

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

LASERDYNAMICS USA, LLC,

Plaintiff,

-against-

CINRAM GROUP INC.

Defendant.

Civil Action No.: 1:15-cv-01629-RWS

**FIRST AMENDED COMPLAINT
AND DEMAND FOR JURY TRIAL**

Plaintiff LaserDynamics USA, LLC (“LDUSA”), by and through its attorneys Kheyfits & Maloney LLP, as and for its complaint against Defendant CINRAM Group Inc. (“CINRAM”), hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.*, for infringement by Defendant CINRAM one or more claims of U.S. Patent No’s. 6,426,927 (the “’927 patent”), 6,529,469 (the “’469 patent”), and 7,116,629 (the “’629 patent”) (collectively, the ’927 patent, the ’469 patent, and the ’629 patent are referred to herein as the “Patents-in-Suit”).

PARTIES

2. Plaintiff LDUSA is a limited liability company organized and existing under the laws of the State of Delaware, having its principal place of business at 75 Montebello Road, Suffern, New York 10901. The sole member of LDUSA is Kamatani Technologies, Inc.

3. On information and belief, Defendant CINRAM is a corporation organized and existing under the laws of Canada, having its principal place of business at 2255 Markham Road, Toronto, Ontario, Canada M1B 2W3.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over CINRAM pursuant to N.Y. C.P.L.R. §§ 301 and 302(a)(1)-(3). On information and belief, this Court has general jurisdiction over CINRAM based on its continuous and systematic conduct within New York, including, *inter alia*, CINRAM's continuous contacts with, and sales to, customers in New York and importation of products into New York. On information and belief, CINRAM is also subject to specific jurisdiction of this Court because, *inter alia*, CINRAM has committed acts of patent infringement alleged in the Complaint and First Amended Complaint within the state of New York and elsewhere, causing injury within the state. In addition, or in the alternative, this Court has jurisdiction over CINRAM pursuant to Fed. R. Civ. P. 4(k)(2).

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because, *inter alia*, Plaintiff LDUSA's principal place of business is located in this judicial district, the Patents-in-Suit are assigned to the Plaintiff, infringement of the Patents-in-Suit has occurred and is occurring in this judicial district, and Defendant CINRAM is a foreign entity.

BACKGROUND

7. The '927 patent is entitled "Data Recording And Reproducing Method For Multi-Layered Optical Disk System."

8. The '469 patent is entitled "Data Recording And Reproducing Technique For Multi-Layered Optical Disk System."

9. The '629 patent is entitled "Data Recording And Reproducing Method For Multi-Layered Optical Disk System."

10. The inventions of the Patents-in-Suit generally relate to optical disk recording and reproducing technologies.

11. Yasuo Kamatani invented the technology claimed in the Patents-in-Suit.

12. On information and belief, CINRAM manufactures, uses, sells, and/or offers for sale dual-layer optical discs for customers in the United States. On information and belief, certain of the dual-layer optical discs manufactured by CINRAM are manufactured in conformance with a format of dual-layer optical discs commonly known in the industry as "DVD-9" discs. On information and belief, CINRAM manufactures DVD-9 discs using a process known in the industry as replication. On information and belief, dual layer optical discs replicated by CINRAM in conformance with the DVD-9 format infringe at least claims 1 and 3 of the '927 patent, claims 1 and 10 of the '469 patent, and/or claims 1 and 6 of the '629 patent. In the alternative and on information and belief, CINRAM causes others to replicate DVD-9 discs that infringe at least the aforementioned claims of the Patents-in-Suit.

13. On information and belief, in addition to the replication of DVD-9 and other dual-layer optical discs, CINRAM also offers to its customers a range of packaging, distribution, demand planning and/or other services relating to the replication of DVD-9 discs. On information and belief, the distribution services offered by CINRAM to its replication customers include but are not limited to the distribution of replicated DVD-9 discs directly to consumers located in the United States and in the Southern District of New York.

14. On information and belief, CINRAM offers the foregoing additional services, such as direct-to-consumer distribution, for the purpose of inducing customers to select CINRAM for their optical disc replication needs, including the replication of DVD-9 discs.

15. On information and belief, the sale to, offer for sale to, importation to, and/or use by replication customers or end-consumers of replicated DVD-9 discs amounts to infringement.

16. By correspondence, including letters dated October 27, 2014 and November 24, 2014, non-party General Patent Corporation (“GPC”), in its role as manager of LDUSA, notified CINRAM of the existence of the Patents-in-Suit and CINRAM’s infringement thereof.

17. Accordingly, and on information and belief, Defendant CINRAM has received notice of the Patents-in-Suit and of CINRAM’s infringement thereof.

COUNT I: INFRINGEMENT OF THE PATENTS-IN-SUIT BY CINRAM

18. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

19. On July 30, 2002, the United States Patent and Trademark Office duly and lawfully issued the ’927 patent, entitled “Data Recording And Reproducing Method For Multi-Layered Optical Disk System,” based upon an application filed by the inventor, Yasuo Kamatani. A true and correct copy of the ’927 patent is attached hereto as Exhibit A.

20. On March 4, 2003, the United States Patent and Trademark Office duly and lawfully issued the ’469 patent, entitled “Data Recording And Reproducing Technique For Multi-Layered Optical Disk System,” based upon an application filed by the inventor, Yasuo Kamatani. A true and correct copy of the ’469 patent is attached hereto as Exhibit B.

21. On October 3, 2006, the United States Patent and Trademark Office duly and lawfully issued the '629 patent, entitled "Data Recording And Reproducing Method For Multi-Layered Optical Disk System," based upon an application filed by the inventor, Yasuo Kamatani. A true and correct copy of the '629 patent is attached hereto as Exhibit C.

22. LDUSA is the owner by assignment of the Patents-in-Suit, and has the right to sue and recover damages for infringement thereof.

23. CINRAM is not licensed under the Patents-in-Suit, yet CINRAM knowingly, actively, and lucratively practices the claimed inventions of the patents.

24. On information and belief, CINRAM has been and is now directly infringing at least claims 1 and 3 of the '927 patent, claims 1 and 10 of the '469 patent, and/or claims 1 and 6 of the '629 patent by making, using, importing, providing, supplying, distributing, selling and/or offering to sell infringing products. CINRAM's infringing products include, but are not limited to, at least dual-layer DVD-9 discs.

25. CINRAM is therefore liable for direct infringement of the Patents-in-Suit pursuant to 35 U.S.C § 271(a).

26. On information and belief, CINRAM also indirectly infringes under 35 U.S.C. § 271(b) by way of inducing others, including customers and/or consumers, to make, use, import, provide, supply, distribute, sell and offer to sell products that infringe at least the aforementioned claims of the Patents-in-Suit in the United States generally, and in the Southern District of New York in particular.

27. More specifically and on information and belief, CINRAM has knowledge of the Patents-in-Suit at least by way of GPC's correspondence to CINRAM. On information and belief, after receiving notice of the Patents-in-Suit and its infringement thereof CINRAM

continues to induce its customers to engage CINRAM for replication of dual-layer optical discs that infringe at least the aforementioned claims of the Patents-in-Suit. On information and belief, CINRAM induces its customers for this purpose by *inter alia* marketing, selling, and/or offering for sale its replication services, including by providing to replication customers instructions, specifications and/or other materials relating to the replication of DVD-9 discs and CINRAM's replication services. On information and belief, CINRAM understands that sale, offer for sale, and/or use by its customers of infringing dual-layer optical discs amounts to infringement.

28. Also on information and belief, after receiving notice of the Patents-in-Suit and its infringement thereof CINRAM continues to offers to its customers additional services for the purpose of inducing prospective customers to retain CINRAM for the replication and/or distribution of infringing dual-layer optical discs and to practice the infringing methods. On information and belief, such other services include the packaging of infringing discs; the distribution of packaged infringing discs, including direct-to-consumer distribution; and/or other services. On information and belief, CINRAM offers such additional services for the purpose of inducing customers to use CINRAM for their replication needs. On information and belief, CINRAM understands that at least some customers, end-consumers, and/or other parties use, sell, offer for sale, and/or import infringing discs replicated by CINRAM. On information and belief, CINRAM understands that such use, sale, offering for sale, and/or importation by customers, end-users and/or other parties amounts to infringement.

29. The acts of infringement by CINRAM have caused and will continue to cause damage to LDUSA. LDUSA is entitled to recover damages from CINRAM in an amount no less than a reasonable royalty pursuant to 35 U.S.C. § 284. The full measure of damages sustained as a result of CINRAM's wrongful acts will be proven at trial.

30. CINRAM has infringed and continues to infringe despite an objectively high likelihood that its actions constitute infringement of LDUSA's valid patent rights. On information and belief, CINRAM knew of or should have known of this objectively high risk at least as early as when it became aware of the Patents-in-Suit by way of correspondence from GPC and/or its receipt of the Complaint. Thus, CINRAM's infringement of the Patents-in-Suit has been and continues to be willful.

31. LDUSA reserves the right to seek a willfulness finding on other or additional grounds and treble damages under 35 U.S.C. § 284 as well as its attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

32. Upon information and belief, the acts of infringement by CINRAM will continue unless enjoined by this Court.

33. LDUSA has been and will be irreparably harmed and damaged by the acts of infringement of the Patents-in-Suit by CINRAM and LDUSA has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, LDUSA prays for the judgment in its favor against CINRAM granting LDUSA the following relief:

- A. Entry of judgment in favor of LDUSA against CINRAM on all counts;
- B. Entry of judgment that CINRAM has infringed the Patents-in-Suit;
- C. Entry of judgment that CINRAM's infringement of the Patents-in-Suit has been willful;
- D. An order permanently enjoining CINRAM together with its officers, directors, agents, servants, employees, and attorneys, and upon those persons in active concert or

participation with them who receive actual notice of this order by personal service or otherwise, from infringing the Patents-in-Suit;

E. Award of compensatory damages adequate to compensate LDUSA for CINRAM's infringement of the Patents-in-Suit, in no event less than a reasonable royalty trebled as provided by 35 U.S.C. § 284;

F. LDUSA's costs;

G. Pre-judgment and post-judgment interest on LDUSA's award; and

H. All such other and further relief as the Court deems just or equitable.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Fed. R. Civ. Proc., Plaintiff hereby demands trial by jury in this action of all claims so triable.

Dated: New York, New York
July 31, 2015

Respectfully submitted,

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