

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

PAPST LICENSING GmbH & CO. KG,

Plaintiff,

v.

FUJIFILM CORPORATION, FUJIFILM
HOLDINGS AMERICA CORPORATION,
and FUJIFILM NORTH AMERICA
CORPORATION,

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Papst Licensing GmbH & Co. KG (“Papst”), for its Complaint against defendants Fujifilm Corporation (“Fujifilm Japan”), Fujifilm Holdings America Corporation (“Fujifilm Holdings”), and Fujifilm North America Corporation (“Fujifilm North America”) (collectively, “Fujifilm defendants”), hereby alleges as follows:

The Parties

1. Plaintiff Papst is a company organized under the laws of The Federal Republic of Germany with its principal place of business at Bahnhofstrasse 33, 78112, St. Georgen, Germany.

2. Fujifilm Japan is a Japanese corporation with its principal place of business at Midtown West, 7-3, Akasaka 9-chome, Minato-ku, Tokyo 107-0052, Japan. Fujifilm Japan manufactures and sells a wide range of consumer electronics products, including digital cameras.

3. Fujifilm Holdings is a Delaware corporation with its principal place of business at 200 Summit Lake Drive, Floor 2, Valhalla, New York 10595. Fujifilm Holdings imports and sells a wide range of consumer electronics products, including digital cameras.

4. Fujifilm North America is a New York corporation with its principal place of business at 200 Summit Lake Drive, Floor 2, Valhalla, New York 10595. Fujifilm North America imports and sells a wide range of consumer electronics products, including digital cameras.

5. Fujifilm Holdings is a wholly owned subsidiary of Fujifilm Japan.

6. Fujifilm North America is a wholly owned subsidiary of Fujifilm Holdings.

Nature Of The Action

7. This is a civil action for infringement of U.S. Patent No. 8,966,144 (“the ’144 patent”) (attached as Exhibit A) (the “Patent-in-Suit”) under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

Jurisdiction And Venue

8. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.*

9. This Court has personal jurisdiction over the Fujifilm defendants because, among other things, the Fujifilm defendants have committed, aided, abetted, contributed to, and/or participated in the commission of patent infringement in violation of 35 U.S.C. § 271 in this judicial district and elsewhere that led to foreseeable harm and injury to Papst.

10. This Court also has personal jurisdiction over the Fujifilm defendants because, among other things, the Fujifilm defendants have established minimum contacts within the

forum such that the exercise of jurisdiction over the Fujifilm defendants will not offend traditional notions of fair play and substantial justice. For example, the Fujifilm defendants have placed products that practice and/or embody the claimed inventions of the Patent-in-Suit into the stream of commerce with the reasonable expectation and/or knowledge that purchasers and users of such products were located within this district. In addition, the Fujifilm defendants have sold, advertised, marketed, and distributed products in this district that practice the claimed inventions of the Patent-in-Suit. The Fujifilm defendants derive substantial revenue from the sale of infringing products distributed within the district, and/or expect or should reasonably expect their actions to have consequences within the district, and derive substantial revenue from interstate and international commerce. Additionally, the Fujifilm defendants have purposely availed themselves of this Court in previous lawsuits.

11. In addition, the Fujifilm defendants knowingly, actively induced and continue to knowingly actively induce (or are willfully blind to the) infringement of the Patent-in-Suit within this district by making, using, offering for sale, and selling infringing products, as well as by contracting with others to use, market, sell, and offer to sell infringing products, all with knowledge of the asserted Patent-in-Suit, and its claims, with knowledge that their customers will use, market, sell, and offer to sell infringing products in this district and elsewhere in the United States, and with the knowledge and specific intent to encourage and facilitate infringing sales and use of the products by others within this district and the United States by creating and disseminating promotional and marketing materials, instructional materials, and product manuals, and technical materials related to the infringing products.

12. Moreover, the Fujifilm defendants knowingly contributed to the infringement of the Patent-in-Suit by others in this district, and continue to contribute to the infringement of the

Patent-in-Suit by others in this district by selling or offering to sell components of infringing products in this district, which components constitute a material part of the inventions of the Patent-in-Suit, knowing of the Patent-in-Suit and its claims, knowing those components to be especially made or especially adapted for use to infringe the Patent-in-Suit, and knowing that those components are not staple articles or commodities of commerce suitable for substantial non-infringing use.

13. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b), because the Fujifilm defendants are subject to personal jurisdiction in this district and have committed acts of infringement in this district.

The Patent-In-Suit

14. United States Patent No. 8,966,144 (“the ’144 patent”), titled “Analog Data Generating And Processing Device Having A Multi-Use Automatic Processor,” was duly and lawfully issued by the U.S. Patent and Trademark Office on February 24, 2015. A copy of the ’144 patent is attached hereto as Exhibit B. Papst is the assignee of all rights, title, and interest in the ’144 patent, and it possesses all rights to sue and recover for any current or past infringement of the ’144 patent.

15. Papst and the Fujifilm defendants have been engaged in litigation regarding United States Patent Nos. 6,895,449 and 6,470,399 in the case entitled *Papst Licensing GmbH & Co. KG v. Fujifilm Corp. et al.*, 1:07-cv-3401 (N.D. Ill.) filed on June 15, 2007 and consolidated in *In re Papst Licensing GmbH & Co. KG Litig.*, Misc. No. 07-493 (D.D.C.) on November 5, 2007.

16. On information and belief, the Fujifilm defendants have monitored Papst’s patent prosecution activities at least since entering litigation with Papst in 2008.

COUNT I

Infringement of U.S. Patent No. 8,966,144

17. Paragraphs 1 through 16 are incorporated by reference as if fully stated herein.
18. The '144 patent is valid and enforceable.
19. The Fujifilm defendants have infringed, and continue to infringe, one or more claims of the '144 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, products encompassed by those claims, including for example, by making, using, selling, offering for sale, and/or into the United States Fujifilm digital cameras that use or are able to be accessed via Mass Storage Device/Mass Storage Class ("MSD"), Media Transfer Protocol ("MTP"), or Picture Transfer Protocol ("PTP") protocols, including without limitation models FinePix F660EXR / F665EXR, FinePix F750EXR, FinePix F770EXR / F775EXR, FinePix F850EXR, FinePix F900EXR, FinePix HS30EXR / HS33HSR, FinePix HS50EXR, FinePix JX580 / JX 590, JX550, JX520, JX500, FinePix JX660, FinePix JX680, FinePix JZ250 / JZ260, FinePix JZ100 / JZ110, FinePix S8400W, FinePix T400, FinePix 350 / T360, FinePix T550, FinePix XP200, FinePix XP70, FinePix XP80, FinePix Z1000EXR, FinePix Z110 / Z115, FinePix Real 3D W3, X20, X-A2, XF1, XQ1, XQ2, X-S1, X-T10, and all other Fujifilm digital cameras that use or are able to be accessed via MSD, MTP, or PTP (collectively, "the '144 Infringing Products").
20. The Fujifilm defendants' customers (e.g., distributors, retailers, and online vendors) directly infringe one or more claims of the '144 patent under 35 U.S.C. § 271(a) by selling, offering to sell, or importing the '144 Infringing Products in the United States. The Fujifilm defendants have actively induced infringement of, and continue to actively induce

infringement of, one or more claims of the '144 patent under 35 U.S.C. § 271(b), either literally and/or under the doctrine of equivalents, by selling, importing, and/or offering for sale the '144 Infringing Products to its customers with the knowledge of the '144 patent and its claims, with knowledge that its customers will sell, offer to sell, and/or import into the United States the '144 Infringing Products, and with knowledge and specific intent to encourage and facilitate those infringing sales of the '144 Infringing Products through distributing the products to retailers, distributors, and online vendors and creating and disseminating promotional and marketing materials, instructional manuals, product manuals and other technical materials related to the '144 Infringing Products.

21. The Fujifilm defendants have contributed to the infringement of, and continue to contribute to the infringement of, one or more claims of the '144 patent under 35 U.S.C. § 271(c) and/or 271(f), either literally and/or under the doctrine of equivalents, by selling, offering for sale, and/or importing into the United States, the '144 Infringing Products, knowing that those products constitute a material part of the inventions claimed in the '144 patent, knowing that those products are especially made or adapted to infringe the '144 patent, and knowing that those products are not staple articles or commodities of commerce suitable for non-infringing use; rather that the components are used for or in systems that infringe one or more claims of the '144 patent.

22. The Fujifilm defendants have had knowledge of the '144 patent and their infringement of that patent since at least as early as March 13, 2015, through a letter sent by Papst concerning that infringement.

23. The Fujifilm defendants have infringed, and continue to infringe, the '144 patent.

24. Papst has been and continues to be damaged by the Fujifilm defendants' infringement of the '144 patent.

25. The Fujifilm defendants have willfully infringed, and continue to willfully infringe, the '144 patent despite having knowledge of the '144 patent at least through Papst's March 13, 2015, letter concerning their infringement.

26. The Fujifilm defendants' conduct in infringing the '144 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

Prayer For Relief

WHEREFORE, Papst prays for judgment as follows:

A. That the Fujifilm defendants have directly and/or indirectly infringed the Patent-in-Suit;

B. That the Fujifilm defendants have willfully infringed the Patent-in-Suit;

C. That Papst be awarded all damages adequate to compensate it for the Fujifilm defendants' infringement of the Patent-in-Suit, including damages pursuant to 35 U.S.C. §284 and provisional damages pursuant to 35 U.S.C. 154(d), such damages to be determined by a jury and, if necessary to adequately compensate Papst for the infringement, an accounting, and that such damages be trebled and awarded to Papst with pre-judgment and post-judgment interest;

D. That this case be declared an exceptional case within the meaning of 35 U.S.C. § 285 and that Papst be awarded the attorney fees, costs, and expenses that it incurs prosecuting this action; and

E. That Papst be awarded such other and further relief as this Court deems just and proper.

Demand For Jury Trial

Plaintiff Papst hereby demands a trial by jury on all issues so triable.

Dated: June 15, 2015

FARNAN LLP

Of Counsel:

John M. Desmarais
Jonas R. McDavit
Richard M. Cowell
DESMARAIS LLP
230 Park Avenue
New York, NY 10169
(212) 351-3400 (Telephone)
(212) 351-3401 (Facsimile)
jdesmarais@desmaraisllp.com
jmcdavit@desmaraisllp.com
rcowell@desmaraisllp.com

/s/ Brian E. Farnan

Brian E. Farnan (Bar No. 4089)
Michael J. Farnan (Bar No. 5165)
919 North Market Street
12th Floor
Wilmington, DE 19801
(302) 777-0300 (Telephone)
(302) 777-0301 (Facsimile)
bfarnan@farnanlaw.com
mfarnan@farnanlaw.com

Counsel for Plaintiff
Papst Licensing GmbH Co. KG