

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

RICOH COMPANY, LTD.,

Plaintiff,

v.

1. LITE-ON IT CORP.,
2. LITE-ON TECHNOLOGY CORP.,
3. LITE-ON TRADING USA, INC.,
4. LITE-ON TECHNOLOGY INTERNATIONAL INC.,
- and
5. LITE-ON (USA) INTERNATIONAL, INC.,

Defendants.

CIV. ACTION NO. 5:04cv104

DEMAND FOR JURY TRIAL

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

Plaintiff, Ricoh Company, Ltd. (“Ricoh”), complains of defendants, Lite-On IT Corp. (“Lite-On IT”), Lite-On Technology Corp. (“Lite-On Technology”), Lite-On Trading USA, Inc. (“Lite-On Trading”), Lite-On Technology International Inc. (“Lite-On TII”), and Lite-On (USA) International, Inc. (“Lite-On-USAI”), as follows:

THE PARTIES

1. The plaintiff, Ricoh, is a Japanese corporation. Ricoh is the owner of record of the patents involved in this action. Ricoh designs, makes, and sells, among other things, components of optical storage devices.

2. Defendant Lite-On IT is a Taiwanese corporation which has an office at 392 Ruey Kwang Road, Neihu, Taipei 114, Taiwan. Lite-On IT is a manufacturer, among other things, of

optical storage devices, and it has caused and is causing them to be shipped to the United States. Lite-On IT is a member of the Lite-On Group of companies in Taiwan and, on information and belief, is controlled by the management thereof. The Lite-On Group claims to be the first ranking marketer in the CD-R/RW (compact disc – recordable/rewritable) drive field in Taiwan and the second ranking in the world, with over \$6 billion in worldwide annual sales of electronic and computer-related products. A majority of the shares of Lite-On IT is owned by defendant Lite-On Technology.

3. Defendant Lite-On Technology is a Taiwanese corporation which has an office at 392 Ruey Kwang Road, Neihu, Taipei 114, Taiwan. On information and belief, defendant Lite-On Technology or its predecessor in name and title formed defendant Lite-On IT in 1999 to carry on Lite-On Technology's business in optical storage devices. On information and belief, Lite-On Technology manufactured and caused optical storage devices to be shipped to the United States until it transferred that business in 1999 to Lite-On IT. On information and belief, Lite-On Technology has retained the liabilities of the company previously known by that name, after a corporate reorganization in 2002. On information and belief, such liability includes any liability for patent infringement with regard to optical storage devices arising before the formation of Lite-On IT. Lite-On Technology is a member of the Lite-On Group of Taiwan and, on information and belief, is controlled by the management thereof.

4. On information and belief, defendant Lite-On Trading is a California corporation; has a place of business at 720 S. Hillview Drive, Milpitas, California 95035; has, from time to time, imported or caused to be imported into the United States optical storage devices made by Lite-On Technology, Lite-On IT, or other members of the Lite-On Group, and has sold such products in the United States; is a wholly-owned subsidiary of Lite-On Technology; is a member

of the Lite-On Group of Taiwan; and is controlled by the management thereof.

5. On information and belief, defendant Lite-On TII is a California corporation; has a place of business at 720 S. Hillview Drive, Milpitas, California 95035; has, from time to time, imported or caused to be imported into the United States optical storage devices made by Lite-On Technology, Lite-On IT, or other members of the Lite-On Group, and has sold such products in the United States; is a wholly-owned subsidiary of Lite-On Technology; is a member of the Lite-On Group of Taiwan; and is controlled by the management thereof.

6. Defendant Lite-On-USAI is a California corporation which has a place of business at 726 S. Hillview Drive, Milpitas, CA 95035, and regional offices in Austin and Houston, Texas. Lite-On-USAI imports into, and sells in, the United States optical storage devices made by Lite-On IT. Lite-On-USAI is a wholly subsidiary of Lite-On IT. On information and belief, Lite-On-USAI is a member of the Lite-On Group of Taiwan and is controlled by the management thereof.

JURISDICTION AND VENUE

7. This is an action for patent infringement arising under the Patent Laws of the United States, including 35 U.S.C. § 271. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

8. The defendants knowingly and intentionally participated in a stream of commerce between Taiwan and the United States, including a portion of such stream going from Taiwan to the Eastern District of Texas, such stream of commerce including optical storage devices accused in this Complaint of infringing Ricoh's patents (hereinafter the "accused products"), as asserted in greater detail hereinafter. Defendants Lite-On Technology and Lite-On IT manufactured such devices and caused them to be shipped to the United States. Defendants Lite-On Trading, Lite-

On TII, and Lite-On-USAI imported such devices, or caused them to be imported, into the United States, and then sold and offered them for sale, or caused them to be sold and offered for sale, in the United States, including to customers in the Eastern District of Texas. They did so through intermediaries that such defendants purposefully selected and via a distribution channel that such defendants intentionally established. In establishing this stream of commerce and distribution channel, the defendants acted in consort with one another, with the Lite-On Group, and with distributors whom they selected. Such distributors included retailers of optical storage devices who operated and operate retail stores in this judicial district. As a result of the conduct of the defendants, the accused products have been sold, and are on sale, at stores within this judicial district.

9. The defendants have obtained financial gain from their trafficking in the accused products. The defendants have sought and obtained a benefit from sales of such products in this district. The defendants reasonably anticipated that some of such products would end up in this district and be sold therein.

10. This Court has personal jurisdiction over the defendants. Venue is proper in this district.

**COUNT I – FIRST CLAIM FOR RELIEF AGAINST ALL DEFENDANTS
(Infringement of U.S. Patent No. 5,648,952)**

11. Ricoh realleges and incorporates by reference the allegations of paragraphs 1-10.

12. On July 15, 1997, the United States Patent and Trademark Office duly and legally issued to Ricoh U.S. Patent No. 5,648,952, titled “Phase-change optical disc recording method and apparatus, and information recording apparatus and recording pre-compensation method.” Ricoh has owned the patent at all times since then. The patented invention is directed to a sys-

tem and method for automatically adjusting the operation of an optical disk drive by selecting suitable power levels for recording or erasing signals on an optical storage disk.

13. The defendants have appropriated the invention and sell optical disk drives embodying it, including, without limitation, Lite-On LTR-52327S CD-RW Drives. The defendants have been and still are infringing the foregoing patent by doing the following things, among others:

- (a) making optical storage devices that embody the patented system and perform the patented method as part of their normal and intended operation, shipping such devices, or causing them to be shipped, to the United States, and importing such devices, or causing them to be imported, into the United States, in violation of 35 U.S.C. § 271(a);
- (b) offering to sell and selling such devices, or causing them to be offered for sale and sold, in the United States, including, without limitation, in this district, in violation of 35 U.S.C. § 271(a);
- (c) contributing to infringement of the patent by selling such devices, knowing them to be specially adapted for practicing the patented invention and not a staple article or commodity of commerce suitable for substantial noninfringing use, and knowing of the aforesaid patent, in violation of 35 U.S.C. § 271(c);
- (d) actively inducing infringement of the patent by knowingly selling such devices, and in advertising and promotional materials knowingly advising and urging customers to use the patented invention, in violation of 35 U.S.C. § 271(b); and
- (e) aiding and abetting one another and other persons to infringe and cause infringement of the patent.

14. Such infringement has injured and damaged Ricoh. Unless enjoined by this Court, the defendants will continue their infringement, irreparably injuring Ricoh.

15. Ricoh has demanded of the defendants that they pay it a royalty or else desist from their infringing use of the invention, but the defendants have failed and refused to do either.

**COUNT II – SECOND CLAIM FOR RELIEF AGAINST ALL DEFENDANTS
(Infringement of U.S. Patent No. 5,761,179)**

16. Ricoh realleges and incorporates by reference the allegations of paragraphs 1-10.

17. On June 2, 1998, the United States Patent and Trademark Office duly and legally issued to Ricoh U.S. Patent No. 5,761,179, titled “Phase-change optical recording method using pulse width modulation technique.” Ricoh has owned the patent at all times since then. The patented invention is directed to a system and method for automatically adjusting the operation of an optical disk drive to record signals on an optical storage disk with a train of pulses determined to be suitable.

18. The defendants have appropriated the invention and sell optical disk drives embodying it, including, without limitation, Lite-On LTR-52327S CD-RW Drives. The defendants have been and still are infringing the foregoing patent by doing the following things, among others:

- (a) making optical storage devices that embody the patented system and perform the patented method as part of their normal and intended operation, shipping such devices, or causing them to be shipped, to the United States, and importing such devices, or causing them to be imported, into the United States, in violation of 35 U.S.C. § 271(a);
- (b) offering to sell and selling such devices, or causing them to be offered for sale and

sold, in the United States, including, without limitation, in this district, in violation of 35 U.S.C. § 271(a);

- (c) contributing to infringement of the patent by selling such devices, knowing them to be specially adapted for practicing the patented invention and not a staple article or commodity of commerce suitable for substantial noninfringing use, and knowing of the aforesaid patent, in violation of 35 U.S.C. § 271(c);
- (d) actively inducing infringement of the patent by knowingly selling such devices, and in advertising and promotional materials knowingly advising and urging customers to use the patented invention, in violation of 35 U.S.C. § 271(b); and
- (e) aiding and abetting one another and other persons to infringe and cause infringement of the patent.

19. Such infringement has injured and damaged Ricoh. Unless enjoined by this Court, the defendants will continue their infringement, irreparably injuring Ricoh.

20. Ricoh has demanded of the defendants that they pay it a royalty or else desist from their infringing use of the invention, but the defendants have failed and refused to do either.

**COUNT III – THIRD CLAIM FOR RELIEF AGAINST ALL DEFENDANTS
(Infringement of U.S. Patent No. 6,570,832)**

21. Ricoh realleges and incorporates by reference the allegations of paragraphs 1-10.

22. On May 27, 2003, the United States Patent and Trademark Office duly and legally issued to Ricoh U.S. Patent No. 6,570,832, titled “Optical disk apparatus.” Ricoh has owned the patent at all times since then. The patented invention is directed to a system for automatically adjusting operation of an optical disk drive to permit an unbroken transition between successive recording sessions on an optical storage disk.

23. The defendants have appropriated the invention and sell disk drives embodying it, including, without limitation, Lite-On LTR-52327S CD-RW Drives. The defendants have been and still are infringing the foregoing patent by doing the following things, among others:

- (a) making optical storage devices that embody the patented invention, shipping such devices, or causing them to be shipped, to the United States, and importing such devices, or causing them to be imported, into the United States, in violation of 35 U.S.C. § 271(a);
- (b) offering to sell and selling such devices, or causing them to be offered for sale and sold, in the United States, including, without limitation, in this district, in violation of 35 U.S.C. § 271(a);
- (c) actively inducing infringement of the patent by knowingly selling such devices, and in advertising and promotional materials knowingly advising and urging customers to use the patented invention, in violation of 35 U.S.C. § 271(b); and
- (d) aiding and abetting one another and other persons to infringe and cause infringement of the patent.

24. Such infringement has injured and damaged Ricoh. Unless enjoined by this Court, the defendants will continue their infringement, irreparably injuring Ricoh.

25. Ricoh has demanded of the defendants that they pay it a royalty or else desist from their infringing use of the invention, but the defendants have failed and refused to do either.

**COUNT IV – FOURTH CLAIM FOR RELIEF AGAINST ALL DEFENDANTS
(Infringement of U.S. Patent No. 5,063,552)**

26. Ricoh realleges and incorporates by reference the allegations of paragraphs 1-10.

27. On November 5, 1991, the United States Patent and Trademark Office duly and

legally issued to Ricoh U.S. Patent No. 5,063,552, titled "Optical disk apparatus with data transfer rate and rotational speed variable by annular zones." Ricoh has owned the patent at all times since then. The patented invention is directed to a system for automatically adjusting operation of an optical disk drive to permit recording and reproduction of information on annular tracks of an optical storage disk in a manner such that the rotational speed of the disk is inversely proportional to the radius of the track, resulting in a more constant rate of recording and reproduction of information.

28. The defendants have appropriated the invention and sell disk drives embodying it, including, without limitation, Lite-On LDW-851S DVD/CD Rewritable Drives. The defendants have been and still are infringing the foregoing patent by doing the following things, among others:

- (a) making optical storage devices that embody the patented system and perform the patented method as part of their normal and intended operation, shipping such devices, or causing them to be shipped, to the United States, and importing such devices, or causing them to be imported, into the United States, in violation of 35 U.S.C. § 271(a);
- (b) offering to sell and selling such devices, or causing them to be offered for sale and sold, in the United States, including, without limitation, in this district, in violation of 35 U.S.C. § 271(a);
- (c) contributing to infringement of the patent by selling such devices, knowing them to be specially adapted for practicing the patented invention and not a staple article or commodity of commerce suitable for substantial noninfringing use, and knowing of the aforesaid patent, in violation of 35 U.S.C. § 271(c);

- (d) actively inducing infringement of the patent by knowingly selling such devices, and in advertising and promotional materials knowingly advising and urging customers to use the patented invention, in violation of 35 U.S.C. § 271(b); and
- (e) aiding and abetting one another and other persons to infringe and cause infringement of the patent.

29. Such infringement has injured and damaged Ricoh. Unless enjoined by this Court, the defendants will continue their infringement, irreparably injuring Ricoh.

30. Ricoh has demanded of the defendants that they pay it a royalty or else desist from their infringing use of the invention, but the defendants have failed and refused to do either.

**COUNT V – FIFTH CLAIM FOR RELIEF AGAINST ALL DEFENDANTS
(Infringement of U.S. Patent No. 6,172,955)**

31. Ricoh realleges and incorporates by reference the allegations of paragraphs 1-10.

32. On January 9, 2001, the United States Patent and Trademark Office duly and legally issued to Ricoh U.S. Patent No. 6,172,955, titled “Optical disc recording and reproducing apparatus for performing a formatting process as a background process and a method for formatting an optical disc by a background process.” Ricoh has owned the patent at all times since then. The patented invention is directed to a system for automatically adjusting operation of an optical disk drive to format a versatile digital disk (“DVD”) as a background process during intervals when information is not being recorded to the DVD or reproduced from it.

33. The defendants have appropriated the invention and sell disk drives embodying it, including, without limitation, Lite-On LDW-851S DVD/CD Rewritable Drives. The defendants have been and still are infringing the foregoing patent by doing the following things, among others:

- (a) making optical storage devices that embody the patented system and perform the patented method as part of their normal and intended operation, shipping such devices, or causing them to be shipped, to the United States, and importing such devices, or causing them to be imported, into the United States, in violation of 35 U.S.C. § 271(a);
- (b) offering to sell and selling such devices, or causing them to be offered for sale and sold, in the United States, including, without limitation, in this district, in violation of 35 U.S.C. § 271(a);
- (c) contributing to infringement of the patent by selling such devices, knowing them to be specially adapted for practicing the patented invention and not a staple article or commodity of commerce suitable for substantial noninfringing use, and knowing of the aforesaid patent, in violation of 35 U.S.C. § 271(c);
- (d) actively inducing infringement of the patent by knowingly selling such devices, and in advertising and promotional materials knowingly advising and urging customers to use the patented invention, in violation of 35 U.S.C. § 271(b); and
- (e) aiding and abetting one another and other persons to infringe and cause infringement of the patent.

34. Such infringement has injured and damaged Ricoh. Unless enjoined by this Court, the defendants will continue their infringement, irreparably injuring Ricoh.

35. Ricoh has demanded of the defendants that they pay it a royalty or else desist from their infringing use of the invention, but the defendants have failed and refused to do either.

**COUNT VI – SIXTH CLAIM FOR RELIEF AGAINST ALL DEFENDANTS
(Infringement of U.S. Patent No. 6,631,109)**

36. Ricoh realleges and incorporates by reference the allegations of paragraphs 1-10.

37. On October 7, 2003, the United States Patent and Trademark Office duly and legally issued to Ricoh U.S. Patent No. 6,631,109, titled “Optical recording method and apparatus, and optical storage medium.” Ricoh has owned the patent at all times since then. The patented invention is directed to a system for a high-speed write strategy when recording (“writing”) information on a digital versatile disk (“DVD”), the strategy being to utilize a predetermined combination of laser pulse numbers, durations, and intensity levels such that it produces a desired quality of information recording and reproduction.

38. The defendants have appropriated the invention and sell disk drives embodying it, including, without limitation, Lite-On LDW-851S DVD/CD Rewritable Drives. The defendants have been and still are infringing the foregoing patent by doing the following things, among others:

- (a) making optical storage devices that embody the patented system and perform the patented method as part of their normal and intended operation, shipping such devices, or causing them to be shipped, to the United States, and importing such devices, or causing them to be imported, into the United States, in violation of 35 U.S.C. § 271(a);
- (b) offering to sell and selling such devices, or causing them to be offered for sale and sold, in the United States, including, without limitation, in this district, in violation of 35 U.S.C. § 271(a);
- (c) contributing to infringement of the patent by selling such devices, knowing them

to be specially adapted for practicing the patented invention and not a staple article or commodity of commerce suitable for substantial noninfringing use, and knowing of the aforesaid patent, in violation of 35 U.S.C. § 271(c);

- (d) actively inducing infringement of the patent by knowingly selling such devices, and in advertising and promotional materials knowingly advising and urging customers to use the patented invention, in violation of 35 U.S.C. § 271(b); and
- (e) aiding and abetting one another and other persons to infringe and cause infringement of the patent.

39. Such infringement has injured and damaged Ricoh. Unless enjoined by this Court, the defendants will continue their infringement, irreparably injuring Ricoh.

40. Ricoh has demanded of the defendants that they pay it a royalty or else desist from their infringing use of the invention, but the defendants have failed and refused to do either.

PRAYER FOR RELIEF

WHEREFORE, Ricoh prays for judgment as follows:

- (a) that defendants have infringed, actively induced infringement of, and contributorily infringed the foregoing patents;
- (b) that a preliminary and permanent injunction be issued against further infringement of the foregoing patents by unauthorized use of the inventions patented therein, by defendants and their officers, agents, servants, employees, attorneys and all persons in active concert or participation with them;
- (c) that defendants account, and pay actual damages (but no less than a reasonable royalty), to Ricoh for defendants' infringement of the foregoing patents;
- (d) that defendants pay treble damages to Ricoh as provided by 35 U.S.C. § 284;

(e) that defendants to pay Ricoh's costs, expenses and prejudgment interest as provided for by 35 U.S.C. § 284;

(f) that this case is exceptional within the meaning of 35 U.S.C. § 285 and that Ricoh should be awarded its reasonable attorney fees; and

(g) that Ricoh be granted such other and further relief as the Court deems just and appropriate.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff demands a jury trial on all issues so triable.

Respectfully submitted,

/s/ Damon Young

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Attorneys for Plaintiff Ricoh Company, Ltd.

September 23, 2004.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a). Therefore, 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(e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of this document via email, facsimile and/or U. S. First Class Mail this 23rd day of September 2004.

/s/ Damon Young

Damon Young