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15 **UNITED STATES DISTRICT COURT**
 16 **NORTHERN DISTRICT OF CALIFORNIA**

17 TOP VICTORY ELECTRONICS
 18 (TAIWAN) CO., LTD., a Taiwanese
 19 corporation; TPV
 20 INTERNATIONAL (USA), INC., a
 21 California corporation; TPV
 22 ELECTRONICS (FUJIAN) CO.,
 23 LTD., a Chinese corporation; TOP
 24 VICTORY ELECTRONICS
 25 (FUJIAN) CO., LTD., a Chinese
 26 corporation; and ENVISION
 27 PERIPHERALS, INC., a California
 28 corporation,

Plaintiffs,

v.

HITACHI, LTD., a Japanese
 corporation; INPRO LICENSING
 SARL, a Luxembourg SARL,

Defendants.

Case No. CV 10-01579 CRB

**FIRST AMENDED COMPLAINT FOR
 DECLARATORY JUDGMENT**

1 Plaintiffs TOP VICTORY ELECTRONICS (TAIWAN) CO., LTD.,
2 TPV INTERNATIONAL (USA), INC., TPV ELECTRONICS (FUJIAN) CO.,
3 LTD., TOP VICTORY ELECTRONICS (FUJIAN) CO., LTD., and ENVISION
4 PERIPHERALS, INC. (collectively, “Plaintiffs”), for their claims for relief herein
5 against defendants HITACHI, LTD. and INPRO LICENSING SARL, aver as
6 follows:

7 **JURISDICTION AND VENUE**

8 1. This is an action for declaratory judgment of non-infringement,
9 invalidity, and unenforceability of eleven United States patents pursuant to the
10 Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, and the patent laws of the
11 United States, 35 U.S.C. § 100 *et seq.*

12 2. In their Claim for Relief, Plaintiffs seek a judicial declaration
13 that Plaintiffs’ television products do not infringe United States Patent Nos.
14 5,502,497; 5,534,934; 5,828,417; 6,037,995; 6,185,228; 6,388,713; 6,549,243;
15 6,600,870; 6,693,966; 7,012,769; and 7,286,310 (the “PATENTS-IN-SUIT”)
16 and/or that the PATENTS-IN-SUIT are invalid or unenforceable.

17 3. This Court has original jurisdiction over the Claim for Relief
18 under 28 U.S.C. §§ 1331 and 1338(a).

19 4. Venue is proper in this district under 28 U.S.C. §1391(b) and
20 (d). Plaintiffs TPV INTERNATIONAL (USA), INC. and ENVISION
21 PERIPHERALS, INC. are California corporations. Plaintiff ENVISION
22 PERIPHERALS, INC. has its headquarters in Alameda County, California. This
23 action includes patent-based declaratory judgment claims arising from conduct
24 occurring in or directed to Alameda County.

25 **INTRADISTRICT ASSIGNMENT**

26 5. This is an Intellectual Property Action and shall therefore be
27 assigned on a district-wide basis in accordance with Local Rule 3-2(c).

28

PARTIES

1
2 6. Plaintiff TOP VICTORY ELECTRONICS (TAIWAN) CO.,
3 LTD. is, and at all times material hereto was, a corporation organized and existing
4 under the laws of Taiwan with its principal place of business in Zhonghe City,
5 Taiwan.

6 7. Plaintiff TPV INTERNATIONAL (USA), INC. is, and at all
7 times material hereto was, a corporation organized and existing under the laws of
8 the State of California with its principal place of business in Austin, Texas.

9 8. Plaintiff TPV ELECTRONICS (FUJIAN) CO., LTD. is, and at
10 all times material hereto was, a corporation organized and existing under the laws
11 of the People’s Republic of China with its principal place of business in Fuqing
12 City, China.

13 9. Plaintiff TOP VICTORY ELECTRONICS (FUJIAN) CO.,
14 LTD. is, and at all times material hereto was, a corporation organized and existing
15 under the laws of the People’s Republic of China with its principal place of
16 business in Fuqing City, China.

17 10. Plaintiff ENVISION PERIPHERALS, INC. is, and at all times
18 material hereto was, a corporation organized and existing under the laws of the
19 State of California with its principal place of business in Fremont, California.

20 11. On information and belief, defendant HITACHI, LTD.
21 (“HITACHI”) is, and at all times material hereto was, a corporation organized and
22 existing under the laws of Japan.

23 12. On information and belief, defendant INPRO LICENSING
24 SARL (“INPRO”) is, and at all times material hereto was, an SARL organized and
25 existing under the laws of the Luxembourg.

CLAIM FOR RELIEF

26
27 13. Plaintiffs repeat and incorporate here the allegations of
28 paragraphs 1 through 12 of this complaint.

1 14. On information and belief, HITACHI claims to be the owner or
2 the exclusive licensee of the eleven PATENTS-IN-SUIT:

3 U.S. Patent No. 5,502,497, issued March 26, 1996 and titled
4 “Television Broadcasting Method And System Enabling Picture Broadcasting From
5 The Transmitting Equipment To The Receiving Equipment Using Alternative
6 Broadcasting System Standards,” a true and correct copy of which is attached
7 hereto as **Exhibit A**;

8 U.S. Patent No. 5,534,934, issued July 9, 1996 and titled
9 “Television Receiver Capable Of Enlarging And Compressing Image,” a true and
10 correct copy of which is attached hereto as **Exhibit B**;

11 U.S. Patent No. 5,828,417, issued October 27, 1998 and titled
12 “Television Receiver With On Screen Display For Reserving Programs To Be
13 Recorded Or Viewed,” a true and correct copy of which is attached hereto as
14 **Exhibit C**;

15 U.S. Patent No. 6,037,995, issued March 14, 2000 and titled
16 “Broadcasting And Communication Receiver Apparatus,” a true and correct copy
17 of which is attached hereto as **Exhibit D**;

18 U.S. Patent No. 6,185,228, issued February 6, 2001 and titled
19 “Receiving Apparatus For Digital Broadcasting Signal And
20 Receiving/Recording/Reproducing Apparatus Thereof,” a true and correct copy of
21 which is attached hereto as **Exhibit E**;

22 U.S. Patent No. 6,388,713, issued May 14, 2002 and titled
23 “Image Display Apparatus, And Method To Prevent Or Limit User Adjustment Of
24 Displayed Image Quality,” a true and correct copy of which is attached hereto as
25 **Exhibit F**;

26 U.S. Patent No. 6,549,243, issued April 15, 2003 and titled
27 “Digital Broadcast Receiver Unit,” a true and correct copy of which is attached
28 hereto as **Exhibit G**;

1 U.S. Patent No. 6,600,870, issued July 29, 2003 and titled
2 “Input-Output Circuit, Recording Apparatus And Reproduction Apparatus For
3 Digital Video Signal,” a true and correct copy of which is attached hereto as
4 **Exhibit H;**

5 U.S. Patent No. 6,693,966, issued February 17, 2004 and titled
6 “Transmitting And Recording Method, Reproducing Method, And Reproducing
7 Apparatus Of Information And Its Recording Medium,” a true and correct copy of
8 which is attached hereto as **Exhibit I;**

9 U.S. Patent No. 7,012,769, issued March 14, 2006 and titled
10 “Digital Information Recording/Reproducing Apparatus,” a true and correct copy of
11 which is attached hereto as **Exhibit J;** and

12 U.S. Patent No. 7,286,310, issued October 23, 2007 and titled
13 “Apparatus For Receiving Compressed Digital Information,” a true and correct
14 copy of which is attached hereto as **Exhibit K.**

15 15. On information and belief, INPRO is a co-owner, licensee, or
16 licensing agent with respect to the PATENTS-IN-SUIT, or otherwise claims an
17 interest therein.

18 16. Defendants HITACHI and INPRO (collectively “Defendants”)
19 have accused Plaintiffs of infringing the PATENTS-IN-SUIT by Plaintiffs’
20 manufacture and sale of televisions in the United States, and have threatened to
21 bring an action against Plaintiffs under 35 U.S.C. §§ 271(a), (b) and/or (c) alleging
22 that Plaintiffs have infringed the PATENTS-IN-SUIT by Plaintiffs’ manufacture
23 and sale of television products.

24 17. Plaintiffs deny that they have infringed, or have contributed to
25 or actively induced infringement of any valid and enforceable claim of any of the
26 PATENTS-IN-SUIT through their manufacture and sale of television products.
27 Therefore, an actual and justiciable controversy exists between Plaintiffs and
28 Defendants regarding infringement, validity, and enforceability of the PATENTS-

1 IN-SUIT. This actual and justiciable controversy arises under federal patent law.

2 18. Plaintiffs seek a declaratory judgment that they have not
3 infringed, contributed to, or actively induced such infringement of the PATENTS-
4 IN-SUIT by any of their actions and/or a declaratory judgment that the PATENTS-
5 IN-SUIT are invalid and/or unenforceable.

6 19. A judicial declaration is necessary and appropriate at this time
7 pursuant to 28 U.S.C. § 2201, so that Plaintiffs may ascertain their rights and duties
8 with respect to the PATENTS-IN-SUIT.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs pray for judgment in their favor as follows:

11 1. For a judicial declaration that the PATENTS-IN-SUIT, and each
12 of them, are not and have not been infringed by Plaintiffs, and that the same are
13 invalid and/or unenforceable;

14 2. That the Court determine that this is an extraordinary case and
15 award Plaintiffs their attorneys' fees and litigation expenses under 28 U.S.C. §
16 1927, 35 U.S.C. § 285, and any other applicable statute or rule; and

17 3. That the Court award Plaintiffs such other and further relief as
18 the Court deems just and proper.

19 Dated: April 27, 2010
20

21 MARK A. SAMUELS
22 BRIAN M. BERLINER
23 RYAN K. YAGURA
24 ALAN D. TSE
O'MELVENY & MYERS LLP

25 By: /s/ Mark A. Samuels
26 Mark A. Samuels
27 Attorneys for Plaintiffs
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