

FILED

OCT 16 2006

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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 :
 CASIO INC. :
 570 Mount Pleasant Avenue :
 Dover, New Jersey 07801 :
 :
 Plaintiff, :
 :
 -against- :
 :
 PAPST LICENSING GMBH & CO. KG :
 Bahnhofstr. 33 :
 78112 St. Georgen :
 Germany :
 :
 Defendant. :
 ----- X

COMPLAINT

CASE NUMBER 1:06CV01751

JUDGE: Gladys Kessler

DECK TYPE: General Civil

DATE STAMP: 10/16/2006

**JURY
ACTION**

Plaintiff Casio, Inc. ("Casio"), for its Complaint against Defendant Papst Licensing GmbH & Co. KG ("Papst Licensing"), alleges and states as follows:

NATURE OF ACTION

1. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202 and the patent laws of the United States, Title 35 U.S.C. § 1 et seq.

THE PARTIES

2. Casio is a New York corporation in the business of, among other things, selling electronic goods, with its principal place of business located at 570 Mount Pleasant Avenue, Dover, New Jersey 07801.

3. On information and belief, Defendant Papst Licensing is a German partnership in the business of licensing, enforcing, and commercializing U.S. Patents and other forms of

intellectual property, with its principal place of business located at Bahnhofstrasse 33, 78112 St. Georgen, Germany.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.
5. This Court has personal jurisdiction over Papst Licensing pursuant to 35 U.S.C. § 293.
6. Venue is proper in this judicial district at least pursuant to 28 U.S.C. § 1391(c).

GENERAL ALLEGATIONS

7. Casio imports, markets and sells electronic goods in the United States including digital cameras.
8. On information and belief, Papst Licensing owns various United States patents, has filed numerous patent infringement suits in the United States to enforce its rights under those patents, and has negotiated numerous license agreements with a variety of United States companies relating to those patent rights.
9. Papst Licensing claims to be the owner of U.S. Patent Nos. 6,895,449 ("the '449 patent") and 6,470,399 ("the '399 patent").
10. Papst Licensing has accused Casio of infringing upon both the '449 and '399 patents. For example, in a letter dated March 14, 2006, Papst Licensing accused Casio of infringing the '449 and '399 patents. Papst Licensing has repeated its accusations on numerous occasions since that time.

11. Casio responded with a detailed analysis of why it does not infringe the '449 patent or the '399 patent.

12. Notwithstanding, Papst Licensing demanded, among other things, that Casio pay it royalties for the use of the '449 and '399 patents in Casio's digital cameras that have been sold in the United States. Papst Licensing offered to license the '449 and '399 patents to Casio. Casio has rejected Papst Licensing's demands for payment of royalties and Papst Licensing's offer to license its '449 and '399 patents.

13. Papst Licensing has asserted and continues to assert, that the '449 and '399 patents are infringed by Casio.

COUNT ONE

**DECLARATORY JUDGMENT OF
NON-INFRINGEMENT AND INVALIDITY
OF THE '449 PATENT**

14. Casio repeats and realleges the averments of paragraphs 1-13 as if fully set forth herein.

15. There is an actual controversy between Casio and Papst as to the infringement and the validity of the '449 patent.

16. Casio has not infringed and does not infringe the '449 patent.

17. The '449 patent is invalid for failure to comply with the patent laws of the United States, including the requirements of 35 U.S.C. §§ 102, 103, and/or 112.

COUNT TWO

**DECLARATORY JUDGMENT OF
NON-INFRINGEMENT AND INVALIDITY
OF THE '399 PATENT**

18. Casio repeats and realleges the averments of paragraphs 1-17 as if fully set forth herein.
19. There is an actual controversy between Casio and Papst as to the infringement and the validity of the '399 patent.
20. Casio has not infringed and does not infringe the '399 patent.
21. The '399 patent is invalid for failure to comply with the patent laws of the United States, including the requirements of 35 U.S.C. §§ 102, 103, and/or 112.

JURY DEMAND

22. Casio demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE Plaintiff Casio Inc. respectfully requests that the Court enter judgment against Papst Licensing GmbH & Co. KG, including:

- a. a declaration that Casio Inc. has not infringed, and is not infringing the '449 and '399 patents;
- b. a declaration that each of the claims of the '449 and '399 patents are invalid;
- c. an injunction prohibiting Papst Licensing from alleging infringement of the '449 and '399 patents by Casio Inc.;
- d. an award of damages Casio Inc. has sustained;
- e. a declaration that this case is an "exceptional case" within the meaning of 35 U.S.C. § 285 due to, *inter alia*, the above actions of Papst Licensing;

- f. an award of costs and attorneys fees and other expenses Casio Inc. has been forced to incur; and
- g. such further relief as the Court may deem just and proper.

October 13, 2006

Respectfully submitted:



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