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Attorneys for Plaintiffs  
 Western Digital Technologies, Inc. and  
 Hitachi Global Storage Technologies, Inc.

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9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN JOSE DIVISION

12 WESTERN DIGITAL  
 13 TECHNOLOGIES, INC., a Delaware  
 14 corporation, and HITACHI GLOBAL  
 15 STORAGE TECHNOLOGIES, INC., a  
 16 Delaware corporation,

Plaintiffs,

16 vs.

17 THE BOARD OF REGENTS OF THE  
 18 UNIVERSITY OF TEXAS SYSTEM, a  
 19 Texas entity; CARL B. COLLINS, an  
 20 individual; and FARZIN DAVANLOO,  
 21 and individual,

Defendants.

Case No. V 10-03595 BZ  
 COMPLAINT FOR  
 DECLARATORY JUDGMENT  
 DEMAND FOR JURY TRIAL

22  
 23 Plaintiffs Western Digital Technologies, Inc. ("Western Digital") and Hitachi  
 24 Global Storage Technologies, Inc. ("Hitachi") allege as follows:

25 **PARTIES**

26 1. Plaintiff Western Digital is a corporation duly organized and existing  
 27 under the laws of the State of Delaware, and has its principal place of business at  
 28 20511 Lake Forest Dr., Lake Forest, California 92630.

1           2.     Plaintiff Hitachi is a corporation duly organized and existing under the  
2 laws of the State of Delaware, and has its principal place of business at 3403 Yerba  
3 Buena Road, San Jose, California 95193.

4           3.     On information and belief, defendant The Board of Regents of the  
5 University of Texas System ("Board of Regents") is a Texas entity.

6           4.     On information and belief, defendant Carl B. Collins is a natural person  
7 and United States citizen.

8           5.     On information and belief, defendant Farzin Davanloo is a natural  
9 person and United States citizen.

### 10                                   **JURISDICTION**

11           6.     This action arises under the patent laws of the United States of  
12 America, 35 U.S.C. § 1 *et seq.*, and under the Declaratory Judgment Act, 28 U.S.C.  
13 §§ 2201 and 2202. This Court has subject matter jurisdiction under 28 U.S.C. §§  
14 1331 and 1338(a) in that this is a civil action arising out of the patent laws of the  
15 United States of America. This Court also has subject matter jurisdiction under 28  
16 U.S.C. § 2201 because, as shown below, a substantial controversy exists between  
17 Western Digital, Hitachi, the Board of Regents, Collins, and Davanloo regarding  
18 patent non-infringement, invalidity, unenforceability, and ownership.

19           7.     This Court has personal jurisdiction over the Board of Regents, Collins,  
20 and Davanloo because, among other things, they have participated in the bringing of  
21 patent infringement claims against Western Digital, Hitachi, and other California  
22 residents. On information and belief, the Board of Regents, Collins, and Davanloo  
23 have had other relevant contacts with California; for example, the Board of Regents  
24 has used the judicial system in California to bring patent infringement claims in the  
25 past.

**VENUE**

8. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b), because a substantial part of the events giving rise to Plaintiffs' claims occurred in this district.

**INTRADISTRICT ASSIGNMENT**

9. Pursuant to Civil Local Rule 3-2(c), because this action is an intellectual property action, it is properly assigned to any of the divisions in this district.

**GENERAL ALLEGATIONS**

10. Western Digital designs, develops, markets, and sells a wide variety of disk drive products, and intends to continue designing, developing, marketing, and selling these products.

11. Hitachi designs, develops, markets, and sells a wide variety of disk drive products, and intends to continue designing, developing, marketing, and selling these products.

12. United States Patent Nos. 5,411,797 ("the '797 patent") and 5,478,650 ("the '650 patent") (collectively, the "patents-in-suit"), both entitled "Nanophase Diamond Films," issued on May 4, 1995, and December 26, 1995, respectively.

13. The purported inventions of the patents-in-suit were developed as a result of a government grant.

14. The patents-in-suit name the Board of Regents as assignee of the patents-in-suit.

15. The patents-in-suit name Collins and Davanloo as inventors of the patents-in-suit.

16. Collins and Davanloo claim to be the owners of all rights, title, and interest in the patents-in-suit by virtue of an assignment from the Board of Regents.

17. However, the purported assignment from the Board of Regents to Collins and Davanloo was ineffective due to non-compliance with statutory,

1 regulatory, and contractual requirements, including those relating to inventions  
2 developed as a result of a government grant.

3 18. On July 15, 2009, Collins and Davanloo brought a complaint for patent  
4 infringement against Western Digital, Hitachi, and others in the United States  
5 District Court for the Eastern District of Texas ("Texas Lawsuit") alleging that  
6 certain disk drive products of Western Digital, Hitachi, and others infringe the  
7 patents-in-suit. However, Collins and Davanloo do not own all rights, title, and  
8 interest in the patents-in-suit. Accordingly, Western Digital and Hitachi anticipate  
9 that the Texas Lawsuit will be dismissed for lack of standing and, on information  
10 and belief, that the Board of Regents may itself assert in the immediate future that  
11 the disk drive products of Western Digital and Hitachi infringe the patents-in-suit.

12 19. A substantial controversy of sufficient immediacy and reality exists  
13 between Western Digital, Hitachi, the Board of Regents, Collins, and Davanloo as to  
14 whether any of the products of Western Digital and Hitachi infringe the patents-in-  
15 suit, whether the patents-in-suit are invalid and unenforceable, and ownership of the  
16 patents-in-suit. This controversy is sufficient to warrant the issuance of a  
17 declaratory judgment.

18 20. Western Digital and Hitachi desire a judicial determination of the  
19 foregoing controversy and a declaration by the Court of the parties' respective  
20 rights.

## 21 **CAUSE OF ACTION**

### 22 **(Declaratory Judgment)**

23 21. Western Digital and Hitachi incorporate by reference paragraphs 1-20  
24 of this Complaint and re-allege them as though fully set forth herein.

25 22. Based on the actions of the Board of Regents, Collins, and Davanloo,  
26 the past and current conduct and future plans of Western Digital and Hitachi, all as  
27 described above, a substantial controversy has arisen between Western Digital,  
28 Hitachi, the Board of Regents, Collins, and Davanloo concerning whether Western



1 Digital and Hitachi have infringed or do infringe the patents-in-suit, and whether  
2 Western Digital and Hitachi are liable for the purported infringement of any such  
3 claim, either literally or under the doctrine of equivalents, and whether based on a  
4 theory of direct infringement, contributory infringement, or infringement by  
5 inducement.

6 23. Based on the actions of the Board of Regents, Collins, and Davanloo,  
7 the past and current conduct and future plans of Western Digital and Hitachi, all as  
8 described above, a substantial controversy has arisen between Western Digital,  
9 Hitachi, the Board of Regents, Collins, and Davanloo concerning whether the  
10 patents-in-suit are invalid and unenforceable.

11 24. Based on the actions of the Board of Regents, Collins, and Davanloo,  
12 the past and current conduct and future plans of Western Digital and Hitachi, all as  
13 described above, a substantial controversy has arisen between Western Digital,  
14 Hitachi, the Board of Regents, Collins, and Davanloo concerning ownership of the  
15 patents-in-suit.

16 25. Western Digital and Hitachi do not infringe, and have never infringed,  
17 any valid and enforceable claim, properly construed, of the patents-in-suit, and are  
18 not liable for the purported infringement of any such claim, either literally or under  
19 the doctrine of equivalents, and whether based on a theory of direct infringement,  
20 contributory infringement, or infringement by inducement. Moreover, defendants  
21 Collins and Davanloo do not own all rights, title, and interest in the patents-in-suit.  
22 On information and belief, the Board of Regents, Collins, and Davanloo dispute  
23 these contentions.

24 26. A judicial declaration that Western Digital and Hitachi do not infringe  
25 the patents-in-suit, and that the patents-in-suit are invalid and enforceable, and a  
26 declaration of ownership of the patents-in-suit are necessary and appropriate at this  
27 time so that Western Digital and Hitachi can ascertain their rights and duties with  
28 respect to designing, developing, marketing, and selling disk drive products.

**PRAYER FOR RELIEF**

WHEREFORE, Western Digital and Hitachi pray for judgment as follows:

A. For a judicial determination that Western Digital and Hitachi are not infringing, and have not infringed, any claim of the patents-in-suit;

B. For a judicial determination that all claims of the patents-in-suit are invalid and unenforceable;

C. For a judicial determination of ownership of the patents-in-suit;

D. For a judicial determination, pursuant to 35 U.S.C. § 285, that this case is exceptional and that Western Digital and Hitachi be awarded their reasonable attorneys' fees and costs; and

E. For such other and further relief as this Court deems just and proper.

Dated: August 16, 2010

IRELL & MANELLA LLP

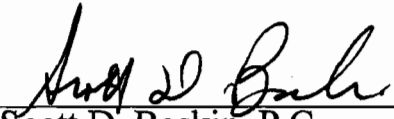
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Western Digital Technologies, Inc.  
and Hitachi Global Storage  
Technologies, Inc.

**DEMAND FOR JURY TRIAL**

Western Digital and Hitachi hereby demand a trial by jury on all issues triable to a jury.

Dated: August 16, 2010

IRELL & MANELLA LLP

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