

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No. _____

SONY CORPORATION,)
)
 Plaintiff,)
)
 v.)
)
 FUJIFILM HOLDINGS CORPORATION,)
 FUJIFILM CORPORATION, FUJIFILM)
 HOLDINGS AMERICA CORPORATION,)
 and FUJIFILM RECORDING MEDIA U.S.A.,)
 INC.,)
)
 Defendants.)

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Sony Corporation (“Sony”) hereby submits this complaint against Defendants Fujifilm Holdings Corporation, Fujifilm Corporation, Fujifilm Holdings America Corporation, and Fujifilm Recording Media U.S.A., Inc. (collectively, “Fujifilm” or “Defendants”) and alleges as follows:

INTRODUCTION

1. Sony brings this action against Fujifilm to seek remedies for Fujifilm’s infringement of U.S. Patents Nos. 7,016,137 (the “137 patent”); 6,345,779 (the “779 patent”); 6,896,959 (the “959 patent”); and 7,115,331 (the “331 patent”) (collectively, the “Asserted Patents”).

PARTIES

2. Plaintiff Sony Corporation is a corporation duly organized and existing under the laws of Japan, with a principal place of business located at 1-7-1 Konan, Minato-ku, Tokyo 108-0075, Japan.

3. Defendant Fujifilm Holdings Corporation (“FHC”) is a corporation organized and existing under the laws of Japan. On information and belief, Fujifilm Holdings Corporation’s principal place of business is 7-3 Akasaka 9-chome, Minato-ku, Tokyo 107-0052, Japan. On information and belief, FHC was formed on October 1, 2006, when Fuji Photo Film Co., Ltd., was transformed into a holding company. FHC is the ultimate parent corporation under which all Defendants operate as subsidiaries. On information and belief, in this position, FHC exerts control over the activities and processes associated with the development, manufacture and sale of Fujifilm-branded magnetic tape media.

4. Defendant Fujifilm Corporation (“FFC”) is a corporation organized and existing under the laws of Japan. Fujifilm Corporation asserts that its principal place of business is located at 7-3 Akasaka 9-chome, Minato-ku, Tokyo 107-0052, Japan. On information and belief, FFC was formed on October 1, 2006 as an operating company to administer the businesses that were previously owned by Fuji Photo Film Co., Ltd. On information and belief, FFC operates the imaging and information businesses of FHC, which includes responsibility for the design, manufacture, and sale of magnetic tape media and thereby exerts control over the activities and processes associated with these responsibilities in the United States. On information and belief, FFC is a wholly owned subsidiary of FHC.

5. Defendant Fujifilm Holdings America Corporation (“FHAC”) is a corporation organized and existing under the laws of Delaware. On information and belief, FHAC’s principal place of business is located at 200 Summit Lake Drive, Valhalla, New York 10595. On information and belief, FHAC is the holding company for U.S.-based Fujifilm corporate entities, including those companies having responsibility for the marketing and sales of magnetic tape media. On information and belief, FHAC is a wholly owned subsidiary of FFC.

6. Defendant Fujifilm Recording Media U.S.A., Inc. (“FRMU”), is a corporation organized and existing under the laws of Delaware. On information and belief, FRMU’s principal place of business is located at 45 Crosby Dr., Bedford, MA 01730-1401. On information and belief, FRMU also has offices located at 200 Summit Lake Drive, Valhalla, NY 10595 in Westchester County. On information and belief, FRMU is a wholly owned subsidiary of FHAC, which is in turn a wholly owned subsidiary of FFC. On information and belief, FRMU is the U.S.-based manufacturing, marketing and sales arm for FFC’s professional broadcast video and data tape recording facility.

7. All of the Defendants operate under and identify with the trade name, “Fujifilm.” Upon information and belief, each of the Defendants directly or indirectly imports, develops, designs, manufactures, distributes, markets, offers to sell and/or sells products and services in the United States, including in the State of Florida and in this District, and otherwise purposefully directs activities to the same. Upon information and belief, the Defendants have been and are acting in concert and are otherwise liable jointly, severally or in the alternative for a right to relief with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences related to the making, using, importing into the United States, offering for sale or selling of at least one infringing product or process.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) because this lawsuit is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101 *et seq.*

9. On information and belief, this Court has personal jurisdiction over each of the Defendants because each has committed acts of patent infringement and/or contributed to or

induced acts of patent infringement by others in the State of Florida and in this District. This Court has personal jurisdiction over each of the Defendants because each has substantial contacts and/or conducts business in the State of Florida and in this judicial district and has been infringing claims of the Asserted Patents in Florida and elsewhere. This Court has personal jurisdiction over each of the Defendants because each has committed a tortious act causing injury within Florida, namely, one or more of the acts of patent infringement alleged herein. As such, each of the Defendants has established sufficient minimum contacts with this District such that it should reasonably and fairly anticipate being called into court in this District and has purposefully directed activities at residents of this State and this District.

10. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400 at least because acts amounting to or in furtherance of patent infringement have been committed in this District and/or the Defendants are subject to personal jurisdiction in this District.

SONY'S PATENTED TECHNOLOGY

11. Sony has been involved in the development of magnetic tape media and products for reading from and writing to such media for over 60 years. In 1949, Sony completed its first magnetic tape recorder prototype, and less than a year later Sony launched its first magnetic recording tape—the Soni-Tape KA. Sony's first cassette tape, the C-60, debuted in 1963, and was followed in 1972 by the D-300, which was specifically designed to record computer data.

12. By the mid-1970s, Sony had brought its first Betamax magnetic tape products to market, signaling the beginning of the age of home video. Sony introduced its first metal magnetic tape in the late 1970s, which was followed in 1979 by the release of the Walkman®, one of the most influential consumer electronics products of all time. In the 1980s, Sony debuted its first metal video cassette tape for the digital VCR format. Sony also led the way in

developing magnetic floppy disk technology and introduced the digital audio tape (DAT) format, which stored information on a magnetic tape medium in digital rather than analog form.

13. Sony continued to develop its magnetic tape media products in the 1990s. For example, in 1990, Sony received an Emmy award for its metal tape technology—the first time that such an award was given for metal tape. In or around the 1996-97 time frame, Sony introduced its proprietary Advanced Intelligent Tape (“AIT”) high-speed magnetic tape data storage format, which was specifically designed for computer applications and preceded the Linear Tape-Open (“LTO”) format specification.

14. The LTO format was developed by an organization known as the LTO Consortium, which was originally formed by International Business Machines (“IBM”), Hewlett Packard (“HP”) and Seagate (now Quantum)¹ in 1998. Because of their stewardship role, IBM, HP, and Quantum are called the “technology provider companies” (or “TPCs”). The LTO Consortium promulgates written technical specifications (*i.e.*, standards) for the LTO magnetic tape data storage format with input from prospective tape media manufacturers.

15. In the early 2000s, Sony began introducing magnetic tape cartridge products in a number of different formats, including tapes compliant with the LTO format specification. These products started with Sony’s first LTO Ultrium generation 1 tape (the “LTX100G” product). Sony has continued to introduce LTO tape products with each successive update to the LTO format specification (*i.e.*, the LTO standard), from the first version (LTO-1) through the current and latest version, LTO-7 (the “LTX6000G” product). Sony is one of only two suppliers, along with Fujifilm, to have been certified for the sale of LTO-7 compliant tape cartridges.

¹ Seagate’s magnetic tape division was spun off as Seagate Removable Storage Solutions, later renamed Certance, which was subsequently acquired by Quantum.

16. Authorization to manufacture, sell, and distribute any generation of LTO tape products is contingent on a participant's acceptance of the terms and conditions of an agreement with the TPCs. The agreements pertaining to the LTO-4, LTO-5, and LTO-6 tape products require participants to license certain patents relevant to the practice of the standards. Sony understands its licensing obligations under the agreements and accordingly engaged Fujifilm in the negotiation of a cross-license that would cover Fujifilm's LTO tape products. Rejecting Sony's efforts to work amicably toward a fair and reasonable licensing arrangement—and in breach of numerous obligations associated with participation in the LTO format—Fujifilm instead initiated numerous infringement actions against Sony. Because Fujifilm has refused to license Sony's LTO-related patents and acted as an unwilling licensee by refusing to engage in good faith negotiations regarding the execution of a fair and reasonable licensing agreement, Sony now seeks to stop Fujifilm's continuing infringement of Sony's intellectual property rights.

17. Sony's wholly-owned indirect subsidiary Sony Latin America Inc. ("SOLA") is responsible for the Sony® branded LTO tape business in the United States, Latin America and Canada and sells LTO tape products in the United States on behalf of Sony. SOLA is a corporation duly organized and existing under the laws of Florida, with a principal place of business located at 5201 Blue Lagoon Drive, Miami, Florida 33126.

18. SOLA is generally responsible for sales, marketing, warehousing, distributing, and providing customer support for Sony® branded LTO tape media sold in the United States, Latin America and Canada.

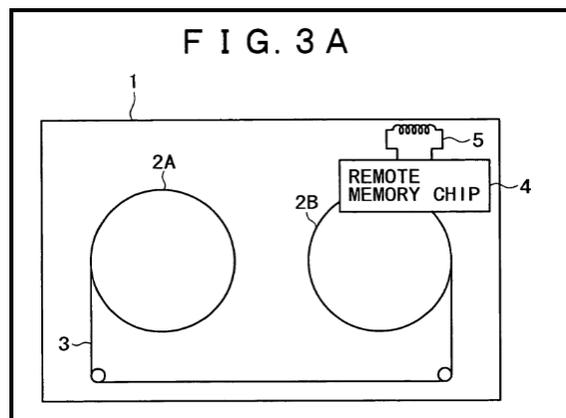
19. SOLA employs approximately thirty-three individuals in the United States who have responsibility for tape media, including LTO. These employees are primarily located at

SOLA's Miami facility and are responsible for management, logistics, supply chain, distribution, customer service and support, sales and marketing regarding Sony® branded LTO tape media.

20. Sony, on its own and through its subsidiaries, has been involved in the development, manufacture and sale of magnetic tape-based storage media products for more than a half century and has been a driving force in the adoption of such media for use by consumers in the United States. Through these efforts, Sony has also built a portfolio of patents.

21. One such patent is the '137 patent, referred to above. The '137 patent is titled "Tape Drive Apparatus, Recording and/or Reproducing Method, and Recording Medium" and issued on March 21, 2006, naming Tatsuya Kato, Masaki Yoshida, Katsumi Ikeda, and Yoshihisa Takayama as inventors. A true and correct copy of the '137 patent is attached as **Exhibit A** to this Complaint. Sony owns by assignment the right, title, and interest in the '137 patent.

22. The '137 patent is generally directed to a tape cartridge equipped with a memory capable of storing "management information" and tape drives for use with such cartridges. For example, Figure 3A conceptually depicts an internal structure of a tape cassette equipped with a remote memory chip that accommodates items of information about each tape cassette:



23. The management information is used by a tape drive to manage the recording and/or reproduction of data to and/or from the magnetic tape (in the cartridge). The management information stored in this memory includes information concerning locations on the magnetic tape and use history of the tape. The management information also includes information regarding the format state of the magnetic tape. Some of the format state designation information is written to the memory at the time the cartridge is initialized and is not thereafter changed.

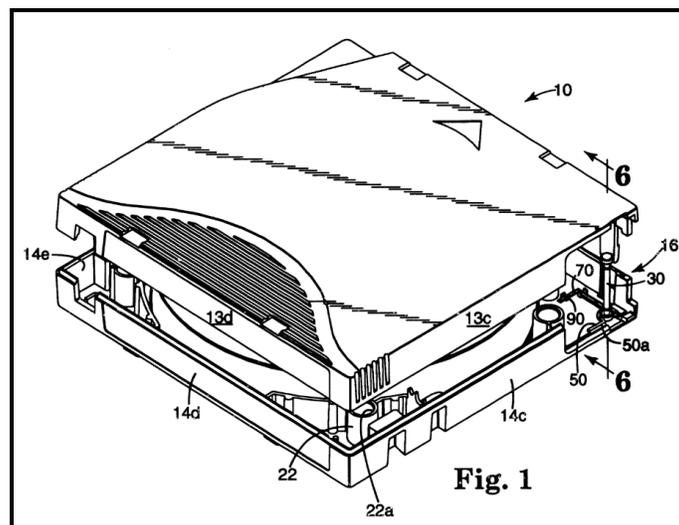
24. When data is recorded or reproduced on the tape by the drive, the drive accesses the management information area and updates the relevant information consistent with the recording or reproduction to prepare for the next recording operation. If the management information is included on the magnetic tape itself, access time for operations on the tape are increased and the time before a single write or read operation can be performed is delayed. To avoid this delay, a nonvolatile memory is installed in the tape cartridge with the magnetic tape. However, that does not alone solve the issue of improving security without unwanted delay. This is because, if the memory is removed such that the management information is changed (or is otherwise unavailable), the cartridge may be used in a manner for which it was not intended (because the drive is unaware of any restrictions on the use of the tape).

25. The claimed inventions of the '137 patent addresses this problem by use of both a memory and the tape itself. The tape cartridge of the '137 patent includes a memory that can be read from and written to by a tape drive. The memory of the '137 tape cartridge includes management information. Information consistent with this is also found on the tape itself, which is compared to management information from the memory based on a read operation of the tape.

26. In 2015, Sony acquired a portfolio of patents from Imation Corporation (“Imation”), an American company based in Oakdale, Minnesota which has a long history in the magnetic tape business. Imation was formed in the mid-1990s, when 3M spun-off its data storage division, which had been doing development work on magnetic tapes since the 1940s. Among the patents that Sony acquired from Imation are the ’779 patent, ’959 patent, and ’331 patent, all of which are asserted against Fujifilm here.

27. The ’779 patent is titled “Data Storage Cartridge Having a Retainer For a Leader Pin” and issued on February 12, 2002, naming G. Phillip Rambosek as inventor. A true and correct copy of the ’779 patent is attached as **Exhibit B** to this Complaint. Sony owns by assignment the right, title, and interest in the ’779 patent.

28. The ’779 patent relates generally to a data storage cartridge having a retainer for a leader pin and a two-piece housing that connects close to the leader pin. Cartridges typically have a housing including a base and a cover, as well as a tape access opening through which the tape is accessed. The end of the tape stored within the cartridge is generally attached to the leader pin, which is secured within the cartridge. For example, Figure 1 depicts a data tape cartridge in accordance with the ’779 patent invention:



29. One of the problems associated with this design is that it requires proper alignment for assembly. Another is that having the leader pin adjacent to the tape access opening makes it difficult for a screw to be utilized in close proximity to the leader pin. Therefore, in the immediate area of the leader pin there can typically be a portion of the housing which is not as securely fastened, causing a problem during handling or if the cartridge is dropped, wherein the leader pin may become dislodged because it is not held firmly in place between the cover and the base.

30. To overcome these problems, the cartridge of the '779 patent employs springs within the cartridge housing that are operatively connected to the housing itself, and used to fix the leader pin in place and prevent it from becoming accidentally dislodged.

31. The '959 patent is titled "Magnetic Recording Medium Having Narrow Pulse Width Characteristics" and issued on May 24, 2005, naming Bruce H. Edwards as inventor. A true and correct copy of the '959 patent is attached as **Exhibit C** to this Complaint. Sony owns by assignment the right, title, and interest in the '959 patent.

32. The '959 patent relates to the magnetic layer of recording media, such as tape. Specifically, the '959 patent is directed to a magnetic recording media having multiple layers wherein the upper magnetic layer contains certain metallic pigments (*e.g.*, particle pigments having a coercivity of greater than about 2000 Oersteds (Oe)) with particles having lengths of less than about 100 nanometers (nm), preferably less than 80 nm at a volume concentration of greater than about 35%. This formulation results in improved performance over prior art magnetic media.

33. The '331 patent is titled "Magnetic Recording Medium Having Narrow Pulse Width Characteristics" and issued on October 3, 2006, naming Bruce H. Edwards as inventor.

The '331 patent is a continuation of the '959 patent. A true and correct copy of the '331 patent is attached as **Exhibit D** to this Complaint. Sony owns by assignment the right, title, and interest in the '331 patent.

34. The '331 patent is directed to a dual-layer recording medium including a non-magnetic substrate having a front side and a back side, a lower support layer formed over the front side and a magnetic upper recording layer formed over the lower layer. In particular, the magnetic layer contains a volume concentration of at least 35% of a magnetic metallic particulate pigment having a coercivity of at least about 2000 Oe, and a binder system for the pigment. The high magnetic coercivity and high volume concentration of the magnetic particles results in tape media that exhibits narrower pulse-width characteristics and lower remanence-thickness, thereby improving the performance of the media.

35. Collectively, the Asserted Patents overcome a number of shortcomings found in prior art magnetic tape, magnetic tape cartridges, and tape drives for use with these cartridges. For example, the claimed inventions of the Asserted Patents provide for improved performance of recording media, increased stability and reduced operational errors in the cartridges used to hold this tape media, and improved security in the use of tape cartridges by tape drives designed to operate together to avoid inadvertent (or purposeful) overwriting of prior recorded data. As described above, the claimed inventions of the Asserted Patents provide for improved use of tape products for the archival and storage of data.

FUJIFILM'S ACCUSED PRODUCTS

36. Like Sony, Fujifilm is licensed by the LTO Consortium to market and sell every generation of LTO Ultrium tape cartridge, including the current generation, LTO-7. Fujifilm markets and sells LTO tape products bearing the Fujifilm brand name in the United States and

elsewhere. These tapes are marketed through its website (www.fujifilm.com) and available for purchase at numerous other retailers, including Amazon.com. Fujifilm is a compliance-verified manufacturer of LTO Ultrium branded tape cartridges.



**Fujifilm-branded LTO Ultrium Tape Products
(images from Fujifilm website)**

37. On information and belief, Fujifilm is also an original equipment manufacturer (OEM) of LTO tapes for certain third parties, which are sold to consumers under the third parties' brand names.

38. As discussed in more detail below, Sony is accusing Fujifilm-branded tape products that are compliant with the LTO Ultrium generation 4, 5, and 6 formats, as well as the cartridge components, magnetic tape, and leader pin comprising such products.² For shorthand, these will be referred to as LTO-4, LTO-5, and LTO-6 tape products (collectively, the "Branded

² On information and belief, Fujifilm LTO Ultrium generation 7 (LTO-7) products also infringe certain claims of the Asserted Patents. However, at this time Sony is not alleging that LTO-7 products infringe any asserted patent in light of ongoing litigation between the parties in New York relating to certain contractual obligations related to the LTO standard. *Sony Corp. et al. v. Fujifilm Holdings Corp. et al.*, No. 1:16-cv-05988-PGG (S.D.N.Y.).

Accused Products”). Sony is also accusing unlicensed tape media cartridges for which Fujifilm operates as an OEM that are then sold by other companies under their own brand (the “OEM Accused Products”). Collectively, the Branded Accused Products and OEM Accused Products shall be referred to as the “Accused Products.”

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 7,016,137

39. Sony realleges, adopts, and incorporates by reference the allegations of paragraphs 1 through 38 as if fully set forth herein.

40. On information and belief, in violation of 35 U.S.C. §§ 271(a), (b), (c) and/or (g), Fujifilm has infringed and is currently infringing one or more claims of the ’137 Patent, including but not limited to claims 1-5, directly and/or indirectly, by making, using, selling, offering for sale, and/or importing into the United States, without authority, the Accused Products. Fujifilm has infringed and is currently infringing the ’137 Patent literally and/or under the doctrine of equivalents.

41. **Exhibit E** details the manner in which the Accused Products infringe the ’137 patent using a representative Accused Product.

42. The Accused Products, or components thereof, indirectly infringe at least claims 1-5 of the ’137 patent.

43. Fujifilm contributorily infringes and induces the infringement of at least these claims by importing tape product components, including magnetic tape, that are material part(s) of the claimed inventions of claims 1-5 of the ’137 patent, knowing these components are especially made for use in infringing these claims. These components have no substantial non-infringing use, as they are manufactured for use specifically in the Accused Products (in relation to claim 5) and, correspondingly, with and in particular tape drive apparatuses (in relation to

claims 1-4). On further information and belief, these components are assembled into the Accused Products in the United States and directly infringe at least claim 5 upon such assembly, and must be (and therefore are) used in tape drive apparatuses and, at that time, infringe claims 1-4.

44. Fujifilm also induces infringement of claims 1-5 of the '137 patent by others. On information and belief, once the Accused Products are assembled, Fujifilm sells these Accused Products to third-party distributors, who correspondingly resell them to end users for use in conjunction with tape drive apparatuses. On information and belief, once imported into the United States, the Accused Products are used by Defendants in combination with tape drive apparatuses for, among other things, quality assurance and control activities and verification testing that measures compliance with LTO standards and by consumers in combination with tape drive apparatuses for writing and reading archival data. Further, Fujifilm provides instructions with these Accused Products that Fujifilm knows will lead to the infringement of claims 1-5 of the '137 patent by end users.

45. Fujifilm has knowingly engaged in these acts of indirect infringement, as it has been aware of the '137 patent since at least March 2014, when Sony identified the '137 patent in writing to Fujifilm in the context of licensing discussions regarding Fujifilm's LTO products. In September 2015, Sony provided Fujifilm with a claim chart that included an element-by-element analysis applied to the format specification of LTO-6. In February 2016, Sony again notified Fujifilm in writing about the '137 patent in the context of licensing discussions. This complaint serves to place Fujifilm on further notice of its infringement.

46. By reason of Fujifilm's infringing activities, Sony has suffered, and will continue to suffer, substantial damages, including lost profits.

47. Sony is entitled to recover from Fujifilm the damages sustained as a result of Fujifilm's infringing acts in an amount subject to proof at trial, but in no event less than a reasonable royalty.

48. Fujifilm's continuing acts of infringement are irreparably harming and causing damage to its direct competitor Sony, for which Sony has no adequate remedy at law, and Sony will continue to suffer such irreparable injury unless Fujifilm's continuing acts of infringement are enjoined by the Court. The hardships that an injunction would impose are less than those faced by Sony should an injunction not issue. The public interest would be served by issuance of an injunction.

49. Fujifilm's infringement of the '137 patent constitutes willful infringement justifying enhancement of damages under 35 U.S.C. § 284. Fujifilm either knew or should have known about its risk of infringing the '137 patent, as it has been aware of the '137 patent since at least March 2014, when Sony notified Fujifilm of the '137 patent, and/or based on its own investigation and analysis of the '137 patent. Upon information and belief, Fujifilm's accused actions continued and will continue despite an objectively high likelihood that they constitute infringement of the '137 patent, and are ongoing. Fujifilm's egregious misconduct, which is both intentional and knowing, warrants enhanced damages because it is made with reckless disregard for the infringing nature of its activities, and goes beyond typical patent infringement. By way of example only, despite being on actual notice of its infringement of the '137 patent, Fujifilm has continued to manufacture, use, sell and offer to sell, and import the Accused Products.

50. Fujifilm's continuing infringement of the '137 patent is exceptional and entitles Sony to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

COUNT II: INFRINGEMENT OF U.S. PATENT NO. 6,345,779

51. Sony realleges, adopts, and incorporates by reference the allegations of paragraphs 1 through 50 as if fully set forth herein.

52. On information and belief, in violation of 35 U.S.C. §§ 271(a), (b), (c) and/or (g), Fujifilm has infringed and is currently infringing one or more claims of the '779 Patent, including but not limited to claims 1-6, directly and/or indirectly, by making, using, selling, offering for sale, and/or importing into the United States, without authority, the Accused Products. Fujifilm has infringed and is currently infringing the '779 patent literally and/or under the doctrine of equivalents.

53. **Exhibit F** details the manner in which the Accused Products infringe the '779 patent using a representative Accused Product.

54. The Accused Products, or components thereof, indirectly infringe at least claims 1-6 of the '779 patent.

55. Fujifilm contributorily infringes at least these claims by importing into the United States tape product components, which are material part(s) of the claimed inventions, knowing these components are especially made for use in infringing these claims. These components have no substantial non-infringing use, as they are manufactured for use specifically in the Accused Products. On information and belief, these components are assembled into the Accused Products in the United States by Defendants, and these Accused Products directly infringe at least claims 1-6 of the '779 patent upon such assembly. On further information and belief, these assembled Accused Products are further sold by Defendants in the United States for use by third parties that also directly infringes at least claims 1-6.

56. Fujifilm also induces infringement of claims 1-6 of the '779 patent by others. Fujifilm has been aware of the '779 patent at least as of May 2015. On information and belief, once the Accused Products are assembled, Fujifilm sells these Accused Products to third-party distributors, who correspondingly resell them to end users for use in conjunction with tape drive apparatuses. On information and belief, once imported into the United States, the Accused Products are used by Defendants in combination with tape drive apparatuses for, among other things, quality assurance and control activities and verification testing that measures compliance with LTO standards and by consumers in combination with tape drive apparatuses for writing and reading archival data. Further, Fujifilm provides instructions with these Accused Products that Fujifilm knows will lead to the infringement of claims 1-6 of the '779 patent by end users.

57. Fujifilm has knowingly engaged in these acts of indirect infringement, as it has been aware of the '779 patent since at least May 2015, when Sony identified the '779 patent in writing to Fujifilm in the context of licensing discussions regarding Fujifilm's LTO products. In September 2015, Sony provided Fujifilm with a claim chart that included an element-by-element analysis of claims 1-6 as applied to the format specifications of LTO-4 to LTO-6. This complaint serves to place Fujifilm on further notice of its infringement.

58. By reason of Fujifilm's infringing activities, Sony has suffered, and will continue to suffer, substantial damages, including lost profits.

59. Sony is entitled to recover from Fujifilm the damages sustained as a result of Fujifilm's infringing acts in an amount subject to proof at trial, but in no event less than a reasonable royalty.

60. Fujifilm's continuing acts of infringement are irreparably harming and causing damage to its direct competitor Sony, for which Sony has no adequate remedy at law, and Sony

will continue to suffer such irreparable injury unless Fujifilm's continuing acts of infringement are enjoined by the Court. The hardships that an injunction would impose are less than those faced by Sony should an injunction not issue. The public interest would be served by issuance of an injunction.

61. Fujifilm's infringement of the '779 patent constitutes willful infringement justifying enhancement of damages under 35 U.S.C. § 284. Fujifilm either knew or should have known about its risk of infringing the '779 patent, as it has been aware of the '779 patent since at least May 2015, when Sony notified Fujifilm of the '779 patent, and/or based on its own investigation and analysis of the '779 patent. Upon information and belief, Fujifilm's accused actions continued and will continue despite an objectively high likelihood that they constitute infringement of the '779 patent, and are ongoing. Fujifilm's egregious misconduct, which is both intentional and knowing, warrants enhanced damages because it is made with reckless disregard for the infringing nature of its activities, and goes beyond typical patent infringement. By way of example only, despite being on actual notice of its infringement of the '779 patent, Fujifilm has continued to manufacture, use, sell and offer to sell, and import the Accused Products.

62. Fujifilm's continuing infringement of the '779 patent is exceptional and entitles Sony to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

COUNT III: INFRINGEMENT OF U.S. PATENT NO. 6,896,959

63. Sony realleges, adopts, and incorporates by reference the allegations of paragraphs 1 through 62 as if fully set forth herein.

64. On information and belief, in violation of 35 U.S.C. §§ 271(a), (b) and/or (g), Fujifilm has infringed and is currently infringing one or more claims of the '959 patent,

including but not limited to claims 1-2, 4-9, 13, and 16-17, directly and/or indirectly, by making, using, selling, offering for sale, and/or importing into the United States, without authority, the Accused Products. Fujifilm has infringed and is currently infringing the '959 Patent literally and/or under the doctrine of equivalents.

65. **Exhibit G** details the manner in which the Accused Products infringe the '959 patent using a representative Accused Product.

66. The Accused Products, or components thereof, indirectly infringe at least claims 1-2, 4-9, 13, and 16-17 of the '959 patent.

67. Fujifilm induces infringement of claims 1-2, 4-9, 13, and 16-17 of the '959 patent by others. Fujifilm is aware of the '959 patent at least as of May 2015. On information and belief, once the Accused Products are assembled, Fujifilm sells these Accused Products to third-party distributors, who correspondingly resell them to end users for use in conjunction with tape drive apparatuses. On information and belief, once imported into the United States, the Accused Products are used by Fujifilm in combination with tape drive apparatuses for, among other things, quality assurance and control activities and verification testing that measures compliance with LTO standards and by consumers in combination with tape drive apparatuses for writing and reading archival data. Further, Fujifilm provides instructions with these Accused Products that Fujifilm knows will lead to the infringement of claims 1-2, 4-9, 13, and 16-17 of the '959 patent by end users.

68. Fujifilm has knowingly engaged in these acts of indirect infringement, as it has been aware of the '959 patent since at least May 2015, when Sony identified the '959 patent in writing to Fujifilm in the context of licensing discussions regarding Fujifilm's LTO products. This complaint serves to place Fujifilm on further notice of its infringement.

69. By reason of Fujifilm's infringing activities, Sony has suffered, and will continue to suffer, substantial damages, including lost profits.

70. Sony is entitled to recover from Fujifilm the damages sustained as a result of Fujifilm's infringing acts in an amount subject to proof at trial, but in no event less than a reasonable royalty.

71. Fujifilm's continuing acts of infringement are irreparably harming and causing damage to its direct competitor Sony, for which Sony has no adequate remedy at law, and Sony will continue to suffer such irreparable injury unless Fujifilm's continuing acts of infringement are enjoined by the Court. The hardships that an injunction would impose are less than those faced by Sony should an injunction not issue. The public interest would be served by issuance of an injunction.

72. Fujifilm's infringement of the '959 patent constitutes willful infringement justifying enhancement of damages under 35 U.S.C. § 284. Fujifilm either knew or should have known about its risk of infringing the '959 patent, as it has been aware of the '959 patent since at least May 2015, when Sony notified Fujifilm of the '959 patent, and/or based on its own investigation and analysis of the '959 patent. Upon information and belief, Fujifilm's accused actions continued and will continue despite an objectively high likelihood that they constitute infringement of the '959 patent, and are ongoing. Fujifilm's egregious misconduct, which is both intentional and knowing, warrants enhanced damages because it is made with reckless disregard for the infringing nature of its activities, and goes beyond typical patent infringement. By way of example only, despite being on actual notice of its infringement of the '959 patent, Fujifilm has continued to manufacture, use, sell and offer to sell, and import the Accused Products.

73. Fujifilm's continuing infringement of the '959 patent is exceptional and entitles Sony to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 7,115,331

74. Sony realleges, adopts, and incorporates by reference the allegations of paragraphs 1 through 73 as if fully set forth herein.

75. On information and belief, in violation of 35 U.S.C. §§ 271(a), (b) and/or (g), Fujifilm has infringed and is currently infringing one or more claims of the '331 Patent, including but not limited to claims 1-3, 7, 9-11, 13-14, and 16-17, directly and/or indirectly, by making, using, selling, offering for sale, and/or importing into the United States, without authority, the Accused Products. Fujifilm has infringed and is currently infringing the '331 Patent literally and/or under the doctrine of equivalents.

76. **Exhibit H** details the manner in which the Accused Products infringe the '331 patent using a representative Accused Product.

77. The Accused Products, or components thereof, indirectly infringe at least claims 1-3, 7, 9-11, 13-14, and 16-17 of the '331 patent.

78. Fujifilm induces infringement of claims 1-3, 7, 9-11, 13-14, and 16-17 of the '331 patent by others. Fujifilm is aware of the '331 patent at least as of May 2015. On information and belief, once the Accused Products are assembled, Fujifilm sells these Accused Products to third-party distributors, who correspondingly resell them to end users for use in conjunction with tape drive apparatuses. On information and belief, once imported into the United States, the Accused Products are used by Fujifilm in combination with tape drive apparatuses for, among other things, quality assurance and control activities and verification testing that measures compliance with LTO standards and by consumers in combination with tape drive apparatuses

for writing and reading archival data. Further, Fujifilm provides instructions with these Accused Products that Fujifilm knows will lead to the infringement of claims 1-3, 7, 9-11, 13-14, and 16-17 of the '331 patent by end users.

79. Fujifilm has knowingly engaged in these acts of indirect infringement, as it has been aware of the '331 patent since at least May 2015, when Sony identified the '331 patent in writing to Fujifilm in the context of licensing discussions regarding Fujifilm's LTO products. This complaint serves to place Fujifilm on further notice of its infringement.

80. By reason of Fujifilm's infringing activities, Sony has suffered, and will continue to suffer, substantial damages, including lost profits.

81. Sony is entitled to recover from Fujifilm the damages sustained as a result of Fujifilm's infringing acts in an amount subject to proof at trial, but in no event less than a reasonable royalty.

82. Fujifilm's continuing acts of infringement are irreparably harming and causing damage to its direct competitor Sony, for which Sony has no adequate remedy at law, and Sony will continue to suffer such irreparable injury unless Fujifilm's continuing acts of infringement are enjoined by the Court. The hardships that an injunction would impose are less than those faced by Sony should an injunction not issue. The public interest would be served by issuance of an injunction.

83. Fujifilm's infringement of the '331 patent constitutes willful infringement justifying enhancement of damages under 35 U.S.C. § 284. Fujifilm either knew or should have known about its risk of infringing the '331 patent, as it has been aware of the '331 patent since at least May 2015, when Sony notified Fujifilm of the '331 patent, and/or based on its own investigation and analysis of the '331 patent. Upon information and belief, Fujifilm's accused

actions continued and will continue despite an objectively high likelihood that they constitute infringement of the '331 patent, and are ongoing. Fujifilm's egregious misconduct, which is both intentional and knowing, warrants enhanced damages because it is made with reckless disregard for the infringing nature of its activities, and goes beyond typical patent infringement. By way of example only, despite being on actual notice of its infringement of the '331 patent, Fujifilm has continued to manufacture, use, sell and offer to sell, and import the Accused Products.

84. Fujifilm's continuing infringement of the '331 patent is exceptional and entitles Sony to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

DEMAND FOR JURY TRIAL

85. Sony demands a jury trial for all issues so triable.

REQUEST FOR RELIEF

WHEREFORE, Sony respectfully requests that:

(a) Judgment be entered that Fujifilm has infringed one or more claims of each of the Asserted Patents;

(b) Judgment be entered permanently enjoining Fujifilm, its directors, officers, agents, servants and employees, and those acting in privity or in concert with them, and their subsidiaries, divisions, successors and assigns, from further acts of infringement, contributory infringement, or inducement of infringement of the Asserted Patents;

(c) Judgment be entered awarding Sony all damages adequate to compensate it for Fujifilm's infringement of the Asserted Patents including all pre-judgment and post-judgment interest of the Asserted Patents at the maximum rate permitted by law;

(d) Judgment be entered that Fujifilm's infringement of each of the Asserted Patents is willful and deliberate, and therefore that Sony is entitled to enhanced damages as provided by 35 U.S.C. § 284;

(e) Judgment be entered that Fujifilm's infringement of the Asserted Patents is willful and deliberate, and, therefore, that this is an exceptional case entitling Sony to an award of its attorneys' fees for bringing and prosecuting this action, together with interest, and costs of the action, pursuant to 35 U.S.C. § 285; and

(f) Judgment be entered awarding Sony such other and further relief as this Court may deem just and proper.

Dated: December 15, 2016

Respectfully submitted,

/s/ Edward M. Mullins

Edward M. Mullins, emullins@astidavis.com

Florida Bar No. 863920

Ana M. Barton, abarton@astidavis.com

Florida Bar No. 85721

ASTIGARRAGA DAVIS

MULLINS & GROSSMAN, P.A.

1001 Brickell Bay Drive, 9th Floor

Miami, Florida 33131

Tel: (305) 372-8282; Fax: (305) 372-8202

Edward J. DeFranco*

NY State Bar No. 2108561

Joseph Milowic III*

NY State Bar No. 4622221

John T. McKee*

NY State Bar No. 4906566

**QUINN EMANUEL URQUHART
& SULLIVAN, LLP**

51 Madison Avenue, 22nd Floor

New York, NY 10010

Tel.: (212) 849-7000

Fax: (212) 849-7100

Kevin P.B. Johnson*
California State Bar No. 177129
Andrew J. Bramhall*
California State Bar No. 253115
**QUINN EMANUEL URQUHART
& SULLIVAN, LLP**
555 Twin Dolphin Drive, 5th Floor
Redwood City, California 94065
Tel.: (650) 801-5000
Fax: (650) 801-5100

Jeffrey S. Gerchick*
New York State Bar No. 2978518
**QUINN EMANUEL URQUHART
& SULLIVAN, LLP**
777 6th Street NW, 11th Floor
Washington, DC 20001
Tel.: (202) 538-8000
Fax: (202) 538-8100

**Pro Hac Vice to be filed*

Counsel for Plaintiff Sony Corporation