

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

VISTA PEAK VENTURES, LLC,

Plaintiff,

V.

JAPAN DISPLAY INC.

Defendant.

JURY TRIAL DEMANDED

CIVIL ACTION NO. 2:19-cv-325

PLAINTIFF'S COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Vista Peak Ventures, LLC (“VPV”) files this Complaint against Japan Display Inc. (“JDI”) for infringement of U.S. Patent No. 7,046,327 (“the ’327 patent”), U.S. Patent No. 6,870,593 (“the ’593 patent”), U.S. Patent No. 6,812,528 (“the ’528 patent”), and U.S. Patent No. 6,549,259 (“the ’259 patent”), collectively, the “Asserted Patents.”

THE PARTIES

1. Vista Peak Ventures, LLC is a Texas limited liability company, located at 1400 Preston Rd, Suite 472, Plano, TX 75093.

2. Upon information and belief, JDI is a multinational corporation organized under the laws of Japan, with its principal place of business located at Landic 2nd Bdg., 3-7-1, Nishi-shinbashi, Minato-ku, Tokyo, 105-0003, Japan.

3. Upon information and belief, JDI commenced operations in April 2012 “for the purpose of acquiring small- and medium-size display business from Sony Corporation, Toshiba Corporation and Hitachi Ltd.” *See Consolidated Financial Statements*, JAPAN DISPLAY INC.

(March 31, 2018), at p. 11, <https://www.j->

display.com/english/ir/library/pdf/financialreport2018.pdf. JDI was listed on the first section of the Tokyo Stock Exchange in March of 2014. *See id.* JDI is engaged in the business of “manufacturing and distributing operation of small- and medium-size display.” *See id.* Among its most prominent applications for its displays, “JDI’s products are used in smartphones and other mobile devices, automotive electronics, ... digital cameras and other consumer electronics, medical equipment and industrial equipment.” *See 2018 Annual Report*, JAPAN DISPLAY INC., at p. 2, <https://www.j-display.com/english/ir/library/pdf/ar2018.pdf>.

4. JDI maintains a corporate presence in the U.S. via its wholly-owned, U.S.-based sales subsidiary JDI Display America, Inc. (referred to as “JDI-A”), which is organized under the laws of California with its principal place of business located at 1740 Technology Drive, Suite 460, San Jose, CA 95110, USA.

5. Upon information and belief, JDI with its subsidiary JDI-A, as part of global network of overseas sales and manufacturing subsidiaries, have operated as agents of one another and vicariously as two arms of the same business group to work in concert together and enter into agreements that are nearer than arm’s length. JDI, via at least JDI-A’s activities, conducts business in the United States, including in Texas and this judicial district. *See Trois v. Apple Tree Auction Center, Incorporated*, 882 F.3d 485, 490 (5th Cir. 2018) (“A defendant may be subject to personal jurisdiction because of the activities of its agent within the forum state....”); *see also Cephalon, Inc. v. Watson Pharmaceuticals, Inc.*, 629 F.Supp.2d 338, 348 (D. Del. 2009) (“The agency theory may be applied not only to parents and subsidiaries, but also to companies that are ‘two arms of the same business group,’ operate in concert with each other, and enter into agreements with each other that are nearer than arm's length.”).

6. Upon information and belief, JDI’s thin-film transistor – liquid crystal display (“TFT-LCD”) panels are incorporated into consumer electronic devices, including digital camera devices manufactured by Fujifilm Corporation and its related companies (collectively referred to as “Fujifilm”), game consoles manufactured by Nintendo Co., Ltd. (referred to as “Nintendo”), and smartphones manufactured by OnePlus Technology (Shenzhen) Co., Ltd. (referred to as “OnePlus”).

7. Upon information and belief, JDI’s customer Fujifilm maintains a corporate presence in the United States that “play[s] a major role in Fujifilm’s global manufacturing system.”

See *Product Lineup*, FUJIFILM, https://www.fujifilmusa.com/about/corporate_profile/fujifilm_companies/manufacturing/products_services/page_01.html (last visited Sept. 29, 2019). Fujifilm ships product to “30 Fujifilm locations in the United States, as well as other ‘direct to US customer’ shipments.” *See id.* (follow “Products and Services” tab). Fujifilm also “imports products from other worldwide Fujifilm locations for distribution into the US market place” and “provides storage for some of the raw materials required for manufacturing Fujifilm products” in the U.S. *See id.*

8. Upon information and belief, JDI’s customer Nintendo maintains a corporate presence in the United States via its subsidiary Nintendo of America Inc. with its principal place of business located at 4600 150th Ave NE, Redmond, WA 98052. *See Corporate*, NINTENDO, <https://www.nintendo.com/corp/index.jsp> (last visited Sept. 29, 2019). Nintendo distributes its products, including the Nintendo Switch, to various retailers including amazon.com, Best Buy, Game Stop, Target, and Walmart, among many others, which have both brick and mortar locations in and target online customers in the United States, including the Eastern District of Texas. *See Choose your Nintendo Switch*, NINTENDO, <https://www.nintendo.com/switch/buy-now/> (last

visited Sept. 29, 2019). Nintendo also operates its own regional website specifically geared toward selling the Nintendo Switch online to U.S. retail customers, including those in the Eastern District of Texas. *See Nintendo Switch*, NINTENDO, <https://www.nintendo.com/switch/> (click “Change Region” hyperlink, select “USA” hyperlink) (last visited Sept. 29, 2019). Nintendo reports that since 2017 it has sold about 14 million Nintendo Switch gaming consoles in “The Americas,” which accounts for nearly half of worldwide sales of the Nintendo Switch.” *See Dedicated Video Game Sales Units*, NINTENDO, https://www.nintendo.co.jp/ir/en/finance/hard_soft/number.html (select “Total Unit Sales” tab and select “Unit Sales”) (last visited Sept. 29, 2019).

9. Upon information and belief, JDI’s customer OnePlus maintains a corporate presence in the United States via its employees who work in the U.S. and perform at least sales and marketing positions, related to OnePlus’ mobile phone products. *See Current Openings*, ONEPLUS, <https://www.oneplus.com/careers#departments=marketing%20and%20sales> (select “Marketing and Sales” under the “All Departments” drop-down menu) (last visited Sept. 29, 2019). OnePlus further affiliates with wireless carrier T-Mobile US, Inc. to market, offer to sale, and sale its mobile phone products in the United States, including in the Eastern District of Texas. *See Experience OnePlus at T-Mobile*, ONEPLUS, <https://www.oneplus.com/retail?from=head> (last visited Sept. 29, 2019).

10. Through offers to sell, sales, imports, and agreements to transfer ownership of its TFT-LCD panels with customers operating in the U.S. such as Fujifilm, Nintendo, OnePlus and/or its U.S. subsidiary, JDI-A, JDI does business in the U.S., the state of Texas and in the Eastern District of Texas.

JURISDICTION AND VENUE

11. This action arises under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others.

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

13. Upon information and belief, JDI is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this State and judicial district, including: (A) at least part of its infringing activities alleged herein; and (B) regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from infringing goods offered for sale, sold, and imported and services provided to Texas residents vicariously through and/or in concert with its alter egos, intermediaries, agents, distributors, importers, customers, subsidiaries, and/or consumers. For example, JDI has a "global network" of overseas sales and manufacturing subsidiaries, located in the U.S., Europe, China, Taiwan, South Korea, and the Philippines. *See Global Network*, JAPAN DISPLAY INC., <https://www.j-display.com/english/company/overseas.html> (last visited Sept. 29, 2019).

14. This Court has personal jurisdiction over JDI, directly or through intermediaries, distributors, importers, customers, subsidiaries, and/or consumers including its U.S. based, wholly-owned subsidiary, JDI-A. Through direction and control of this subsidiary, JDI has committed acts of direct and/or indirect patent infringement within Texas, and elsewhere within the United States, giving rise to this action and/or has established minimum contacts with Texas such that personal jurisdiction over JDI would not offend traditional notions of fair play and substantial justice.

15. JDI-A is a wholly owned subsidiary of JDI. *See Global Network*, JAPAN DISPLAY INC., <https://www.j-display.com/english/company/overseas.html> (last visited Sept. 29, 2019). JDI describes JDI-A as its “sales subsidiary” in the United States. *Id.* Upon information and belief, JDI represents to its shareholders that it maintains a 100% ownership interest in JDI-A, which JDI equates to maintaining a controlling financial interest in the subsidiary. *See Consolidated Financial Statements*, JAPAN DISPLAY INC. (March 31, 2018), at pp. 11-12, <https://www.j-display.com/english/ir/library/pdf/financialreport2018.pdf> (describing JDI-A as one of its consolidated subsidiaries which are collectively referred to as “the Company”). Indeed, JDI-A’s primary purpose is to conduct sales and sales support on behalf of JDI. *See 2018 Annual Report*, JAPAN DISPLAY INC., at p. 42, <https://www.j-display.com/english/ir/library/pdf/ar2018.pdf>. Upon information and belief, JDI compensates JDI-A for its sales support services in the United States. As such, JDI has a direct financial interest in JDI-A, and vice versa.

16. Upon information and belief, JDI controls or otherwise directs and authorizes all activities of JDI-A, including JDI-A’s using, offering for sale, selling, and/or importing accused products, their components, and/or products containing same that incorporate the fundamental technologies covered by the Asserted Patents. JDI-A is authorized to import, sell, or offer for sale the accused products on behalf of its controlling parent JDI. For example, JDI researches, designs, develops, and manufactures the accused TFT-LCD products and then directs JDI-A to import, offer for sale, and sell the accused products in the United States. *See, e.g., United States v. Hui Hsiung*, 778 F.3d 738, 743 (9th Cir. 2015) (finding that the sale of infringing TFT-LCD panels to third parties rather than for direct import into the U.S. did not “place [defendants’] conduct beyond the reach of United States law [or] escape culpability under the rubric of extraterritoriality”). Thus, JDI-A conducts infringing activities on behalf of JDI.

17. Upon information and belief, JDI-A's corporate presence in the United States gives JDI substantially the business advantages that it would have enjoyed if it conducted its business through its own offices or paid agents in the state. On information and belief, JDI-A is authorized to sell and offer for sale the accused products on behalf of JDI. For example, JDI-A operates within JDI-A's global network of sales subsidiaries in America, Germany, China, Taiwan, and South Korea. In the U.S., including within the Eastern District of Texas, JDI's TFT-LCD panels are imported, offered for sale, and sold, including model nos. LPM030M369H, LAM062M109A 2N6I519997, and LPM055A291A utilized in at least Fujifilm camera model no. X-T100, the Nintendo Switch (a handheld game console), and the OnePlus 2 (a mobile phone), respectively.

18. Moreover, JDI acknowledges on its website that from its "bases in major cities in...America[], we build strong customer relationships." *See About Us*, JAPAN DISPLAY INC., <https://www.j-display.com/english/> (click "America" tab) (last visited Sept. 29, 2019). Referring to JDI-A, JDI further states "we catch the latest ideas and technological trends and work with our customers to realize products that open up new possibilities for life." *See id.* And JDI partners with U.S.-based Arrow Electronics, Inc. (referred to as "Arrow" located at 9201 E Dry Creek Road, Centennial, CO 80112, USA) to supply JDI's U.S. customers with "Displays/ Monitors/Touchscreens." *See Line Card*, ARROW, https://www.arrow.com/arrow-services/wp-content/uploads/2019/05/Global_Services_Line-Card_NA_final_043019.pdf (last visited Sept. 29, 2019) (listing JDI as a supplier partnered with Arrow in providing "Services and Products" to "North America"). JDI further lists Apple Inc. Group, who sells its products in the U.S. market, as a "major customer" with 3.7 billion U.S. Dollars in sales of "small and medium size display panels." *See Consolidated Financial Statements*, JAPAN DISPLAY INC. (March 31, 2018), at p. 41, <https://www.j-display.com/english/ir/library/pdf/financialreport2018.pdf>. Via its alter egos,

agents, intermediaries, distributors, importers, customers, subsidiaries, and/or consumers maintaining a business presence, operating in, and/or residing in the U.S., JDI's TFT-LCD panels, including the accused products are or have been widely distributed and sold in retail stores, both brick and mortar and online, in Texas including within this judicial district. *See Litecubes, LLC v. Northern Light Products, Inc.*, 523 F.3d 1353, 1369-70 (Fed. Cir. 2008) (“[T]he sale [for purposes of § 271] occurred at the location of the buyer.”); *see also Semcon IP Inc. v. Kyocera Corporation*, No. 2:18-cv-00197-JRG, 2019 WL 1979930, at *3 (E.D. Tex. May 3, 2019) (denying accused infringer's motion to dismiss because plaintiff sufficiently plead that purchases of infringing products outside of the United States for importation into and sales to end users in the U.S. may constitute an offer to sell under § 271(a)).

19. Upon information and belief, JDI has placed and continues to place infringing TFT-LCD panels into the stream of commerce via established distribution channels comprising at least distributors, such as Arrow, customers such as Fujifilm, Nintendo, OnePlus, and Apple and/or its wholly-owned, U.S.-based subsidiary JDI-A, for the sale of infringing products, with the knowledge and/or intent that those products are imported, used, offered for sale, sold, and continue to be sold in the United States and Texas, including in this judicial district. In its consolidated financial results for fiscal year 2017, for example, JDI reported 717,522 million yen in world-wide net sales (about \$6,753,784 USD). *See Consolidated Financial Statements*, JAPAN DISPLAY INC. (March 31, 2018), at p. 4, <https://www.j-display.com/english/ir/library/pdf/financialreport2018.pdf>. Of that amount, 78.6% were in its mobile device category. *See 2018 Annual Report*, JAPAN DISPLAY INC., at p. 21, <https://www.j-display.com/english/ir/library/pdf/ar2018.pdf>. As a result, JDI has, vicariously through and/or in concert with its alter egos, agents, intermediaries, distributors, importers, customers, subsidiaries,

and/or consumers, placed infringing TFT-LCD panels into the stream of commerce via established distribution channels with the knowledge and/or intent that those products were sold and continue to be sold in the United States and Texas, including in this judicial district.

20. In the alternative, the Court has personal jurisdiction over JDI under Federal Rule of Civil Procedure 4(k)(2), because the claims for patent infringement in this action arise under federal law, JDI is not subject to the jurisdiction of the courts of general jurisdiction of any state, and exercising jurisdiction over JDI is consistent with the U.S. Constitution.

21. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 because, among other things, JDI is not a resident in the United States, and thus may be sued in any judicial district, including this one, pursuant to 28 U.S.C. § 1391(c)(3). *See also In re HTC Corporation*, 889 F.3d 1349, 1357 (Fed. Cir. 2018) (“The Court's recent decision in *TC Heartland* does not alter” the alien-venue rule.).

THE ASSERTED PATENTS AND TECHNOLOGY

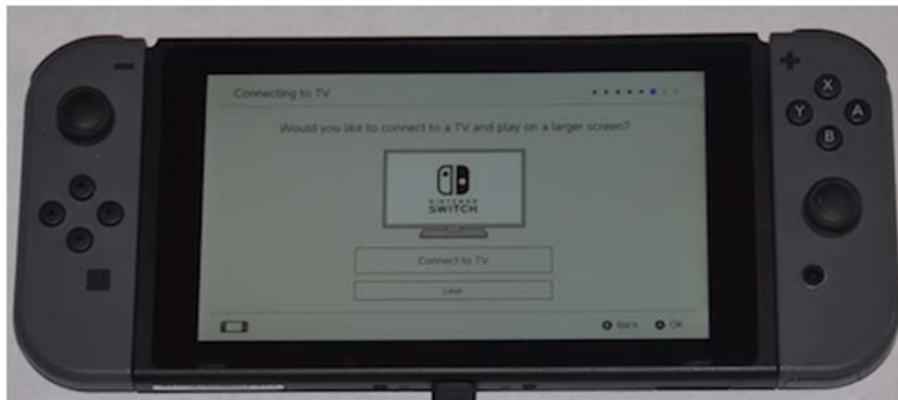
22. Upon information and belief, a significant portion of sales of JDI is derived from the manufacture and sale of TFT-LCD panels and JDI's main commodities include small and medium-sized display devices and related products. JDI asserts that its smartphone and tablet products provide a “[w]ide variety of LCD modules for mobile applications including smartphone and tablet devices” and that “JDI leads mobile display technologies with thin structure, large screen, high resolution, enhanced optical performance, etc.” *See Smartphone, Tablet*, JAPAN DISPLAY INC., <https://www.j-display.com/english/product/mobile.html> (last visited Sept. 29, 2019).

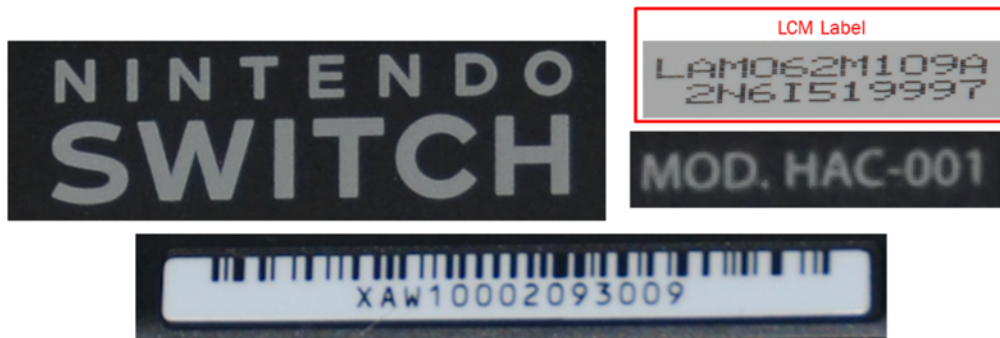
23. The Asserted Patents cover JDI's TFT-LCD panels, their components, and processes related to the same (referred to herein as the “Accused Panel(s)”). The Accused Panels

are incorporated and utilized in various consumer devices. For example, at least Fujifilm camera model No. X-T100 utilizes JDI model no. LPM030M369H, as shown below.



24. Also, the Nintendo Switch, model no. HAC-001, utilizes a JDI TFT-LCD panel as indicated by the liquid crystal monitor (“LCM”) label “LAM062M109A 2N6I519997” shown below:

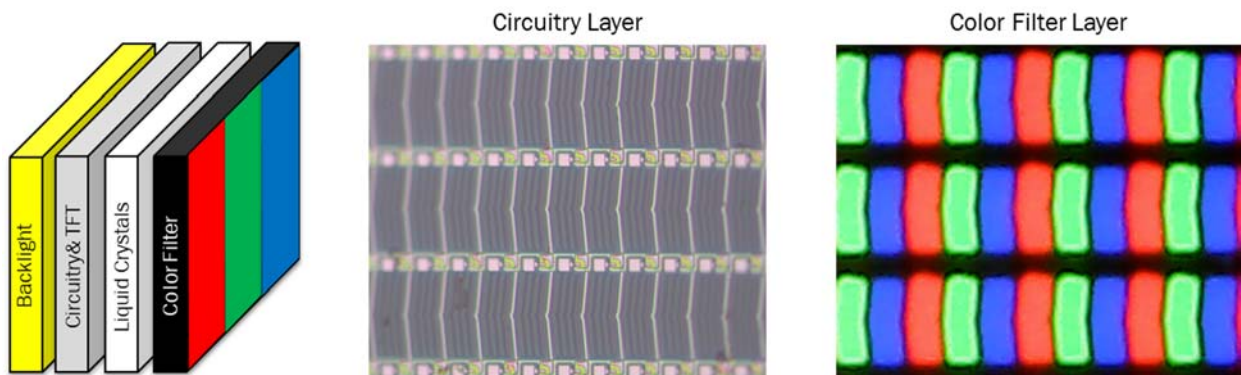




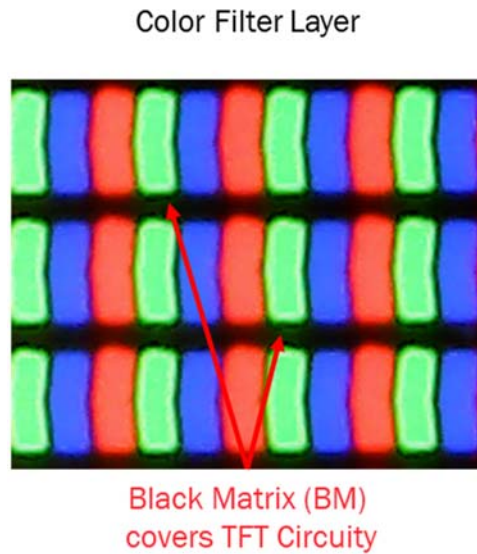
25. Also, the OnePlus 2 mobile phone, utilizes JDI TFT-LCD panel model no. LPM055A291A, as shown below:



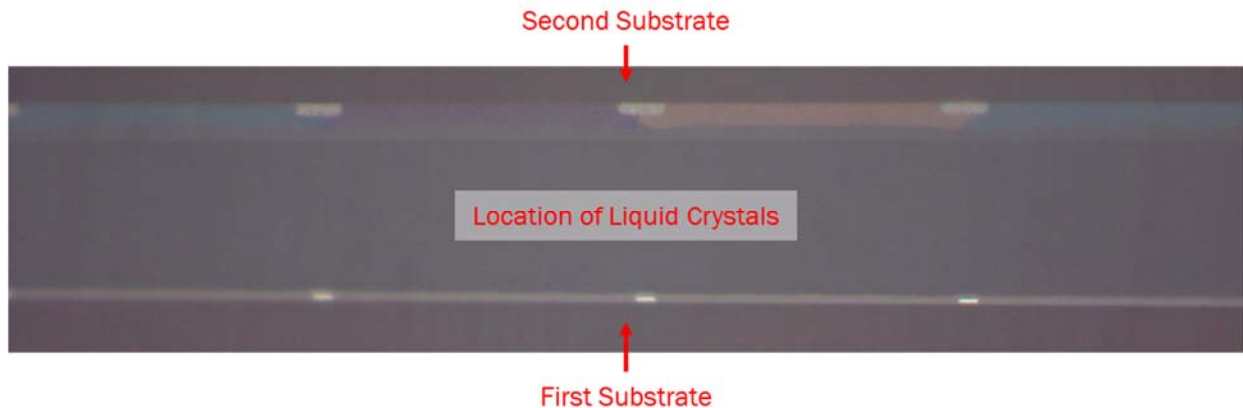
26. JDI TFT-LCD panels have the following structure shown below, comprising of a backlight, a TFT/circuitry layer (bottom and top illumination of an Accused Panel), a liquid crystal layer, and a color filter.



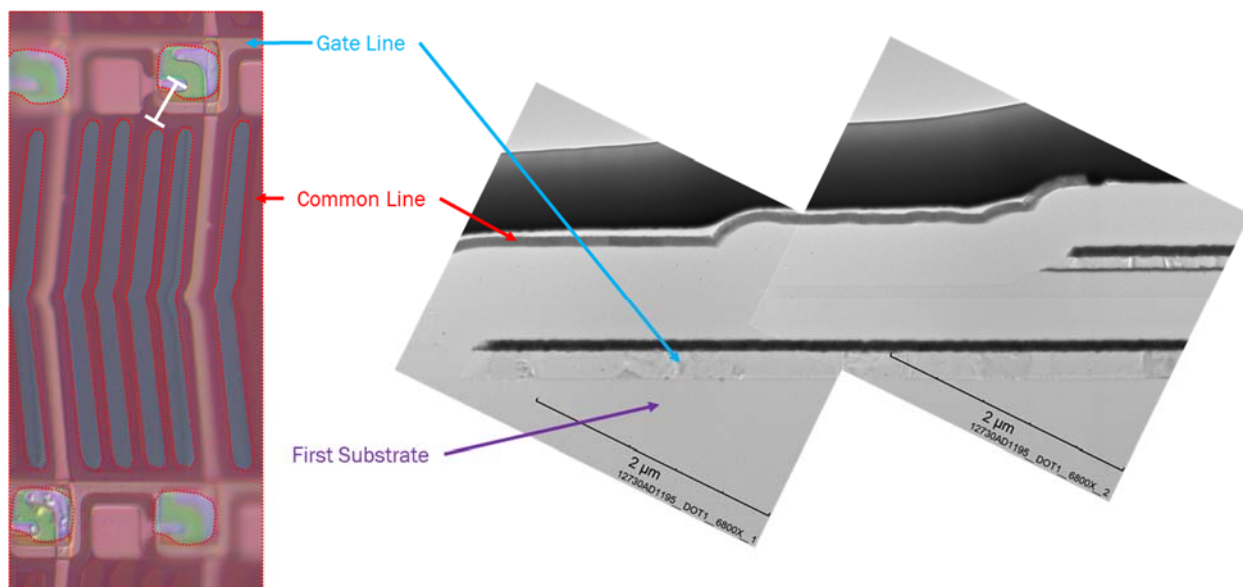
27. A thin-film transistor (“TFT”) acts as a switch that operates its respective individual pixel using circuitry lines. Using the TFT, each pixel can be turned on and off to create an image on a liquid panel display (“LCD”) by allowing or preventing light to pass through. The individual pixels are more apparent when a color filter layer overlays the circuits as illustrated in the image below.



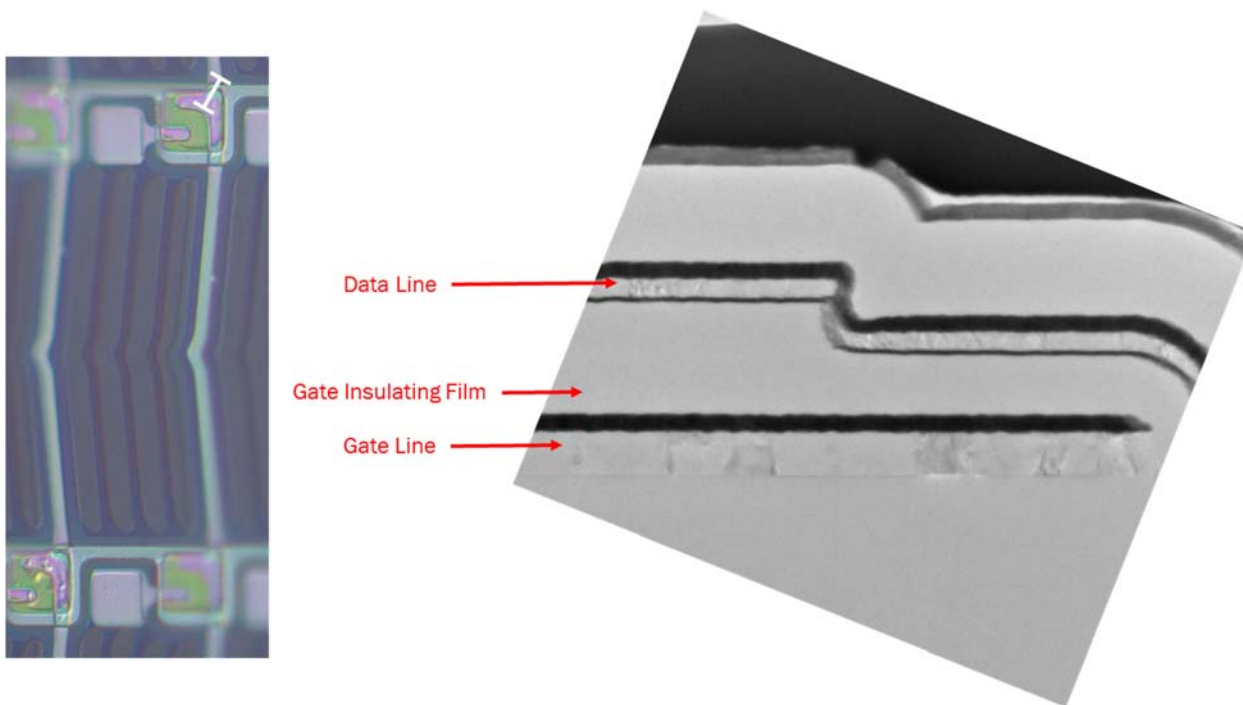
28. The Accused Panels have an active matrix type liquid crystal display device with two opposing insulating substrates and liquid crystal in-between, as illustrated below in reference to model no. LAM062M109A 2N6I519997 (utilized in the Nintendo Switch).



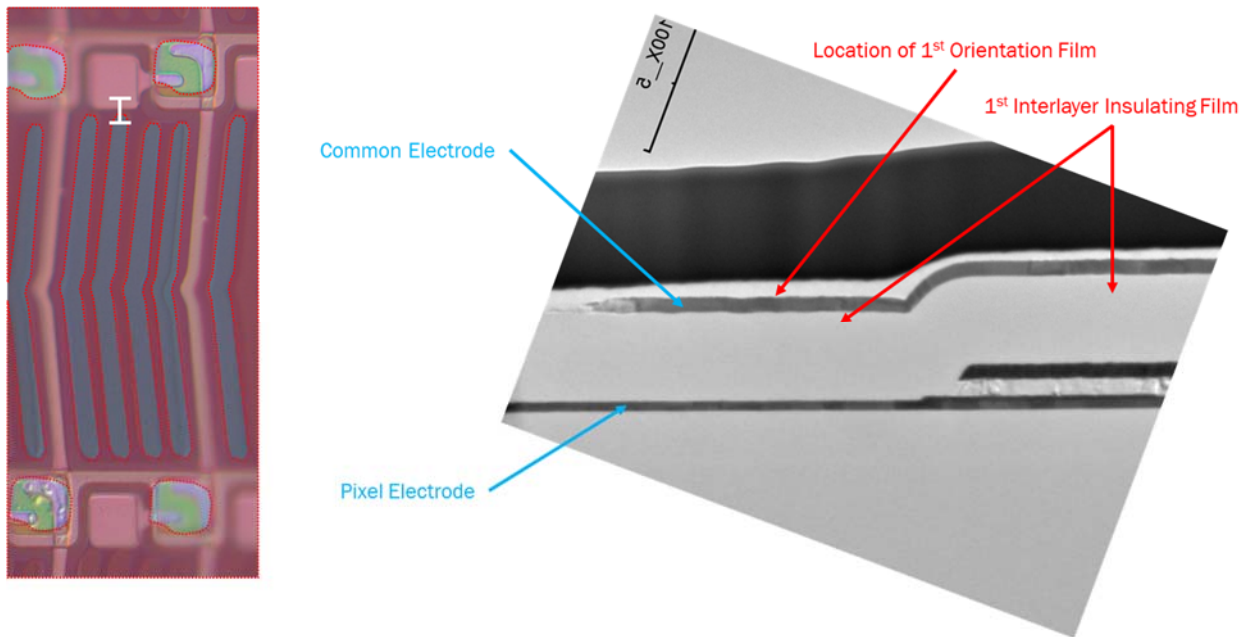
29. As shown below, the TFT-LCD Accused Panel contains a first substrate with a gate line, a common line parallel to the gate line.



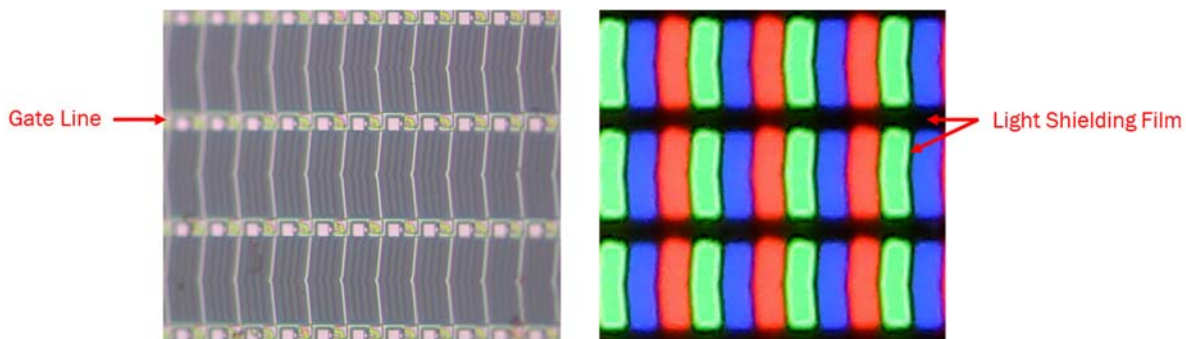
30. The Accused Panel has a data line intersecting the gate line with a gate insulating film between.



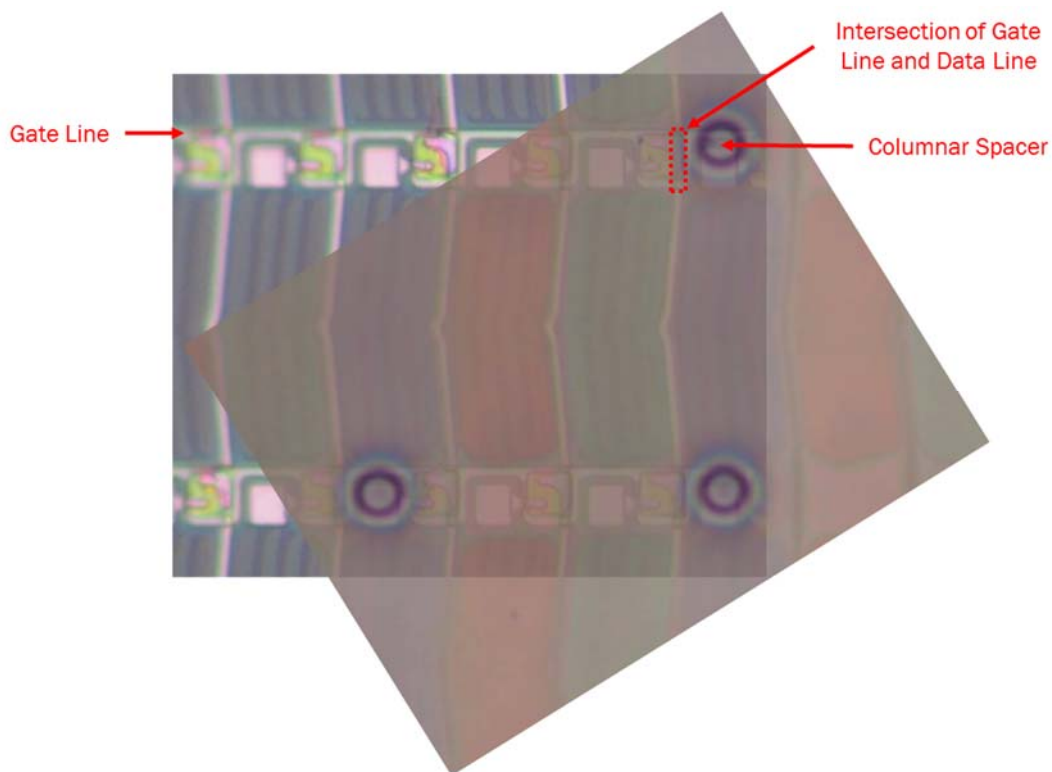
31. The Accused Panel also has a first interlayer film coating the data line and a first orientation film coating the first interlayer insulating film, as shown below.



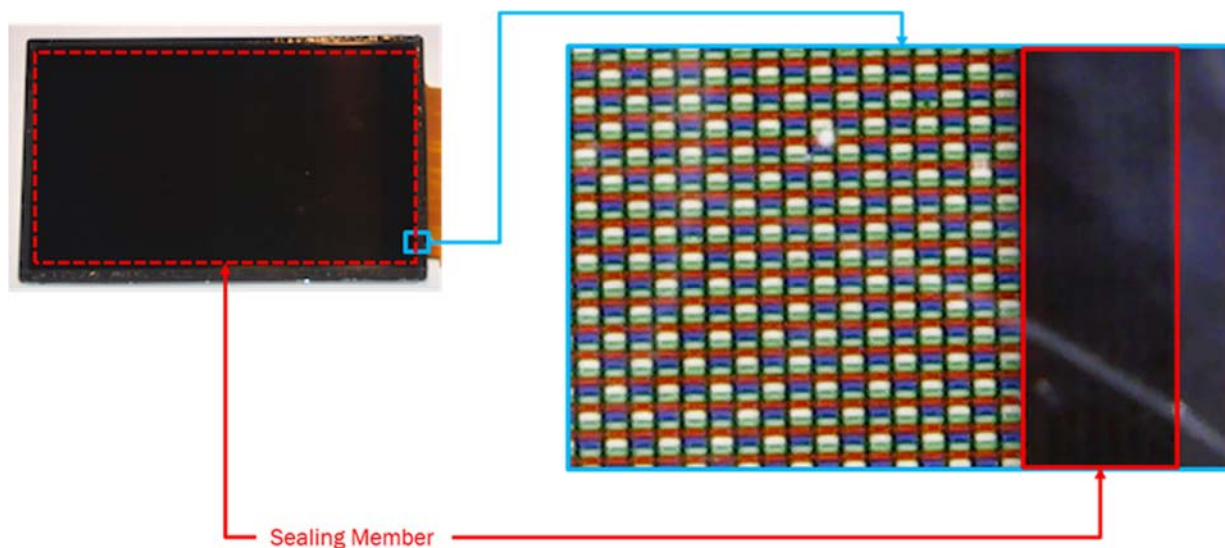
32. As shown below, the Accused Panel has a second substrate (e.g., color filter layer) with a light shielding film (e.g., black matrix) opposite to a gate line and a second interlayer insulating film coating the light shielding film.



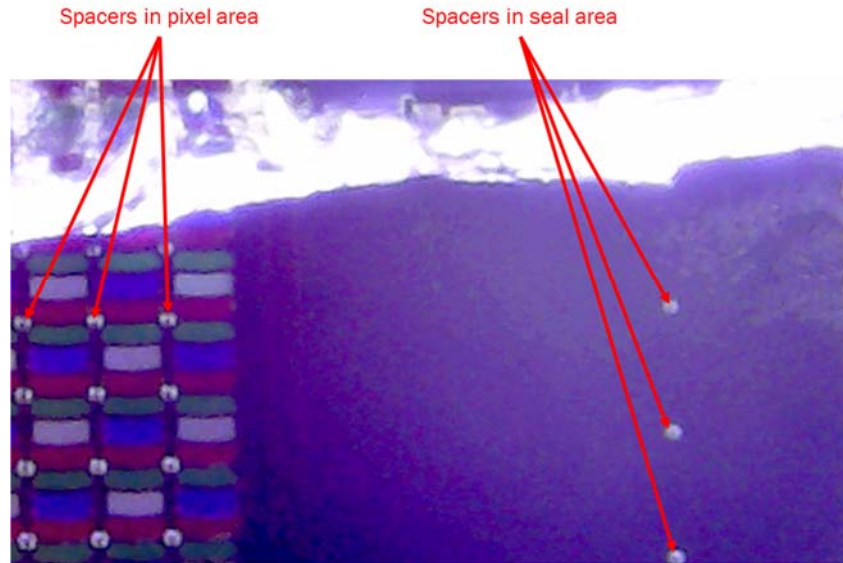
33. The Accused Panel shown below has a columnar spacer located above the gate line apart from the intersection of the gate and data lines.



34. The Asserted Patents also cover Accused Panels, such as model no. LPM030M369H (utilized in Fujifilm camera model no. X-T100), that include a seal along the periphery of a liquid crystal layer, as shown below.

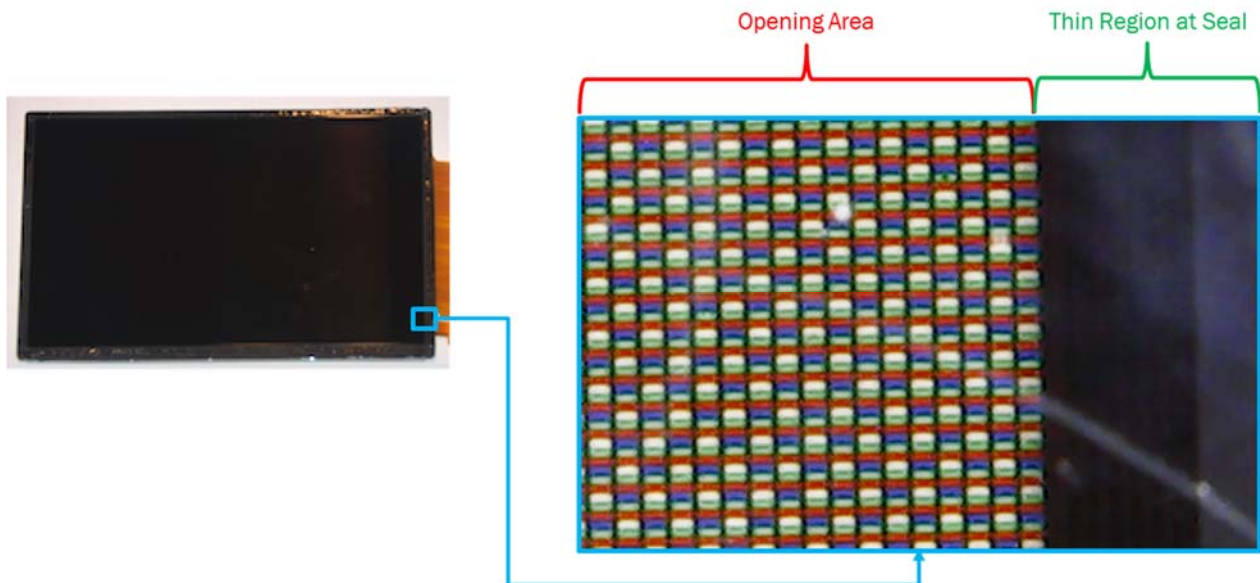


35. The Accused Panel shown below has a spacer in the seal to make a gap between the array substrate and the opposing substrate constant.

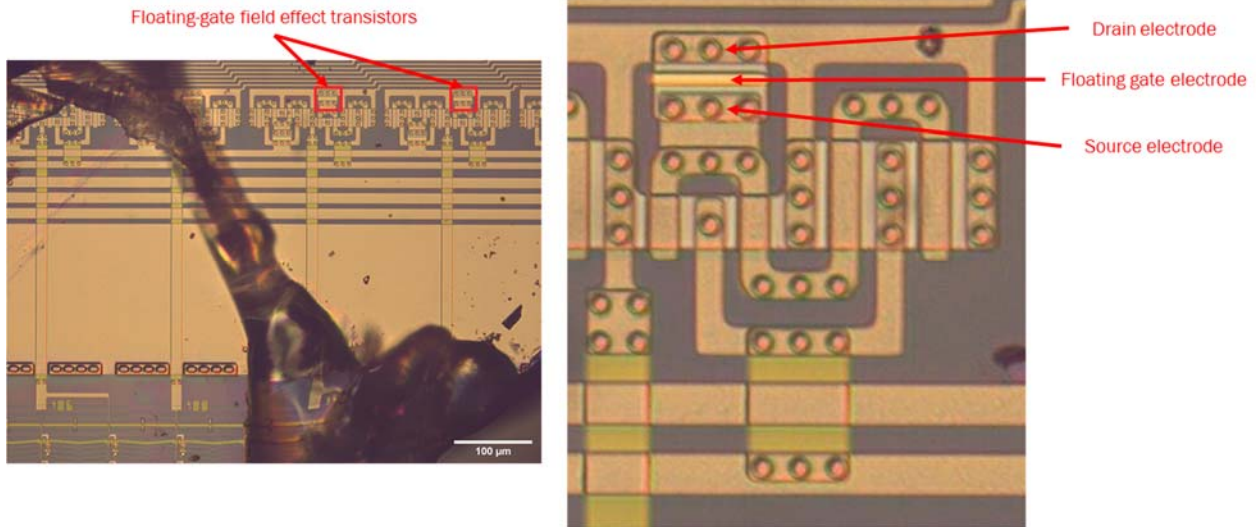


36. The Accused Panel also has a leveling layer formed on the switching element array.

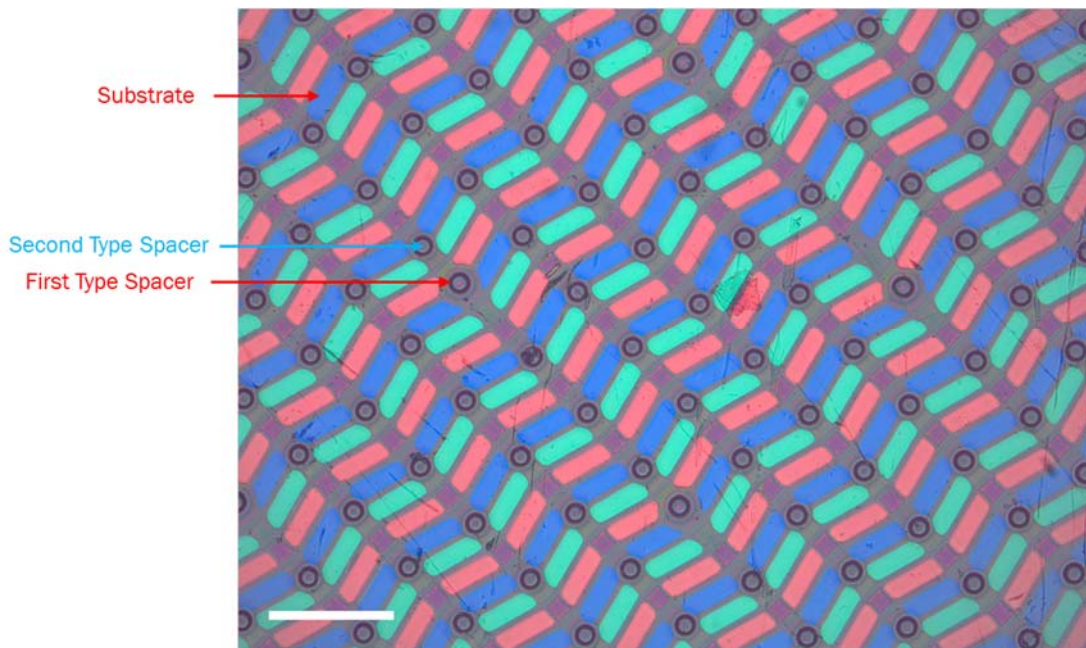
As shown below, the leveling layer has an opening area and a thin region at the seal.



37. The Accused Panel also includes, as shown below, a plurality of floating-gate field effect transistors, each having a channel capacitance and including a floating gate electrode, a source electrode, and a drain electrode.



38. The Asserted Patents also cover Accused Panels, such as model no. LPM055A291A (utilized in the OnePlus 2 mobile phone), that include a substrate with a spacer structure. As shown below, the spacer structure includes two types of spacers with one that is shorter than the other.



COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 7,046,327)

39. Plaintiff incorporates paragraphs 1 through 38 herein by reference.

40. VPV is the assignee of the '327 patent, entitled "Liquid crystal display device including columnar spacer above gate line," with ownership of all substantial rights in the '327 patent, including the right to exclude others and to enforce, sue, and recover damages for past and future infringements.

41. The '327 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code. The '327 patent issued from U.S. Patent Application No. 10/833,318.

42. JDI has and continues to directly and/or indirectly infringe (by inducing infringement) one or more claims of the '327 patent in this judicial district and elsewhere in Texas and the United States.

43. Upon information and belief, JDI designs, develops, manufactures, assembles and markets flat panel displays and most of its products are TFT-LCD panels. *See JDI's LCD Technology*, JAPAN DISPLAY INC., <https://www.j-display.com/english/technology/jdilcdtech.html> (last visited Sept. 29, 2019).

44. JDI directly infringes the '327 patent via 35 U.S.C. § 271(a) by making, offering for sale, selling, and/or importing those Accused Panels, their components, and/or products containing same that incorporate the fundamental technologies covered by the '327 patent to, for example, its alter egos, agents, intermediaries, distributors, importers, customers, subsidiaries, and/or consumers. Furthermore, upon information and belief, JDI sells and makes Accused Panels outside of the United States, delivers those products to its customers, distributors, and/or subsidiaries in the United States, or in the case that it delivers the Accused Panels outside of the United States it does so intending and/or knowing that those panels are destined for the United States and/or designing those products for sale in the United States, thereby directly infringing the

'327 patent. *See, e.g., Lake Cherokee Hard Drive Techs., L.L.C. v. Marvell Semiconductor, Inc.*, 964 F. Supp. 2d 653, 658 (E.D. Tex. 2013). Furthermore, JDI directly infringes the '327 patent through its direct involvement in the activities of its subsidiaries, including JDI-A, including by selling and offering for sale the Accused Panels directly to JDI-A and importing the Accused Panels into the United States for JDI-A. Upon information and belief, JDI-A conducts activities that constitutes direct infringement of the '327 patent under 35 U.S.C. § 271(a) by making, offering for sale, selling, and/or importing those Accused Panels. JDI is vicariously liable for this infringing conduct of JDI-A (under both the alter ego and agency theories) because, as an example and on information and belief, JDI and JDI-A are essentially the same company, and JDI has the right and ability to control JDI-A's infringing acts and receives a direct financial benefit from JDI-A's infringement.

45. For example, JDI infringes claim 1 of the '327 patent via Accused Panels such as model no. LAM062M109A 2N6I519997 utilized in the Nintendo Switch. That Accused Panel includes a "liquid crystal display device including" each of the limitations of claim 1. The technology discussion above and the example Accused Panel provide context for Plaintiff's allegations that each of those limitations are met. For example, the Accused Panel includes a first substrate, a second substrate, and a liquid crystal layer sandwiched between the first and second substrates, the device comprising, on the first substrate: a gate line; a common line parallel to the gate line; a data line intersecting the gate line while sandwiching a gate insulating film on the gate line therebetween; a first interlayer insulating film coating the data line; and a first orientation film coating the first interlayer insulating film, and the device comprising, on the second substrate: a light shielding film opposite to the gate line; a second interlayer insulating film coating the light shielding film; a columnar spacer located above the gate line apart from an intersection of the gate

line and the data line and provided on the second interlayer insulating film; and a second orientation film coating the second interlayer insulating film and the columnar spacer, wherein a center of a top of the columnar spacer is shifted from above a widthwise center of the gate line toward above the common line, and the top of the columnar spacer partially overruns from above the gate line toward above the common line when viewed from the above, the top being directed to the first substrate.

46. At a minimum, JDI has known of the '327 patent at least as early as the filing date of the complaint. In addition, JDI has known of the '327 patent since at least February 16, 2018 when a letter providing notice of the infringement of the '327 patent was sent to Mr. Ulysses Hui, General Counsel of Japan Display Group America.

47. Upon information and belief, since at least the above-mentioned date when JDI was on notice of its infringement, JDI has actively induced, under U.S.C. § 271(b), distributors, customers, subsidiaries, importers, and/or consumers that import, purchase, or sell TFT-LCD panels that include all of the limitations of one or more claims of the '327 patent to directly infringe one or more claims of the '327 patent by using, offering for sale, selling, and/or importing the TFT-LCD panels. Since at least the notice provided on the above-mentioned date, JDI does so with knowledge, or with willful blindness of the fact, that the induced acts constitute infringement of the '327 patent. Upon information and belief, JDI intends to cause, and has taken affirmative steps to induce infringement by the distributors, importers, customers, subsidiaries, and/or consumers by, inter alia, creating advertisements that promote the infringing use of the TFT-LCD panels, creating established distribution channels for the TFT-LCD panels into and within the United States, manufacturing the TFT-LCD panels in conformity with U.S. laws and regulations, distributing or making available instructions or manuals for these products to purchasers and

prospective buyers, and/or providing technical support, replacement parts, or services for these products to these purchasers in the United States. *See, e.g., Global Network*, JAPAN DISPLAY INC., <https://www.j-display.com/english/company/overseas.html> (last visited Sept. 29, 2019) (listing its U.S. sales subsidiary Japan Display America, Inc. as part of a global sales network).

48. On information and belief, despite having knowledge of the '327 patent and knowledge that it is directly and/or indirectly infringing one or more claims of the '327 patent, JDI has nevertheless continued its infringing conduct and disregarded an objectively high likelihood of infringement. JDI's infringing activities relative to the '327 patent have been, and continue to be, willful, wanton, malicious, in bad-faith, deliberate, consciously wrongful, flagrant, characteristic of a pirate, and an egregious case of misconduct beyond typical infringement such that Plaintiff is entitled under 35 U.S.C. § 284 to enhanced damages up to three times the amount found or assessed.

49. VPV has been damaged as a result of JDI's infringing conduct described in this Count. JDI is, thus, liable to VPV in an amount that adequately compensates VPV for JDI's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT II

(INFRINGEMENT OF U.S. PATENT NO. 6,870,593)

50. Plaintiff incorporates paragraphs 1 through 49 herein by reference.

51. VPV is the assignee of the '593 patent, entitled "Liquid Crystal Display cell with improved spacer structure," with ownership of all substantial rights in the '593 patent, including the right to exclude others and to enforce, sue, and recover damages for past and future infringements.

52. The '593 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code. The '593 patent issued from U.S. Patent Application No. 10/242,604.

53. JDI has and continues to directly and/or indirectly infringe (by inducing infringement) one or more claims of the '593 patent in this judicial district and elsewhere in Texas and the United States.

54. Upon information and belief, JDI designs, develops, manufactures, assembles and markets flat panel displays and most of its products are TFT-LCD panels. *See JDI's LCD Technology*, JAPAN DISPLAY INC., <https://www.j-display.com/english/technology/jdilcdtech.html> (last visited Sept. 29, 2019).

55. JDI directly infringes the '593 patent via 35 U.S.C. § 271(a) by making, offering for sale, selling, and/or importing those Accused Panels, their components, and/or products containing same that incorporate the fundamental technologies covered by the '593 patent to, for example, its alter egos, agents, intermediaries, distributors, importers, customers, subsidiaries, and/or consumers. Furthermore, upon information and belief, JDI sells and makes Accused Panels outside of the United States, delivers those products to its customers, distributors, and/or subsidiaries in the United States, or in the case that it delivers the Accused Panels outside of the United States it does so intending and/or knowing that those panels are destined for the United States and/or designing those products for sale in the United States, thereby directly infringing the '593 patent. *See, e.g., Lake Cherokee Hard Drive Techs., L.L.C. v. Marvell Semiconductor, Inc.*, 964 F. Supp. 2d 653, 658 (E.D. Tex. 2013). Furthermore, JDI directly infringes the '593 patent through its direct involvement in the activities of its subsidiaries, including JDI-A, including by selling and offering for sale the Accused Panels directly to JDI-A and importing the Accused

Panels into the United States for JDI-A. Upon information and belief, JDI-A conducts activities that constitutes direct infringement of the '593 patent under 35 U.S.C. § 271(a) by making, offering for sale, selling, and/or importing those Accused Panels. JDI is vicariously liable for this infringing conduct of JDI-A (under both the alter ego and agency theories) because, as an example and on information and belief, JDI and JDI-A are essentially the same company, and JDI has the right and ability to control JDI-A's infringing acts and receives a direct financial benefit from JDI-A's infringement.

56. For example, JDI infringes claim 1 of the '593 patent via JDI's Accused Panels such as model no. LPM055A291A utilized in the OnePlus 2. That Accused Panel includes a "[a] liquid crystal display cell including" each of the limitations of claim 1. The technology discussion above and the example Accused Panel provide context for Plaintiff's allegations that each of those limitations are met. For example, the Accused Panel includes a first substrate, a second substrate, a liquid crystal layer interposed between said first and second substrates; and a plurality of horizontal signal lines intersecting said vertical signal lines; and a spacer structure on said second substrate, and said spacer structure further including: at least a first type spacer having a first height, at least a second type spacer having a second height which is smaller than said first height, wherein said first type spacer comprises a first color filter layer over said second substrate, and a first column-shaped spacer over said first color filter layer, and said second type spacer comprises a second color filter layer over said second substrate, and a second column-shaped spacer over said second color filter layer, wherein said first and second color filter layers have the same thickness or height, while said first column-shaped spacer is larger in height than said second column-shaped spacer.

57. At a minimum, JDI has known of the '593 patent at least as early as the filing date of the complaint. In addition, JDI has known of the '593 patent since at least February 16, 2018 when a letter providing notice of the infringement of the '593 patent was sent to Mr. Ulysses Hui, General Counsel of Japan Display Group America.

58. Upon information and belief, since at least the above-mentioned date when JDI was on notice of its infringement, JDI has actively induced, under U.S.C. § 271(b), distributors, customers, subsidiaries, importers, and/or consumers that import, purchase, or sell TFT-LCD panels that include all of the limitations of one or more claims of the '593 patent to directly infringe one or more claims of the '593 patent by using, offering for sale, selling, and/or importing the TFT-LCD panels. Since at least the notice provided on the above-mentioned date, JDI does so with knowledge, or with willful blindness of the fact, that the induced acts constitute infringement of the '593 patent. Upon information and belief, JDI intends to cause, and has taken affirmative steps to induce infringement by the distributors, importers, customers, subsidiaries, and/or consumers by, inter alia, creating advertisements that promote the infringing use of the TFT-LCD panels, creating established distribution channels for the TFT-LCD panels into and within the United States, manufacturing the TFT-LCD panels in conformity with U.S. laws and regulations, distributing or making available instructions or manuals for these products to purchasers and prospective buyers, and/or providing technical support, replacement parts, or services for these products to these purchasers in the United States. *See, e.g., Global Network*, JAPAN DISPLAY INC., <https://www.j-display.com/english/company/overseas.html> (last visited Sept. 29, 2019) (listing its U.S. sales subsidiary Japan Display America, Inc. as part of a global sales network).

59. On information and belief, despite having knowledge of the '593 patent and knowledge that it is directly and/or indirectly infringing one or more claims of the '593 patent, JDI

has nevertheless continued its infringing conduct and disregarded an objectively high likelihood of infringement. JDI's infringing activities relative to the '593 patent have been, and continue to be, willful, wanton, malicious, in bad-faith, deliberate, consciously wrongful, flagrant, characteristic of a pirate, and an egregious case of misconduct beyond typical infringement such that Plaintiff is entitled under 35 U.S.C. § 284 to enhanced damages up to three times the amount found or assessed.

60. VPV has been damaged as a result of JDI's infringing conduct described in this Count. JDI is, thus, liable to VPV in an amount that adequately compensates VPV for JDI's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT III

(INFRINGEMENT OF U.S. PATENT NO. 6,812,528)

61. Plaintiff incorporates paragraphs 1 through 60 herein by reference.

62. VPV is the assignee of the '528 patent, entitled "Surge protection circuit for semiconductor devices," with ownership of all substantial rights in the '528 patent, including the right to exclude others and to enforce, sue, and recover damages for past and future infringements.

63. The '528 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code. The '528 patent issued from U.S. Patent Application No. 09/874,296.

64. JDI has and continues to directly and/or indirectly infringe (by inducing infringement) one or more claims of the '528 patent in this judicial district and elsewhere in Texas and the United States.

65. Upon information and belief, JDI designs, develops, manufactures, assembles and markets flat panel displays and most of its products are TFT-LCD panels. *See JDI's LCD Technology*, JAPAN DISPLAY INC., <https://www.j-display.com/english/technology/jdilcdtech.html> (last visited Sept. 29, 2019).

66. JDI directly infringes the '528 patent via 35 U.S.C. § 271(a) by making, offering for sale, selling, and/or importing those Accused Panels, their components, and/or products containing same that incorporate the fundamental technologies covered by the '528 patent to, for example, its alter egos, agents, intermediaries, distributors, importers, customers, subsidiaries, and/or consumers. Furthermore, upon information and belief, JDI sells and makes Accused Panels outside of the United States, delivers those products to its customers, distributors, and/or subsidiaries in the United States, or in the case that it delivers the Accused Panels outside of the United States it does so intending and/or knowing that those panels are destined for the United States and/or designing those products for sale in the United States, thereby directly infringing the '528 patent. *See, e.g., Lake Cherokee Hard Drive Techs., L.L.C. v. Marvell Semiconductor, Inc.*, 964 F. Supp. 2d 653, 658 (E.D. Tex. 2013). Furthermore, JDI directly infringes the '528 patent through its direct involvement in the activities of its subsidiaries, including JDI-A, including by selling and offering for sale the Accused Panels directly to JDI-A and importing the Accused Panels into the United States for JDI-A. Upon information and belief, JDI-A conducts activities that constitutes direct infringement of the '528 patent under 35 U.S.C. § 271(a) by making, offering for sale, selling, and/or importing those Accused Panels. JDI is vicariously liable for this infringing conduct of JDI-A (under both the alter ego and agency theories) because, as an example and on information and belief, JDI and JDI-A are essentially the same company, and JDI has the

right and ability to control JDI-A's infringing acts and receives a direct financial benefit from JDI-A's infringement.

67. For example, JDI infringes claim 23 of the '528 patent via Accused Panels such as model no. LPM030M369H utilized in Fujifilm X-T100. That Accused Panel includes a "surge protection circuit for a semiconductor display panel, comprising" each of the limitations of claim 23. The technology discussion above and the example Accused Panel provide context for Plaintiff's allegations that each of those limitations are met. For example, the Accused Panel includes a plurality of vertical signal lines; a plurality of horizontal signal lines intersecting said vertical signal lines; and a plurality of floating-gate field effect transistors, each having a channel capacitance and including a floating gate electrode, a source electrode and a drain electrode, said source and drain electrodes of each of said transistors being respectively connected to said vertical signal lines, each of said transistors being responsive to the respective vertical signal line being subjected to a surge potential for developing a voltage on said channel capacitance sufficient to turn on said floating-gate field effect transistor and establish a low-impedance path to ground.

68. At a minimum, JDI has known of the '528 patent at least as early as the filing date of the complaint. In addition, JDI has known of the '528 patent since at least February 16, 2018 when a letter providing notice of the infringement of the '528 patent was sent to Mr. Ulysses Hui, General Counsel of Japan Display Group America.

69. Upon information and belief, since at least the above-mentioned date when JDI was on notice of its infringement, JDI has actively induced, under U.S.C. § 271(b), distributors, customers, subsidiaries, importers, and/or consumers that import, purchase, or sell TFT-LCD panels that include all of the limitations of one or more claims of the '528 patent to directly infringe one or more claims of the '528 patent by using, offering for sale, selling, and/or importing the

TFT-LCD panels. Since at least the notice provided on the above-mentioned date, JDI does so with knowledge, or with willful blindness of the fact, that the induced acts constitute infringement of the '528 patent. Upon information and belief, JDI intends to cause, and has taken affirmative steps to induce infringement by the distributors, importers, customers, subsidiaries, and/or consumers by, inter alia, creating advertisements that promote the infringing use of the TFT-LCD panels, creating established distribution channels for the TFT-LCD panels into and within the United States, manufacturing the TFT-LCD panels in conformity with U.S. laws and regulations, distributing or making available instructions or manuals for these products to purchasers and prospective buyers, and/or providing technical support, replacement parts, or services for these products to these purchasers in the United States. *See, e.g., Global Network, JAPAN DISPLAY INC.*, <https://www.j-display.com/english/company/overseas.html> (last visited Sept. 29, 2019) (listing its U.S. sales subsidiary Japan Display America, Inc. as part of a global sales network).

70. Upon information and belief, despite having knowledge of the '528 patent and knowledge that it is directly and/or indirectly infringing one or more claims of the '528 patent, JDI has nevertheless continued its infringing conduct and disregarded an objectively high likelihood of infringement. JDI's infringing activities relative to the '528 patent have been, and continue to be, willful, wanton, malicious, in bad-faith, deliberate, consciously wrongful, flagrant, characteristic of a pirate, and an egregious case of misconduct beyond typical infringement such that Plaintiff is entitled under 35 U.S.C. § 284 to enhanced damages up to three times the amount found or assessed.

71. VPV has been damaged as a result of JDI's infringing conduct described in this Count. JDI is, thus, liable to VPV in an amount that adequately compensates VPV for JDI's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and

costs as fixed by this Court under 35 U.S.C. § 284.

COUNT IV

(INFRINGEMENT OF U.S. PATENT NO. 6,549,259)

72. Plaintiff incorporates paragraphs 1 through 71 herein by reference.

73. VPV is the assignee of the '259 patent, entitled "Liquid crystal display panel and fabrication method of the same," with ownership of all substantial rights in the '259 patent, including the right to exclude others and to enforce, sue, and recover damages for past and future infringements.

74. The '259 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code. The '259 patent issued from U.S. Patent Application No. 09/780,382.

75. JDI has and continues to directly and/or indirectly infringe (by inducing infringement) one or more claims of the '259 patent in this judicial district and elsewhere in Texas and the United States.

76. Upon information and belief, JDI designs, develops, manufactures, assembles and markets flat panel displays and most of its products are TFT-LCD panels. *See JDI's LCD Technology*, JAPAN DISPLAY INC., <https://www.j-display.com/english/technology/jdilcdtech.html> (last visited Sept. 29, 2019).

77. JDI directly infringes the '259 patent via 35 U.S.C. § 271(a) by making, offering for sale, selling, and/or importing those Accused Panels, their components, and/or products containing same that incorporate the fundamental technologies covered by the '259 patent to, for example, its alter egos, agents, intermediaries, distributors, importers, customers, subsidiaries, and/or consumers. Furthermore, upon information and belief, JDI sells and makes Accused Panels

outside of the United States, delivers those products to its customers, distributors, and/or subsidiaries in the United States, or in the case that it delivers the Accused Panels outside of the United States it does so intending and/or knowing that those panels are destined for the United States and/or designing those products for sale in the United States, thereby directly infringing the '259 patent. *See, e.g., Lake Cherokee Hard Drive Techs., L.L.C. v. Marvell Semiconductor, Inc.*, 964 F. Supp. 2d 653, 658 (E.D. Tex. 2013). Furthermore, JDI directly infringes the '259 patent through its direct involvement in the activities of its subsidiaries, including JDI-A, including by selling and offering for sale the Accused Panels directly to JDI-A and importing the Accused Panels into the United States for JDI-A. Upon information and belief, JDI-A conducts activities that constitutes direct infringement of the '259 patent under 35 U.S.C. § 271(a) by making, offering for sale, selling, and/or importing those Accused Panels. JDI is vicariously liable for this infringing conduct of JDI-A (under both the alter ego and agency theories) because, as an example and on information and belief, JDI and JDI-A are essentially the same company, and JDI has the right and ability to control JDI-A's infringing acts and receives a direct financial benefit from JDI-A's infringement.

78. For example, JDI infringes claim 1 of the '259 patent via Accused Panels such as model no. LPM030M369H utilized in Fujifilm X-T100. That Accused Panel includes a "liquid crystal display panel comprising" each of the limitations of claim 1. The technology discussion above and the example Accused Panel provide context for Plaintiff's allegations that each of those limitations are met. For example, the Accused Panel includes an array substrate having a switching element array; an opposing substrate opposing to said array substrate; a liquid crystal layer disposed between said array substrate and said opposing substrate; a seal member sealing said liquid crystal layer within said display panel; a spacer disposed within said seal member so as to

make a gap between said array substrate and said opposing substrate constant; and a leveling layer formed on said switching element array, said leveling layer being provided with one of an opening area and a thin region at a seal area of said seal member, said thin region being thinner than thickness of said leveling layer on each switching element of said switching element array.

79. JDI further infringes the '259 patent via 35 U.S.C. § 271(g) by selling, offering to sell, and/or importing TFT-LCD panels, their components, and/or products containing same, that are made by a process covered by the '259 patent. Upon information and belief, the infringing TFT-LCD panels, their components, and/or products containing same are not materially changed by subsequent processes, and they are neither trivial nor nonessential components of another product.

80. At a minimum, JDI has known of the '259 patent at least as early as the filing date of the complaint. In addition, JDI has known of the '259 patent since at least February 16, 2018 when a letter providing notice of the infringement of the '259 patent was sent to Mr. Ulysses Hui, General Counsel of Japan Display Group America.

81. Upon information and belief, since at least the above-mentioned date when JDI was on notice of its infringement, JDI has actively induced, under U.S.C. § 271(b), distributors, customers, subsidiaries, importers, and/or consumers that import, purchase, or sell TFT-LCD panels that include or are made using all of the limitations of one or more claims of the '259 patent to directly infringe one or more claims of the '259 patent by using, offering for sale, selling, and/or importing the TFT-LCD panels. Since at least the notice provided on the above-mentioned date, JDI does so with knowledge, or with willful blindness of the fact, that the induced acts constitute infringement of the '259 patent. Upon information and belief, JDI intends to cause, and has taken affirmative steps to induce infringement by distributors, importers (including

inducement to import in violation of § 271(g)), customers, subsidiaries, and/or consumers by, *inter alia*, creating advertisements that promote the infringing use of the TFT-LCD panels, creating established distribution channels for the TFT-LCD panels into and within the United States, manufacturing the TFT-LCD panels in conformity with U.S. laws and regulations, distributing or making available instructions or manuals for these products to purchasers and prospective buyers, and/or providing technical support, replacement parts, or services for these products to these purchasers in the United States. *See, e.g., Global Network*, JAPAN DISPLAY INC., <https://www.j-display.com/english/company/overseas.html> (last visited Sept. 29, 2019) (listing its U.S. sales subsidiary Japan Display America, Inc. as part of a global sales network).

82. Upon information and belief, despite having knowledge of the '259 patent and knowledge that it is directly and/or indirectly infringing one or more claims of the '259 patent, JDI has nevertheless continued its infringing conduct and disregarded an objectively high likelihood of infringement. JDI's infringing activities relative to the '259 patent have been, and continue to be, willful, wanton, malicious, in bad-faith, deliberate, consciously wrongful, flagrant, characteristic of a pirate, and an egregious case of misconduct beyond typical infringement such that Plaintiff is entitled under 35 U.S.C. § 284 to enhanced damages up to three times the amount found or assessed.

83. VPV has been damaged as a result of JDI's infringing conduct described in this Count. JDI is, thus, liable to VPV in an amount that adequately compensates VPV for JDI's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

CONCLUSION

84. Plaintiff is entitled to recover from JDI the damages sustained by Plaintiff as a result of JDI's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court.

85. Plaintiff has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute may give rise to an exceptional case within the meaning of 35 U.S.C. § 285, and Plaintiff is entitled to recover its reasonable and necessary attorneys' fees, costs, and expenses.

JURY DEMAND

86. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

87. Plaintiff respectfully requests that the Court find in its favor and against JDI, and that the Court grant Plaintiff the following relief:

1. A judgment that JDI has infringed the Asserted Patents as alleged herein, directly and/or indirectly by way of inducing infringement of such patents;
2. A judgment for an accounting of all damages sustained by Plaintiff as a result of the acts of infringement by JDI;
3. A judgment and order requiring JDI to pay Plaintiff damages under 35 U.S.C. § 284, including up to treble damages as provided by 35 U.S.C. § 284, and any royalties determined to be appropriate;
4. A judgment and order requiring JDI to pay Plaintiff pre-judgment and post-judgment interest on the damages awarded;

5. A judgment and order finding this to be an exceptional case and requiring JDI to pay the costs of this action (including all disbursements) and attorneys' fees as provided by 35 U.S.C. § 285; and
6. Such other and further relief as the Court deems just and equitable.

Dated: September 30, 2019

Respectfully submitted,

/s/ Patrick J. Conroy by permission Claire Henry

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