

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff Digital Choice of Texas, LLC (“Digital Choice”), by and through its undersigned counsel, files this Complaint against Sichuan Changhong Electric Co., Ltd., Orient Power Video Manufacturing Ltd. d/b/a “Oritron”, Philips Electronics North America Corp., Toshiba America Consumer Products, LLC, Amphion Mediaworks, Inc., Apex Digital, Inc., Audiovox Electronics Corp., Coby Electronics Corp., Cyberhome Entertainment, Inc., Daewoo Electronics Corporation of America, Denon Electronics USA, LLC, Desay A&V (USA), Inc., Hitachi America, Ltd., Initial Technology Inc., J.S. International, Inc. d/b/a Koss Audio and Video Electronics, jWIN Electronics Corporation, Memcorp., Inc., Mintek Digital, Inc., Opta Corporation, Opta Systems, LLC, Petters Group Worldwide, LLC, Petters Consumer Brands, LLC, SVA Group (USA), Inc., Yamaha Corporation of America, Amazon.com, Inc., Best Buy Co., Inc., Circuit City Stores, Inc., Costco Wholesale Corp., RadioShack Corp., Sam’s Club, Sears, Roebuck & Co., Target Corporation, and Walmart Stores, Inc. (collectively, “Defendants”) as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to stop each Defendant’s infringement of Digital Choice’s U.S. Patent No. 5,172,111 (the “‘111 Patent”), entitled “Stored Media Screening Device.” The value of the ‘111 Patent is widely recognized within the DVD industry. Digital Choice has successfully licensed the ‘111 Patent to many of the leading DVD player manufacturers, including Sony, Matsushita, Samsung, Funai, LG Electronics,

Sanyo, Sharp, and Orion. Digital Choice is the assignee of the '111 Patent. Digital Choice seeks injunctive relief and monetary damages.

PARTIES

2. Plaintiff Digital Choice of Texas, LLC is a limited liability company organized and existing under the laws of the State of Texas. Digital Choice maintains its principal place of business at 505 E. Travis Street, Suite 112, Marshall, Texas 75670. Digital Choice is the assignee of all rights, title, and interest in and to the '111 Patent and possesses all rights of recovery under the '111 Patent, including the right to sue for infringement and recover past damages.

3. Defendant Sichuan Changhong Electric Co., Ltd. ("Changhong") is a corporation organized and existing under the laws of the Republic of China, with its principal place of business located at No. 35 Mianxing East Road, Mianyang, Sichuan 621000, China. Changhong manufactures for sale and/or sells DVD players to consumers in the United States. Changhong may be served via its registered agent for service of process, Xiangtao Wu, 20162 Donway Dr., Walnut, California 91789.

4. Defendant Orient Power Video Manufacturing, Ltd. ("Orient") is a corporation organized and existing under the laws of Hong Kong, with its principal place of business located at Harbour Centre Tower 1, 1 Hok Cheung Street, Hung Hom, Kowloon, Hong Kong. Defendant Orient manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including "Oritron." Orient may be served with service of process through the Hague Convention on the Service Abroad of Judicial and

Extrajudicial Documents in Civil or Commercial Matters by mailing a copy of this complaint to The Chief Secretary of Hong Kong Central Government.

5. Defendant Philips Electronics North America Corporation (“Philips”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 1251 Avenue of the Americas, Fl. 19, New York, New York 10020. Philips manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including “Philips” and “Magnavox.” Philips may be served via its registered agent for service of process, Corporation Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

6. Defendant Toshiba America Consumer Products, LLC (“Toshiba”) is a limited liability company organized and existing under the laws of the State of New Jersey, with its principal place of business located at 82 Totowa Road, Wayne, New Jersey 07470. Toshiba manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including “Toshiba.” Toshiba may be served via its registered agent for service of process, CT Corporation System, 350 N. St. Paul, Dallas, Texas 75201.

7. Defendant Amphion MediaWorks, Inc. (“AMW”) is a corporation organized and existing under the laws of the State of California, with its principal place of business located at 1001 Lawson St., City of Industry, California 91748. AMW manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including “AMW.” AMW may be served via its registered agent for service of process, Cindy Tsai, 1001 Lawson Street, City of Industry, California 91748.

8. Defendant Apex Digital, Inc. (“Apex”) is a corporation organized and existing under the laws of the State of California, with its principal place of business located at 2919 E. Philadelphia Street, Ontario, California 91761. Apex manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including “Apex.” Apex may be served via its registered agent for service of process, David Ji, 2919 E. Philadelphia Street, Ontario, California 91761.

9. Defendant Audiovox Electronics Corp. (“Audiovox”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 150 Marcus Blvd., Hauppauge, New York 11788. Audiovox manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including “Audiovox.” Audiovox may be served via its registered agent for service of process, HIQ Corporate Services, Inc., 800 Brazos Street, Suite 1100, Austin, Texas 78701.

10. Defendant Coby Electronics Corp. (“Coby”) is a corporation organized and existing under the laws of the State of New York, with its principal place of business located at 50-65 Rust Street, Maspeth, New York 11378. Coby manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including “Coby.” Coby may be served via its registered agent for service of process, Ioan Ton, 2117 Pasa Real Avenue, South Gate, California 90280.

11. Defendant Cyberhome Entertainment, Inc. (“Cyberhome”) is a corporation duly organized and existing under the laws of the State of California, with its principal place of business located at 48400 Fremont Blvd., Fremont, California 94538. Cyberhome

manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including “Cyberhome.” Cyberhome may be served via its registered agent for service of process, Jon R. Parsons, 2501 Park Blvd., Suite 207, Palo Alto, California 94306-1925.

12. Defendant Daewoo Electronics Corp. of America (“Daewoo”) is a corporation duly organized and existing under the laws of the State of California, with its principal place of business located at 120 Chubb Avenue, Lyndhurst, New Jersey 07071. Daewoo manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including “Daewoo.” Daewoo may be served via its registered agent for service of process, Yong Nam Cho, 120 Chubb Avenue, Lyndhurst, New Jersey 07071.

13. Defendant Denon Electronics USA, LLC (“Denon”) is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business located at 19 Chapin Road, Bldg. C., Pine Brook, New Jersey 07058. Denon manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including “Denon” and “Marantz.” Denon may be served via its registered agent for service of process, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

14. Defendant Desay A&V (USA), Inc. (“Desay”) is a corporation organized and existing under the laws of the State of California, with its principal place of business located at 1606 West Lockness Place, Torrance, California 90501. Desay manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names,

including “Desay.” Desay may be served via its registered agent for service of process, Dan Tseng, 1606 West Lockness Place, Torrance, California 90501.

15. Defendant Hitachi America, Ltd. (“Hitachi”) is a corporation organized and existing under the laws of the State of New York, with its principal place of business located at 2000 Sierra Point Parkway, Brisbane, California 94005-1835. Hitachi manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including “Hitachi.” Hitachi may be served via its registered agent for service of process, Prentice Hall Corp. System, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

16. Defendant Initial Technology Inc. (“Initial”) is a corporation organized and existing under the laws of the State of California, with its principal place of business located at 1935 Puddingstone Drive, La Verne, California 91750. Initial manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including “Initial.” Initial may be served via its registered agent for service of process, Kwai Mo Wong, 1935 Puddingstone Drive, La Verne, California 91750.

17. Defendant jWIN Electronics Corporation (“jWIN”) is a corporation organized and existing under the laws of the State of New York, with its principal place of business located at 51-41 59th Place, Woodside, New York 11377. jWIN manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including “jWIN.” jWIN may be served via its registered agent for service of process, Douglas D. Jones, 18043 Whispering Gables, Dallas, Texas 75287.

18. Defendant J.S. International, Inc. (“J.S. International”) is a corporation organized and existing under the laws of the State of Missouri with its principal place of business located at 11733 Missouri Bottom Road, Hazelwood, Missouri 63042. J.S. International also does business as Koss Audio and Video Electronics (“Koss”). J.S. International d/b/a Koss manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand name, including “Koss.” J.S. International d/b/a Koss may be served via its registered agent for service of process, Philip Kaplan, 168 North Meramec, Ste. 400, St. Louis, Missouri 63105.

19. Defendant Memcorp, Inc. (“Memcorp”) is a corporation organized and existing under the laws of the State of Florida, with its principal place of business located at 3200 Meridian Pkwy., Weston, Florida 33331. Memcorp manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including “Memorex.” Memcorp may be served via its registered agent for service of process, Barry Smith, 3200 Meridian Pkwy., Weston, Florida 33331.

20. Defendant Mintek Digital, Inc. (“Mintek”) is a corporation organized and existing under the laws of the State of California with its principal place of business located at 4915 E. Hunter Avenue, Anaheim, California 92807. Mintek manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including “Mintek.” Mintek may be served via its registered agent for service of process, CT Corporation System, 818 West Seventh Street, Los Angeles, California 90017.

21. Defendant Opta Corporation is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 1350 Bayshore Highway, Suite 730, Burlingame, California 94010. Opta Corporation may be served through its registered agent, Vincent Y. Yan, 25 Beachwood, Irvine, California 92604. Defendant Opta Systems, LLC (“Opta Systems”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 7835 East McClain Drive, Scottsdale, Arizona 85260. Opta Systems may be served via its registered agent for service of process, Corporation Service Company, 2338 W. Royal Palm Rd, Suite J, Phoenix, Arizona 85021. Opta Corporation and Opta Systems, LLC also do business as Go Video (“Go Video”). Opta Corporation and Opta Systems manufacture for sale and/or sell DVD players to consumers in the United States under one or more brand names, including “Go Video.”

22. Defendants Petters Group Worldwide, LLC and Petters Consumer Brands, LLC (collectively, “Petters Companies”) are limited liability companies organized and existing under the laws of the State of Delaware, with their principal place of business located at 4400 Baker Rd., Minnetonka, Minnesota 55343. The Petters Companies sell DVD players to customers in the United States under one or more brand names, including “Polaroid.” The Petters Companies may be served via their registered agent for service of process, National Registered Agents, Inc. 160 Greentree Drive, Suite 101, Dover, Delaware 19904

23. Defendant SVA Group (USA), Inc. ("SVA") is a corporation organized and existing under the laws of the State of California, with its principal place of business located at 1055 Corporate Center Dr., Ste 580, Monterey Park, California 91754. SVA sells DVD players to consumers in the United States under one or more brand names, including, "SVA." SVA may be served via its registered agent for service of process, Calvin Cs Yap, 16148 Sand Canyon Ave., Irvine, California 92618.

24. Defendant Yamaha Corporation of America ("Yamaha") is a corporation organized and existing under the laws of the State of California, with its principal place of business located at 6600 Orangethorpe Avenue, Buena Park, California 90620. Yamaha manufactures for sale and/or sells DVD players to consumers in the United States under one or more brand names, including "Yamaha." Yamaha may be served via its registered agent for service of process, Corporation Service Co., 2730 Gateway Oaks Drive, Suite 100, Sacramento, California 95833.

25. Defendant Amazon.com, Inc. ("Amazon") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 1200 12th Avenue South, Suite 1200, Seattle, Washington 98144. Amazon sells DVD players to consumers in the United States under one or more brand names, including but not limited to "Polaroid", "Mintek", "Cyberhome", "Koss", "Malata", "Philips", "Magnavox", "Toshiba", "Daewoo", "Go Video", "Akai", "Coby", and "Audiovox." Amazon may be

served via its registered agent for service of process, CT Corporation System, 520 Pike Street, Seattle, Washington 98101.

26. Defendant Best Buy Co., Inc. ("Best Buy") is a corporation organized and existing under the laws of the State of Minnesota, with its principal place of business located at 7601 Penn Avenue, Richfield, Minnesota 55423. Best Buy sells DVD players to consumers in the United States under one or more brand names, including "Cyberhome", "Magnavox", "Toshiba", "Oritron", "Phillips", "Sylvania", "Yamaha", "Insignia", and "Dynex." Best Buy may be served via its registered agent for service of process at National Registered Agents, Inc., 1614 Sidney Baker Street, Kerrville, Texas 78028.

27. Defendant Circuit City Stores, Inc. ("Circuit City") is a corporation organized and existing under the laws of the State of Virginia, with its principal place of business located at 9950 Mayland Drive, Richmond, Virginia 23233-1463. Circuit City sells DVD players to consumers in the United States under one or more brand names, including but not limited to, "Desay", "Nexxtech", "Initial", "Liquid Video", "Polaroid", "Audiovox", "Harmon Kardon", "Lite-On", "Onkyo", and "Philips." Circuit City may be served via its registered agent for service of process, Prentice Hall Corp. System, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

28. Defendant Costco Wholesale Corp. ("Costco") is a corporation organized and existing under the laws of the State of Washington, with its principal place of business located at 999 Lake Drive, Issaquah, Washington 98027. Costco sells DVD players to

consumers in the United States under one or more brand names, including but not limited to, “Go Video” and “Toshiba.” Circuit City may be served via its registered agent for service of process, CT Corporation System, 350 N. St. Paul, Dallas, Texas 75201.

29. Defendant RadioShack Corporation (“RadioShack”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 100 Throckmorton Street, Suite 1800, Fort Worth, Texas 76102. RadioShack sells DVD players to consumers in the United States under one or more brand names, including “Desay”, “Lite-On”, “Go Video”, “Aspire”, and “Polaroid.” RadioShack may be served via its registered agent for service of process Corporation Service Company d/b/a CSC Lawyers Incorporating Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

30. Defendant Sears, Roebuck & Company (“Sears”) is a corporation organized and existing under the laws of the State of New York, with its principal place of business located at 3333 Beverly Road, Hoffman Estates, Illinois 60179. Sears sells DVD players to consumers in the United States under one or more brand names, including but not limited to, “Daewoo”, “Koss”, “Memorex”, “Panasonic”, and “Toshiba.” Sears may be served via its registered agent for service of process, CT Corporation System, 350 N. St. Paul, Dallas, Texas 75201.

31. Defendant Target Corporation (“Target”) is a corporation organized and existing under the laws of the State of Minnesota, with its principal place of business located at 1000 Nicollet Mall, Minneapolis, Minnesota 55403-2467. Target sells DVD players to

consumers in the United States under one or more brand names, including but not limited to, “Audiovox”, “Cyberhome”, “Mintek”, “Initial”, “Toshiba”, “Hiteck”, “Polaroid”, “Kawasaki”, “G2G”, “Coby”, “Axion”, “Go Video”, and “Malata.” Target may be served via its registered agent for service of process, CT Corporation System, 350 N. St. Paul, Dallas, Texas 75201.

32. Defendant Walmart Stores, Inc. (“Walmart”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 702 SW 8th Street, Bentonville, Arkansas 72716. Walmart also does business as Sam’s Club (“Sam’s”), a division of Walmart. Walmart and Sam’s sell DVD players to consumers in the United States under one or more brand names, including but not limited to “Polaroid”, “Durabrand”, “Magnavox”, “Xtreme”, “RCA”, “Venturer”, “Initial”, “Ilo”, “Cyberhome”, and “GE.” Walmart and Sam’s may be served via their registered agent for service of process, CT Corporation System, 350 N. St. Paul, Dallas, Texas 75201.

JURISDICTION AND VENUE

33. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. § 271. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

34. The Court has personal jurisdiction over each Defendant. Each Defendant has conducted and does conduct business within the State of Texas. Each Defendant, directly and/or through intermediaries (including distributors, retailers, and others), ships, distributes,

offers for sale, sells, and/or advertises its products in the United States, the State of Texas, and the Eastern District of Texas. Each Defendant has purposefully and voluntarily placed one or more of its infringing products, as described below in Count 1, into the stream of commerce with the expectation that they will be purchased by consumers in the Eastern District of Texas. These infringing products have been and continue to be purchased by consumers in the Eastern District of Texas. Each Defendant has committed the tort of patent infringement within the State of Texas, and, more particularly, within the Eastern District of Texas.

35. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§1391 and 1400(b).

COUNT I – INFRINGEMENT OF U.S. PATENT 5,172,111

36. Digital Choice refers to and incorporates herein the allegations of Paragraphs 1-35 above.

37. United States Patent No. 5,172,111 (attached hereto as Exhibit A), entitled “Stored Media Screening Device,” was duly and legally issued by the United States Patent and Trademark Office on December 15, 1992 after full and fair examination. The ‘111 Patent was subsequently reexamined and was duly and legally issued a Reexamination Certificate (attached hereto as Exhibit B) on September 16, 2003 after a full and fair reexamination. Digital Choice is the assignee of all rights, title, and interest in and to the

‘111 Patent and possesses all rights of recovery under the ‘111 Patent, including the right to sue for infringement and recover past damages.

38. Upon information and belief, each Defendant has infringed and continues to infringe the ‘111 Patent by making, using, offering to sell, selling (directly or through intermediaries), and importing, in this district and elsewhere in the United States, DVD players that use or embody the patented invention. Upon information and belief, each Defendant has also contributed to the infringement of the ‘111 Patent, and/or actively induced others to infringe the ‘111 Patent, in this district and elsewhere in the United States.

39. Digital Choice is entitled to recover from the Defendants the damages sustained by Digital Choice as a result of the Defendants’ wrongful acts in an amount subject to proof at trial.

40. Upon information and belief, the Defendants’ infringement of the ‘111 Patent has been willful and deliberate, entitling Digital Choice to increased damages under 35 U.S.C. § 284 and to attorneys’ fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

41. The Defendants’ infringement of Digital Choice’s exclusive rights under the ‘111 Patent will continue to damage Digital Choice, causing irreparable harm for which there is no adequate remedy at law, unless it is enjoined by this Court

JURY DEMAND

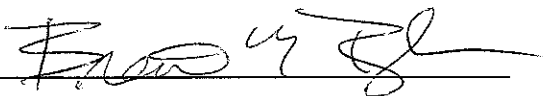
42. Plaintiff demands a trial by jury on all issues and has paid the required jury fee.

PRAYER FOR RELIEF

Plaintiff Digital Choice of Texas, LLC respectfully requests this Court to enter judgment in its favor against the Defendants, granting the following relief:

- A. An adjudication that the Defendants have infringed and continue to infringe claims of the '111 Patent;
- B. An award to Digital Choice of damages adequate to compensate Digital Choice for the Defendants' acts of infringement together with prejudgment interest;
- C. An award to Digital Choice of enhanced damages, up to and including trebling of Digital Choice's damages pursuant to 35 U.S.C. § 284, for the Defendants' willful infringement;
- D. An award of Digital Choice's costs of suit and reasonable attorneys' fees pursuant to 35 U.S.C. § 285 due to the exceptional nature of this case, or as otherwise permitted by law;
- E. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendants from further acts of (1) infringement, (2) contributory infringement, and (3) active inducement to infringe with respect to the claims of the '111 Patent; and
- F. Any further relief that this Court deems just and proper.

Respectfully submitted,

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