

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

ADVANCED TECHNOLOGY INCUBATOR,
INC.,
Plaintiff,

v.

SHARP CORPORATION,
SHARP ELECTRONICS CORPORATION,
DAI NIPPON PRINTING, and
DNP COLOR TECHNO KAMEYAMA CO, LTD.
Defendants.

CIVIL ACTION NO. 2:07-cv-468

DEMAND FOR JURY TRIAL

**FIRST AMENDED COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR PATENT INFRINGEMENT**

Plaintiff Advanced Technology Incubator, Inc. (“*ATI*”) files this complaint against the following defendants: Sharp Corporation (“*Sharp*”), Sharp Electronics Corporation (“*SEC*”), Dai Nippon Printing (“*DNP*”), and DNP Color Techno Kameyama Co, Ltd. (“*DNP Color*”) collectively, the “*Defendants*,” and alleges as follows:

PARTIES

1. ATI is a Michigan corporation with a principal place of business in Austin, Texas.
2. ATI is informed and believes that Defendant Sharp Corporation is a Japanese corporation with its principal place of business at 22-22 Nagaike-cho, Abeno-ku, Osaka 545-8522, Japan. Sharp manufactures LCD televisions incorporating color filters and directs those products to the United States, including the Eastern District of Texas, through established distribution channels involving various entities, knowing that these entities will use their respective nationwide contacts and distribution channels to import into, sell, offer for sale, and/or use these LCD televisions in the Eastern District of Texas and elsewhere in the United States.

3. ATI is informed and believes that Defendant Sharp Electronics Corporation is a Delaware corporation with its principal place of business at Sharp Plaza, Manwah, New Jersey, 07430. ATI is informed and believes that Defendant Sharp Electronics Corporation is the U.S. sales and marketing subsidiary of Japan's Sharp Corporation and either directly or indirectly imports into, sells, and/or offers for sale LCD televisions incorporating color filters in the United States, including in the Eastern District of Texas.

4. On information and belief, Sharp directly or indirectly controls SEC and SEC is the agent of Sharp.

5. ATI is informed and believes that Defendant Dai Nippon Printing is a Japanese Corporation with its principal place of business at 1-1-1, Ichigaya Kagacho, Shinjuku-ku, Tokyo 162-8001, Japan.

6. ATI is informed and believes that Defendant DNP Color Techno Kameyama Co, Ltd. is a Japanese Corporation with its principal place of business at 464 Kougawa, Shiraki-cho, Kameyama City, Mie., Japan.

7. On information and belief, DNP and DNP Color operate the color filter manufacturing line within Sharp's LCD television factory in Kameyama, Japan. See attached Exhibit 1.

8. ATI is informed and believes that Defendants jointly manufacture LCD televisions incorporating color filters and direct those products to the United States, including the Eastern District of Texas, through established distribution channels involving various entities, knowing that these entities will use their respective nationwide contacts and distribution channels to import into, sell, offer for sale, and/or use these color filters and LCD televisions in the Eastern District of Texas and elsewhere in the United States.

9. ATI is informed and believes that Sharp, SEC, DNP, and DNP Color are jointly engaged in making, offering for sale, selling and/or using color filters and LCD televisions in the United States of America, including the Eastern District of Texas, and are further engaged in directly or indirectly importing color filters and LCD televisions into the Eastern District of Texas and elsewhere in the United States of America, and otherwise making such products available in the Eastern District of Texas and elsewhere in the United States of America.

JURISDICTION AND VENUE

10. ATI incorporates by reference paragraphs 1 through 9 of this Complaint and realleges them as though fully set forth herein.

11. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 101, *et seq.* This Court has subject matter jurisdiction over this patent infringement action under 28 U.S.C. §§ 1331, 1332, and 1338(a).

12. Defendants regularly conduct business in this judicial district and make, offer to sell, have sold and/or continue to sell infringing products and/or Defendants have imported and/or induced others to import into the United States products which infringe Plaintiff's patent rights into this judicial district through established distribution channels. Therefore, Defendants are subject to personal jurisdiction in this judicial district.

13. Venue is in this Court pursuant to 28 U.S.C. §§ 1391(b), (c), (d) and 1400(b) because each defendant has committed acts of infringement in this District; is subject to personal jurisdiction of this Court; and/or is an alien that may be sued in any judicial district pursuant to 28 U.S.C. §§ 1391(d).

THE INVENTOR AND THE PATENTS-IN-SUIT:

U.S. PATENT NOS. RE37,682 AND RE36,711.

14. ATI incorporates by reference paragraphs 1 through 13 of this Complaint and realleges them as though fully set forth herein.

15. On April 30, 2002, U.S. Patent No. RE37,682 (the “’682 Patent”), entitled “Method of Fabricating a Liquid Crystal Display,” was duly and validly issued to Dr. Zvi Yaniv. A copy of the ’682 Patent is attached as Exhibit 2 and is made a part of this Complaint.

16. On May 23, 2000, U.S. Patent No. RE 36,711 (the “’711 Patent”), entitled “Method of Fabricating a Liquid Crystal Display,” was duly and validly issued to Dr. Zvi Yaniv. A copy of the ’711 Patent is attached as Exhibit 3 and is made a part of this Complaint.

17. Based on agreement between Dr. Yaniv and LG Philips LCD Co., Ltd., ATI owns and has full rights to sue, enforce, and recover damages for all infringements of the ’682 and ’711 Patents (collectively, the “ATI Patents” or “patents-in-suit”).

18. Dr. Zvi Yaniv is an LCD industry leader and pioneer. Dr. Yaniv holds a Bachelor of Science degree in physics/mathematics, a Masters of Science degree in electro-optics, and a Ph.D. from Kent State University in Liquid Crystal studies. He is a recognized authority on electro-optics, liquid crystal technology, amorphous semiconductors and technology commercialization and has been recognized for his leadership in developing large area high performance active matrix LCDs and scanners.

19. Dr. Yaniv is the President and CEO of Advanced Technology Incubator, Inc. which serves as the holding company for his patented technologies.

20. Dr. Yaniv is a member of the Board of Directors of the Texas Nanotechnology Initiative, the Nanomaterials Applications Center of Texas State University, and the Society for

Information Display. He has been elected Fellow of the Society for Information Display and has published over 250 articles.

21. Dr. Yaniv has leveraged his expertise and is a named inventor in over 200 patents worldwide.

22. The patents-in-suit are directed toward an improved process for manufacturing a light influencing element, or color filter, where the color filter can be made by the injection of color into an opening of a substrate by an inkjet type injection head.

23. LCD televisions, and all color LCD screens, work by selectively blocking light. A LCD television screen is made up of thousands of pixels, where light either is transmitted through or is blocked by the liquid crystals. By using different combinations of red, green, and blue, a full color spectrum can be created.

24. Traditional methods of manufacturing a color filter are extremely costly, time-consuming, and wasteful. Typically, manufacture requires several steps of applying photoresist, applying a color, removing the photoresist, applying a new layer of photoresist, applying a second color, and so on.

25. Dr. Yaniv's methods, as set forth in the patents-in-suit, include, for example, creating wells that are filled with color by the injection of color through the use of an inkjet type injection head.

26. Dr. Yaniv's methods, as set forth in the patents-in-suit, produce a less expensive color filter and LCD panel because Dr. Yaniv's claimed processes are more efficient and cost effective modes of manufacture. The methods claimed in the patents-in-suit have the added benefit of producing much less waste than traditional methods.

THE DEFENDANTS' INFRINGEMENT OF ATI'S PATENTS

27. ATI incorporates by reference paragraphs 1 through 26 of this Complaint and realleges them as though fully set forth herein.

28. ATI is informed and believes that Defendants manufacture LCD televisions at Sharp's Kameyama Number 2 plant in Kameyama, Japan for import into the United States. See Exhibit 1 attached.

29. ATI is informed and believes that DNP and/or DNP Color manufactures color filters inside of the Sharp's Kameyama Number 2 plant using ATI's patented process.

30. ATI is informed and believes that Sharp installs the color filters into Sharp branded LCD Televisions.

31. ATI is informed and believes that the Defendants use inkjet technology to manufacture color filters at Sharp's Kameyama Number 2 plant. See Exhibit 1 attached.

32. ATI is informed and believes that the Defendants jointly manufacture several models and sizes of LCD Televisions at the Kameyama Number 2 plant including, but not limited to, the Sharp AQUOS models LC-52D92U, LC-46D92U, LC-42D92U, LC-52D82U, LC-46D82U, LC-52D62U, and LC-46D62U. See Exhibits 4 and 5 attached.

33. ATI is informed and believes that one or more of the Defendants import and have imported at least the above-referenced LCD televisions into the United States from Sharp's Kameyama Number 2 plant.

FIRST CLAIM FOR RELIEF AGAINST ALL DEFENDANTS

Infringement of U.S. Patent No. RE 37,682

34. ATI incorporates by reference paragraphs 1 through 33 of this Complaint and realleges them as though fully set forth herein.

35. ATI is informed and believes that defendants have infringed the '682 patent under 35 U.S.C. section 271. For example, without authorization from ATI, defendants have infringed, contributorily infringed and/or actively induced infringement of the '682 patent by making, using, offering to sell, selling, causing to be sold, causing to be imported and/or importing in the United States of America, during the term of the '682 patent, products or assemblies made by processes that fall within the scope of one or more claims of the '682 patent.

36. At least as early as February 15, 2007, defendant Sharp had knowledge of the '682 patent. See Exhibit 6 attached.

37. ATI has suffered damages as a result of the defendants' infringement. As a consequence of defendants' infringement, ATI is entitled to recover damages adequate to compensate it equal to at least a reasonable royalty.

38. Defendants' infringement has been and continues to be willful.

39. Defendants' infringement has irreparably injured and will continue to irreparably injure ATI, unless and until such infringement is enjoined by this Court.

SECOND CLAIM FOR RELIEF AGAINST ALL DEFENDANTS

Infringement of U.S. Patent No. RE 36,711

40. Plaintiff ATI realleges and incorporates herein by reference the allegations stated in paragraphs 1-39 of this Complaint.

41. ATI is informed and believes that defendants have infringed the '711 patent under 35 U.S.C. section 271. For example, without authorization from ATI, defendants have infringed, contributorily infringed and/or actively induced infringement of the '711 patent by making, using, offering to sell, selling, causing to be sold, causing to be imported and/or importing in the United States of America, during the term of the '711 patent, products or assemblies made by processes that fall within the scope of one or more claims of the '711 patent.

42. At least as early as February 15, 2007, defendant Sharp had knowledge of the '711 patent. See Exhibit 6 attached.

43. ATI has suffered damages as a result of the defendants' infringement. As a consequence of defendants' infringement, ATI is entitled to recover damages adequate to compensate it equal to at least a reasonable royalty.

44. Defendants' infringement has been and continues to be willful.

45. Defendants' infringement has irreparably injured and will continue to irreparably injure ATI, unless and until such infringement is enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, ATI prays for a judgment as follows:

- (a) that the defendants have infringed, contributed to and induced the infringement of the '682 and '711 patents;
- (b) that a permanent injunction be issued enjoining and restraining the Defendants and their agents, officers, employees, affiliates, divisions, and those in association with them, from making, using, offering to sell, selling, importing, or exporting any product, which falls within the scope of any claim of the '682 and '711 patents;
- (c) that Defendants account and pay an award of actual damages (but no less than a reasonable royalty) to ATI for Defendants' infringement of the '682 and '711 patents;
- (d) that Defendants' pay treble damages pursuant to 35 U.S.C. § 284;
- (e) that Defendants' pay ATI's costs, expenses and prejudgment interest pursuant to 35 U.S.C. § 284;
- (f) that Defendant's infringement of the '682 and '711 patents is willful and that this is an "exceptional case" within the meaning of 35 U.S.C. § 285 and award ATI its reasonable attorneys' fees, all costs of this action, and interest on those fees and costs; and

(g) such other and further relief, at law or in equity, to which ATI is justly entitled.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, ATI demands a jury trial on all issues triable of right by a jury.

Date: March 10, 2008

Respectfully submitted,

/s/ David B. Weaver

David B. Weaver, Attorney in Charge

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document 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(d) and (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 email and/or fax, on this the 10th day of March, 2008.

/s/ Dawn Crider

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