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3:00-CV-00258 TAN V. LEVEL ONE

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1 2 3 4 5 6 7	DERGOSITS & NOAH LLP Michael E. Dergosits (SBN 118206) Todd A. Noah (SBN 152328) Four Embarcadero Center, Suite 1150 San Francisco, California 94111 Telephone: (415) 705-6377 Facsimile: (415) 705-6383 Attorneys for Plaintiff PENG TAN	UO FEB -8 PM 12: 34 OFFICE AND SET OF SALIFORNIA BY: Imb DEPUTY
8	IN THE UNITED STATES	DISTRICT COURT
9	SOUTHERN DISTRICT	OF CALIFORNIA
10	SAN DIEGO D	IVISION OO CV 258BTM (POR)
11	PENG TAN,	Case No.:
12	Plaintiff,	COMPLAINT FOR PATENT
13	vs. LEVEL ONE COMMUNICATIONS, INC., a	INFRINGEMENT
14	California corporation,	JURY TRIAL DEMANDED
15	Defendant.	
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18	Plaintiff, PENG TAN, by his undersigned	d attorneys, hereby alleges as follows:
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20	THE PART	, -
21	1. Plaintiff PENG TAN ("TAN") is	an individual residing at San Diego.
22	California.	
23	2. Defendant LEVEL ONE COMM	UNICATIONS, INC. ("LEVEL ONE")
24	is, upon information and belief, a California corp	poration that is doing business within this
25	judicial district.	
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JURISDICTION AND VENUE

- 3. This action arises under the patent laws of the United States (35 U.S.C. § 1 et seq.). This Court has jurisdiction of the subject matter of this action by virtue of 28 U.S.C. § 1338(a).
- 4. On information and belief LEVEL ONE is doing business, and subject to personal jurisdiction, within this judicial district.
- 5. Venue is proper within this judicial district based on 28 U.S.C. § 1400(b) and on 28 U.S.C. § 1391(c).

CLAIM FOR PATENT INFRINGEMENT

- 6. On July 28, 1987, United States Letters Patent No. 4,682,857 (the "'857 patent") were duly and legally issued for an invention entitled "LIQUID CRYSTAL HOT SPOT DETECTION WITH INFINITESIMAL TEMPERATURE CONTROL." TAN is the owner, and at all times relevant herein has been the owner, of the '857 patent.
- 7. On information and belief, LEVEL ONE has been, within six years prior to commencement of this action, and still is, infringing the '857 patent, by using hot spot detection methods embodying the patented invention to develop, manufacture, and sell semiconductor devices, within this judicial district and elsewhere, without leave or license from TAN, and will continue to do so unless enjoined by this Court, in violation of 35 U.S.C. § 271.
- 8. TAN has given written notice to LEVEL ONE of its infringement of the `857 patent.
- 9. As a result of the infringing activities of LEVEL ONE, TAN has been and continues to be damaged, including irreparable injury.

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10. Upon information and belief, LEVEL ONE has willfully infringed the '857 patent, making this an exceptional case and justifying the assessment of treble damages pursuant to 35 U.S.C. § 284 and attorney fees pursuant to 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, TAN respectfully prays:

- A. That a preliminary and final injunction issue against continued infringement of the '857 patent by LEVEL ONE, its parents, subsidiaries, employees, agents, affiliates, and all those in privity or acting in concert with them;
 - B. That the '857 patent be adjudged to have been infringed by LEVEL ONE;
- C. That an Order issue requiring LEVEL ONE to deliver to TAN all infringing devices that use, as well as all infringing devices developed through the use of, the methods of the '857 patent, in LEVEL ONE's possession, custody or control;
- D. That an Order issue requiring LEVEL ONE to provide an accounting and awarding TAN damages arising out of infringement of the '857 patent by all those acting or participating in concert with LEVEL ONE, and that such damages be trebled under 35 U.S.C. § 284 due to the willful and deliberate character of those infringements;
- E. For an award of prejudgment interest, and post-judgment interest, on the above damages award;
- F. For an award of costs and reasonable attorneys' fees under 35 U.S.C. § 285 and other applicable laws; and
- G. For such other and further relief, at law and in equity, as the Court may deem just and proper.

DATED: February 7, 2000

DERGOSITS & NOAH LLP

Todd A. Noah

Attorneys for Plaintiff

PENG TAN

I JURY DEMAND Plaintiff TAN hereby demands a jury on all issues raised by the complaint. DATED: February 7,2000 **DERGOSITS & NOAH LLP** Todd A. Noah Attorneys for Plaintiff PENG TAN TAN

AO 120 (3/85)

TO: Commissioner of Patents and Trademarks Washington, D.C. 20231 REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT

In compliance with the Act of July 19, 1952 (66 Stat. 814; 35 U.S.C. 290) you are hereby advised that a court action has been filed on the following patent(s) in the U.S. District Court:

that a court action has been filed on the following patent(s) in the U.S. District Court:					
DOCKET NO.	DATE FILED	U.S. DISTRICT COURT	Γ		
00cv258BTM(POR)	02/08/00	United States District Court, Southern District of California			
PLAINTIFF		DEFENDANT			
Peng Tan		Level One Communications Inc.			
PATENT NO.	DATE OF PATENT		PATENTEE		
1 4,682,857	July 28, 1987	Peng Tan			
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In	the above-entitled case,	the following patent(s) ha	ve been included:		
DATE INCLUDED	INCLUDED BY Amendment	Answer	Cross Bill	Other Pleading	
PATENT NO.	DATE OF PATENT		PATENTEE		
PATENT NO.	DATE OF PATENT		PATENTEE		
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1	DATE OF PATENT		PATENTEE		
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Copy 1 - Upon initiation of action, mail this copy to Commissioner Copy 3 - Upon termination of action, mail this copy to Commissioner

Copy 2 - Upon filing document adding patent(s), mail this copy to Commissioner Copy 4 - Case file copy

AO 120 (3/85)				
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Commissioner of Patents and Trademarks	FILING OR DETERMINATION OF AN			
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Copy 1 - Upon initiation of action, mail this copy to Commissioner Copy 3 - Upon termination of action, mail this copy to Commissioner Copy 2 - Upon filing document adding patent(s), mail this copy to Commissioner Copy 4 - Case file copy

AO 120 (3/85)

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Commissioner of Patents and Trademarks	FILING OR DETERMINATION OF AN
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CONTRACT 110 Insurance Marine Miller Act Segotable Instrument 151 Recovery of Overpayment Architectment of Judgment 152 Recovery of Detaulted Student Loans (Evel Veterans) 153 Recovery of Detaulted Student Loans (Evel Veterans) 153 Recovery of Overpayment of Veterans Benefits 160 Stockholders Suits Other Contract Product Lability REAL PROPERTY 210 Land Condemnation: 220 Forcelosure 240 Forcelosure 240 For Contract Product Lability Product Lability Product Lability 200 MI Other Real Property VI. ORIGIN (PLACE AN X IN State CVII. REQUESTED IN COMPLAINT:	PERSONAL INJURY 310 Airplane 313 Airplane Product Liability 320 Assault, Urbel & Slander 330 Federal Employers' Liability 340 Marine 345 Motor Vehicle 355 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury CIVIL RIGHTS 342 Employment 343 Housing Accommodations 444 Welfare 3410 Other Civil Rights 440 Other Civil Rights 450 ONE BOX ONLY) cmoval from 3 Remanded to Court Court Court COURT	FFRSONAL INIT 162 Personal Injury Medical Malpractice 165 Personal Injury Product Liability Product Liability PERSONAL PROPE 17th Other Frand 17th Other Personal Property Damage 17th Other Personal Property Damage 17th Matter Personal Property Damage 17th Matter Personal 17th Other Personal 17th	njury ERIY HONS Sentence	610 Agriculture 620 Other Food & Drug 625 Drug Related Servire of Property 21 USC881 630 Enquer Laws 640 RR & Truck 650 Arthric Regs 660 Occupational Safety Health 680 Other LABOR 710 Fair Labor Standards Act 120 Eabor Mgmi Relations 730 Eabor Mgmi Reporting & Disclosure Act 740 Railway Labor Act 750 Other Uabor Latigation 791 Empl Ret Inc Security Act 750 Transferred from another district (specify) EMAND \$According Emolecy Emandary According Emolecy 650 Property 651 Property 652 Property 653 Property 654 Property 654 Property 655 Pr	422 Appeal 28 USC 188 323 Withdrawal 28 USC 157 PROPERTY RIGHTS 820 Copyrights 820 Copyrights 820 Patent 840 Trademark SOCIAL SECURITY 861 HIA (1398) 862 Black Fing (923) 863 DIWC DIWW (408(g)) 864 SSID Tide XVI 865 RSI (408(g)) FEDERAL TAX SUITS 870 Taxes (L. S. Plaintiff or Defendant) 371 IRS - Hurd Party 26 USC 76(P) 400 Check YES only JURY DEMAN	400 State Reappointment 410 Antitrust 430 Hanks and Banking 450 Commerce ICC Rates etc 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 810 Selective Service 850 Securities Commodities Exchange 875 Customer Challenge 12 USC 891 Agricultural Acts 892 Feonomic Stabilization Act 895 Freedom of Information Act 940 Appeal of Fee Determination Under Equal Access to Justice 895 Other Statutory Actions 450 Other Statutory Actions 450 Other Statutory Actions 451 Appeal to District Judge from 452 Magistrate Judgment 451 demanded in complaint: 450 YES 850 NO
CONTRACT 110 Insurance Miller Act Miller Act Segotiable Instrument 151 Recovery of Overpayment Archforgement of Judgment 152 Recovery of Overpayment Archforgement of Judgment 153 Recovery of Detaulted Student Loans (Evel Veterans) 153 Recovery of Detaulted Student Loans (Evel Veterans) 154 Recovery of Overpayment of Veterans Benefits 156 Stockholders Suits Other Contract 195 Contract Product Liability 210 Land Condemnation 220 Forcelosure 230 Rent Lease & Freetmant 240 Forcelosure 230 Rent Lease & Freetmant 240 Fort for fand 245 Fort Product Cability 250 MI Other Real Properts VI. ORIGIN (PLACE AN X IN State 4) VII. REQUESTED IN COMPLAINT: VIII. RELATED CASE(S) IF A	PERSONAL INJURY 310 Airplane 313 Airplane Product Liability 320 Assault, Urbel & Slander 330 Federal Employers' Liability 340 Marine 345 Motor Vehicle 355 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury CIVIL RIGHTS 342 Employment 343 Housing Accommodations 444 Welfare 3410 Other Civil Rights 440 Other Civil Rights 450 ONE BOX ONLY) cmoval from 3 Remanded to Court Court Court COURT	FERSONAL INIT 162 Personal Injury Medical Malpractice 165 Personal Injury Product Liability 165 Ashestos Personal Information of the Product Liability PERSONAL PROPE 370 Other Frand 371 Truth in Lending 380 Other Personal Property Damage 1885 Property Damage Product Liability PRISONER PETITI 510 Motions to Vacate 5 Habeas Corpus 530 General 535 Death Penalty 540 Mandamus & Other 550 Civil Rights 555 Propert Conditions from Appelate 44 Recope	njury ERIY HONS Sentence	610 Agriculture 620 Other Food & Drug 625 Drug Related Servire of Property 21 USC881 630 Enquer Laws 640 RR & Truck 650 Arthric Regs 660 Occupational Safety Health 680 Other LABOR 710 Fair Labor Standards Act 120 Eabor Mgmi Relations 730 Eabor Mgmi Reporting & Disclosure Act 740 Railway Labor Act 750 Other Uabor Latigation 791 Empl Ret Inc Security Act 750 Transferred from another district (specify) EMAND \$According Emolecy Emandary According Emolecy 650 Property 651 Property 652 Property 653 Property 654 Property 654 Property 655 Pr	422 Appeal 28 USC 188 423 Appeal 28 USC 188 424 Appeal 28 USC 187 980 Copyrights 820 Copyrights 830 Patent 840 Trademark 800 File 861 HIA (13988) 862 Black 1 mg (923) 863 DIWC DIWW (408(g)) 864 SSID (file XVI 864 RSC (408(g)) FEDERAL TAX SUITS 870 Taxes (1 8 Plaintiff or Detendant) 871 IRS - Third Party 26 USC 76(9) 16 Multidistrict Litigation 17 Check YES only JURY DEMAN Docket Number	400 State Reappointment 410 Antitrust 430 Hanks and Banking 450 Commerce ICC Rates etc 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 810 Selective Service 850 Securities Commodities Exchange 875 Customer Challenge 12 USC 891 Agricultural Acts 892 Feonomic Stabilization Act 895 Freedom of Information Act 940 Appeal of Fee Determination Under Equal Access to Justice 895 Other Statutory Actions 450 Other Statutory Actions 450 Other Statutory Actions 451 Appeal to District Judge from 452 Magistrate Judgment 451 demanded in complaint: 450 YES 850 NO

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