

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

POSITIVE TECHNOLOGIES, INC.

Plaintiff,

v.

LG.PHILIPS LCD CO., LTD.
MITSUBISHI DIGITAL ELECTRONICS
AMERICA, INC., PROVIEW
TECHNOLOGY, INC., REGENT U.S.A.,
INC., AND TOSHIBA AMERICA
CONSUMER PRODUCTS, L.L.C.

Defendants,

CASE NO. 2:07cv67-TJW
Jury Trial Demanded

SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Positive Technologies, Inc. (“Positive Technologies”) complains against Defendants LG.Philips LCD Co., Ltd. (“LPL”), Mitsubishi Digital Electronics America, Inc. (“Mitsubishi”), ProView Technology, Inc. (“ProView”), Regent U.S.A., Inc. (“Regent”), and Toshiba America Consumer Products, L.L.C. (“Toshiba”) as follows:

I. JURISDICTION AND VENUE.

1. This is an action for patent infringement arising under the patent laws of the United States (Title 35 of the United States Code). The Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a). The Court has personal jurisdiction over the Defendants because Defendants have committed and continue to commit acts of direct and/or indirect patent infringement in this district as alleged in this Complaint.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and § 1400.

II. THE PARTIES.

3. Plaintiff Positive Technologies is a corporation organized under the laws of California. Through its founder, Robert Hotto, Positive Technologies pioneered the development of several technologies in the field of adaptive displays used in the plasma and LCD display fields. On March 19, 2007, Plaintiff merged with Positive Technologies, a Nevada corporation, and is the surviving entity and successor in interest thereto.

4. Upon information and belief, Defendant LPL is a corporation organized and existing under the laws of Korea with a principal place of business at 17/F LG Twin Tower, 20 Yeouido-Dong, Yeongdeungpo-gu, Seoul, Korea 150875. LPL has admitted the Court has personal jurisdiction over it for purposes of this litigation. (D.I. 248.) In addition, LPL has placed LCD modules into the stream of commerce by shipping those panels and modules into this judicial district or knowing that they would be shipped into this judicial district.

5. Defendant Mitsubishi is a corporation organized under the laws of Delaware, having its principal place of business in California. Mitsubishi is registered to do business as a foreign corporation in Texas and is doing business in this judicial district, in Texas and elsewhere throughout the United States. Mitsubishi's foreign corporation registration lists CT Corporation System, located at 350 N. St. Paul Street, Dallas, TX 75201, as its registered agent for service of process.

6. Defendant ProView is a corporation organized under the laws of the state of California, having its principal place of business in California. ProView is registered to do business as a foreign corporation in Texas and is doing business in this judicial district, in Texas, and elsewhere throughout the United States. ProView's foreign corporation registration lists Rose Melandez, located at 10849 Kinghurst Drive, Suite 120, Houston, TX 77099, as its registered agent for service of process.

7. Defendant Regent is a corporation organized under the laws of California, having its principal place of business in California, and doing business in this judicial district, in Texas and elsewhere throughout the United States. Regent's corporate registration lists James Chen, located at 1208 John Reed Ct., City of Industry, CA 91745, as its registered agent for service of process.

8. Defendant Toshiba is a limited liability corporation organized under the laws of New Jersey, having its principal place of business in New Jersey. Toshiba Consumer Products is registered to do business as a foreign corporation in Texas and is doing business in this judicial district, in Texas, and elsewhere throughout the United States. Toshiba Consumer Products' foreign corporation registration lists CT Corporation System, located at 350 N. St. Paul Street, Dallas, TX 75201, as its registered agent for service of process.

III. FACTUAL ALLEGATIONS.

A. The Patents-in-Suit.

9. On January 18, 1994, United States Patent No. 5,280,280 (the " '280 Patent") entitled "DC Integrating Display Driver Employing Pixel Status Memories" issued to Robert Hotto. (A copy of the '280 Patent is attached hereto as Exhibit A.) The entire right, title and interest to the '280 Patent has been assigned to Positive Technologies. Positive Technologies is now, and by and through its merger at all relative times has been, the owner and possessor of all rights pertaining to the '280 Patent.

10. On August 22, 1995, United States Patent No. 5,444,457 (the " '457 Patent") entitled "DC Integrating Display Driver Employing Pixel Status Memories" issued to Robert Hotto. (A copy of the '457 Patent is attached hereto as Exhibit B.) The entire right, title and interest to the '457 Patent has been assigned to Positive Technologies. Positive Technologies

is now, and by and through its merger at all relative times has been, the owner and possessor of all rights pertaining to the '457 Patent.

11. On May 6, 1997, United States Patent No. 5,627,558 (the " '558 Patent") entitled "DC Interating [sic] Display Driver Employing Pixel Status Memories" issued to Robert Hotto. (A copy of the '558 Patent is attached hereto as Exhibit C.) The entire right, title and interest to the '558 Patent has been assigned to Positive Technologies. Positive Technologies is now, and by and through its merger at all relative times has been, the owner and possessor of all rights pertaining to the '558 Patent.

12. On November 3, 1998, United States Patent No. 5,831,588 (the " '588 Patent") entitled "DC Integrating Display Driver Employing Pixel Status Memories" issued to Robert Hotto. (A copy of the '588 Patent is attached hereto as Exhibit D.) The entire right, title and interest to the '588 Patent has been assigned to Positive Technologies. Positive Technologies is now, and by and through its merger at all relative times has been, the owner and possessor of all rights pertaining to the '588 Patent.

B. Infringement of the Patents-in-Suit.

1. Infringement of the '280 Patent.

13. Defendants Mitsubishi, ProView, Regent and Toshiba (the " '280 Defendants") manufacture, use, sell, offer to sell, and/or market several types of consumer electronics, including but not limited to televisions and monitors using an LCD display panel (the " '280 Accused Products").

14. The '280 Defendants are and have been infringing, contributing to the infringement of, and inducing others to infringe one or more of the claims of the '280 Patent

through the unauthorized manufacture, use, sale and offering for sale of the '280 Accused Products within the United States.

15. The '280 Defendants are infringing, inducing the infringement of, and contributing to the infringement of one or more of the claims of the '280 Patent.

16. On information and belief, the '280 Accused Products perform in a normal course of operation each and every step recited in one or more of the claims of the '280 Patent.

17. On information and belief, Defendant LPL has been and is engaged in the manufacture, importation, offering for sale, and/or sale of LCD modules throughout the United States, including in this judicial district. In addition, LPL has been and is engaged in the manufacture, importation, offering for sale, and/or sale of LCD modules (the " '280 Accused Modules") which are incorporated into LCD end-products that are sold, with the knowledge and intention of LPL, throughout the United States, including in this judicial district.

18. Defendant LPL is and has been inducing others to infringe one or more of the claims of the '280 Patent through the unauthorized manufacture, use, sale and offering for sale of the '280 Accused Modules for incorporation into products sold within the United States.

19. Defendant LPL is inducing the infringement of one or more of the claims of the '280 Patent.

20. On information and belief, the '280 Accused Modules perform in a normal course of operation each and every step recited in one or more of the claims of the '280 Patent.

2. Infringement of the '457 Patent.

21. Defendants Mitsubishi, ProView, Regent and Toshiba (the “ ‘457 Defendants”) manufacture, use, sell, offer to sell, and/or market several types of consumer electronics, including but not limited to televisions and monitors using an LCD display panel (the “ ‘457 Accused Products”).

22. The ‘457 Defendants are and have been infringing, contributing to the infringement of, and inducing others to infringe one or more of the claims of the ‘457 Patent through the unauthorized manufacture, use, sale and offering for sale of the ‘457 Accused Products within the United States.

23. The ‘457 Defendants are infringing, inducing the infringement of, and contributing to the infringement of one or more of the claims of the ‘457 Patent.

24. On information and belief, the ‘457 Accused Products perform in a normal course of operation each and every step recited in one or more of the claims of the ‘457 Patent.

25. On information and belief, Defendant LPL has been and is engaged in the manufacture, importation, offer for sale, and/or sale of LCD modules throughout the United States, including in this judicial district. In addition, LPL has been and is engaged in the manufacture, importation, offer for sale, and/or sale of LCD modules (the “ ‘457 Accused Modules”) which are incorporated into LCD end-products that are sold, with the knowledge and intention of LPL, throughout the United States, including in this judicial district.

26. Defendant LPL is and has been inducing others to infringe one or more of the claims of the ‘457 Patent through the unauthorized manufacture, use, sale and offering for

sale of the '457 Accused Modules for incorporation into products sold within the United States.

27. Defendant LPL is inducing the infringement of one or more of the claims of the '457 Patent.

28. On information and belief, the '457 Accused Modules perform in a normal course of operation each and every step recited in one or more of the claims of the '457 Patent.

3. Infringement of the '558 Patent.

29. Defendants Mitsubishi, ProView, Regent and Toshiba (the " '558 Defendants") manufacture, use, sell, offer to sell, and/or market several types of consumer electronics, including but not limited to televisions and monitors using an LCD display panel (the " '558 Accused Products").

30. The '558 Defendants are and have been infringing, contributing to the infringement of, and inducing others to infringe one or more of the claims of the '558 Patent through the unauthorized manufacture, use, sale and offering for sale of the '558 Accused Products within the United States.

31. The '558 Defendants are infringing, inducing the infringement of, and contributing to the infringement of one or more of the claims of the '558 Patent.

32. On information and belief, the '558 Accused Products perform in a normal course of operation each and every step recited in one or more of the claims of the '558 Patent.

33. On information and belief, Defendant LPL has been and is engaged in the manufacture, importation, offer for sale, and/or sale of LCD modules throughout the United

States, including in this judicial district. In addition, LPL has been and is engaged in the manufacture, importation, offer for sale, and/or sale of LCD modules (the “ ‘558 Accused Modules”) which are incorporated into LCD end-products that are sold, with the knowledge and intention of LPL, throughout the United States, including in this judicial district.

34. Defendant LPL is and has been inducing others to infringe one or more of the claims of the ‘558 Patent through the unauthorized manufacture, use, sale and offering for sale of the ‘558 Accused Modules for incorporation into products sold within the United States.

35. Defendant LPL are inducing the infringement of one or more of the claims of the ‘558 Patent.

36. On information and belief, the ‘558 Accused Modules perform in a normal course of operation each and every step recited in one or more of the claims of the ‘558 Patent.

**FIRST CAUSE OF ACTION
(INFRINGEMENT OF THE ‘280 PATENT)
Against LPL, Mitsubishi, ProView, Regent and Toshiba**

37. Positive Technologies realleges and incorporates by reference the allegations contained in paragraphs 1 - 41.

38. The ‘280 Defendants have directly and contributorily infringed, and have induced others to infringe, one or more of the claims of the ‘280 patent by making, using, offering to sell, selling and/or importing into the United States infringing products within this district and elsewhere.

39. Defendant LPL has induced others to infringe, one or more of the claims of the ‘280 patent by making, using, offering to sell, and/or products for incorporation into

products sold and/or imported into the United States and sold within this district and elsewhere.

40. On information and belief, Defendant LPL and the '280 Defendants are and have been willfully infringing one or more of the claims of the '280 Patent.

41. As a result of Defendant LPL's and the '280 Defendants' infringement of the '280 Patent, Positive Technologies has suffered irreparable harm for which Positive Technologies has no adequate remedy at law. Unless enjoined by this Court, Defendant LPL's, and the '280 Defendants' infringement of the '280 Patent will continue and will result in further irreparable harm to Positive Technologies.

42. Positive Technologies is entitled to recover damages from Defendant LPL and the '280 Defendants adequate to compensate for the infringement.

**SECOND CAUSE OF ACTION
(INFRINGEMENT OF THE '457 PATENT)
Against LPL, Mitsubishi, ProView, Regent and Toshiba**

43. Positive Technologies realleges and incorporates by reference the allegations contained in paragraphs 1 - 47.

44. The '457 Defendants have directly and contributorily infringed, and have induced others to infringe, one or more of the claims of the '457 patent by making, using, offering to sell, selling and/or importing into the United States infringing products within this district and elsewhere.

45. Defendants AUO and LPL have induced others to infringe, one or more of the claims of the '457 patent by making, using, offering to sell, and/or products for incorporation into products sold and/or imported into the United States and sold within this district and elsewhere.

46. On information and belief, Defendant LPL, and the '457 Defendants are and have been willfully infringing one or more of the claims of the '457 Patent.

47. As a result of Defendant LPL's and the '457 Defendants' infringement of the '457 Patent, Positive Technologies has suffered irreparable harm for which Positive Technologies has no adequate remedy at law. Unless enjoined by this Court, Defendant LPL's, and the '457 Defendants' infringement of the '457 Patent will continue and will result in further irreparable harm to Positive Technologies.

48. Positive Technologies is entitled to recover damages from Defendant LPL, and the '457 Defendants adequate to compensate for the infringement.

**THIRD CAUSE OF ACTION
(INFRINGEMENT OF THE '558 PATENT)
Against LPL, Mitsubishi, ProView, Regent and Toshiba**

49. Positive Technologies realleges and incorporates by reference the allegations contained in paragraphs 1 - 53.

50. The '558 Defendants have directly and contributorily infringed, and have induced others to infringe, one or more claims of the '558 patent by making, using, offering to sell, selling and/or importing into the United States infringing products within this district and elsewhere.

51. Defendant LPL has induced others to infringe, one or more of the claims of the '558 patent by making, using, offering to sell, and/or products for incorporation into products sold and/or imported into the United States and sold within this district and elsewhere.

52. On information and belief, Defendant LPL and the '558 Defendants are and have been willfully infringing one or more of the claims of the '558 Patent.

53. As a result of Defendant LPL's and the '558 Defendants' infringement of the '558 Patent, Positive Technologies has suffered irreparable harm for which Positive Technologies has no adequate remedy at law. Unless enjoined by this Court, Defendant LPL's and the '558 Defendants' infringement of the '558 Patent will continue and will result in further irreparable harm to Positive Technologies.

54. Positive Technologies is entitled to recover damages from Defendant LPL and the '558 Defendants adequate to compensate for the infringement.

DEMAND

WHEREFORE, Positive Technologies respectfully requests the following relief:

a) That this Court adjudge and decree that Defendants have been and are currently infringing, inducing others to infringe, and/or committing acts of contributory infringement with respect to the '280, '457, and '558 Patents;

b) That this Court enter an order that Defendants and its officers, agents, servants, employees, successors and assigns, and those persons acting in concert with them, be preliminarily and permanently enjoined from infringing, inducing others to infringe, and/or committing acts of contributory infringement with respect to the '280, '457, and '558 Patents;

c) That this Court award damages to Positive Technologies to compensate it for each of the unlawful actions set forth in Positive Technologies' complaint;

d) That this Court award interest on such damages to Positive Technologies;

e) That this Court treble the damages awarded to Positive Technologies pursuant to 35 U.S.C. § 284 and 15 U.S.C. § 15(a) as a consequence of Defendants' willful infringement of the '588 Patent;

f) That this Court determine that this patent infringement case is exceptional and award Positive Technologies its costs and attorneys' fees incurred in this action pursuant to 35 U.S.C. § 285; and

g) That this Court award such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff respectfully requests a trial by jury on all issues triable thereby.

Dated: March 7, 2008

Respectfully submitted,

/s/ Collin M. Maloney

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ATTORNEYS FOR POSITIVE TECHNOLOGIES,
INC.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this **SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT** was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-(5)(e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by facsimile and/or U.S. First Class Mail this 7th day of March, 2008.

*/s/ Collin M. Maloney*_____