

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

PLASMA PHYSICS CORPORATION and)	
SOLAR PHYSICS CORPORATION,)	
)	Civil Action No.
Plaintiffs,)	00-4558 (LDW/WDW)
)	
v.)	JURY TRIAL
)	DEMANDED
MITSUBISHI ELECTRIC CORPORATION,)	
MITSUBISHI ELECTRONICS AMERICA, INC.,)	
MITSUBISHI ELECTRIC & ELECTRONICS USA, INC.,)	
)	
)	
Defendants.)	

AMENDED COMPLAINT

This complaint amends the complaint filed on August 7, 2000.

The August 7, 2000 complaint was filed to effectuate Judge Wexler's July 24, 2000 oral ruling with respect to Mitsubishi Electric Corporation, and Mitsubishi Electronics America, Inc., and Civil Action No. CV-99-8593. In accordance with Judge Wexler's ruling, the filing date of the August 7, 2000 complaint relates back to the December 28, 1999 filing date for Civil Action No. CV-99-8593 for all substantive issues in the original complaints, including damages pursuant to 35 U.S.C. § 286. Therefore, plaintiffs, Plasma Physics Corporation ("Plasma Physics") and Solar Physics Corporation ("Solar Physics"), for their amended complaint against defendants, Mitsubishi Electric Corporation, Mitsubishi Electronics America, Inc., and Mitsubishi Electric & Electronics USA, Inc., allege as follows:

JURISDICTION

1. This is an action for patent infringement under the laws of the United States, Title 35, United States Code. Jurisdiction and venue are based on Sections 1338(a), 1391(b), 1391(c), 1391(d), and/or 1400(b) of Title 28, United States Code.

PARTIES

2. Plaintiff Plasma Physics is a New York corporation with its principal place of business at 40 Overlook Road, Locust Valley, New York 11560, within this judicial district.

3. Plaintiff Solar Physics is a New York corporation with its principal place of business at 40 Overlook Road, Locust Valley, New York 11560, within this judicial district.

4. Upon information and belief, defendant Mitsubishi Electric Corporation is a Japanese corporation with a place of business at Mitsubishi Denki Bldg. 2-3-2, Marunouchi, Chiyodu-ku, Tokyo, 100, Japan. Upon information and belief, in connection with the acts of infringement complained of herein, Mitsubishi Electric Corporation has and is (a) transacting business within New York, (b) contracting to supply goods or services in New York, (c) committing tortious acts within New York, and/or (d) committing tortious acts without New York causing injury to persons and property within New York, and (i) regularly does or solicits business, or derives substantial revenue from goods used or consumed or services rendered, in New York or (ii) expects or should reasonably expect its tortious acts to have consequences in New

York and derives substantial revenue from interstate or international commerce. In addition, upon information and belief, Mitsubishi Electric Corporation has and is, in connection with the acts of infringement complained of herein, purposely directing into the stream of commerce semiconductor and flat panel display components included in Mitsubishi electronic products or to be included in electronic products made by others with the expectation that such electronic products will be purchased and used in New York.

5. Upon information and belief, defendant Mitsubishi Electronics America, Inc., a wholly owned subsidiary of Mitsubishi Electric Corporation, is a Delaware corporation having a place of business at 5665 Plaza Drive, Cypress, California 90630, is registered to and is doing business in New York and has a registered agent for service of process in New York.

6. Upon information and belief, defendant Mitsubishi Electric & Electronics USA, Inc., a subsidiary of Mitsubishi Electric Corporation, is a Delaware corporation having a place of business at 5665 Plaza Drive, Cypress, California 90630, is registered to and is doing business in New York and has a registered agent for service of process in New York.

THE PATENTS IN SUIT

7. United States Patent 4,226,897 (the “897 patent”), entitled “Method of Forming Semiconducting Materials and Barriers,” duly and legally issued to Plasma Physics on October 7, 1980, based on an application filed on December 5, 1977 by

John H. Coleman. Plasma Physics is the owner of title to the '897 patent and has the right to recover for past infringement thereof with respect to the following subject matter areas: apparatus for performing plasma chemical vapor coating or plasma chemical vapor etching of disc-shaped wafers made of single crystal silicon, polycrystal silicon, single crystal III-V compounds or polycrystal III-V compounds; disc-shaped wafers made with such apparatus by plasma chemical vapor coating or plasma chemical vapor etching; and processes in combination with such apparatus (the "Excluded Subject Matter"). Solar Physics is the exclusive licensee of the '897 patent and has the right to recover for past infringement thereof in all areas except the Excluded Subject Matter.

8. United States Patent 5,470,784 (the "'784 patent"), entitled "Method of Forming Semiconducting Materials and Barriers Using A Multiple Chamber Arrangement," duly and legally issued to Plasma Physics on November 28, 1995, based on an application filed on September 23, 1992 by John H. Coleman. Plasma Physics is the owner of title to the '784 patent and has the right to recover for past infringement thereof in the areas of the Excluded Subject Matter. Solar Physics is the exclusive licensee of the '784 patent and has the right to recover for past infringement thereof in all areas except the Excluded Subject Matter.

9. United States Patent 5,543,634 (the "'634 patent"), entitled "Method of Forming Semiconductor Materials and Barriers," duly and legally issued to Plasma Physics on August 6, 1996, based on an application filed on June 2, 1994 by John H. Coleman. Plasma Physics is the owner of title to the '634 patent and has the right to recover for past infringement thereof in the areas of the Excluded Subject Matter. Solar

Physics is the exclusive licensee of the '634 patent and has the right to recover for past infringement thereof in all areas except the Excluded Subject Matter.

10. United States Patent 6,245,648 (the "'648 patent"), entitled "Method of Forming Semiconductor Materials and Barriers," duly and legally issued to Plasma Physics on June 12, 2001, based on an application filed on May 18, 1995 by John H. Coleman. Plasma Physics is the owner of title to the '648 patent and has the right to recover for past infringement thereof in the areas of the Excluded Subject Matter. Solar Physics is the exclusive licensee of the '648 patent and has the right to recover for past infringement thereof in all areas except the Excluded Subject Matter.

CLAIMS FOR PATENT INFRINGEMENT

The '897, '784 and '634 Patents

11. Upon information and belief, defendants Mitsubishi Electric Corporation, Mitsubishi Electronics America, Inc., and Mitsubishi Electric & Electronics USA, Inc., have infringed one or more claims of the '897 and '784 patents, and are continuing to infringe one or more claims of the '784 patent, in violation of 35 U.S.C. §§ 271 (b) and/or (g) by importing into the United States or offering to sell, selling, and/or using within the United States semiconductor wafer products made by processes claimed in one or more of the '897 and '784 patents and/or by actively inducing infringement of one or more of the claims of the '897 and '784 patents. Upon information and belief, Mitsubishi Electric Corporation, Mitsubishi Electronics America, Inc. and Mitsubishi Electric & Electronics USA, Inc. also have infringed and are continuing to infringe one or more claims of the '634 patent in violation of 35 U.S.C. §§ 271 (a) and/or (b) by making,

using, offering to sell, selling and/or importing into the United States flat panel display cells and/or modules and/or products made therefrom and/or by actively inducing infringement of one or more claims of the '634 patent.

12. Notice of infringement of the '897, and '784 patents has been given to Mitsubishi Electric Corporation, and thereby to its wholly owned subsidiaries Mitsubishi Electronics America, Inc., and Mitsubishi Electric & Electronics USA, Inc. Notice of infringement of the '634 patent also has been given to Mitsubishi Electric Corporation, and thereby to its wholly owned subsidiaries Mitsubishi Electronics America, Inc. and Mitsubishi Electric & Electronics USA, Inc.

13. Upon information and belief, Mitsubishi Electric Corporation's, Mitsubishi Electronics America Inc.'s, and Mitsubishi Electric & Electronics USA, Inc.'s infringement of the '897 and '784 patents has been willful and deliberate. Upon information and belief, Mitsubishi Electric Corporation's, Mitsubishi Electronics America Inc.'s and Mitsubishi Electric & Electronics USA, Inc.'s, infringement of the '634 patent also has been willful and deliberate.

The '648 Patent

14. Upon information and belief defendants Mitsubishi Electric Corporation, Mitsubishi Electronics America, Inc. and Mitsubishi Electric & Electronics USA, Inc. also have infringed and are continuing to infringe one or more claims of the '648 patent in violation of 35 U.S.C. §§ 271 (b) and/or (g) by importing into the United States or offering to sell, selling, and/or using within the United States semiconductor

wafer products made by processes claimed in the '648 patent and/or by actively inducing such infringement of one or more of the claims of the '648 patent.

15. After a reasonable opportunity for further investigation or discovery, it is likely that plaintiffs will establish that defendants Mitsubishi Electric Corporation, Mitsubishi Electronics America, Inc. and Mitsubishi Electric & Electronics USA, Inc. also have infringed and are continuing to infringe one or more claims of the '648 patent in violation of 35 U.S.C. §§ 271(b) and/or (g) by importing into the United States or offering to sell, selling, and/or using within the United States flat panel displays, cells and/or modules and/or products made therefrom made by processes claimed in the '648 patent and/or by actively inducing such infringement of one or more of the claims of the '648 patent.

16. Notice of infringement of the '648 patent has been given to Mitsubishi Electric Corporation, and to its wholly owned subsidiaries Mitsubishi Electronics America, Inc., and Mitsubishi Electric & Electronics USA, Inc.

WHEREFORE, plaintiffs Plasma Physics Corporation and Solar Physics Corporation pray for judgment and relief against defendants, including:

A. Adjudging each of the '897, '784, '634 and '648 patents to be not invalid and to be enforceable;

B. Adjudging that each of the defendants has infringed and induced infringement of said patents;

C. Permanently enjoining Mitsubishi Electric Corporation, Mitsubishi Electronics America, Inc., Mitsubishi Electric & Electronics USA, Inc., their officers,

agents, servants, employees, attorneys, all parent and subsidiary corporations, their assigns and successors in interest, and those persons in active concert or participation with any of them who receive notice of the injunction, including distributors and customers, from continuing acts of infringement of the '784 patent;

D. Permanently enjoining Mitsubishi Electric Corporation, Mitsubishi Electronics America, Inc. and Mitsubishi Electric & Electronics USA, Inc., their officers, agents, servants, employees, attorneys, all parent and subsidiary corporations, their assigns and successors in interest, and those persons in active concert or participation with any of them who receive notice of the injunction, including distributors and customers, from continuing acts of infringement of the '634 patent;

E. Permanently enjoining Mitsubishi Electric Corporation, Mitsubishi Electronics America, Inc., Mitsubishi Electric & Electronics USA, Inc., their officers, agents, servants, employees, attorneys, all parent and subsidiary corporations, their assigns and successors in interest, and those persons in active concert or participation with any of them who receive notice of the injunction, including distributors and customers, from continuing acts of infringement of the '648 patent;

F. Adjudging that an accounting be had for damages caused by the defendants' infringement, together with pre-judgment and post-judgment interest;


G. Adjudging that defendants are willful infringers and trebling the aforesaid damages pursuant to 35 U.S.C. § 284;

H. Adjudging that this case is an exceptional case and awarding Plasma Physics Corporation and Solar Physics Corporation their costs, expenses and reasonable attorney's fees pursuant to 35 U.S.C. § 285; and

I. Such other and further relief as this Court may deem just and proper.

Trial by Jury is hereby demanded.

Dated: September 4, 2001



HERBERT F. SCHWARTZ (HS2599)
ROBERT C. MORGAN (RM0245)
PATRICIA A. MARTONE (PM2989)
ERIC R. HUBBARD (EH9798)
FISH & NEAVE
1251 Avenue of the Americas
New York, New York 10020
(212) 596-9000

NORMAN H. BEAMER (NB2998)
FISH & NEAVE
525 University Avenue
Palo Alto, California 94301
(415) 617-4000

Attorneys for Plaintiffs,
Plasma Physics Corporation and
Solar Physics Corporation