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FILED

SEP 24 2008

CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DB

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13 **Technology Licensing Company, Inc.,**

14 Plaintiff

15 v.

16 **jWIN Electronics Corp. and**
17 **J & R Electronics**

18 Defendants

19 Case No.: CV 08 3802

20 **FIRST AMENDED COMPLAINT FOR**
21 **PATENT INFRINGEMENT, INDUCING**
22 **PATENT INFRINGEMENT, AND**
23 **CONTRIBUTORY PATENT**
24 **INFRINGEMENT**

25 **DEMAND FOR JURY TRIAL**

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Complaint for Patent Infringement
Case No.: _____ Technology Licensing Co v. jWIN Electronics Corp., and J & R Electronics Inc

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FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT, INDUCING PATENT INFRINGEMENT, AND CONTRIBUTORY PATENT INFRINGEMENT

Plaintiff, Technology Licensing Company Inc., complains of and for causes of action against Defendants, jWIN Electronics Corp. and J & R Electronics, Inc., alleges as follows:

Nature of the Case

1. This is an action arising under the Patent Laws and Statutes of the United States in which Plaintiff seeks to recover for patent infringement, and for inducing patent infringement, and for contributory infringement, and for any and all damages and costs flowing therefrom.

Jurisdiction and Venue

2. The Court has exclusive jurisdiction of the patent infringement claim, the inducement of patent infringement claim, and the contributory infringement claim, all asserted in this case pursuant to the Patent Laws and Statutes of the United States (e.g., 35 U.S.C. §§ 271, *et seq.* and § 281) including 28 U.S.C. §§ 1331, 1338, 2201-2202. Venue is proper in this district under 28 U.S.C § 1391.

The Parties

3. Plaintiff, Technology Licensing Company Inc. ("Plaintiff") is a California Corporation with a principal place of business in Nicasio, California.

4. Defendant, jWIN Electronics Corp. ("Defendant jWIN") is a New York Corporation having a principal place of business in Port Washington, New York.

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1 5. Defendant, J & R Electronics, Inc ("Defendant J & R") is a New York Corporation
2 having a principal place of business in New York, New York.

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5 Plaintiff's Patent

6 6. Plaintiff is the owner of United States No.5,734,862 ("the Patent") which was duly
7 issued on March 31, 1998. The Patent concerns *inter alia* embodiments for a system and method
8 for making and/or viewing DVDs.

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11 **COUNT I**
12 **(Patent Infringement)**

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14 7. This COUNT is instituted against Defendant jWIN for infringement (i.e., direct
15 infringement) of the Patent.

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17 8. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-6.

18 9. On information and belief, Defendant jWIN is infringing, or has infringed, the Patent
19 in this Judicial District and elsewhere in the United States by manufacturing and/or selling and/or
20 offering for sale and/or importing and/or using embodiments of the invention of the Patent.

21
22 10. On information and belief, at least one embodiment of the invention of the Patent
23 which Defendant jWIN is infringing, and/or has infringed, operates, at least in part, in accordance
24 with and/or complies, at least in part, with technical standards generally adhered to by the DVD
25 Player Industry.
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1 11. On information and belief, at least one embodiment of the invention of the Patent
2 which Defendant jWIN is infringing, or has infringed, operates at least in part in accordance with
3 and/or complies at least in part with "DVD Specifications for read-Only Disc, Part 3 VIDEO
4 SPECIFICATIONS," Version 1.13, March 2002, published by DVD Format/Logo Licensing
5 Corporation.
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7 12. Plaintiff has suffered damages by reason of Defendant jWIN's infringement of the
8 Patent, and will suffer additional damages unless Defendant jWIN is enjoined by the Court from
9 continuing to infringe the Patent.
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11 13. On information and belief, Defendant jWIN's infringement of the Patent has been
12 willful and deliberate, thus warranting an increase of the damages recoverable by Plaintiff under
13 the provisions of 35 U.S.C. § 284, up to three times the amount of actual damages sustained by
14 Plaintiff, and also making this an exceptional case within the meaning of 35 U.S.C. § 285.
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17 **COUNT II**
18 **(Actively Inducing Patent Infringement)**
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20 14. This COUNT is instituted against Defendant jWIN for actively inducing patent
21 infringement.
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23 15. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-6.
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25 16. On information and belief, Defendant jWIN is manufacturing and/or selling and/or
26 using and/or offering for sale and/or importing to persons in this Judicial District and elsewhere in
27 the United States embodiments of the invention of the Patent.
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1 17. On information and belief, when Defendant jWIN makes and sells and/or offers to sell
2 to persons, embodiments of the invention of the Patent in this Judicial District and elsewhere in
3 the United States, the sales are accompanied with documents, written instructions, and/or other
4 instructions, from Defendant jWIN on how to operate embodiments of the invention of the Patent.
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6 18. On information and belief, when Defendant jWIN accompanies its sales and/or offers
7 to sell to persons with documents, written instructions, and/or other instructions, on how to operate
8 embodiments of the invention of the Patent, Defendant jWIN was and is aware that such
9 documents, written instructions, and/or other instructions, are inducing the persons to infringe the
10 claims of the Patent. On further information and belief, Defendant jWIN thereby has actively
11 induced and/or is actively inducing the persons in this Judicial District and elsewhere in the United
12 States to infringe the claims of the Patent.
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15 19. On information and belief, at least one embodiment of the invention of the Patent
16 which Defendant jWIN is actively inducing infringement, and/or has actively induced
17 infringement, operates, at least in part, in accordance with and/or complies, at least in part, with
18 technical standards generally adhered to by the DVD Player Industry.
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21 20. On information and belief, at least one embodiment of the invention of the Patent
22 which Defendant jWIN is actively inducing infringement, and/or has actively induced
23 infringement, operates, at least in part, in accordance with and/or complies at least in part with
24 "DVD Specifications for read-Only Disc, Part 3 VIDEO SPECIFICATIONS," Version 1.13,
25 March 2002, published by DVD Format/Logo Licensing Corporation.
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1 21. Plaintiff has suffered damages by reason of Defendant jWIN's active inducement of
2 infringement of the Patent, and will suffer additional damages unless Defendant jWIN is enjoined
3 by the Court from continuing to actively induce the infringement of the Patent.
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5 22. On information and belief, Defendant jWIN's active inducement of the infringement
6 of the Patent has been willful and deliberate, thus warranting an increase of the damages
7 recoverable by Plaintiff under the provisions of 35 U.S.C. § 284, up to three times the amount of
8 actual damages sustained by Plaintiff, and also making this an exceptional case within the
9 meaning of 35 U.S.C. § 285.
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12 **COUNT III**
13 **(Contributory Infringement)**
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15 23. This COUNT is instituted against Defendant jWIN for contributory infringement the
16 Patent.
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18 24. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-6.
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20 25. On information and belief, the embodiments of the invention made and sold by
21 Defendant jWIN to persons in this Judicial District and elsewhere in the United States constitute a
22 material part of embodiments of the invention of the Patent. On further information and belief,
23 Defendant jWIN knew and knows that such manufacture and sale of embodiments of the invention
24 were and are especially made or especially adapted for use in infringement of the claims of the
25 Patent, and that the embodiments of the invention were and are not staple articles or commodities
26 of commerce suitable for substantial non-infringing use. Accordingly, on further information and
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1 belief Defendant jWIN has contributory infringed, and/or is contributory infringing, in this
2 Judicial District and elsewhere in the United States the claims of the Patent.

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4 26. On information and belief, at least one embodiment of the invention of the Patent
5 which Defendant jWIN is contributory infringing, and/or has contributory infringed, operates, at
6 least in part, in accordance with and/or complies, at least in part, with technical standards
7 generally adhered to by the DVD Player Industry.

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9 27. On information and belief, at least one embodiment of the invention of the Patent
10 which Defendant jWIN is contributory infringing, and/or has contributory infringed, operates, at
11 least in part, in accordance with and/or complies, at least in part, with "DVD Specifications for
12 read-Only Disc, Part 3 VIDEO SPECIFICATIONS," Version 1.13, March 2002, published by
13 DVD Format/Logo Licensing Corporation.
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15 28. Plaintiff has suffered damages by reason of Defendant jWIN's contributory
16 infringement of the Patent, and will suffer additional damages unless Defendant jWIN is enjoined
17 by the Court from continuing contributory infringement of the Patent.
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19 29. On information and belief, Defendant jWIN's contributory infringement of the Patent
20 has been willful and deliberate, thus warranting an increase of the damages recoverable by
21 Plaintiff under the provisions of 35 U.S.C. § 284, up to three times the amount of actual damages
22 sustained by Plaintiff, and also making this an exceptional case within the meaning of 35 U.S.C. §
23 285.
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COUNT IV
(Patent Infringement)

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30. This COUNT is instituted against Defendant J & R for infringement (i.e., direct infringement) of the Patent.

31. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-6.

32. On information and belief, Defendant J & R is infringing and/or has infringed the Patent in this Judicial District and/or elsewhere in the United States by using and/or having used, and/or selling and/or having sold, and/or offering and/or having offered for sale, jWIN brand DVD Players.

33. On information and belief, at least one embodiment of the invention of the Patent which Defendant J & R is infringing, and/or has infringed, operates, at least in part, in accordance with and/or complies, at least in part, with technical standards generally adhered to by the DVD Player Industry.

34. On information and belief, at least one embodiment of the invention of the Patent which Defendant J & R is infringing, or has infringed, operates at least in part in accordance with and/or complies at least in part with "DVD Specifications for read-Only Disc, Part 3 VIDEO SPECIFICATIONS," Version 1.13, March 2002, published by DVD Format/Logo Licensing Corporation.

35. Plaintiff has suffered damages by reason of Defendant J & R's infringement of the Patent.

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1 36. On information and belief, Defendant J & R's infringement of the Patent has been or is
2 willful and deliberate, thus warranting an increase of the damages recoverable by Plaintiff under
3 the provisions of 35 U.S.C. § 284, up to three times the amount of actual damages sustained by
4 Plaintiff, and also making this an exceptional case within the meaning of 35 U.S.C. § 285.
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7 **COUNT V**

8 **(Actively Inducing Patent Infringement)**
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10 37. This COUNT is instituted against Defendant J & R for actively inducing patent
11 infringement.
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13 38. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-6.

14 39. On information and belief, Defendant J & R is selling and/or is offering for sale,
15 and/or has sold, and/or has offered for sale in this Judicial District and/or elsewhere in the United
16 States jWIN brand DVD Players.
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18 40. On information and belief, when Defendant J & R sells and/or has sold, offers and/or
19 has offered to sell to persons, embodiments of the invention of the Patent in this Judicial District
20 and/or elsewhere in the United States, the sales are and/or were accompanied with documents,
21 written instructions, and/or other instructions or components, from Defendant J & R on how to
22 operate embodiments of the invention of the Patent.
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25 41. On information and belief, when Defendant J & R accompanies and/or accompanied
26 its sales and/or offers to sell to persons with documents, written instructions, and/or other
27 instructions or components, on how to operate embodiments of the invention of the Patent,
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1 Defendant J & R was and is aware that such documents, written instructions, and/or other
2 instructions or components, are inducing and/or were inducing the persons to infringe the claims
3 of the Patent. On further information and belief, Defendant J & R thereby has actively induced
4 and/or is actively inducing the persons in this Judicial District and/or elsewhere in the United
5 States to infringe the claims of the Patent.
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7 42. On information and belief, at least one embodiment of the invention of the Patent
8 which Defendant J & R is and/or was actively inducing infringement, operates, at least in part, in
9 accordance with and/or complies, at least in part, with technical standards generally adhered to by
10 the DVD Player Industry.
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12 43. On information and belief, at least one embodiment of the invention of the Patent
13 which Defendant J & R is actively inducing infringement, and/or has actively induced
14 infringement, operates, at least in part, in accordance with and/or complies at least in part with
15 "DVD Specifications for read-Only Disc, Part 3 VIDEO SPECIFICATIONS," Version 1.13,
16 March 2002, published by DVD Format/Logo Licensing Corporation.
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18 44. Plaintiff has suffered damages by reason of Defendant J & R's active inducement of
19 infringement of the Patent.
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21 45. On information and belief, Defendant J & R's active inducement of the infringement
22 of the Patent has been or is willful and deliberate, thus warranting an increase of the damages
23 recoverable by Plaintiff under the provisions of 35 U.S.C. § 284, up to three times the amount of
24 actual damages sustained by Plaintiff, and also making this an exceptional case within the
25 meaning of 35 U.S.C. § 285.
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RELIEF

WHEREFOR PLAINTIFF PRAYS:

(a) For decree and judgment against Defendant jWIN and all in privity with Defendant jWIN that the Patent is valid and enforceable;

(b) For decree and judgment against Defendant jWIN and all in privity with Defendant jWIN, that the Patent is, and has been, infringed by Defendant jWIN and that Defendant jWIN is liable as a patent infringer;

(c) For decree and judgment against Defendant jWIN and all in privity with Defendant jWIN, that the Patent is, and has been, infringed by active inducement of infringement by Defendant jWIN and that Defendant jWIN is liable as an active inducer of infringement;

(d) For decree and judgment against Defendant and all in privity with Defendant jWIN, that the Patent is, and has been, contributory infringed by Defendant jWIN and that Defendant jWIN is liable as a contributory infringer;

(e) For an accounting for, and an assignment of, an award of profits derived by Defendant jWIN and damages suffered by Plaintiff in consequence of the patent infringement, the active inducement of patent infringement, and the contributory infringement, of the Patent;

(f) For a decree and judgment against Defendant jWIN trebling the profits derived by Defendant jWIN and damages suffered by Plaintiff pursuant to statute (e.g., 35 U.S.C. § 284);

(g) For an injunction permanently enjoining Defendant jWIN, its officers, agents, servants, employees, attorneys and all those in active concert, participation or privity with Defendant jWIN

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1 from further infringement, and/or active inducement and/or contributory infringement , in any
2 form what ever, of the Patent;

3 (h) For the costs of this suit, reasonable attorney's fees as provided by statute (e.g., 35
4 U.S.C. § 285), and an assessment of interest and cost against the Defendant jWIN;

5 (i) For decree and judgment against Defendant J & R and all in privity with Defendant J &
6 R that the Patent is valid and enforceable;

7 (j) For decree and judgment against Defendant J & R and all in privity with Defendant J &
8 R, that the Patent is and/or has been, infringed by Defendant J & R and that Defendant J & R is
9 liable as a patent infringer;

10 (k) For decree and judgment against Defendant J & R and all in privity with Defendant J &
11 R, that the Patent is and/or has been, infringed by active inducement of infringement by Defendant
12 J & R and that Defendant J & R is liable as an active inducer of infringement;

13 (l) For an accounting for, and an assignment of, an award of profits derived by Defendant
14 J & R and damages suffered by Plaintiff in consequence of the patent infringement and the active
15 inducement of patent infringement;

16 (m) For a decree and judgment against Defendant J & R trebling the profits derived by
17 Defendant J & R and damages suffered by Plaintiff pursuant to statute (e.g., 35 U.S.C. § 284);

18 (n) For the costs of this suit, reasonable attorney's fees as provided by statute (e.g., 35
19 U.S.C. § 285), and an assessment of interest and cost against the Defendant J & R;

20 (o) For prejudgment interest at the maximum rate allowed by law;

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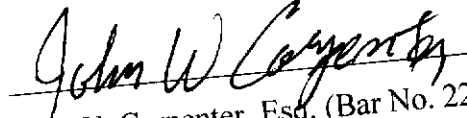
(p) For post judgment interest at the maximum rate allowed by law, from the date of the judgment until paid; and

(q) For such other and further relief which should appear just and equitable to this Court.

DEMAND FOR JURY TRIAL

In accordance with Civil Local Rule No. 3-6, Plaintiff requests for a trial by jury.

Respectfully submitted,


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