

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

COLLABO INNOVATIONS, INC.,

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Plaintiff,

v.

CIVIL ACTION NO. _____

**SONY CORPORATION, SONY
CORPORATION OF AMERICA, and
SONY ELECTRONICS INC.,**

JURY TRIAL DEMANDED

Defendants.

PLAINTIFF’S ORIGINAL COMPLAINT

Plaintiff, Collabo Innovations, Inc. (“Plaintiff”), by and through their undersigned counsel, file this Original Complaint against Defendants Sony Corporation, Sony Corporation of America, and Sony Electronics Inc. (collectively, “Sony” or “Defendants”), as follows:

I. THE PARTIES

1. Collabo Innovations, Inc., is a Delaware corporation with its principal place of business at 600 Anton Blvd., Suite 1350, Costa Mesa, California, 92626.

2. Upon information and belief, Sony Corporation is a company incorporated in Japan with offices at 1-7-1 Konan, Minato-ku, Tokyo 108-0075, Japan. Sony Corporation has conducted and regularly conducts business within this District, has purposefully availed itself of the privileges of conducting business in this District, and has sought protection and benefit from the laws of the State of Delaware by, for example, directing and/or controlling the actions of its subsidiaries Sony Corporation of America and Sony Electronics Inc. Upon information and belief, Sony Corporation, may be served with process in Japan pursuant to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters.

3. Upon information and belief, Sony Corporation of America is incorporated under the laws of the State of New York, with offices at 550 Madison Avenue, New York, New York 10022, and that it has a registered agent for service of process of The Corporation Trust Company, Corporation Trust Center 1209 Orange St, Wilmington, Delaware, 19801. Upon information and belief, Sony Corporation of America is a wholly-owned subsidiary of Sony Corporation.

4. Upon information and belief, Sony Electronics Inc. (“Sony Electronics”) has conducted and regularly conducts business within this District, has purposefully availed itself of the privileges of conducting business in this District, and has sought protection and benefit from the laws of the State of Delaware. Sony Electronics is a Delaware corporation with offices at 16450 W. Bernardo Dr., San Diego, California 92127. Upon information and belief, Sony Electronics may be served with process by serving its registered agent, Corporation Service Company, 2711 Centerville Rd., Suite 400, Wilmington, Delaware 19808. Upon information and belief, Sony Electronics is a wholly-owned subsidiary of Sony Corporation of America.

5. Upon information and belief, Sony has conducted and regularly conducts business within this District, has purposefully availed itself of the privileges of conducting business in this District, and has sought protection and benefit from the laws of the State of Delaware.

II. JURISDICTION AND VENUE

6. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

7. As further detailed herein, this Court has personal jurisdiction over Defendants. Defendants have conducted and regularly conduct business within the United States and this District. Defendants have purposefully availed themselves of the privileges of conducting business in the United States, and more specifically in this District. Defendants have sought protection and benefit from the laws of the State of Delaware by incorporating in the State of Delaware, and/or by placing infringing products into the stream of commerce through an established distribution channel with the expectation and/or knowledge that they will be purchased by consumers in this District and/or by owning, directly and/or indirectly, defendants that are Delaware Corporations and/or are owned by Delaware Corporations. Plaintiff's cause of action arises directly from Defendants' business contacts and other activities in this District.

8. Defendants, directly or through intermediaries (including distributors, retailers, and others), subsidiaries, alter egos, and/or agents, have and continue to ship, distribute, offer for sale, and/or sell their products in the United States and this District. Defendants have purposefully and voluntarily placed one or more of their infringing products, as described below, into the stream of commerce with the expectation and/or knowledge that they will be purchased by consumers in this District. Defendants knowingly and purposefully have and continue to ship infringing products into this District through an established distribution channel. These infringing products have been and continue to be purchased by consumers in this District. Upon information and belief, Defendants have committed the tort of patent infringement in this

District, have contributed to patent infringement in this District, and/or have induced others to commit patent infringement in this District.

9. Venue is proper in this Court under 28 U.S.C. §§ 1391(b), (c), and (d), as well as 28 U.S.C. § 1400(b), in that, upon information and belief, Defendants have committed acts within this judicial District giving rise to this action and do (and have done) business in this District, including but not limited to making sales in this District, providing service and support to their respective customers in this District, and/or operating an interactive website that is available to persons in this District, which website advertises, markets, and/or offers for sale infringing products.

III. BACKGROUND

A. THE PATENTS-IN-SUIT

10. U.S. Patent No. 5,952,714, titled “Solid-State Image Sensing Apparatus and Manufacturing Method Thereof,” (“the ’714 patent”) was duly and legally issued by the U.S. Patent and Trademark Office on September 14, 1999 after full and fair examination. Plaintiff is the sole owner of the ’714 patent by assignment. A true and correct copy of the ’714 patent is attached as **Exhibit “A”** and made a part hereof.

11. U.S. Patent No. 8,030,724, titled “Solid-State Imaging Device and Method for Fabricating the Same,” (“the ’724 patent”) was duly and legally issued by the U.S. Patent and Trademark Office on October 4, 2011, after full and fair examination. Plaintiff is the sole owner of the ’724 patent. A true and correct copy of the ’724 patent is attached as **Exhibit “B”** and made a part hereof.

12. U.S. Patent No. 7,944,493, titled “Solid-State Imaging Device with Specific Contact Arrangement,” (“the ’493 patent”) was duly and legally issued by the U.S. Patent and Trademark Office on May 17, 2011, after full and fair examination. Plaintiff is the sole owner of

the '493 patent. A true and correct copy of the '493 patent is attached as **Exhibit "C"** and made a part hereof.

13. U.S. Patent No. 7,023,034, titled "Solid-State Imaging Device with Improved Image Sensitivity," ("the '034 patent") was duly and legally issued by the U.S. Patent and Trademark Office on April 4, 2006, after full and fair examination. Plaintiff is the sole owner of the '034 patent. A true and correct copy of the '034 patent is attached as **Exhibit "D"** and made a part hereof.

B. DEFENDANTS' INFRINGING CONDUCT

14. Upon information and belief, Defendants collectively make, made, use, used, offer, offered to sell, and/or sells, sold within, and/or imported, or imports into the United States semiconductor devices that utilize technologies covered by the patents-in-suit. Upon information and belief, the infringing semiconductor devices include, but are not limited to CMOS image sensors, and related technologies and products. Upon information and belief, Defendants' semiconductor devices are also incorporated into products, including but not limited to digital cameras and mobile handsets by various telecommunications service providers operating in this State such as Apple and Huawei, as well as other consumer electronics that are made, used, offered for sale, and/or sold within, and/or imported into the United States, including this District.

III. COUNTS OF INFRINGEMENT

COUNT I

Patent Infringement of U.S. Patent No. 5,952,714

15. Plaintiff repeats and re-alleges each and every allegation of paragraphs 1-14 as though fully set forth herein.

16. The '714 patent is valid and enforceable.

17. Defendants are not, and were not at any time, either expressly or impliedly, licensed under the '714 patent.

18. Upon information and belief, to the extent any marking or notice was required by 35 U.S.C. § 287, Plaintiff has complied with the requirements of that statute, including, but not limited to, by providing actual or constructive notice to Defendants of their alleged infringement.

19. Upon information and belief, Defendants have been directly and equivalently infringing under the doctrine of equivalents and/or indirectly infringing, by way of inducement with specific intent under 35 U.S.C. § 271(b) and/or contributory infringement under 35 U.S.C. § 271(c), the '714 patent by making, using, offering to sell, and/or selling to customers and/or distributors (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without authority, semiconductor devices or products containing semiconductor devices that include all of the limitations of one or more claims of the '714 patent, including, but not limited to, Sony 8MP 1.5 μ m BSI CMOS image sensors, and related products and technologies, including, but not limited to, camera modules in products such as the Apple iPhone 6, Apple iPhone 5s, and other Apple products.

20. Upon information and belief, a reasonable opportunity for further investigation or discovery will likely show that, with knowledge or willful blindness of the existence of the '714 patent Defendants are and have been directly and equivalently infringing under the doctrine of equivalents and/or indirectly infringing, in violation of 35 U.S.C. § 271(b). Defendants have knowingly induced, and are inducing, the direct infringement of one or more claims of the '714 patent by selling, providing support for, and/or providing instructions for use of their CMOS image sensors to customers, with the intent to encourage those customers to directly infringe the

'714 patent by using Defendants' CMOS image sensors. Defendants know that their customers infringe the '714 patent by the normal and intended use of Defendants' CMOS image sensors.

21. Upon information and belief, a reasonable opportunity for further investigation or discovery will likely show that, with knowledge or willful blindness of the existence of the '714 patent, Defendants, in violation of 35 U.S.C. § 271(c), have contributorily infringed, and are contributorily infringing, the '714 patent by making, using, offering to sell, and/or selling to customers and/or distributors (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without authority, products containing semiconductor devices that include all of the limitations of one or more claims of the '714 patent, including, but not limited to the Apple iPhone 6, Apple iPhone 5s, and other similar consumer electronics products, knowing these products are material to practicing the claimed inventions, are not staple articles or commodities of commerce suitable for substantial non-infringing use, and are especially made or especially adapted for use in an infringement of the '714 patent. Such discovery or investigation will likely show that Defendants sold their CMOS image sensors to customers knowing that the products directly infringe the '714 patent when used for their normal and intended purpose. The semiconductor devices found in such products perform substantially the same function as the inventions embodied in one or more claims of the '714 patent in substantially the same way to achieve the same result.

22. Upon information and belief, the products containing these semiconductor devices have no substantial non-infringing uses, and Defendants had knowledge of the non-staple nature of the products containing these semiconductor devices and the '714 patent throughout the entire period of its infringing conduct or at least by May 21, 2015, when Defendants were formally placed on notice of their infringement through a presentation given by Plaintiff to representatives

of Sony in Defendants' New York office identifying the '714 patent and products accused of infringement.

COUNT II

Patent Infringement of U.S. Patent No. 8,030,724

23. Plaintiff repeats and re-alleges each and every allegation of paragraphs 1-23 as though fully set forth herein.

24. The '724 patent is valid and enforceable.

25. Defendants are not, and were not at any time, either expressly or impliedly, licensed under the '724 patent.

26. Upon information and belief, to the extent any marking or notice was required by 35 U.S.C. § 287, Plaintiff has complied with the requirements of that statute, including, but not limited to, by providing actual or constructive notice to Defendants of its alleged infringement.

27. Upon information and belief, Defendants have been directly and equivalently infringing under the doctrine of equivalents and/or indirectly infringing, by way of inducement with specific intent under 35 U.S.C. § 271(b) and/or contributory infringement under 35 U.S.C. § 271(c), the '724 patent by making, using, offering to sell, and/or selling to customers and/or distributors (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without authority, semiconductor devices or products containing semiconductor devices that include all of the limitations of one or more claims of the '724 patent, including, but not limited to, CMOS image sensors, and related products and technologies, including, but not limited to, the Sony 8MP 1.5 μ m BSI CMOS image sensor and Sony IMX278 image sensor.

28. Upon information and belief, Defendants have been directly and equivalently infringing under the doctrine of equivalents and/or indirectly infringing, by way of inducement

with specific intent under 35 U.S.C. § 271(b) and/or contributory infringement under 35 U.S.C. § 271(c), the '724 patent by making, using, offering to sell, and/or selling to customers and/or distributors (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without authority, products containing semiconductor devices that include all of the limitations of one or more claims of the '724 patent, including, but not limited to the Apple iPhone 5s, Huawei P8 phone, and other similar consumer electronics products. The semiconductor devices found in such products perform substantially the same function as the inventions embodied in one or more claims of the '724 patent in substantially the same way to achieve the same result.

29. Upon information and belief, the products containing these semiconductor devices have no substantial non-infringing uses, and Defendants had knowledge of the non-staple nature of the products containing these semiconductor devices and the '724 patent throughout the entire period of its infringing conduct or at least by November 26, 2014, when Defendants were formally placed on notice of their infringement through a presentation given by Plaintiff to representatives of Sony in Defendants' Tokyo office identifying the '724 patent and the Defendants' products accused of infringement.

COUNT III

Patent Infringement of U.S. Patent No. 7,944,493

30. Plaintiff repeats and re-alleges each and every allegation of paragraphs 1-29 as though fully set forth herein.

31. The '493 patent is valid and enforceable.

32. Defendants are not, and were not at any time, either expressly or impliedly, licensed under the '493 patent.

33. Upon information and belief, to the extent any marking or notice was required by 35 U.S.C. § 287, Plaintiff has complied with the requirements of that statute, including, but not limited to, by providing actual or constructive notice to Defendants of their alleged infringement.

34. Upon information and belief, Defendants have been directly and equivalently infringing under the doctrine of equivalents and/or indirectly infringing, by way of inducement with specific intent under 35 U.S.C. § 271(b) and/or contributory infringement under 35 U.S.C. § 271(c), the '493 patent by making, using, offering to sell, and/or selling to customers and/or distributors (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without authority, semiconductor devices or products containing semiconductor devices that include all of the limitations of one or more claims of the '493 patent, including, but not limited to, Sony's CMOS image sensors such as Sony 8MP 1.5 μ m BSI CMOS image sensors. The products containing these semiconductor devices, including the Apple iPhone 5s, offered for sale in this District by Apple perform substantially the same function as the inventions embodied in one or more claims of the '493 patent in substantially the same way to achieve the same result.

35. Upon information and belief, the products containing these semiconductor devices have no substantial non-infringing uses, and Defendants had knowledge of the non-staple nature of the products containing these semiconductor devices and the '493 patent throughout the entire period of its infringing conduct or at least by July 24, 2015, when Defendants were formally placed on notice of their infringement through presentation slides sent to Sony Corporation, followed by a presentation given by the Plaintiff in Defendants' Tokyo office on August 10, 2015 identifying the '493 patent and Defendants' products accused of infringement.

COUNT IV

Patent Infringement of U.S. Patent No. 7,023,034

36. Plaintiff repeats and re-alleges each and every allegation of paragraphs 1-35 as though fully set forth herein.

37. The '034 patent is valid and enforceable.

38. Defendants are not, and were not at any time, either expressly or impliedly, licensed under the '034 patent.

39. Upon information and belief, to the extent any marking or notice was required by 35 U.S.C. § 287, Plaintiff has complied with the requirements of that statute, including, but not limited to, by providing actual or constructive notice to Defendants of its alleged infringement.

40. Upon information and belief, Defendants have been directly and equivalently infringing under the doctrine of equivalents and/or indirectly infringing, by way of inducement with specific intent under 35 U.S.C. § 271(b) and/or contributory infringement under 35 U.S.C. § 271(c), the '034 patent by making, using, offering to sell, and/or selling to customers and/or distributors (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without authority, semiconductor devices or products containing semiconductor devices that include all of the limitations of one or more claims of the '034 patent, including, but not limited to CMOS image sensors and related products and technologies, including, but not limited to Sony 12MP 1.22 μ m BSI CMOS image sensor and the Sony IMX278 image sensor.

41. Upon information and belief, Defendants have been directly and equivalently infringing under the doctrine of equivalents and/or indirectly infringing, by way of inducement with specific intent under 35 U.S.C. § 271(b) and/or contributory infringement under 35 U.S.C. § 271(c), the '034 patent by making, using, offering to sell, and/or selling to customers and/or

distributors (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without authority, products containing semiconductor devices that include all of the limitations of one or more claims of the '034 patent, including, but not limited to the Apple iPhone 6s, Apple iPhone 6s Plus, Huawei P8 phone and other similar consumer electronics products. The semiconductor devices found in such products perform substantially the same function as the inventions embodied in one or more claims of the '034 patent in substantially the same way to achieve the same result.

42. Upon information and belief, the products containing these semiconductor devices have no substantial non-infringing uses, and Defendants had knowledge of the non-staple nature of the products containing these semiconductor devices and the '034 patent from at least the date of service of this complaint.

IV. CONCLUSION

43. Plaintiff is entitled to recover from Defendants the damages sustained by Plaintiff as a result of Defendants' wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court.

44. A judgment and order requiring Defendants to pay Plaintiff damages under 35 U.S.C. § 284, including up to treble damages for willful infringement as provided by 35 U.S.C. § 284, and any royalties determined to be appropriate.

45. Plaintiff has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute create an exceptional case within the meaning of 35 U.S.C. § 285, and Plaintiff is entitled to recover their reasonable and necessary attorneys' fees, costs, and expenses.

V. JURY DEMAND

46. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

VI. PRAYER FOR RELIEF

47. Plaintiff respectfully request that the Court find in its favor and against Defendants, and that the Court grant Plaintiff the following relief:

- A. A judgment that Defendants have infringed the patents-in-suit as alleged herein, directly and/or indirectly by way of inducing or contributing to infringement of such patents;
- B. A judgment for an accounting of all damages sustained by Plaintiff as a result of the acts of infringement by Defendants;
- C. A judgment and order requiring Defendants to pay Plaintiff damages under 35 U.S.C. § 284, including up to treble damages for willful infringement as provided by 35 U.S.C. § 284, and any royalties determined to be appropriate, including, but not limited to, past, present, and future royalties;
- D. A judgment and order requiring Defendants to pay Plaintiff pre-judgment and post-judgment interest on the damages awarded;
- E. A judgment and order finding this to be an exceptional case and requiring Defendants to pay the costs of this action (including all disbursements) and attorneys' fees as provided by 35 U.S.C. § 285; and
- F. Such other and further relief as the Court deems just and equitable.

Dated: November 25, 2015

Respectfully submitted,

FARNAN LLP

/s/ Brian E. Farnan

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