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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION**

Steven F. Reiber and Mary L. Reiber,
Plaintiffs,

vs.

Western Digital Corp., Seagate Technology,
Toshiba America Information Systems, Inc.,
Hewlett-Packard Company, and Dell Inc.

Defendants.

CASE NO.

**COMPLAINT FOR
INFRINGEMENT OF UNITED
STATES PATENT NUMBERS
6,354,479; 6,651,864; and
6,935,548**

DEMAND FOR JURY TRIAL

Plaintiffs Steven F. Reiber and Mary L. Reiber (the "Reibers") bring this Complaint against Western Digital Corp. ("Western Digital"), Seagate Technology ("Seagate"), Toshiba America Information Systems, Inc. ("Toshiba"), Hewlett-Packard Company ("Hewlett-Packard"), and Dell Inc. ("Dell") (collectively, the "Defendants") for injunctive relief and for damages to remedy Defendants' infringement of United States Patent Nos. 6,354,479; 6,651,864; and 6,935,548. Steven F. Reiber also asserts a claim against Western Digital for misappropriation of

1 trade secret.

2 **JURISDICTION AND VENUE**

3 1. This Court has subject matter jurisdiction over this action pursuant to 28
4 U.S.C. §§ 1331 and 1338(a). This Court has supplemental jurisdiction pursuant to 28
5 U.S.C. § 1367(a) over Mr. Reiber's claim for relief pertaining to Western Digital's
6 misappropriation of trade secret, arising under California law, because this claim for
7 relief forms part of the same case or controversy.

8 2. This Court has personal jurisdiction over the Defendants because, on
9 information and belief, they sell and offer to sell infringing products in this District.

10 3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and
11 1400(b). The Reibers reside and have their principal place of business in this District.
12 Also, on information and belief, Defendants offer to sell and sell the infringing
13 products in this District.

14 **NATURE OF THE ACTION**

15 4. This is an action for patent infringement arising under the patent laws of
16 the United States, 35 U.S.C. § 1 et seq., and misappropriation of trade secret under
17 California Civil Code § 3426 et seq.

18 **THE PARTIES**

19 5. The Reibers reside in this District, having their principal place of
20 business at 867 Mossy Ridge Lane, Lincoln, California.

21 6. On information and belief, Western Digital is a Delaware corporation
22 with its principal place of business at 20511 Lake Forest Drive, City of Lake Forest,
23 California. On information and belief, Western Digital has hard disk drive
24 manufacturing operations in Malaysia and Thailand. On information and belief,
25 Western Digital manufactures hard disk drives outside the United States and imports
26 them into the United States for sale and offer for sale, including for sale in this
27 District.

28 7. On information and belief, Seagate is organized or incorporated under the

1 laws of the Cayman Islands, with its principal place of business at 920 Disc Drive,
2 Scotts Valley, California. On information and belief, Seagate has hard disk drive
3 manufacturing operations in China, Malaysia, and Thailand. On information and
4 belief, Seagate manufactures hard disk drives outside the United States and imports
5 them into the United States for sale and offer for sale, including for sale in this
6 District.

7 8. On information and belief, Toshiba is a California corporation with its
8 principal place of business at 9740 Irvine Blvd., Irvine, California. On information
9 and belief, Toshiba manufactures hard disk drives outside the United States and
10 imports them into the United States for sale and offer for sale, including for sale in
11 this District.

12 9. On information and belief, Hewlett-Packard is a Delaware corporation
13 with its principal place of business at 3000 Hanover Street, Palo Alto, California. On
14 information and belief, Hewlett-Packard manufactures products, including personal
15 computers, that contain hard disk drives manufactured outside the United States by
16 Seagate and Western Digital. On information and belief, Hewlett-Packard imports
17 such products into the United States for sale and offer for sale, including for sale in
18 this District.

19 10. On information and belief, Dell is a Delaware corporation with its
20 principal place of business at One Dell Way, Round Rock, Texas. On information and
21 belief, Dell manufactures products, including personal computers, that contain hard
22 disk drives manufactured outside the United States by Seagate and Western Digital.
23 On information and belief, Dell imports such products into the United States for sale
24 and offer for sale, including for sale in this District.

25 **THE PATENTS IN SUIT**

26 11. On March 12, 2002, the United States Patent and Trademark Office duly
27 and legally issued United States Patent No. 6,354,479 (the “479 patent”), entitled
28 “Dissipative Ceramic Bonding Tip.” A true and accurate copy of the ‘479 patent is

1 attached hereto as **Exhibit A**. Steven F. Reiber and Mary L. Reiber are the named
2 inventors of, and are the owners of, the '479 patent.

3 12. On November 25, 2003, the United States Patent and Trademark Office
4 duly and legally issued United States Patent No. 6,651,864 (the "'864 patent"),
5 entitled "Dissipative Ceramic Bonding Tool Tip." A true and accurate copy of the
6 '864 patent is attached hereto as **Exhibit B**. Steven F. Reiber and Mary L. Reiber are
7 the named inventors of, and are the owners of, the '864 patent.

8 13. On August 30, 2005, the United States Patent and Trademark Office duly
9 and legally issued United States Patent No. 6,935,548 (the "'548 patent"), entitled
10 "Dissipative Ceramic Bonding Tool Tip." A true and accurate copy of the '548 patent
11 is attached hereto as **Exhibit C**. Steven F. Reiber and Mary L. Reiber are the named
12 inventors of, and are the owners of, the '548 patent.

13 14. In general terms, the patents-in-suit are directed to dissipative bonding
14 tips used to form electrical connections, and methods of using such tips. The patented
15 tips and methods enable bonding of delicate electronic devices while avoiding damage
16 caused by electrostatic discharge. Such damage is avoided because the patented
17 dissipative tips conduct electricity at a rate sufficient to prevent electrostatic charge
18 buildup, but are sufficiently resistive as to prevent damage to the device being bonded.

19 15. The dissipative bonding tips claimed by the patents-in-suit are used in the
20 manufacture of hard disk drives. In particular, the tips are used to electrically
21 interconnect disk drive heads and preamplifiers.

22 16. By virtue of the patents-in-suit, the Reibers have the exclusive right to
23 exclude others from making, importing into the United States, using, offering to sell,
24 or selling the articles claimed therein and articles made by the methods claimed
25 therein. The Reibers have not licensed or otherwise authorized any Defendant to
26 make, import, use, offer to sell, or sell the articles claimed in these patents, and have
27 not licensed or otherwise authorized any Defendant to practice the methods claimed in
28 these patents.

DEFENDANTS' INFRINGEMENT

17. On information and belief, Western Digital, Seagate, and Toshiba (collectively, the "Hard Disk Drive Defendants"), without authority, import into the United States and/or offer to sell and sell within the United States, including within this District, products, including hard disk drives, made by one or more methods claimed by the '479 patent, the '864 patent, and the '548 patent.

18. On information and belief, Hewlett-Packard, Dell, and Toshiba (collectively, the "PC Defendants"), without authority, import into the United States and/or offer to sell and sell within the United States, including within this District, products, including personal computers, containing hard disk drives made by one or more of the Hard Disk Drive Defendants using one or more methods claimed by the '479 patent, the '864 patent, and the '548 patent.

19. At least as early as upon service of this Complaint, Defendants have actual knowledge of the '479 patent, the '864 patent, and the '548 patent, and their infringement thereof. Western Digital had actual knowledge of the '479 patent at least as of January 30, 2003. Moreover, on information and belief, Western Digital had notice of its infringement of the aforementioned patents and has been willfully infringing the patents at least as of October 26, 2006.

20. The hard disk drives incorporated into the products of the PC Defendants, including computers, are not trivial and non-essential components of such products.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 6,354,479

21. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 20 of this Complaint.

22. On information and belief, each of the Hard Disk Drive Defendants has infringed and continues to infringe the '479 patent by importing into the United States and/or offering to sell, selling, and/or using within the United States, products, including hard disk drives, which are made by one or more methods claimed by the

1 '479 patent, in violation of 35 U.S.C. § 271(g).

2 23. On information and belief, each of the PC Defendants has infringed and
3 continues to infringe the '479 patent by importing into the United States and/or
4 offering to sell, selling, and/or using within the United States, products, including
5 personal computers containing hard disk drives made by one or more of the Hard Disk
6 Drive Defendants using one or more methods claimed by the '479 patent, in violation
7 of 35 U.S.C. § 271(g).

8 24. On information and belief, Defendants will continue to infringe the '479
9 patent unless and until they are enjoined by this Court.

10 25. Western Digital had actual knowledge of the '479 patent at least as of
11 January 30, 2003. On information and belief, Western Digital had notice of its
12 infringement of the '479 patent and has been willfully infringing the patent at least as
13 of October 26, 2006. Also, on information and belief, at least as early as upon service
14 of this Complaint, the Defendants are willfully infringing the '479 patent.

15 26. Defendants' infringement of the '479 patent has caused and is continuing
16 to cause the Reibers irreparable harm, which is not fully compensable by money
17 damages. The Reibers will suffer further irreparable harm, for which they have no
18 adequate remedy at law, unless and until Defendants are enjoined.

19 27. Defendants' infringement of the '479 patent has caused, and is
20 continuing to cause, the Reibers to incur money damages, the precise amount of which
21 cannot be determined at this time.

22 **COUNT II**

23 **INFRINGEMENT OF U.S. PATENT NO. 6,651,864**

24 28. The Reibers reallege and incorporate by reference the allegations
25 contained in paragraphs 1 through 27 of this Complaint.

26 29. On information and belief, each of the Hard Disk Drive Defendants has
27 infringed and continues to infringe the '864 patent by importing into the United States
28 and/or offering to sell, selling, and/or using within the United States, products,

1 including hard disk drives, which are made by one or more methods claimed by the
2 '864 patent, in violation of 35 U.S.C. § 271(g).

3 30. On information and belief, each of the PC Defendants has infringed and
4 continues to infringe the '864 patent by importing into the United States and/or
5 offering to sell, selling, and/or using within the United States, products, including
6 personal computers containing hard disk drives made by one or more of the Hard Disk
7 Drive Defendants using one or more methods claimed by the '864 patent, in violation
8 of 35 U.S.C. § 271(g).

9 31. On information and belief, Defendants will continue to infringe the '864
10 patent unless and until they are enjoined by this Court.

11 32. On information and belief, Western Digital had notice of its infringement
12 of the '864 patent and has been willfully infringing the patent at least as of October
13 26, 2006. Also, on information and belief, at least as early as upon service of this
14 Complaint, Defendants are willfully infringing the '864 patent.

15 33. Defendants' infringement of the '864 patent has caused and is continuing
16 to cause the Reibers irreparable harm, which is not fully compensable by money
17 damages. The Reibers will suffer further irreparable harm, for which they have no
18 adequate remedy at law, unless and until Defendants are enjoined.

19 34. Defendants' infringement of the '864 patent has caused, and is
20 continuing to cause, the Reibers to incur money damages, the precise amount of which
21 cannot be determined at this time.

22 **COUNT III**

23 **INFRINGEMENT OF U.S. PATENT NO. 6,935,548**

24 35. The Reibers reallege and incorporate by reference the allegations
25 contained in paragraphs 1 through 34 of this Complaint.

26 36. On information and belief, each of the Hard Disk Drive Defendants has
27 infringed and continues to infringe the '548 patent by importing into the United States
28 and/or offering to sell, selling, and/or using within the United States, products,

1 including hard disk drives, which are made by one or more methods claimed by the
2 '548 patent, in violation of 35 U.S.C. § 271(g).

3 37. On information and belief, each of the PC Defendants has infringed and
4 continues to infringe the '548 patent by importing into the United States and/or
5 offering to sell, selling, and/or using within the United States, products, including
6 personal computers containing hard disk drives made by one or more of the Hard Disk
7 Drive Defendants using one or more methods claimed by the '548 patent, in violation
8 of 35 U.S.C. § 271(g).

9 38. On information and belief, Defendants will continue to infringe the '548
10 patent unless and until they are enjoined by this Court.

11 39. On information and belief, Western Digital had notice of its infringement
12 of the '548 patent and has been willfully infringing the patent at least as of October
13 26, 2006. Also, on information and belief, at least as early as upon service of this
14 Complaint, Defendants are willfully infringing the '548 patent.

15 40. Defendants' infringement of the '548 patent has caused and is continuing
16 to cause the Reibers irreparable harm, which is not fully compensable by money
17 damages. The Reibers will suffer further irreparable harm, for which they have no
18 adequate remedy at law, unless and until Defendants are enjoined.

19 41. Defendants' infringement of the '548 patent has caused, and is
20 continuing to cause the Reibers to incur money damages, the precise amount of which
21 cannot be determined at this time.

22 **COUNT IV**

23 **MISAPPROPRIATION OF TRADE SECRET AGAINST WESTERN**
24 **DIGITAL**

25 42. The Reibers reallege and incorporate by reference the allegations
26 contained in paragraphs 1 through 41 of this Complaint.

27 43. On or about January 22, 2006, Mr. Reiber not only disclosed to Western
28 Digital his confidential design of a dual-headed bonding tip, including the material

1 used to make such tips and characteristics of the tips, but also provided Western
2 Digital a sample of the dual-headed bonding tip for testing. Also, Mr. Reiber
3 explained the benefits that would flow to Western Digital from using such tips. Mr.
4 Reiber made the above disclosure to Western Digital with the mutual understanding
5 that the information and the tool were confidential and were to be used by Western
6 Digital solely to evaluate whether it was interested in qualifying Mr. Reiber's dual-
7 headed tips.

8 44. Mr. Reiber's patent application for his multi-headed bonding tip was
9 published on April 6, 2006.

10 45. On information and belief, Western Digital disclosed Mr. Reiber's
11 confidential dual-tip design to Gaiser Tool Company ("Gaiser"), a competitor of Mr.
12 Reiber, sometime between January 22, 2006 and April 6, 2006. On information and
13 belief, Gaiser used this proprietary information to develop for Western Digital dual-
14 headed bonding tips.

15 46. On or about April 25, 2006, during a visit to Western Digital's premises
16 in Thailand, Mr. Reiber observed the use of a dual-headed bonding tip by Western
17 Digital's employees. In June 2006, Western Digital informed Mr. Reiber that it was
18 no longer interested in purchasing dual-headed bonding tips from him.

19 47. The dual-headed bonding tip design was proprietary to Mr. Reiber.
20 Moreover, at least until the publication of Mr. Reiber's multi-headed bonding tip
21 patent application on April 6, 2006, this information was not generally known in the
22 industry, to the public, or to other persons who could obtain economic value from its
23 disclosure or use. This information was the subject of reasonable efforts by Mr.
24 Reiber to maintain its secrecy and it derived independent economic value from not
25 being generally known. The dual-headed bonding tip design constitutes a "trade
26 secret" under California Civil Code § 3426.1.

27 48. Western Digital was obligated to maintain the secrecy of Mr. Reiber's
28 trade secrets. Notwithstanding this, on information and belief, Western Digital

1 disclosed the protected information to Gaiser in violation of California Civil Code
2 § 3426 et seq.

3 49. By reason of the above alleged acts and conduct of Western Digital, Mr.
4 Reiber suffered damages by virtue of Gaiser obtaining a head start in its design and
5 manufacture of the dual-headed bonding tip. Moreover, Western Digital also gained a
6 head start in its use of Gaiser's dual-headed bonding tips.

7 50. Mr. Reiber seeks compensation from Western Digital, including, but not
8 limited to, recovery of actual damages, reasonable royalty, as well as gains, profits,
9 advantages, and unjust enrichment that Western Digital has obtained as a result of its
10 wrongful acts as described herein in an amount to be determined at trial.

11
12 **PRAYER FOR RELIEF**

13 WHEREFORE, the Reibers respectfully request that this Court:

14 (1) enter judgment that the Hard Disk Drive Defendants are liable for
15 infringement of the '479 patent, the '864 patent, and the '548 patent;

16 (2) enter judgment that the PC Defendants are liable for infringement
17 of the '479 patent, the '864 patent, and the '548 patent;

18 (3) enter an order preliminarily and permanently enjoining Defendants
19 and their officers, agents, servants, employees, attorneys, and all persons in active
20 concert or participation with any of them, from infringing the '479 patent, the '864
21 patent, and the '548 patent;

22 (4) award damages in an amount sufficient to compensate the Reibers
23 for Defendants' infringement;

24 (5) award prejudgment and post judgment interest on the damages
25 caused by Defendants' infringement;

26 (6) treble damages awarded to the Reibers upon finding that the
27 Defendants have willfully infringed at least from the date of service of this complaint
28 and upon finding that Western Digital has willfully infringed at least from October

1 26, 2006, when it was provided notice of its infringement of the '479 patent, the '864
2 patent, and the '548 patent;

3 (7) declare this case to be "exceptional" under 35 U.S.C. § 285 and
4 award the Reibers their reasonable attorneys' fees, expenses, and costs incurred in
5 this action;

6 (8) award compensatory damages, statutory damages, restitution, and
7 unjust enrichment according to proof at trial for Western Digital's misappropriation
8 of Mr. Reiber's trade secret in violation of California Civil Code § 3426 et seq.; and

9 (9) award the Reibers such other and further relief as this Court deems
10 just and proper.

11
12 DATED: September 10, 2007

Respectfully submitted,

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14
15 _____/s/ Chris Gibson

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17 Chris Gibson
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24 Attorneys for Plaintiffs
25 Steven F. Reiber and
26 Mary L. Reiber
27
28

DEMAND FOR JURY TRIAL

The Reibers hereby demand a jury trial on all issues so triable.

DATED: September 10, 2007

Respectfully submitted,

_____/s/ Chris Gibson

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