

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

PLASMA PHYSICS CORPORATION and
SOLAR PHYSICS CORPORATION,

Plaintiffs,

v.

HYUNDAI ELECTRONICS INDUSTRIES CO., LTD.,
HYUNDAI ELECTRONICS AMERICA, and
HYUNDAI SEMICONDUCTOR AMERICA, INC.,

Defendants.

Civil Action
No. **4554**

**JURY TRIAL
DEMANDED**

COMPLAINT

This complaint is filed to effectuate Judge Wexler's July 24, 2000 oral ruling with respect to Hyundai Electronics Industries Co., Ltd., Hyundai Electronics America, Hyundai Semiconductor America, Inc., LG Semicon Co., Ltd. and LG Semicon America Inc., and Civil Action No. CV-99-8593. In accordance with Judge Wexler's ruling, the filing date of this complaint relates back to the December 28, 1999 filing date for Civil Action No. CV-99-8593 for all substantive issues in the original complaints, including damages pursuant to 35 U.S.C. § 286. Therefore, plaintiffs, Plasma Physics Corporation ("Plasma Physics") and Solar Physics Corporation ("Solar Physics"), for their separate complaint against defendants, Hyundai Electronics Industries Co., Ltd., Hyundai Electronics America, and Hyundai Semiconductor America, Inc., allege as follows:

1

JURISDICTION

1. This is an action for patent infringement under the laws of the United States, Title 35, United States Code. Jurisdiction and venue are based on Sections 1338(a), 1391(b), 1391(c), 1391(d), and/or 1400(b) of Title 28, United States Code.

PARTIES

2. Plaintiff Plasma Physics is a New York corporation with its principal place of business at 40 Overlook Road, Locust Valley, New York 11560, within this judicial district.

3. Plaintiff Solar Physics is a New York corporation with its principal place of business at 40 Overlook Road, Locust Valley, New York 11560, within this judicial district.

4. Upon information and belief, defendant Hyundai Electronics Industries Co., Ltd. is a South Korean corporation having a place of business at San 136-1, Ami-ri Bubal-eub, Ichon-Si Kyoungki-Do, Korea 467-860. Upon information and belief, in connection with the acts of infringement complained of herein, Hyundai Electronics Industries Co., Ltd. has and is (a) transacting business within New York, (b) contracting to supply goods or services in New York, (c) committing tortious acts within New York, and/or (d) committing tortious acts without New York causing injury to persons and property within New York, and (i) regularly does or solicits business, or derives substantial revenue from goods used or consumed or services rendered, in New York or (ii) expects or should reasonably expect its tortious acts to have consequences in

New York and derives substantial revenue from interstate or international commerce. In addition, upon information and belief, Hyundai Electronics Industries Co., Ltd. has and is, in connection with the acts of infringement complained of herein, purposely directing into the stream of commerce semiconductor and flat panel display components included in Hyundai electronic products or to be included in electronic products made by others with the expectation that such electronic products will be purchased and used in New York.

5. Upon information and belief, defendant Hyundai Electronics America, a wholly owned subsidiary of Hyundai Electronic Industries Co., Ltd., is a California corporation with a place of business at 3101 N. First Street, San Jose, California 95134, and is doing business in New York. Upon information and belief, in connection with the acts of infringement complained of herein, Hyundai Electronics America, Inc. has and is (a) transacting business within New York, (b) contracting to supply goods or services in New York, (c) committing tortious acts within New York, and/or (d) committing tortious acts without New York causing injury to persons and property within New York, and (i) regularly does or solicits business, or derives substantial revenue from goods used or consumed or services rendered, in New York or (ii) expects or should reasonably expect its tortious acts to have consequences in New York and derives substantial revenue from interstate or international commerce. In addition, upon information and belief, Hyundai Electronics America has and is, in connection with the acts of infringement complained of herein, purposely directing into the stream of commerce semiconductor and flat panel display components included in

Hyundai electronic products or to be included in electronic products made by others with the expectation that such electronic products will be purchased and used in New York.

6. Upon information and belief, defendant Hyundai Semiconductor America, Inc., a wholly owned subsidiary of Hyundai Electronics Industries Co., Ltd., is a California corporation with a place of business at 1830 Willow Creek Circle, Eugene, Oregon 97402. Upon information and belief, in connection with the acts of infringement complained of herein, Hyundai Semiconductor America, Inc. is (a) transacting business within New York, (b) contracting to supply goods or services in New York, (c) committing tortious acts within New York, and/or (d) committing tortious acts without New York causing injury to persons and property within New York, and (i) regularly does or solicits business, or derives substantial revenue from goods used or consumed or services rendered, in New York or (ii) expects or should reasonably expect its tortious acts to have consequences in New York and derives substantial revenue from interstate or international commerce. In addition, upon information and belief, Hyundai Semiconductor America Inc. has and is, in connection with the acts of infringement complained of herein, purposely directing into the stream of commerce semiconductor components included in Hyundai electronic products or to be included in electronic products made by others with the expectation that such electronic products will be purchased and used in New York.

7. Upon information and belief, LG Semicon Co., Ltd. was a South Korea corporation with a place of business at LG YoundDong Bldg. 891, Daechi-dong, Seoul, 135-280 South Korea. Upon information and belief, in connection with the acts of

infringement complained of herein, LG Semicon Co., Ltd. has (a) transacted business within New York, (b) contracted to supply goods or services in New York, (c) committed tortious acts within New York, and/or (d) committed tortious acts without New York causing injury to persons and property within New York, and (i) regularly did or solicited business, or derived substantial revenue from goods used or consumed or services rendered, in New York or (ii) expected or should reasonably have expected its tortious acts to have consequences in New York and derived substantial revenue from interstate or international commerce. In addition, upon information and belief, LG Semicon Co., Ltd. has, in connection with the acts of infringement complained of herein, purposely directed into the stream of commerce semiconductor and flat panel display components included in LG electronic products or to be included in electronic products made by others with the expectation that such electronic products will be purchased and used in New York. Upon information and belief, LG Semicon Co., Ltd. no longer exists, and on October 14, 1999, its successor was merged into defendant Hyundai Electronics Industries Co., Ltd.

8. Upon information and belief, defendant LG Semicon America Inc., formerly a wholly owned subsidiary of LG Semicon Co., Ltd., was a California corporation having a place of business at 3003 North First Street, San Jose, California 95134-2004. Upon information and belief, in connection with the acts of infringement complained of herein, LG Semicon America Inc. has (a) transacted business within New York, (b) contracted to supply goods or services in New York, (c) committed tortious acts within New York, and/or (d) committed tortious acts without New York causing injury to persons and property within New York, and (i) regularly did or solicited

business, or derived substantial revenue from goods used or consumed or services rendered, in New York or (ii) expected or should reasonably have expected its tortious acts to have consequences in New York and derived substantial revenue from interstate or international commerce. In addition, upon information and belief, LG Semicon America Inc. has, in connection with the acts of infringement complained of herein, purposely directed into the stream of commerce semiconductor and flat panel display components included in LG electronic products or to be included in electronic products made by others with the expectation that such electronic products will be purchased and used in New York. Upon information and belief, LG Semicon America Inc. was merged into defendant Hyundai Electronics America in November 1999 and therefore no longer exists as a corporate entity.

THE PATENTS IN SUIT

9. United States Patent 4,226,897 (the “‘897 patent”), entitled “Method of Forming Semiconducting Materials and Barriers,” duly and legally issued to Plasma Physics on October 7, 1980, based on an application filed on December 5, 1977 by John H. Coleman. Plasma Physics is the owner of title to the ‘897 patent and has the right to recover for past infringement thereof with respect to the following subject matter areas: apparatus for performing plasma chemical vapor coating or plasma chemical vapor etching of disc-shaped wafers made of single crystal silicon, polycrystal silicon, single crystal III-V compounds or polycrystal III-V compounds; disc-shaped wafers made with such apparatus by plasma chemical vapor coating or plasma chemical vapor etching; and processes in combination with such apparatus (the “Excluded Subject Matter”). Solar

Physics is the exclusive licensee of the '897 patent and has the right to recover for past infringement thereof in all areas except the Excluded Subject Matter.

10. United States Patent 5,470,784 (the "'784 patent'"), entitled "Method of Forming Semiconducting Materials and Barriers Using A Multiple Chamber Arrangement," duly and legally issued to Plasma Physics on November 28, 1995, based on an application filed on September 23, 1992 by John H. Coleman. Plasma Physics is the owner of title to the '784 patent and has the right to recover for past infringement thereof in the areas of the Excluded Subject Matter. Solar Physics is the exclusive licensee of the '784 patent and has the right to recover for past infringement thereof in all areas except the Excluded Subject Matter.

11. United States Patent 5,543,634 (the "'634 patent'"), entitled "Method of Forming Semiconductor Materials and Barriers," duly and legally issued to Plasma Physics on August 6, 1996, based on an application filed on June 2, 1994 by John H. Coleman. Plasma Physics is the owner of title to the '634 patent and has the right to recover for past infringement thereof in the areas of the Excluded Subject Matter. Solar Physics is the exclusive licensee of the '634 patent and has the right to recover for past infringement thereof in all areas except the Excluded Subject Matter.

CLAIMS FOR PATENT INFRINGEMENT

12. Upon information and belief, defendants Hyundai Electronics Industries Co., Ltd., Hyundai Electronics America, and Hyundai Semiconductor America, Inc. have infringed one or more claims of the '897 and '784 patents, and are continuing to infringe one or more claims of the '784 patent, in violation of 35 U.S.C. §§ 271 (a), (b)

and/or (g) by making, using, offering to sell, selling and/or importing into the United States semiconductor wafer products made by processes claimed in the '897 and '784 patents and/or by actively inducing infringement of the claims of the '897 and '784 patents. After a reasonable opportunity for further investigation or discovery, it is likely that plaintiffs will establish that defendants Hyundai Electronics Industries Co., Ltd., and Hyundai Electronics America also have infringed and are continuing to infringe one or more claims of the '634 patent in violation of 35 U.S.C. §§ 271 (a) and/or (b) by making, using, offering to sell, selling and/or importing into the United States flat panel display cells and/or modules and/or products made thereafter and/or by actively inducing infringement of one or more claims of the '634 patent.

13. Notice of infringement has been given to Hyundai Electronics Industries Co., Ltd., and thereby also to its wholly owned subsidiaries Hyundai Electronics America, and Hyundai Semiconductor America, Inc.

14. Upon information and belief, Hyundai Electronics Industries Co., Ltd's., Hyundai Electronics America's, and Hyundai Semiconductor America, Inc's. infringement has been willful and deliberate.

15. Upon information and belief, LG Semicon Co., Ltd., and LG Semicon America Inc. have infringed one or more claims of the '897 and '784 patents in violation of 35 U.S.C. §§ 271 (a), (b) and/or (g) by making, using, offering to sell, selling and/or importing into the United States semiconductor wafer products made by a process claimed in one or more claims of the '897 and '784 patents and/or by actively inducing infringement of one or more claims of the '897 and '784 patents.

16. Notice of infringement has been given to LG Semicon Co. Ltd. and thereby also to its then wholly owned subsidiary LG Semicon America Inc.

17. Upon information and belief, LG Semicon Co. Ltd. and LG Semicon America Inc.'s infringement was willful and deliberate.

18. Plaintiffs incorporate by reference the averments set forth in paragraphs 7 and 8 of this complaint as if fully set forth herein. Accordingly, upon information and belief, Hyundai Electronics Industries Co., Ltd. and Hyundai Electronics America are liable for all of the past acts of infringement set forth herein and committed by LG Semicon Co. Ltd. and LG Semicon America Inc.

WHEREFORE, plaintiffs Plasma Physics Corporation and Solar Physics Corporation pray for judgment and relief against defendants, including:

A. Adjudging each of the '897, '784 and '634 patents to be not invalid and to be enforceable;

B. Adjudging that each of the defendants as well as LG Semicon Co., Ltd. and LG Semicon America Inc. has infringed and induced infringement of said patents;

C. Permanently enjoining Hyundai Electronics Industries Co., Ltd., Hyundai Electronics America, and Hyundai Semiconductor America, Inc., and their officers, agents, servants, employees, attorneys, all parent and subsidiary corporations, their assigns and successors in interest, and those persons in active concert or participation with any of them who receive notice of the injunction, including distributors and customers, from continuing acts of infringement of the '784 patent;

D. Permanently enjoining Hyundai Electronics Industries Co., Ltd., and Hyundai Electronics America, their officers, agents, servants, employees, attorneys, all parent and subsidiary corporations, their assigns and successors in interest, and those persons in active concert or participation with any of them who receive notice of the injunction, including distributors and customers, from continuing acts of infringement of the '634 patent;

E. Adjudging that an accounting be had for damages caused by the defendants' infringement, as well as the infringement of LG Semicon Co., Ltd. and LG Semicon America Inc., together with pre-judgment and post-judgment interest;

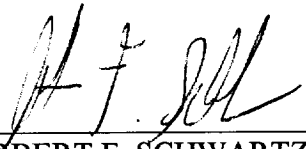
F. Adjudging that the defendants and LG Semicon Co., Ltd. and LG Semicon America Inc. are willful infringers and trebling the aforesaid damages pursuant to 35 U.S.C. § 284;

G. Adjudging that this case is an exceptional case and awarding Plasma Physics Corporation and Solar Physics Corporation their costs, expenses and reasonable attorney's fees pursuant to 35 U.S.C. § 285; and

H. Such other and further relief as this Court may deem just and proper.

Trial by Jury is hereby demanded.

Dated: August 4, 2000


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Attorneys for Plaintiffs,
Plasma Physics Corporation and
Solar Physics Corporation

JS 44
(Rev. 12/96)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

PLASMA PHYSICS CORPORATION AND
SOLAR PHYSICS CORPORATION

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Nassau
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Fish & Neave
1251 Avenue of the Americas
New York, NY 10020
(212) 596-9000

DEFENDANTS

HYUNDAI ELECTRONICS INDUSTRIES CO., LTD.
HYUNDAI ELECTRONICS AMERICA
HYUNDAI SEMICONDUCTOR AMERICA, INC.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT SEE ATTACHED
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

ATTORNEYS (IF KNOWN)

Morgan, Lewis & Bockius LLP
101 Park Avenue
New York, NY 10178-0060
(212) 309-6000

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input checked="" type="checkbox"/> 6 |

VI. ORIGIN

Refiling of Civil Action 99-8593 into separate cases

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL UNLESS DIVERSITY.)

This is an action for patent infringement arising under the Patent Laws of the United States, Title 35, United States Code, and more particularly under Sections 271, 281, 284 and 285 of that Title

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Wexler

DOCKET NUMBER 99-8593, 00-2199, 00-3146

DATE

August 9, 2000

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ARBITRATION CERTIFICATION

I, Herbert F. Schwartz, counsel for Plasma Physics Corporation and Solar Physics Corporation do hereby certify pursuant to the Local Civil Rule 83.10, at (d) (3), that to the best of my knowledge and belief the damages recoverable in the above captioned civil action exceed the sum of \$150,000 exclusive of interest and costs.

Injunctive Relief other than monetary damages is sought.

DISCLOSURE OF INTERESTED PARTIES - LOCAL CIVIL RULE 1.9

Identify any corporate parents, subsidiaries or affiliates of named corporate parties:

See separate statement

Did the cause arise in Nassau or Suffolk County? Yes

If you answered yes, please indicate which county. Nassau

County of residence of plaintiff(s) (1) Nassau
(2) Nassau
(3) _____

County of residence of defendant(s) (1) SEE ATTACHED
(2) _____
(3) _____

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes X

No _____

Are you currently the subject of any disciplinary action(s) in this or any other state or federal court?

Yes _____ (If yes, please explain)

No X

Please provide your E-MAIL Address and bar code below. Your bar code consist of the initials of your first and last name and the last four digits of your social security number or any other four digit number registered by the attorney with the Clerk of Court.

(This information must be provided pursuant to local rule 11.1(b) of the local civil rules) **ATTORNEY**

BAR CODE HS2599

E-MAIL ADDRESS HSCHWARTZ@FISHNEAVE.COM

Defendant	County of Residence
Hyundai Electronics Industries Co., Ltd.	San 136-1, Ami-ri Bubal-eub Ichon-Si Kyoungki-Do KOREA 467-860
Hyundai Electronics America	45 West 27th Street New York, NY 10001-6916 (New York County) 3101 North First Street San Jose, CA 95134
Hyundai Semiconductor America, Inc.	1830 Willow Creek Circle Eugene, OR 97402