

**OPPENHEIMER WOLFF & DONNELLY LLP**

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**ORIGINAL  
FILED**  
JUN 27 2001  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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JUN 28 2001  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

**E-filing ADR**

**CV - 01 - 2489 BZ**

KLA-TENCOR CORPORATION, a Delaware  
corporation,

Plaintiff,

vs.

TOKYO SEIMITSU CO., LTD., a Japanese  
corporation, and TSK AMERICA, INC., a  
Michigan corporation,

Defendants.

CASE NO.

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

Plaintiff KLA-TENCOR CORPORATION ("KLA-TENCOR") hereby alleges against  
Defendants TOKYO SEIMITSU CO., LTD. and TSK AMERICA, INC. as follows:

**PARTIES**

1. KLA-TENCOR is a corporation duly organized and existing under the laws of the  
State of Delaware, with its principal place of business in San Jose, California.

2. KLA-TENCOR is informed and believes, and thereon alleges, that TOKYO  
SEIMITSU CO., LTD. ("TOKYO SEIMITSU") is a corporation duly organized and existing under  
the laws of Japan, with its principal place of business in Tokyo, Japan.

Complaint

3. KLA-TENCOR is informed and believes, and thereon alleges, that TSK AMERICA, INC. ("TSK AMERICA") is a corporation duly organized and existing under the laws of Michigan, with its Semiconductor Equipment Sector and Technology Center located in San Jose, California.

#### **JURISDICTION AND VENUE**

4. This is an action for patent infringement arising under the patent laws of the United States (Title 35 of the United States Code). Subject matter jurisdiction is proper in this Court under 28 United States Code Sections 1331 and 1338(a). Venue is proper in the Northern District under 28 United States Code Sections 1391(d) and 1400(b). In addition, TOKYO SEIMITSU and TSK AMERICA have actively induced and contributed to acts of patent infringement by others in the State of California and in the Northern District of California.

#### **INTRADISTRICT ASSIGNMENT**

5. Assignment to this division is proper pursuant to Civil L.R. 3-2, as KLA-TENCOR's principal place of business is located in the county of Santa Clara, TSK AMERICA's Semiconductor Equipment Sector and Technology Center is located in the county of Santa Clara, and TOKYO SEIMITSU and TSK AMERICA have sold and offered for sale their infringing products in the county of Santa Clara.

#### **FIRST CAUSE OF ACTION (PATENT INFRINGEMENT)**

6. KLA-TENCOR is the owner of all rights, title, and interest in and to United States Patent No. 4,805,123 ("the '123 Patent"), entitled "Automatic Photomask and Reticle Inspection Method and Apparatus Including Improved Defect Detector and Alignment Sub-Systems." The '123 Patent issued on February 14, 1989. A true and correct copy of the '123 Patent is attached to this Complaint as Exhibit A and is incorporated by reference herein.

7. TOKYO SEIMITSU and TSK AMERICA have been and still are infringing the '123 Patent by manufacturing, offering for sale and/or selling devices, including the WIN-WIN 50 wafer inspection system, which infringe the '123 Patent, and by using the methods covered by the '123 Patent. TOKYO SEIMITSU and TSK AMERICA will continue to so infringe unless enjoined by

1 this Court.

2 8. TOKYO SEIMITSU and TSK AMERICA have actively induced infringement of, or  
3 contributed to the infringement of, the '123 Patent by manufacturing infringing products and then  
4 offering for sale, selling, distributing, advertising and/or marketing those infringing products to  
5 others, and will continue to do so unless enjoined by this Court.

6 9. TOKYO SEIMITSU has also actively induced infringement of the '123 Patent by  
7 selling its infringing devices to third parties, who use the infringing methods of those devices to  
8 make, or assist in making, their own products and then import or sell those products within the  
9 United States in violation of 35 United States Code Section 271(g).

10 10. Prior to filing this complaint, KLA-TENCOR notified TOKYO SEIMITSU of its  
11 infringement of the '123 Patent. TOKYO SEIMITSU has had notice of the infringement of the '123  
12 Patent from at least the time of the receipt of the pre-filing notice of infringement.

13 11. TOKYO SEIMITSU's and TSK AMERICA's infringement of the '123 Patent has  
14 been willful, deliberate, and exceptional, and has caused injury to KLA-TENCOR.

15 12. TOKYO SEIMITSU's and TSK AMERICA's infringement of the '123 Patent is  
16 causing, and will continue to cause, irreparable injury to KLA-TENCOR until it is enjoined by this  
17 Court.

18 WHEREFORE, KLA-TENCOR prays for judgment against TOKYO SEIMITSU and TSK  
19 AMERICA, and requests that this Court:

20 A. Adjudge the '123 Patent to be infringed by TOKYO SEIMITSU and TSK  
21 AMERICA;

22 B. Preliminarily and permanently enjoin TOKYO SEIMITSU and TSK AMERICA, and  
23 those in active concert or participation with them, from continued infringement of the '123 Patent;

24 C. Order TOKYO SEIMITSU and TSK AMERICA to account to KLA-TENCOR for  
25 damages sustained by KLA-TENCOR as a result of their infringement of the '123 Patent, with  
26 interest;

27 D. Order TOKYO SEIMITSU and TSK AMERICA to pay KLA-TENCOR a reasonable  
28 royalty to compensate for their infringement;

1 E. Award KLA-TENCOR enhanced damages resulting from TOKYO SEIMITSU's and  
2 TSK AMERICA's willful and deliberate infringement;

3 F. Award KLA-TENCOR its costs, expenses and reasonable attorneys' fees incurred in  
4 bringing and prosecuting this action; and

5 G. Award KLA-TENCOR such other and further relief that the Court may deem just and  
6 proper.

7 Dated: June 22, 2001

OPPENHEIMER WOLFF & DONNELLY LLP

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9  
10 By: 

Michael H. Kalkstein

Ben Bedi

Michael Edelman

Attorneys for Plaintiff KLA-TENCOR

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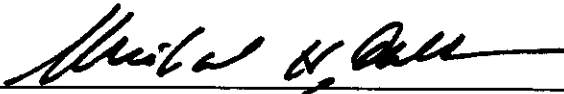
**DEMAND FOR JURY TRIAL**

KLA-TENCOR hereby demands trial by jury of all issues.

Dated: June 27, 2001

OPPENHEIMER WOLFF & DONNELLY LLP

By:



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**CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the named parties, there is no such interest to report.

Dated: June 27, 2001

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By: 

Michael H. Kalkstein

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Attorneys for Plaintiff KLA-TENCOR