UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LASERDYNAMICS USA, LLC, Plaintiff, -against- RITEK CORP. and ADVANCED MEDIA, INC., Defendants.	Civil Action No.: 16-cv-6621 **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 Ritek Corp. ("Ritek") and Advanced Media, Inc. ("AMI") (Ritek and AMI are collectively referred to as "Defendants" herein), 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. 6,529,469 (the "'469 patent" or the "Patent-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 Ritek is incorporated under the laws of Taiwan with its principal place of business at No. 42, Kuan-Fu N. Road, Hsin-Chu Industrial Park, 30316, Taiwan.

4. On information and belief, Defendant AMI is a U.S. subsidiary of Defendant Ritek, and is incorporated under the laws of California with its principal place of business at 1440 Bridgegate Drive, Suite 395, Diamond Bar, CA 91765.

JURISDICTION AND VENUE

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

6. 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, and importation of products into New York. 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 Ritek pursuant to Fed. R. Civ. P. 4(k)(2).

7. 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 Patent-in-Suit are assigned to Plaintiff, and infringement of the Patent-in-Suit has occurred and is occurring in this judicial district.

SINGLE ACTION

8. This suit is commenced against Ritek and AMI pursuant to 35 U.S.C. § 299 in a single action because, *inter alia*, upon information and belief, Ritek and AMI 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.

9. 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

10. 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 A.

11. The Patent-in-Suit generally relates to optical disk technologies.

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

13. On information and belief, Ritek and AMI are not licensed under the Patent-in-Suit, yet Ritek and AMI knowingly actively, and lucratively practice the claimed inventions of the Patent-in-Suit.

14. On information and belief, Defendants manufacture, use, sell, and/or offer for sale in the United States, and/or import 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, Ritek's recordable and/or rewritable DVD discs infringe claims of the '469 patent.

NOTICE

15. By letters and facsimiles dated March 4, 2016, non-party General Patent Corporation

("GPC"), as a licensing agent and representative of LDUSA, notified Ritek and AMI of their infringement of the Patent-in-Suit and offered to discuss licensing opportunities.

16. On March 15, 2016, Ritek sent an e-mail to GPC acknowledging the March 4, 2016 letters and advising that Ritek would be the point of contact for both Ritek and AMI, and also advising that Ritek would contact GPC after receiving "comments from [its] R&D."

17. On March 21, 2016, Ritek sent an e-mail to GPC indicating that Ritek's R&D Division had reviewed the '469 Patent, and acknowledged that certain claim elements of the '469 patent appear in the DVD-R standard. Ritek stated, however, that "we can not convince our management team to take the licenses" and invited further comments from GPC.

18. On March 23, 2016, GPC responded to Ritek's March 21, 2016 email and offered a license on mutually agreeable terms.

19. On March 23, 2016, Ritek sent an e-mail to GPC informing it that Ritek's R&D would investigate further and requested GPC to provide the terms of the patent license.

20. On March 26, 2016, GPC sent an e-mail to Ritek outlining basic license terms.

21. On March 30, 2016 and April 8, 2016, Ritek and GPC exchanged emails relating to claims of the '469 patent.

22. On April 11, 2016, Ritek sent an e-mail to GPC stating that GPC's feedback was being reviewed by its R&D staff.

23. On April 12, 2016, GPC sent an e-mail to Ritek with a proposed license agreement.

24. On June 2, 2016, GPC sent an e-mail to Ritek asking if it had a chance to review the proposed license agreement.

25. On June 6, 2016, Ritek sent an e-mail to GPC identifying "issues" with the draft license agreement.

26. On June 7, 2016, GPC responded to Ritek's June 6, 2016 email. This was the last communication between the parties.

27. Accordingly, Ritek and AMI have received notice of the Patent-in-Suit, and of their infringement thereof.

COUNT I: INFRINGEMENT OF THE PATENT-IN-SUIT BY DEFENDANTS

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

29. On information and belief, Ritek and/or AMI 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 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, DVD+RW formats.

30. Ritek and/or AMI are therefore liable for direct infringement of the Patent-in-Suit pursuant to 35 U.S.C § 271(a).

31. The acts of infringement by Ritek and/or AMI have caused and will continue to cause damage to LDUSA. LDUSA is entitled to recover damages from Ritek and/or AMI 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 Ritek' and/or AMI's infringement will be proven at trial.

32. Ritek and AMI have infringed and continue to infringe despite an objectively high likelihood that their actions constitute infringement of LDUSA's valid patent rights. On information and belief, Ritek and AMI knew of or should have known of this objectively high risk at least as early as when it became aware of the Patent-in-Suit by way of correspondence from GPC, and after analysis of the Patent-in-Suit by Ritek's R&D Division, including Ritek's

admissions relating to the Patent-in-Suit and related DVD-R standard during licensing negotiations with GPC. Thus, Defendants' infringement of the Patent-in-Suit has been and continues to be willful.

33. LDUSA seeks a willfulness finding based on the above and on other and additional grounds, and treble damages under 35 U.S.C. § 284.

34. LDUSA reserves the right to seek its attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, LDUSA prays for 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 Patent-in-Suit;

C. Entry of judgment that Defendants' infringement of the Patent-in-Suit has been willful;

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

E. LDUSA's costs;

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

G. 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
August 23, 2016

Respectfully submitted,

KHEYFITS P.C.

By: /s/ Dmitry Kheyfits

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