

USDC SCAN INDEX SHEET



WTM 2/9/00 9:28
3:00-CV-00258 TAN V. LEVEL ONE
1
CMP.

1 DERGOSITS & NOAH LLP
Michael E. Dergosits (SBN 118206)
2 Todd A. Noah (SBN 152328)
Four Embarcadero Center, Suite 1150
3 San Francisco, California 94111
Telephone: (415) 705-6377
4 Facsimile: (415) 705-6383

5 Attorneys for Plaintiff
PENG TAN

FILED
00 FEB -8 PM 12:34

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: *[Signature]* DEPUTY

8 IN THE UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10 SAN DIEGO DIVISION

00 CV 258 BTM (POR)

11 PENG TAN,)
12 Plaintiff,)
13 vs.)
14 LEVEL ONE COMMUNICATIONS, INC., a)
California corporation,)
15 Defendant.)
16)

Case No.:

COMPLAINT FOR PATENT
INFRINGEMENT

JURY TRIAL DEMANDED

17
18 Plaintiff, PENG TAN, by his undersigned attorneys, hereby alleges as follows:

19
20 THE PARTIES

- 21 1. Plaintiff PENG TAN ("TAN") is an individual residing at San Diego,
22 California.
23 2. Defendant LEVEL ONE COMMUNICATIONS, INC. ("LEVEL ONE")
24 is, upon information and belief, a California corporation that is doing business within this
25 judicial district.

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[Handwritten mark]

JURISDICTION AND VENUE

1
2 3. This action arises under the patent laws of the United States (35 U.S.C. § 1
3 et seq.). This Court has jurisdiction of the subject matter of this action by virtue of 28
4 U.S.C. § 1338(a).

5 4. On information and belief LEVEL ONE is doing business, and subject to
6 personal jurisdiction, within this judicial district.

7 5. Venue is proper within this judicial district based on 28 U.S.C. § 1400(b)
8 and on 28 U.S.C. § 1391(c).

9
10 CLAIM FOR PATENT INFRINGEMENT

11 6. On July 28, 1987, United States Letters Patent No. 4,682,857 (the “ ‘857
12 patent”) were duly and legally issued for an invention entitled “LIQUID CRYSTAL HOT
13 SPOT DETECTION WITH INFINITESIMAL TEMPERATURE CONTROL.” TAN is
14 the owner, and at all times relevant herein has been the owner, of the ‘857 patent.

15 7. On information and belief, LEVEL ONE has been, within six years prior
16 to commencement of this action, and still is, infringing the ‘857 patent, by using hot spot
17 detection methods embodying the patented invention to develop, manufacture, and sell
18 semiconductor devices, within this judicial district and elsewhere, without leave or
19 license from TAN, and will continue to do so unless enjoined by this Court, in violation
20 of 35 U.S.C. § 271.

21 8. TAN has given written notice to LEVEL ONE of its infringement of the
22 ‘857 patent.

23 9. As a result of the infringing activities of LEVEL ONE, TAN has been and
24 continues to be damaged, including irreparable injury.

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1 10. Upon information and belief, LEVEL ONE has willfully infringed the
2 '857 patent, making this an exceptional case and justifying the assessment of treble
3 damages pursuant to 35 U.S.C. § 284 and attorney fees pursuant to 35 U.S.C. § 285.

4
5 PRAYER FOR RELIEF

6 WHEREFORE, TAN respectfully prays:

7 A. That a preliminary and final injunction issue against continued
8 infringement of the '857 patent by LEVEL ONE, its parents, subsidiaries, employees,
9 agents, affiliates, and all those in privity or acting in concert with them;

10 B. That the '857 patent be adjudged to have been infringed by LEVEL ONE;

11 C. That an Order issue requiring LEVEL ONE to deliver to TAN all
12 infringing devices that use, as well as all infringing devices developed through the use of,
13 the methods of the '857 patent, in LEVEL ONE's possession, custody or control;

14 D. That an Order issue requiring LEVEL ONE to provide an accounting and
15 awarding TAN damages arising out of infringement of the '857 patent by all those acting
16 or participating in concert with LEVEL ONE, and that such damages be trebled under 35
17 U.S.C. § 284 due to the willful and deliberate character of those infringements;

18 E. For an award of prejudgment interest, and post-judgment interest, on the
19 above damages award;

20 F. For an award of costs and reasonable attorneys' fees under 35 U.S.C. §
21 285 and other applicable laws; and

22 G. For such other and further relief, at law and in equity, as the Court may
23 deem just and proper.

24 DATED: February 7, 2000

DERGOSITS & NOAH LLP

25
26 By: 

Todd A. Noah

Attorneys for Plaintiff

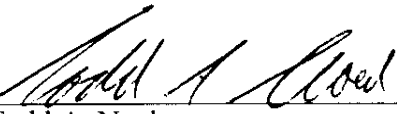
PENG TAN

JURY DEMAND

Plaintiff TAN hereby demands a jury on all issues raised by the complaint.

DATED: February 7, 2000

DERGOSITS & NOAH LLP

By: 

Todd A. Noah
Attorneys for Plaintiff
PENG TAN TAN

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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
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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:

DOCKET NO. 00cv258BTM(POR)	DATE FILED 02/08/00	U.S. DISTRICT COURT United States District Court, Southern District of California
PLAINTIFF Peng Tan		DEFENDANT Level One Communications Inc.
PATENT NO.	DATE OF PATENT	PATENTEE
1 4,682,857	July 28, 1987	Peng Tan
2		
3		
4		
5		

In the above-entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading			
PATENT NO.	DATE OF PATENT	PATENTEE		
1				
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In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT		
CLERK	(BY) DEPUTY CLERK	DATE

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)

TO: Commissioner of Patents and Trademarks Washington, D.C. 20231	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT
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PATENT NO.	DATE OF PATENT	PATENTEE	
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 Copy 2 - Upon filing document adding patent(s), mail this copy to Commissioner Copy 4 - Case file copy

JS44
Rev. 07/89

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

FILED
00 FEB -8 PM 12:35
DISTRICT COURT
SACRAMENTO DISTRICT OF CALIFORNIA

I (a) PLAINTIFFS

PENG TAN,

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

LEVEL ONE COMMUNICATIONS, INC.,
a California corporation.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Sacramento **DEPUTY**
(IN U.S. PLAINTIFF CASES ONLY) 37

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
DERGOSITS & NOAH LLP
MICHAEL E. DERGOSITS (sbn 118206)
TODD A. NOAH (sbn 152328)
4 Embarcadero Center, Suite 1150
San Francisco, CA 94111
(415) 705-6377

ATTORNEYS (IF KNOWN)

00 CV 258 BTM (POR)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

U.S. Government Plaintiff Federal Question (U.S. Government Not a Party)
 U.S. Government Defendant Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

PT	DEF	PT	DEF
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Citizen of This State	Incorporated or Principal Place of Business in This State	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Citizen of Another State	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Citizen or Subject of a Foreign Country	Foreign Nation	<input type="checkbox"/>	<input type="checkbox"/>

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

Patent Infringement

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> Marine <input type="checkbox"/> Miller Act <input type="checkbox"/> Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (incl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Fraud in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage - Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Mgmt. Relations <input type="checkbox"/> 730 Labor Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC DIWV (4054a) <input type="checkbox"/> 864 SSDI Title XVI <input type="checkbox"/> 865 RSI (4054a) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Annuity <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce ICC Rates etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prisoner Conditions			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

1 Original Proceeding 2 Removal from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER f.r.e.p. 23 **DEMAND** According to Proof **JURY DEMAND:** YES NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE: _____ Docket Number: _____

DATE February 7, 2000

SIGNATURE OF ATTORNEY OF RECORD *Todd A. Noah*
TODD A. NOAH

#57242 \$150 - POR