

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

LASERDYNAMICS USA, LLC,

Plaintiff,

-against-

CMC MAGNETICS CORP.,
HOTAN CORP., and
STAPLES INC.,

Defendants.

Civil Action No.: 16-cv-1225

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

Plaintiff LaserDynamics USA, LLC (“LDUSA”), by and through its attorneys Kheyfits P.C., as and for its complaint against Defendants CMC Magnetism Corp. (“CMC MAGNETICS”), Hotan Corp. (“HOTAN”) (CMC MAGNETICS and HOTAN are collectively referred to as “CMC” herein), and Staples Inc. (“STAPLES”) (collectively, “Defendants”), 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 Defendants of 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.

3. On information and belief, Defendant CMC MAGNETICS is incorporated under the laws

of Taiwan with its principal place of business at 53 Ming Chuan West Road, 15th Floor, Taipei, Taiwan, R.O.C.

4. On information and belief, Defendant HOTAN is the U.S. subsidiary of Defendant CMC MAGNETICS, and is incorporated under the laws of California with its principal place of business at 751 North Canyon Parkway, Livermore, California 94551.

5. On information and belief, Defendant STAPLES is a corporation organized and existing under the laws of the State of Delaware, having its principle executive office located at 500 Staples Drive, Framingham, Massachusetts 01702.

JURISDICTION AND VENUE

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

7. This Court has personal jurisdiction over Defendants pursuant to N.Y. C.P.L.R. §§ 301 and 302(a)(1)-(3). On information and belief, this Court has general jurisdiction over Defendants based on their continuous and systematic conduct within New York State, including, *inter alia*, that Defendants do business in New York State; Defendants' continuous contacts with, and sales to, customers in New York State, importation of products into New York, and maintenance of offices and/or stores in New York State. On information and belief, Defendants are also subject to specific jurisdiction of this Court because, *inter alia*, Defendants have committed acts of patent infringement alleged in the Complaint within the state of New York and elsewhere, causing injury within the state. In addition, or in the alternative, this Court has personal jurisdiction over CMC MAGNETICS pursuant to Fed. R. Civ. P. 4(k)(2).

8. 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 Plaintiff, and infringement of the Patents-in-Suit has

occurred and is occurring in this judicial district.

SINGLE ACTION

9. This suit is commenced against CMC MAGNETICS, HOTAN and STAPLES pursuant to 35 U.S.C. § 299 in a single action because, *inter alia*, upon information and belief, (a) CMC MAGNETICS, and HOTAN are part of the same corporate structure, share management, share a common ownership, share advertising platforms, share facilities, share distribution platforms, share accused product lines, and the accused products involve related technologies and (b) STAPLES sells, offers to sell, and/or imports infringing products manufactured, distributed, and/or imported by CMC MAGNETICS and/or HOTAN.

10. Accordingly, the claims of this complaint arise out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused product or process, and questions of fact common to all Defendants will arise in the action pursuant to 35 U.S.C. § 299.

BACKGROUND

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

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

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

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

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

16. On information and belief, CMC manufactures, uses, sells, and/or offers for sale dual-layer optical discs for customers in the United States and/or imports dual-layer optical discs into the United States. On information and belief, certain of the dual-layer optical discs manufactured by CMC 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, CMC manufactures DVD-9 discs using a process known in the industry as replication. On information and belief, dual layer optical discs replicated by CMC in conformance with the DVD-9 format infringe claims of the Patents-in-Suit.

17. On information and belief, CMC also manufactures, uses, sells, and/or offers for sale in the United States, and/or imports into the United States recordable and/or rewritable, single or dual-layer, DVD discs in conformance with the DVD+R, DVD-R, DVD-RW, DVD+RW formats. On information and belief, CMC’s recordable and/or rewritable DVD discs infringe claims of the ’469 patent.

18. On information and belief, in addition to the manufacture, sales, and/or importation of dual-layer DVD-9 discs, and the manufacture, sale, and/or importation of recordable and/or rewritable discs, CMC also offers to its customers a range of packaging, distribution, and/or other services relating to such discs. On information and belief, the distribution services offered by CMC to its customers include but are not limited to the distribution of replicated DVD-9 discs and recordable and/or rewritable, single or dual-layer, DVD discs, directly to customers located in the United States, including in New York.

19. On information and belief, STAPLES sells and/or offers for sale in the United States, including in New York State, and/or imports into the United States, recordable and/or rewritable, single or dual-layer, DVD discs in conformance with the DVD+R, DVD-R, DVD-RW,

DVD+RW formats manufactured and/or imported by CMC. On information and belief, Staples' recordable and/or rewritable DVD discs infringe claims of the '469 patent.

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

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

21. 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.

22. 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.

23. 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.

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

25. On information and belief, CMC MAGNETICS, and HOTAN are not licensed under the Patents-in-Suit.

26. On information and belief, CMC MAGNETICS and/or HOTAN have been and are now directly infringing at least claims 1-4 and 6 of the '927 patent, claims 3 and 12 of the '469 patent, and/or claims 12, 14, 16, 22, 24, and 26 of the '629 patent by making, using, importing,

providing, supplying, distributing, selling, offering to sell and/or importing into the U.S. infringing products that include, but are not limited to, at least dual-layer DVD-9 discs.

27. On information and belief, CMC MAGNETICS and/or HOTAN have been and are now directly infringing at least claims 3, 9, 12, and/or 18 of the '469 patent by making, using, importing, providing, supplying, distributing, selling, offering to sell and/or importing into the U.S. infringing products that include, but are not limited to, recordable and/or rewritable, single or dual-layer, DVD discs in conformance with the DVD+R, DVD-R, DVD-RW, DVD+RW formats.

28. CMC MAGNETICS and/or HOTAN are therefore liable for direct infringement of the Patents-in-Suit pursuant to 35 U.S.C § 271(a).

29. The acts of infringement by CMC MAGNETICS and/or HOTAN have caused and will continue to cause damage to LDUSA. LDUSA is entitled to recover damages from CMC MAGNETICS and/or HOTAN in an amount not less than a reasonable royalty pursuant to 35 U.S.C. § 284. The full measure of damages sustained as a result of CMC MAGNETICS' and/or HOTAN's infringement will be proven at trial.

COUNT II: INFRINGEMENT OF THE PATENTS-IN-SUIT BY STAPLES

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

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

32. On information and belief, STAPLES is not licensed under the Patents-in-Suit.

33. On information and belief, STAPLES has been and is now directly infringing at least claims 3, 9, 12, and/or 18 of the '469 patent at least by selling and/or offering to sell in the U.S., and/or importing into the U.S., infringing products that include, but are not limited to, recordable

and/or rewritable, single or dual-layer, DVD discs in conformance with the DVD+R, DVD-R, DVD+RW and DVD-RW formats.

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

35. The acts of infringement by STAPLES have caused and will continue to cause damage to LDUSA. LDUSA is entitled to recover damages from STAPLES in an amount not less than a reasonable royalty pursuant to 35 U.S.C. § 284. The full measure of damages sustained as a result of STAPLES' infringement will be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, LDUSA prays for the judgment in its favor against Defendants, individually and jointly and severally, granting LDUSA the following relief:

- A. Entry of judgment in favor of LDUSA against Defendants on all counts;
- B. Entry of judgment that Defendants have infringed the Patents-in-Suit;
- C. Award of compensatory damages adequate to compensate LDUSA for Defendants' infringement of the Patents-in-Suit, in no event less than a reasonable royalty as provided by 35 U.S.C. § 284;
- D. LDUSA's costs;
- E. Pre-judgment and post-judgment interest on LDUSA's award; and

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
February 17, 2016

Respectfully submitted,

KHEYFITS P.C.

By: /s/ Dmitry Kheyfits
Dmitry Kheyfits
dkheyfits@kheyfits.com
Andrey Belenky
abelenky@kheyfits.com

1140 Avenue of the Americas
9th Floor
New York, New York 10036
Tel. (212) 203-5399
Fax. (212) 203-6445

*Attorneys for Plaintiff LaserDynamics USA,
LLC*