, California.

25 29. Plaintiff is informed and believes, and thereon alleges, that WD infringes at least the
26 ‘927 and ‘905 Patents through its manufacturing processes at multiple facilities in the United States
27 involving SSDs, including at least through WD’s HGST, SiliconSystems, and sTec subsidiaries. In
28 March 2009, WD acquired defendant SiliconSystems, located in Aliso Viejo, California, “a leading

supplier of solid-state drives for the embedded systems market.” *See*
<http://www.wdc.com/en/company/pressroom/releases/?release=0e640fb5-2931-4bc0-8595-7a6abc20fb5a>. In September 2013, WD acquired defendant sTec, located in Santa Ana, California,
 “an early innovator in enterprise solid-state drives (SSDs).” *See*
<http://wdc.com/en/company/pressroom/releases/?release=e7e8a0f2-b89f-4b85-8b1b-387f9a4b0818>.
 Plaintiff is further informed and believes, and thereon alleges, that WD infringes at least the ‘927
 and ‘905 Patents through the use and practice of covered flip chip bonding processes to
 manufacture SSDs at their facilities in California.

30. WD’s unlawful activities have resulted in unjust enrichment to WD and immediate
 and irreparable harm to Mr. Reiber. If WD’s unlawful activities are not immediately enjoined, WD
 will continue to be unjustly enriched and will continue to irreparably harm Mr. Reiber. Mr. Reiber
 has no adequate remedy at law.

COUNT I

(Infringement of United States Patent No. 6,354,479)

31. Mr. Reiber repeats and re-alleges each of the allegations set forth in paragraphs 1
 through 30, as though fully set forth herein.

32. Steven Reiber is the owner of the entire right title and interest in the ‘479 Patent.

33. Plaintiff is informed and believes, and thereon alleges, that Defendant’s actions in
 making, using, distributing, offering for sale and selling in the United States and importing into the
 United States HDD heads, HGAs, HSAs, and SSDs infringe claims of the ‘479 Patent. Plaintiff is
 informed and believes, and thereon alleges, that Defendant will continue to infringe claims of the
 ‘479 Patent unless enjoined by the Court.

34. Plaintiff is informed and believes, and thereon alleges, that Defendant is actively
 inducing others to infringe one or more claims of the ‘479 Patent through Defendant’s activities
 related to making, using, distributing, offering for sale and selling in the United States and
 importing into the United States HDD heads, HGAs, HSAs, and SSDs in violation of 35 U.S.C.
 § 271(b).

35. Plaintiff is informed and believes, and thereon alleges, that WDC and WDT have

1 had actual knowledge and notice of the '479, '864, and '548 Patents since approximately September
2 2007. Plaintiff is informed and believes, and thereon alleges, that WDC and WDT also acquired
3 actual knowledge and notice of the related '927 and '905 Patents prior to the filing of the current
4 Action.

5 36. Plaintiff is informed and believes, and thereon alleges, that HGST, SiliconSystems,
6 and sTec have had actual knowledge and notice of the '479, '864, and '548 Patents since at least
7 August 18, 2014, the filing date of the First Amended Complaint (Dkt. No. 15). Plaintiff is
8 informed and believes, and thereon alleges, that HGST, SiliconSystems, and sTec also have had
9 actual knowledge and notice of the related '927 and '905 Patents since at least March 24, 2014, the
10 filing date of the Complaint (Dkt. No. 2).

11 37. To the extent that WD uses infringing bonding tools, tips, and other devices that are
12 not manufactured directly by WD, Plaintiff is informed and believes, and thereon alleges, that WD
13 knowingly induces infringement by its suppliers, including, for example, Small Precision Tools.
14 Plaintiff is informed and believes, and thereon alleges, that WD, with knowledge of the Patents-in-
15 Suit, has specifically and intentionally directed its suppliers to manufacture infringing bonding
16 tools, tips, and other devices to WD's specific, custom specifications, which WD then uses in its
17 bonding processes.

18 38. The infringing bonding tools, tips, and other devices that WD directs its suppliers to
19 make, and which WD uses in its bonding processes, are of a highly technical and specific nature.
20 Plaintiff is informed and believes, and thereon alleges, that WD uses these bonding tools, tips, and
21 other devices specifically in its bonding of highly sensitive electrical components, and that they
22 have no substantial non-infringing uses.

23 39. Mr. Reiber has been damaged by Defendant's infringing conduct. Defendant is
24 therefore liable to Mr. Reiber for actual damages suffered, as well as any statutory damages. In any
25 event, Defendant is liable to Mr. Reiber for an amount at least as great as a reasonable royalty
26 pursuant to 35 U.S.C. § 284. Moreover, such conduct is likely to cause substantial harm to
27 Mr. Reiber unless the Court enjoins the infringing conduct.

28 WHEREFORE, Plaintiff prays for relief as set forth herein.

COUNT II

(Infringement of United States Patent No. 6,651,864)

40. Mr. Reiber repeats and re-alleges each of the allegations set forth in paragraphs 1 through 39, as though fully set forth herein.

41. Steven Reiber is the owner of the entire right title and interest in the '864 Patent.

42. Plaintiff is informed and believes, and thereon alleges, that Defendant's actions in making, using, distributing, offering for sale and selling in the United States and importing into the United States HDD heads, HGAs, HSAs, and SSDs infringe claims of the '864 Patent. Plaintiff is informed and believes, and thereon alleges, that Defendant will continue to infringe claims of the '864 Patent unless enjoined by the Court.

43. Plaintiff is informed and believes, and thereon alleges, that Defendant is actively inducing others to infringe one or more claims of the '864 Patent through Defendant's activities related to making, using, distributing, offering for sale and selling in the United States and importing into the United States HDD heads, HGAs, HSAs, and SSDs in violation of 35 U.S.C. § 271(b).

44. Plaintiff is informed and believes, and thereon alleges, that WDC and WDT have had actual knowledge and notice of the '479, '864, and '548 Patents since approximately September 2007. Plaintiff is informed and believes, and thereon alleges, that WDC and WDT also acquired actual knowledge and notice of the related '927 and '905 Patents prior to the filing of the current Action.

45. Plaintiff is informed and believes, and thereon alleges, that HGST, SiliconSystems, and sTec have had actual knowledge and notice of the '479, '864, and '548 Patents since at least August 18, 2014, the filing date of the First Amended Complaint (Dkt. No. 15). Plaintiff is informed and believes, and thereon alleges, that HGST, SiliconSystems, and sTec also have had actual knowledge and notice of the related '927 and '905 Patents since at least March 24, 2014, the filing date of the Complaint (Dkt. No. 2).

46. To the extent that WD uses infringing bonding tools, tips, and other devices that are not manufactured directly by WD, Plaintiff is informed and believes, and thereon alleges, that WD

1 knowingly induces infringement by its suppliers, including, for example, Small Precision Tools.
2 Plaintiff is informed and believes, and thereon alleges, that WD, with knowledge of the Patents-in-
3 Suit, has specifically and intentionally directed its suppliers to manufacture infringing bonding
4 tools, tips, and other devices to WD's specific, custom specifications, which WD then uses in its
5 bonding processes.

6 47. The infringing bonding tools, tips, and other devices that WD directs its suppliers to
7 make, and which WD uses in its bonding processes, are of a highly technical and specific nature.
8 Plaintiff is informed and believes, and thereon alleges, that WD uses these bonding tools, tips, and
9 other devices specifically in its bonding of highly sensitive electrical components, and that they
10 have no substantial non-infringing uses.

11 48. Mr. Reiber has been damaged by Defendant's infringing conduct. Defendant is
12 therefore liable to Mr. Reiber for actual damages suffered, as well as any statutory damages. In any
13 event, Defendant is liable to Mr. Reiber for an amount at least as great as a reasonable royalty
14 pursuant to 35 U.S.C. § 284. Moreover, such conduct is likely to cause substantial harm to
15 Mr. Reiber unless the Court enjoins the infringing conduct.

16 WHEREFORE, Plaintiff prays for relief as set forth herein.

17 **COUNT III**

18 **(Infringement of United States Patent No. 6,935,548)**

19 49. Mr. Reiber repeats and re-alleges each of the allegations set forth in paragraphs 1
20 through 48, as though fully set forth herein.

21 50. Steven Reiber is the owner of the entire right title and interest in the '548 Patent.

22 51. Plaintiff is informed and believes, and thereon alleges, that Defendant's actions in
23 making, using, distributing, offering for sale and selling in the United States and importing into the
24 United States HDD heads, HGAs, HSAs, and SSDs infringe claims of the '548 Patent. Plaintiff is
25 informed and believes, and thereon alleges, that Defendant will continue to infringe claims of the
26 '548 Patent unless enjoined by the Court.

27 52. Plaintiff is informed and believes, and thereon alleges, that Defendant is actively
28 inducing others to infringe one or more claims of the '548 Patent through Defendant's activities

1 related to making, using, distributing, offering for sale and selling in the United States and
2 importing into the United States HDD heads, HGAs, HSAs, and SSDs in violation of 35 U.S.C.
3 § 271(b).

4 53. Plaintiff is informed and believes, and thereon alleges, that WDC and WDT have
5 had actual knowledge and notice of the '479, '864, and '548 Patents since approximately September
6 2007. Plaintiff is informed and believes, and thereon alleges, that WDC and WDT also acquired
7 actual knowledge and notice of the related '927 and '905 Patents prior to the filing of the current
8 Action.

9 54. Plaintiff is informed and believes, and thereon alleges, that HGST, SiliconSystems,
10 and sTec have had actual knowledge and notice of the '479, '864, and '548 Patents since at least
11 August 18, 2014, the filing date of the First Amended Complaint (Dkt. No. 15). Plaintiff is
12 informed and believes, and thereon alleges, that HGST, SiliconSystems, and sTec also have had
13 actual knowledge and notice of the related '927 and '905 Patents since at least March 24, 2014, the
14 filing date of the Complaint (Dkt. No. 2).

15 55. To the extent that WD uses infringing bonding tools, tips, and other devices that are
16 not manufactured directly by WD, Plaintiff is informed and believes, and thereon alleges, that WD
17 knowingly induces infringement by its suppliers, including, for example, Small Precision Tools.
18 Plaintiff is informed and believes, and thereon alleges, that WD, with knowledge of the Patents-in-
19 Suit, has specifically and intentionally directed its suppliers to manufacture infringing bonding
20 tools, tips, and other devices to WD's specific, custom specifications, which WD then uses in its
21 bonding processes.

22 56. The infringing bonding tools, tips, and other devices that WD directs its suppliers to
23 make, and which WD uses in its bonding processes, are of a highly technical and specific nature.
24 Plaintiff is informed and believes, and thereon alleges, that WD uses these bonding tools, tips, and
25 other devices specifically in its bonding of highly sensitive electrical components, and that they
26 have no substantial non-infringing uses.

27 57. Mr. Reiber has been damaged by Defendant's infringing conduct. Defendant is
28 therefore liable to Mr. Reiber for actual damages suffered, as well as any statutory damages. In any

1 event, Defendant is liable to Mr. Reiber for an amount at least as great as a reasonable royalty
2 pursuant to 35 U.S.C. § 284. Moreover, such conduct is likely to cause substantial harm to
3 Mr. Reiber unless the Court enjoins the infringing conduct.

4 WHEREFORE, Plaintiff prays for relief as set forth herein.

5 **COUNT IV**

6 **(Infringement of United States Patent No. 7,124,927)**

7 58. Mr. Reiber repeats and re-alleges each of the allegations set forth in paragraphs 1
8 through 57, as though fully set forth herein.

9 59. Steven Reiber is the owner of the entire right title and interest in the '927 Patent.

10 60. Plaintiff is informed and believes, and thereon alleges, that Defendant's actions in
11 making, using, distributing, offering for sale and selling in the United States and importing into the
12 United States HDD heads, HGAs, HSAs, and SSDs infringe claims of the '927 Patent. Plaintiff is
13 informed and believes, and thereon alleges, that Defendant will continue to infringe claims of the
14 '927 Patent unless enjoined by the Court.

15 61. Plaintiff is informed and believes, and thereon alleges, that Defendant is actively
16 inducing others to infringe one or more claims of the '927 Patent through Defendant's activities
17 related to making, using, distributing, offering for sale and selling in the United States and
18 importing into the United States HDD heads, HGAs, HSAs, and SSDs in violation of 35 U.S.C.
19 § 271(b).

20 62. Plaintiff is informed and believes, and thereon alleges, that WDC and WDT have
21 had actual knowledge and notice of the '479, '864, and '548 Patents since approximately September
22 2007. Plaintiff is informed and believes, and thereon alleges, that WDC and WDT also acquired
23 actual knowledge and notice of the related '927 and '905 Patents prior to the filing of the current
24 Action.

25 63. Plaintiff is informed and believes, and thereon alleges, that HGST, SiliconSystems,
26 and sTec have had actual knowledge and notice of the '479, '864, and '548 Patents since at least
27 August 18, 2014, the filing date of the First Amended Complaint (Dkt. No. 15). Plaintiff is
28 informed and believes, and thereon alleges, that HGST, SiliconSystems, and sTec also have had

1 actual knowledge and notice of the related '927 and '905 Patents since at least March 24, 2014, the
2 filing date of the Complaint (Dkt. No. 2).

3 64. United States Patent No. 7,896,218 ("the '218 Patent") is entitled "Apparatus and
4 Method for Conductive Metal Ball Bonding with Electrostatic Discharge Detection." The '218
5 Patent was filed on June 28, 2007 and issued on March 1, 2011 to defendant WDT (the assignee) in
6 Irvine, CA. A true and correct copy of the '218 Patent is attached hereto as "Exhibit D."
7 Mr. Reiber's '927 Patent is cited on the face of WDT's '218 Patent. Specifically, the '927 Patent
8 appears under the "References Cited" section on the cover of the '218 Patent. Further, as
9 delineated in the '218 Patent, the '927 Patent was not cited by the patent examiner, but was instead
10 cited by WDT itself. *See* '218 Patent at 1-2. This affirmative disclosure of the '927 Patent on the
11 face of the '218 Patent establishes WDC (as WDT's parent company) and WDT's knowledge and
12 notice of the '927 Patent.

13 65. WDT also cited Plaintiff's '927 Patent in the file histories of at least two patents:
14 the '218 Patent, and U.S. Patent No. 8,066,171 ("the '171 Patent"), entitled "Conductive Metal Ball
15 Bonding with Electrostatic Discharge Detection." The '171 Patent was filed on January 24, 2011
16 and issued on November 29, 2011 to defendant WDT (the assignee) in Irvine, CA. A true and
17 correct copy of the '171 Patent is attached hereto as "Exhibit E."

18 66. Regarding the '218 Patent, WDT cited the '927 Patent in an "Information Disclosure
19 Statement by Applicant" dated June 28, 2007. A true and correct copy of the '218 Patent's June 28,
20 2007 IDS is attached hereto as "Exhibit F." Regarding the '171 Patent, WDT cited the '927 Patent
21 in an "Information Disclosure Statement by Applicant" dated January 24, 2011. A true and correct
22 copy of the '171 Patent's January 24, 2011 IDS is attached hereto as "Exhibit G."

23 67. Thus, WDC and WDT had both actual knowledge and notice of the '927 Patent by
24 June 28, 2007.

25 68. To the extent that WD uses infringing bonding tools, tips, and other devices that are
26 not manufactured directly by WD, Plaintiff is informed and believes, and thereon alleges, that WD
27 knowingly induces infringement by its suppliers, including, for example, Small Precision Tools.
28 Plaintiff is informed and believes, and thereon alleges, that WD, with knowledge of the Patents-in-

1 Suit, has specifically and intentionally directed its suppliers to manufacture infringing bonding
2 tools, tips, and other devices to WD's specific, custom specifications, which WD then uses in its
3 bonding processes.

4 69. The infringing bonding tools, tips, and other devices that WD directs its suppliers to
5 make, and which WD uses in its bonding processes, are of a highly technical and specific nature.
6 Plaintiff is informed and believes, and thereon alleges, that WD uses these bonding tools, tips, and
7 other devices specifically in its bonding of highly sensitive electrical components, and that they
8 have no substantial non-infringing uses.

9 70. Mr. Reiber has been damaged by Defendant's infringing conduct. Defendant is
10 therefore liable to Mr. Reiber for actual damages suffered, as well as any statutory damages. In any
11 event, Defendant is liable to Mr. Reiber for an amount at least as great as a reasonable royalty
12 pursuant to 35 U.S.C. § 284. Moreover, such conduct is likely to cause substantial harm to
13 Mr. Reiber unless the Court enjoins the infringing conduct.

14 WHEREFORE, Plaintiff prays for relief as set forth herein.

15 **COUNT V**

16 **(Infringement of United States Patent No. 7,389,905)**

17 71. Mr. Reiber repeats and re-alleges each of the allegations set forth in paragraphs 1
18 through 70, as though fully set forth herein.

19 72. Steven Reiber is the owner of the entire right title and interest in the '905 Patent.

20 73. Plaintiff is informed and believes, and thereon alleges, that Defendant's actions in
21 making, using, distributing, offering for sale and selling in the United States and importing into the
22 United States HDD heads, HGAs, HSAs, and SSDs infringe claims of the '905 Patent. Plaintiff is
23 informed and believes, and thereon alleges, that Defendant will continue to infringe claims of the
24 '905 Patent unless enjoined by the Court.

25 74. Plaintiff is informed and believes, and thereon alleges, that Defendant is actively
26 inducing others to infringe one or more claims of the '905 Patent through Defendant's activities
27 related to making, using, distributing, offering for sale and selling in the United States and
28 importing into the United States HDD heads, HGAs, HSAs, and SSDs in violation of 35 U.S.C.

1 § 271(b).

2 75. Plaintiff is informed and believes, and thereon alleges, that WDC and WDT have
3 had actual knowledge and notice of the '479, '864, and '548 Patents since approximately September
4 2007. Plaintiff is informed and believes, and thereon alleges, that WDC and WDT also acquired
5 actual knowledge and notice of the related '927 and '905 Patents prior to the filing of the current
6 Action.

7 76. Plaintiff is informed and believes, and thereon alleges, that HGST, SiliconSystems,
8 and sTec have had actual knowledge and notice of the '479, '864, and '548 Patents since at least
9 August 18, 2014, the filing date of the First Amended Complaint (Dkt. No. 15). Plaintiff is
10 informed and believes, and thereon alleges, that HGST, SiliconSystems, and sTec also have had
11 actual knowledge and notice of the related '927 and '905 Patents since at least March 24, 2014, the
12 filing date of the Complaint (Dkt. No. 2).

13 77. Mr. Reiber visited WD's facilities in Thailand and met with Gina Wanichtanom, a
14 director at WD with the title "Asia Indirect Procurement Director" in or about November 2008.
15 The main purpose of this visit was sales related, as Mr. Reiber was selling bonders to WD. During
16 this visit, Mr. Reiber and Ms. Wanichtanom also had discussions regarding Plaintiff's patent
17 portfolio, including the '905 Patent which had recently issued in June 2008. At that time,
18 Mr. Reiber provided copies of his existing patents to Ms. Wanichtanom, including the '905 Patent.
19 Thus, WDC and WDT had both actual knowledge and notice of the '905 Patent by approximately
20 November 2008.

21 78. To the extent that WD uses infringing bonding tools, tips, and other devices that are
22 not manufactured directly by WD, Plaintiff is informed and believes, and thereon alleges, that WD
23 knowingly induces infringement by its suppliers, including, for example, Small Precision Tools.
24 Plaintiff is informed and believes, and thereon alleges, that WD, with knowledge of the Patents-in-
25 Suit, has specifically and intentionally directed its suppliers to manufacture infringing bonding
26 tools, tips, and other devices to WD's specific, custom specifications, which WD then uses in its
27 bonding processes.

28 79. The infringing bonding tools, tips, and other devices that WD directs its suppliers to

1 make, and which WD uses in its bonding processes, are of a highly technical and specific nature.
2 Plaintiff is informed and believes, and thereon alleges, that WD uses these bonding tools, tips, and
3 other devices specifically in its bonding of highly sensitive electrical components, and that they
4 have no substantial non-infringing uses.

5 80. Mr. Reiber has been damaged by Defendant's infringing conduct. Defendant is
6 therefore liable to Mr. Reiber for actual damages suffered, as well as any statutory damages. In any
7 event, Defendant is liable to Mr. Reiber for an amount at least as great as a reasonable royalty
8 pursuant to 35 U.S.C. § 284. Moreover, such conduct is likely to cause substantial harm to
9 Mr. Reiber unless the Court enjoins the infringing conduct.

10 WHEREFORE, Plaintiff prays for relief as set forth herein.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff requests entry of judgment in his favor and against Defendant as
13 follows:

14 A. On all counts, declaring that the Patents-in-Suit are valid and enforceable;

15 B. On all counts, declaring that Defendant has infringed one or more claims of the
16 Patents-in-Suit;

17 C. On all counts, preliminarily and/or permanently enjoining Defendant and its officers,
18 agents, servants, employees, and attorneys, and all persons acting in active concert or participation
19 with them, from further infringing and/or inducing the infringement of the Patents-in-Suit, in
20 accordance with 35 U.S.C. § 283;

21 D. On all counts, awarding Mr. Reiber damages in an amount adequate to compensate
22 Mr. Reiber for Defendant's infringement, including at least a reasonable royalty, in accordance with
23 35 U.S.C. § 284;

24 E. On all counts, for interest on all the foregoing amounts, at the legal rate, with effect
25 from the due date for payment;

26 F. On all counts, awarding Mr. Reiber his costs of suit, including reasonable attorneys'
27 fees; and
28

1 G. On all counts, granting such other and further relief as this Court may deem just and
2 appropriate.

3
4 Dated: April 22, 2015

CARR & FERRELL *LLP*

5
6 By /s/ Robert J. Yorio

7 ROBERT J. YORIO
8 BRYAN J. BOYLE
9 MARCUS H. YANG

10 Attorneys for Plaintiff
11 STEVEN F. REIBER
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DEMAND FOR JURY TRIAL

Plaintiff Steven F. Reiber hereby demands a jury trial of all issues in the above-captioned action that are triable to a jury.

Dated: April 22, 2015

CARR & FERRELL *LLP*

By /s/ Robert J. Yorio
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