

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No. _____

SONY CORPORATION,)
)
Plaintiff,)
)
v.)
)
FUJIFILM HOLDINGS CORPORATION,)
FUJIFILM CORPORATION, FUJIFILM)
MEDIA MANUFACTURING CO., LTD.,)
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 Media Manufacturing Co., Ltd., 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. 6,674,596 (“the ’596 patent”); 6,979,501 (“the ’501 patent”); and 7,029,774 (“the ’774 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. On information and belief, FHC is the ultimate parent corporation under which all other 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 Media Manufacturing Co., Ltd. (“FMMC”) is a corporation organized and existing under the laws of Japan. On information and belief, the principal place of business of FMMC is located at 12-1 Ogimachi 2-chome, Odawara, Kanagawa 250-0001, Japan. On information and belief, FMMC is responsible for the manufacture and processing of recording media, product inspection and production management accompanying it. On information and belief, FMMC is a wholly owned subsidiary of FHC.

6. 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.

7. 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.

8. 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 otherwise 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

9. 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.*

10. 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.

11. 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

12. 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.

13. 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.

14. 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.

15. 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.

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

16. 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 (*e.g.*, 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

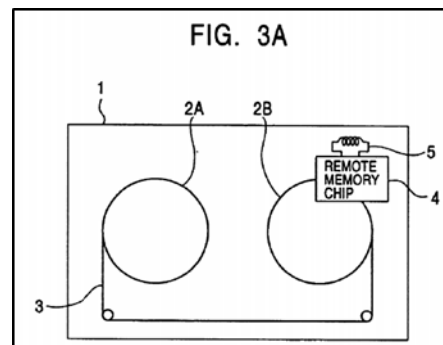
22. One such patent is the '596 patent, referred to above, which is entitled "Memory in Cassette Has Use Restriction Recorded in Read-only Memory." Sony Corporation is the legal owner by assignment of the '596 patent. The '596 patent was duly and legally issued by the United States Patent and Trademark Office ("USPTO") on January 6, 2004, naming Yoshihisa Takayama as inventor. A true and correct copy of the '596 patent is attached as **Exhibit A** to this Complaint. Sony owns by assignment the right, title, and interest in the '596 patent.

23. The '596 patent is generally directed to "tape drive unit[s] and record medi[a] for use in a data streamer in which the tape cassette includes in addition to a magnetic tape a solid-state memory. By detecting a correspondence between data on the tape and data in the memory,

various operations of the tape drive unit can be controlled, so that it is not possible to write over or erase data already recorded on the tape.” (’596 patent at Abstract.)

24. The ’596 patent explains that write once, read many (WORM) media, such as CD-Rs, “excel in data protection because it is impossible to change the data once it has been written.” (*Id.* at col. 1:13-21). Although magnetic tape has greater recording capacity than CD-Rs, which reduces the cost per bit for recording, “there is a problem in that the magnetic tape does not excel in the protection of important data.” (*Id.* at col. 1:42-43.) For example, “[d]ata written on the magnetic tape . . . may be erased if some faulty operations are performed when the tape cassette is loaded into the tape drive unit” or it may be “intentionally rewritten.” (*Id.* at col. 1:38-42.) In view of this problem, “it is an object of the present invention to provide an apparatus and record medium for use in a data streamer that can eliminate the above-noted defects inherent in the prior art.” (*Id.* at col. 1:46-49.)

25. For instance, Figure 3A of the ’596 patent, shown below, discloses a magnetic tape cassette (1) with a memory chip card (4). The memory chip, which is solid state memory, may store manufacture information, serial number information, and other information relevant to the recording of data on the magnetic tape (3), such as information used to manage the reading and writing of data to and from the tape. (*Id.* at col. 4:15-30.)



26.

27. 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 ’774 patent and ’501 patent, both of which are asserted against Fujifilm here.

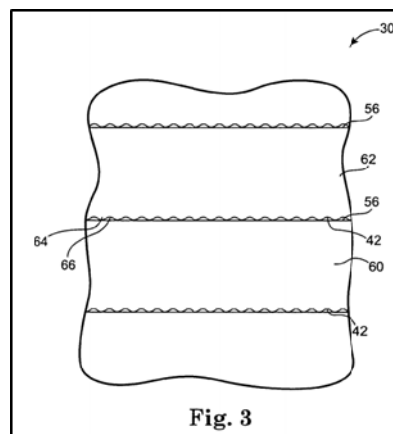
28. The ’774 patent is entitled “Magnetic Recording Medium with Backside to Decrease Recording Surface Embossment.” The ’774 patent was duly and legally issued by the USPTO on April 18, 2006, naming James A. Greczyna, Brian D. Brong, and Stephen R. Ebner as inventors. A true and correct copy of the ’774 patent is attached as **Exhibit B** to this Complaint. Sony owns by assignment the right, title, and interest in the ’774 patent.

29. The ’774 patent generally relates to “a magnetic recording media, such as magnetic tapes, having a backside configured to decrease the pitting or embossment” of the media’s magnetic recording surface. (’774 patent at col. 1:7-10.)

30. The ’774 patent explains that typical magnetic tape recording mediums have backside surfaces that include microscopic peaks and valleys. (*Id.* at col. 2:1-7.) When the tape is wound, each winding layer lays on top of a previous winding, so that the backside of one layer is on top of the recording surface of the previously wound layer. (*Id.* at 2:7-12.) The peaks of the backside surface produce a limited contact area between adjacent windings, which decreases friction between windings. (*Id.* at 2:13-17.) However, contact between the backside peaks of one layer and the magnetic surface of the adjacent layer may cause the peaks to be imprinted on the magnetic surface: these “imprints, pits, or embossments defined in the front surface [] can damage the recording characteristics of the magnetic recording tape.” (*Id.* at 2:17-23.) This

damage can, in turn, “decrease the signal-to-noise ratio and increase errors in writing to and reading from” the magnetic media. (*Id.* at 6:9-11.)

31. Figure 3 of the '774 patent, shown below, illustrates an example of the contact between adjacent backside layers and magnetic layers according to an embodiment of the patented invention. The magnetic recording medium (30) shows a first winding (60) and a second winding (62) that is wound around the first winding. (*Id.* at 5:39-45.) Each winding includes a backside including a surface (42) with peaks and valleys (64 and 66) pressed against the opposite recording surface (56). (*Id.* at 5:45-51.)



32. The '501 patent is entitled “Magnetic Recording Medium Having a Smooth Biaxially Tensilized Film Substrate.” The '501 patent was duly and legally issued by the USPTO on Dec. 27, 2005, naming Christopher A. Merton as inventor. A true and correct copy of the '501 patent is attached as **Exhibit C** to this Complaint. Sony owns by assignment the right, title, and interest in the '501 patent.

33. The '501 patent is generally directed to a magnetic tape medium that includes “a biaxially tensilized substrate that would maximize the dimensional stability of the magnetic recording medium formed thereon, and also “exhibit[s] low hygroscopic expansion and low thermal expansion in order to improve the track density and minimize any overwriting of data.”

(’501 patent at 2:3-9.) In other words, the ’501 patent relates to, among other things, a magnetic tape medium that experiences limited shape and dimensional changes, particularly in response to humidity or temperature changes.

34. As one embodiment, the ’501 patent discloses “[a] magnetic recording medium which includes a non-magnetic substrate having a front side and a backside, a longitudinal direction and a crossweb direction, with a particulate/binder magnetic layer formed over the front side of the substrate, wherein the magnetic medium has a cross web dimensional difference from the magnetic recording head used therewith of less than 900 microns/meter over a 35 degree temperature range, and over a 70% relative humidity range.” (*Id.* at 2:34-42.) The “crossweb direction” refers to the direction across the width of the tape.

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 due to environmental factors, and improved security in the use of tape cartridges 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 Accused Products"). Sony is also accusing unlicensed tape media cartridges for which Fujifilm

² On information and belief, Fujifilm LTO Ultrium generation 7 (LTO-7) products also infringe certain claims of the Asserted Patents. However, Sony is not alleging in this complaint 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.).

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. 6,674,596

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 '596 patent, including but not limited to claims 1-19, 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 '596 patent literally and/or under the doctrine of equivalents.

41. **Exhibit D** details the manner in which the Accused Products infringe the '596 patent using a representative Accused Product.

42. The Accused Products, or components thereof, indirectly infringe at least claims 1-19 of the '596 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 1-19 of the '596 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 14-19) and, correspondingly, with and in particular tape drive apparatuses (in relation to claims 1-13). On further information and belief, these components are assembled into the

Accused Products in the United States and directly infringe at least claims 14-19 upon such assembly, and must be (and therefore are) used in tape drive apparatuses and, at that time, infringe claims 1-13.

44. Fujifilm also induces infringement of claims 1-19 of the '596 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 1-19 of the '596 patent by end users.

45. Fujifilm has knowingly engaged in these acts of indirect infringement, as it either knew or should have known about its risk of infringing the '596 patent based on the parties' discussions regarding the '596 patent (including without limitation Sony's presentation of claim charts), which began in 2003. In February 2016, Sony again notified Fujifilm in writing about the '596 patent in the context of licensing discussions. Sony further disclosed the '596 patent to Fujifilm in a complaint filed in the Southern District of New York on July 27, 2016, *Sony Corporation et al v. Fujifilm Holdings Corporation et al.*, Case No. 1:16-cv-05988-PGG (S.D.N.Y.). 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 '596 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 '596 patent, as it has been aware of the '596 patent since 2003, when Sony notified Fujifilm of the '596 patent, and/or based on its own investigation and analysis of the '596 patent. Upon information and belief, Fujifilm's accused actions continued and will continue despite an objectively high likelihood that they constitute infringement of the '596 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 '596 patent, Fujifilm has continued to manufacture, use, sell and offer to sell, and import the Accused Products.

50. Fujifilm's continuing infringement of the '596 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. 6,979,501

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 '501 patent, including but not limited to claims 1-6 and 8, 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 '501 patent literally and/or under the doctrine of equivalents.

53. **Exhibit E** details the manner in which the Accused Products infringe the '501 patent using a representative Accused Product.

54. The Accused Products, or components thereof, indirectly infringe at least claims 1-6 and 8 of the '501 patent.

55. Fujifilm induces infringement of claims 1-6 and 8 of the '501 patent by others. Fujifilm is aware of the '501 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 1-6 and 8 of the '501 patent by end users.

56. Fujifilm has knowingly engaged in these acts of indirect infringement, as it has been aware of the '501 patent since at least May 2015, when Sony identified the '501 patent in writing to Fujifilm in the context of licensing discussions regarding Fujifilm's LTO products. Sony further disclosed the '501 patent to Fujifilm in a complaint filed in the Southern District of New York on July 27, 2016, *Sony Corporation et al v. Fujifilm Holdings Corporation et al.*, Case No. 1:16-cv-05988-PGG (S.D.N.Y.). This complaint serves to place Fujifilm on further notice of its infringement.

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

58. 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.

59. 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.

60. Fujifilm's infringement of the '501 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 '501 patent, as it has been aware of the '501 patent since at

least May 2015, when Sony notified Fujifilm of the '501 patent, and/or based on its own investigation and analysis of the '501 patent. Upon information and belief, Fujifilm's accused actions continued and will continue despite an objectively high likelihood that they constitute infringement of the '501 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 '501 patent, Fujifilm has continued to manufacture, use, sell and offer to sell, and import the Accused Products.

61. Fujifilm's continuing infringement of the '501 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. 7,029,774

62. Sony realleges, adopts, and incorporates by reference the allegations of paragraphs 1 through 61 as if fully set forth herein.

63. 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 '774 patent, including but not limited to claims 1-11 and 15-20, 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 '774 patent literally and/or under the doctrine of equivalents.

64. **Exhibit F** details the manner in which the Accused Products infringe the '774 patent using a representative Accused Product.

65. The Accused Products, or components thereof, indirectly infringe at least claims 1-11 and 15-20 of the '774 patent.

66. Fujifilm induces infringement of claims 1-11 and 15-20 of the '774 patent by others. Fujifilm is aware of the '774 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 1-11 and 15-20 of the '774 patent by end users.

67. Fujifilm has knowingly engaged in these acts of indirect infringement, as it has been aware of the '774 patent since at least May 2015, when Sony identified the '774 patent in writing to Fujifilm in the context of licensing discussions regarding Fujifilm's LTO products. Sony further disclosed the '774 patent to Fujifilm in a complaint filed in the Southern District of New York on July 27, 2016, *Sony Corporation et al v. Fujifilm Holdings Corporation et al.*, Case No. 1:16-cv-05988-PGG (S.D.N.Y.). This complaint serves to place Fujifilm on further notice of its infringement.

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

69. 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.

70. 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.

71. Fujifilm's infringement of the '774 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 '774 patent, as it has been aware of the '774 patent since at least May 2015, when Sony notified Fujifilm of the '774 patent, and/or based on its own investigation and analysis of the '774 patent. Upon information and belief, Fujifilm's accused actions continued and will continue despite an objectively high likelihood that they constitute infringement of the '774 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 '774 patent, Fujifilm has continued to manufacture, use, sell and offer to sell, and import the Accused Products.

72. Fujifilm's continuing infringement of the '774 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

73. 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: May 8, 2017

Respectfully submitted,

/s/ Ana Maria Barton

Edward M. Mullins, emullins@reedsmith.com

Florida Bar No. 863920

Ana Maria Barton, abarton@reedsmith.com

Florida Bar No. 85721

REED SMITH LLP

1001 Brickell Bay Drive, Suite 900

Miami, Florida 33131

Tel: (786) 747-0200; Fax: (786) 747-0299

Edward J. DeFranco*

NY State Bar No. 2108561

Joseph Milowic III*

NY State Bar No. 4622221

Gregory C. Wyckoff*

NY State Bar No. 4700241

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