

district. Farzin Davanloo was previously employed as a Research Scientist at The University of Texas at Dallas, located at 800 West Campbell Road, Richardson, TX 75080, in this judicial district.

3. Nissan North America is a corporation duly organized under the laws of the State of California and having its principal place of business at One Nissan Way, Franklin, TN 37067. The cause of action against Nissan North America in this Complaint arose from or is connected with purposeful acts committed by this Defendant in Texas because, within the State of Texas, Nissan North America (a) manufactures, uses, sells or offers to sell the infringing products, (b) induces others to sell or offer to sell the infringing products, or (c) transacts other business in Texas. Nissan North America may be served with process by serving its registered agent, LexisNexis Document Solutions, Inc., at 211 E. 7th Street, Suite 620, Austin, Texas 78701.

4. Nissan Motor Company is a foreign company duly organized under the laws of Japan and having a registered head office at 1-1, Takashima 1-chome, Nishi-ku, Yokohama-shi, Kanagawa 220-8686, Japan. The cause of action against Nissan in this Complaint arose from or is connected with purposeful acts committed by this Defendant in Texas because, within the State of Texas and/or this judicial district, Nissan, individually and through its subsidiaries Nissan North America and Nissan Technical, (a) manufactures, uses, sells or offers to sell the infringing products, (b) induces others to sell or offer to sell the infringing products, or (c) transacts other business in Texas. Nissan may be served with process in this action by providing service in a manner permitted by the law governing service in Japan.

5. Nissan Technical is a corporation duly organized under the laws of the State of Delaware and having corporate offices located at 39001 Sunrise Dr., Farmington Hills, MI 48333. The cause of action against Nissan Technical in this Complaint arose from or is connected with purposeful acts committed by this Defendant in Texas because, within the State of Texas, Nissan Technical (a) manufactures, uses, sells or offers to sell the infringing products, (b) induces others to sell or offer to sell the infringing products, or (c) transacts other business in Texas. Accordingly, pursuant to Federal Rule of Civil Procedure 4, sections 17.044(a)-(b) and 17.045(a) of the Texas Civil Practice & Remedies Code, and Art. 2.11 of the Texas Business Corporations Act, Nissan Technical may be served with process by serving the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as its substituted agent for service of process because (1) the Secretary of State is the agent for service on Nissan Technical, (2) Nissan Technical engaged in business in Texas, (3) Nissan Technical does not maintain a regular place of business in Texas, (4) Nissan Technical does not have a designated agent for service of process in Texas, and (5) this lawsuit arises from Nissan Technical's business in Texas. Upon information and belief, Nissan Technical's "home office" is located at: 39001 Sunrise Dr., Farmington Hills, MI 48331. Therefore, the Secretary of State shall mail a copy of the summons and this Complaint to Nissan Technical's home office at: Nissan Technical Center North America, 39001 Sunrise Dr., Farmington Hills, Michigan 48333.

II. NATURE OF ACTION, JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), as this action arises under the patent laws of the United States, Title 35 of the United States Code.

7. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). Plaintiff Farzin Davanloo resides in Collin County, in this judicial district. The subject matter claimed in the patents at issue was developed in Collin County, in this judicial district. Defendants have transacted business in this judicial district and have committed and/or induced acts of patent infringement in this judicial district.

8. The claims of the patents at issue were previously construed by the United States District Court for the Eastern District of Texas, Marshall Division, in *Collins et al. v. The Gillette Co.*, No. 2:04-cv-0038-TJW (E.D. Tex.).

9. Defendants are subject to this Court's specific and general personal jurisdiction pursuant to the Texas Long Arm Statute, and consistent with the requirement of due process, due to their infringements alleged herein, regularly doing business or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals and entities in this State and in this District. In particular, within this judicial district, Defendants: (a) manufacture, use, sell, or offer to sell, the infringing products, (b) induce others to use, sell or offer to sell the infringing products, or (c) transact other business.

10. Defendants include manufacturers of infringing products. Defendants also rely on established intermediaries that distribute their infringing products throughout the United States, including the Eastern District of Texas. Sales of Nissan automobiles represented 7.8% of the U.S. automobile market in 2010. Multiple Nissan automobile dealerships are located within the Eastern District of Texas, including those located in Tyler, Longview, and Richardson. These dealerships offer Nissan automobiles and automobile parts, including Nissan valve lifters and bearings.

11. Defendants have sold and continue to sell their products directly to consumers within the State of Texas and this judicial district or to these intermediaries who, in turn, have sold and continue to sell their infringing products within the State of Texas and this judicial district both in retail stores and through the internet. Defendants thus knew or reasonably should have known that their infringing products would be sold within the State of Texas and this judicial district. By reason of Defendants' voluntary introduction of products into the State of Texas and the Eastern District of Texas with the expectation of economic benefit, the notions of fair play and substantial justice are not offended by suing Defendants in this Court.

12. Furthermore, the web sites for Defendants, located at <http://www.nissan-global.com> and <http://www.nissanusa.com>, are fully interactive web sites allowing users to view details concerning the infringing products. In addition, the web site <http://www.nissan4parts.com>, operated by Defendants, permits users to locate dealerships, including dealerships in Texas, where the infringing products, including valve lifters and bearings, can be purchased.

III. BACKGROUND

13. Plaintiffs incorporate by reference paragraphs 1 through 12 of this Complaint and reallege them as though fully set forth herein.

Nanophase Diamond Films

14. Today, the use of "diamond-like coatings" is standard in a variety of industries, including the electronics industry. The extreme hardness and optical transparency of diamond-like material makes it an ideal coating for a number of products,

particularly those products that endure a great deal of friction and are required to maintain smooth, abrasion-resistant surfaces.

15. In the early 1990's, "diamond-like coatings" were not widespread, nor well-characterized. During these years, while employed by The University of Texas at Dallas, Plaintiffs dedicated significant effort to producing early versions of diamond-like material, characterizing its structure and properties, and even coining the term "nanophase diamond" to refer to their invention. The "nanophase diamond films" developed by Plaintiffs in their lab possessed extremely desirable properties, including physical hardness, low electrical conductivity, high thermal conductivity, and optical transparency. Plaintiffs recognized that their "nanophase diamond films" were unique inventions with the potential to be valuable additions to a number of commercial products.

The '797 Patent

16. On or about May 2, 1995 the United States Patent & Trademark Office issued U.S. Patent No. 5,411,797 entitled "Nanophase Diamond Films" (the "'797 Patent"). A copy of the '797 Patent is attached hereto as Exhibit A and incorporated herein for all purposes.

17. Plaintiffs are the co-inventors of the subject matter claimed in the '797 Patent.

18. Plaintiffs conceived of and reduced to practice the subject matter claimed in the '797 Patent while employed by The University of Texas at Dallas. Conception and reduction to practice took place in the North Office Building of The University of Texas

at Dallas, located near the intersection of Drive E and Rutford Avenue, in Richardson, Collin County, Texas, in this judicial district.

19. Plaintiffs own all rights, title and interest (including all rights to sue for past, present and future infringement) in the '797 Patent, by virtue of an assignment from The Board of Regents of The University of Texas System.

The '650 Patent

20. On or about December 26, 1995, the United States Patent & Trademark Office issued U.S. Patent No. 5,478,650 entitled "Nanophase Diamond Films" (the "'650 Patent"). A copy of the '650 Patent is attached hereto as Exhibit B and incorporated herein for all purposes.

21. Plaintiffs are the co-inventors of the subject matter claimed in the '650 Patent.

22. Plaintiffs conceived of and reduced to practice the subject matter claimed in the '650 Patent while employed by The University of Texas at Dallas. Conception and reduction to practice took place in the North Office Building of The University of Texas at Dallas, located near the intersection of Drive E and Rutford Avenue, in Richardson, Collin County, Texas, in this judicial district.

23. Plaintiffs own all rights, title and interest (including all rights to sue for past, present and future infringement) in the '650 Patent, by virtue of an assignment from The Board of Regents of The University of Texas System.

Defendants' Infringing Products

24. Defendants manufacture and sell automobiles and parts and accessories for use in automobiles, including valve lifters and bearings. At least some of Defendants'

valve lifters and bearings contain a diamond like coating (“DLC”) that is central to the operation of the engines of the automobiles. These valve lifters and bearings containing a DLC, as well as the engines and the automobiles in which they are incorporated, are infringing products.

IV. CAUSES OF ACTION

Patent Infringement

25. Plaintiffs incorporate by reference paragraphs 1 through 24 of this Complaint and reallege them as though fully set forth herein.

26. Defendants have offered for sale, sold, and continue to sell and offer to sell, their infringing products in the United States of America and within this judicial district through established retailers.

27. Defendants have infringed claims of the '797 and '650 Patents literally and/or under the doctrine of equivalents and/or by way of inducing infringement by others and/or contributing to the infringement by others of the '797 and '650 Patents, by, among other things, making, using, importing, offering to sell, and/or selling in the United States of America valve lifters and bearings, automobile engines containing valve lifters and bearings, and automobiles containing valve lifters and bearings falling within the scope of one or more claims of the '797 and '650 Patents.

28. Upon information and belief, to the extent any marking was required by 35 U.S.C. §287, Plaintiffs complied with such requirements. Physical stamping, engraving, imprinting or otherwise directly applying the numbers of the '797 and '650 Patents to the nanophase diamond films would render the applied films ineffective for their intended purpose by damaging the films, causing the films to delaminate, or

otherwise lessening the protective properties of the films. Further, many samples of the nanophase diamond films prepared by Plaintiffs or their licensees were intended for internal experimental evaluation only and did not enter the stream of commerce. These custom samples were not accompanied by packaging intended to remain with the sample. To the extent possible, Plaintiffs or their licensees personally communicated the numbers of the '797 and '650 Patents to the recipients of the samples of the nanophase diamond films, including through their inclusion on documents such as invoices, purchase orders, and shipping orders. Plaintiffs explicitly requested that their licensees mark the samples in the most feasible manner possible.

29. The manufacture, importation, shipment, use, offer for sale and sale by Defendants of the infringing products, directly and through their established retailers, infringes the '797 Patent and the '650 Patent under 35 U.S.C. § 271(a). The acts of Defendants causing and/or inducing others to sell, import and/or use the infringing products constitute acts of inducement to infringe the '797 Patent and the '650 Patent under 35 U.S.C. § 271(b), and further constitute contributory infringement of the '797 Patent and the '650 Patent under 35 U.S.C. § 271(c).

30. Plaintiffs are being damaged and irreparably harmed by Defendants' infringement and are thus entitled to recover damages adequate to compensate them for the infringement complained of herein, but in no event less than a reasonable royalty.

31. Defendants' infringement has injured and will continue to injure Plaintiffs, unless and until such infringement is enjoined by this Court.

V. COSTS AND ATTORNEYS' FEES

32. Plaintiffs incorporate by reference paragraphs 1 through 31 of this Complaint and reallege them as though fully set forth herein.

33. Plaintiffs are entitled to recover their costs and reasonable and necessary attorney's fees incurred herein under 35 U.S.C. §§ 284 and 285, for which they hereby sue.

VI. JURY DEMAND

33. Plaintiffs request a trial by jury, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure on all issues triable of right by jury.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs ask for judgment against Defendants for the following:

A. Adjudge that the '797 Patent and the '650 Patent are valid and enforceable;

B. Adjudge that Defendants are infringing, and have infringed, and have contributed to and induced infringement of, the '797 Patent and the '650 Patent;

C. Enjoin Defendants, and their affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns and all those acting for them and on their behalf, or acting in concert with them, from further infringement of the '797 Patent and the '650 Patent;

D. Award compensatory damages to Plaintiffs, together with interest;

E. That Defendants be cited to appear and answer herein and that upon final trial of this cause a permanent injunction issue as described above;

F. Award Plaintiffs their attorneys' fees and costs of court incurred in connection with this action, pursuant to 35 U.S.C. §§ 284 and 285;

G. Award Plaintiffs pre-judgment and post-judgment interest as allowed by law; and

H. Award such other and further relief as the Court deems just and proper.

Respectfully submitted on this 21st day of September, 2011.

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