

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

LASERDYNAMICS USA, LLC,

Plaintiff,

-against-

CD VIDEO MANUFACTURING, INC.,

Defendant.

Civil Action No.: 16-cv-6619

**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 Defendant CD Video Manufacturing, Inc. (“CD Video”), 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 CD Video 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 CD Video is a corporation organized and existing under the laws of the State of California, having its principal place of business at 12650

Westminster Avenue, Santa Ana, CA 92706.

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

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 Plaintiff, and infringement of the Patents-in-Suit has occurred and is occurring in this judicial district.

BACKGROUND

7. 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.

8. 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.

9. 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.

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

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

12. Upon information and belief, CD Video is not licensed under the Patents-in-Suit, yet CD Video knowingly, actively, and lucratively practices the claimed inventions of the patents.

13. On information and belief, CD Video 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 CD Video 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, CD Video manufactures DVD-9 discs using a process known in the industry as replication. On information and belief, dual layer optical discs replicated by CD Video in conformance with the DVD-9 format infringe claims of the Patents-in-Suit. In the alternative and on information and belief, CD Video causes others to replicate DVD-9 discs that infringe claims of the Patents-in-Suit.

14. On information and belief, in addition to the replication of DVD-9 and other dual-layer optical discs, CD Video also offers to its customers a range of packaging, distribution, and/or other services relating to the replication of DVD-9 discs. On information and belief, the distribution services offered by CD Video to its replication customers include but are not limited

to the distribution of replicated DVD-9 discs directly to customers located in the United States, including in New York.

NOTICE

15. Non-party General Patent Corporation (“GPC”), as a licensing agent and representative of LDUSA, notified CD Video of the existence of the Patents-in-Suit and of CD Video’s infringement thereof, and began licensing discussions that included letters and facsimiles dated May 13, 2015, July 17, 2015, October 13, 2015, and January 7, 2016, as well as a phone call that took place on March 10, 2016.

COUNT I: INFRINGEMENT OF THE PATENTS-IN-SUIT BY CD VIDEO

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

17. On information and belief, CD Video has been and is now directly infringing at least claims 1-6 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 and/or offering to sell infringing products. CD Video’s infringing products include, but are not limited to, at least dual-layer DVD-9 discs.

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

19. The acts of infringement by CD Video have caused and will continue to cause damage to LDUSA. LDUSA is entitled to recover damages from CD Video 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 CD Video’s wrongful acts will be proven at trial.

20. CD Video 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, CD Video 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. Thus, CD Video's infringement of the Patents-in-Suit has been and continues to be willful.

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

22. 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 CD Video, granting LDUSA the following relief:

- A. Entry of judgment in favor of LDUSA against CD Video on all counts;
- B. Entry of judgment that CD Video has infringed the Patents-in-Suit;
- C. Entry of judgment that CD Video's infringement of the Patents-in-Suit has been willful;
- D. Award of compensatory damages adequate to compensate LDUSA for CD Video's infringement of the Patents-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.

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