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12 Attorneys for Plaintiffs  
 13 Matsushita Electrical Industrial Co., Ltd. and  
 Panasonic Corporation of North America

14 UNITED STATES DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA  
 16

17 C05 04844 RS

18 PANASONIC CORPORATION OF NORTH  
 AMERICA (formerly known as MATSUSHITA  
 19 ELECTRIC CORPORATION OF AMERICA)  
 and MATSUSHITA ELECTRICAL  
 20 INDUSTRIAL CO., LTD.,

21 Plaintiff,

22 v.

23 PATRIOT SCIENTIFIC CORPORATION,  
 CHARLES H. MOORE, TECHNOLOGY  
 24 PROPERTIES LIMITED, INC., and DANIEL E.  
 LECKRONE,  
 25

26 Defendants.

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 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE

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Case No. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY  
 JUDGMENT**

**DEMAND FOR JURY TRIAL**

1 Plaintiffs Panasonic Corporation of North America (“Panasonic”) (formerly known as  
2 Matsushita Electric Corporation of America (“MECA”)) and Matsushita Electrical Industrial Co.,  
3 Ltd. (“MEI”), by and through their attorneys, allege as follows:

4 1. This is a civil action arising under the Patent Laws of the United States, 35 U.S.C.  
5 §§101, *et seq.*, seeking declaratory judgment that United States Patent Numbers 5,809,336 (“336  
6 patent”) 5,784,584 (“584 patent”), and 6,598,148 (“148 patent”) (collectively, “patents-in-suit”)  
7 are invalid and not infringed by Panasonic and MEI.

8 **PARTIES**

9 2. Plaintiff Panasonic maintains its principal place of business in Secaucus, New  
10 Jersey, and manufactures and sells consumer, business, and industrial products in California.

11 3. Plaintiff MEI maintains its principal place of business in Osaka, Japan, and  
12 manufactures and sells consumer, business, and industrial products to Panasonic which are sold  
13 by Panasonic in California.

14 4. Defendant Patriot Scientific Corporation (“Patriot”) is incorporated under the laws  
15 of the State of Delaware, maintains its principal place of business at 10989 Via Frontera, San  
16 Diego, California, 92127, and is engaged in the business of developing intellectual property,  
17 integrated circuits, and systems level engineering.

18 5. Defendant Moore is an individual who, on information and belief, resides at 40  
19 Cedar Lane, Sierra City, California, 96125, and has asserted a claim of partial ownership and co-  
20 inventorship of the ‘336 patent.

21 6. Defendant Technology Properties Limited, Inc. (“TPL”) maintains its principal  
22 place of business at 21730 Stevens Creek Blvd., Cupertino, California, 95014, and is engaged in  
23 the business of selling and licensing intellectual property.

24 7. Defendant Leckrone is an individual who, on information and belief, is Chairman  
25 of TPL, resides at 7029 Silver Fox, San Jose, California, 95120 and has asserted a claim of partial  
26 ownership of the ‘336 patent.

27 8. Upon information and belief, Patriot and TPL claim to have co-ownership rights to  
28 the patents-in-suit.

1 **JURISDICTION AND VENUE**

2 9. Panasonic and MEI bring this complaint against defendants pursuant to the patent  
3 laws of the United States, Title 35 of the United States Code, with a specific remedy sought based  
4 upon the laws authorizing actions for declaratory judgment in the courts of the United States, 28  
5 U.S.C. §§ 2201 and 2202.

6 10. This Court has subject matter jurisdiction over this action, which arises under the  
7 patent laws of the United States, pursuant to 28 U.S.C. §§ 1331, 1338(a), and 2201.

8 11. Venue in this District is proper under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

9 **INTRA-DISTRICT ASSIGNMENT**

10 12. This action is properly filed in the Oakland Division of the Northern District of  
11 California because defendants reside, or do business, in this district and defendants previously  
12 filed a complaint for infringement of one of the patents-in-suit in this district.

13 **EXISTENCE OF AN ACTUAL CONTROVERSY**

14 13. There is an actual controversy within the jurisdiction of this Court under 28 U.S.C.  
15 §§ 2201 and 2202.

16 14. On December 23, 2003 Patriot filed a patent infringement action against Fujitsu  
17 Microelectronics America, Inc. ("Fujitsu") in the Northern District of California, Case No. 03-  
18 5787 (SBA) ("Patriot Case") alleging infringement of the '336 patent. The Patriot Case was  
19 assigned to Judge Armstrong of the Northern District of California. A copy of that complaint is  
20 attached as Exhibit A.

21 15. On December 30, 2003 Patriot filed a patent infringement action against Panasonic  
22 (then known as MECA) in the United States District Court for the District of New Jersey, Case  
23 No. 03-6210 (WGB) alleging infringement of the '336 patent ("New Jersey Case"). A copy of  
24 that complaint is attached as Exhibit B.

25 16. On February 2, 2004, Intel Corporation filed a declaratory judgment action against  
26 Patriot Scientific seeking a declaration that Intel and its customers do not infringe the '336 patent  
27 ("Intel Case"). The Intel Case was assigned to Judge Armstrong of the Northern District of  
28 California.

1           17.     On February 13, 2004, Patriot sued Moore, TPL, and Leckrone in the Northern  
2 District of California to resolve the ownership of the '336, '584, and other patents (the "Moore-  
3 Fish patent portfolio"). That suit was assigned to District Judge Fogel of the Northern District of  
4 California.

5           18.     On March 11, 2004, Patriot Scientific filed a Consolidated Amended Complaint in  
6 the Patriot Case before Judge Armstrong in Northern District of California adding Panasonic  
7 (then known as MECA), NEC Solutions (America), Inc., Sony Electronics Inc., Toshiba America,  
8 Incorporated, Moore, TPL, and Leckrone as defendants. A copy of that complaint is attached as  
9 Exhibit C.

10          19.     On March 24, 2004, Patriot voluntarily dismissed the New Jersey Case against  
11 Panasonic.

12          20.     On June 8, 2004, District Judge Armstrong ordered the Patriot Case and the Intel  
13 Case stayed pending resolution of Patriot Scientific's and TPL's dispute concerning ownership of  
14 the Moore-Fish patent portfolio.

15          21.     On June 13, 2005, TPL reported to Judge Armstrong that Patriot Scientific and  
16 TPL settled the dispute concerning ownership of the Moore-Fish patent portfolio by stipulated  
17 final judgment signed by District Judge Fogel on June 9, 2005. It also reported that it had been  
18 granted complete authority to enforce the '336 patent as well as the rest of the Moore-Fish patent  
19 portfolio.

20          22.     On June 22, 2005, Intel and Patriot Scientific stipulated to dismiss Intel's  
21 declaratory judgment action against Patriot Scientific and Judge Armstrong signed an order  
22 dismissing that case with prejudice.

23          23.     On June 29, 2005, TPL stated in a joint case management conference statement in  
24 the Patriot case that it had been "placed in charge of the infringement litigation" and that "TPL  
25 will file a supplemental and/or amended pleading substituting itself for Patriot."

26          24.     On July 12, 2005, Alliacense, a division of TPL, sent a letter to an attorney for  
27 Panasonic which stated that if Panasonic did not purchase a license to the TPL patent portfolio, it  
28 "will eventually face costly litigation." This July 12, 2005 letter identified the patents-in-suit as

1 among the patents that would be part of the license offered, and litigation threatened, by TPL. A  
2 copy of that letter is attached as Exhibit D.

3 25. On July 14, 2005, Judge Armstrong held a telephonic Case Management  
4 Conference in the consolidated action. At the conference, TPL's counsel reported that TPL had  
5 the sole right to assert the '336 patent in litigation and to license or settle claims relating to that  
6 patent. TPL's counsel further stated that TPL was negotiating with the defendants and that if it  
7 were necessary to continue the litigation, TPL would file a new complaint substituting itself as  
8 the plaintiff in the Patriot action. TPL requested that the Court stay the action for 60 days. Judge  
9 Armstrong granted TPL's request, ordered the parties to file a Joint Case Management Statement  
10 on September 23, and scheduled a telephonic Case Management Conference to be held on  
11 September 29, 2005.

12 26. On September 23, 2005, the parties filed a Joint Case Management Conference  
13 Statement in which TPL asked for an additional 60-day continuation of the stay to continue  
14 settlement discussions. In the alternative, TPL requested 30 days to "file a supplemental and/or  
15 amended pleading substituting itself for [Patriot], [and to] submit proposed dates for discovery  
16 cut-off, motion cut-off, pretrial, and trial."

17 27. On October 4, 2005, Judge Armstrong denied TPL's request for stay and granted  
18 TPL until October 24, 2005 to file an amended pleading substituting itself as plaintiff. Judge  
19 Armstrong set a Case Management Conference for November 9, 2005, and ordered the parties to  
20 submit a joint Case Management Conference Statement 10 days before the conference.

21 28. On October 6, 2005, Alliacense sent a letter to MEI stating that "MEI  
22 representatives have been on notice and aware of the '584 patent for over a year, and the  
23 complaint is being amended accordingly." A copy of that letter is attached as Exhibit E.

24 29. On October 24, 2005, despite representing to Judge Armstrong and Panasonic that  
25 they would file an amended complaint in California naming TPL as the plaintiff, defendants  
26 forum shopped their case to the Eastern District of Texas by filing a complaint for infringement  
27 of the patents-in-suit against Panasonic and MEI, among other defendants, entitled *Technology*  
28 *Properties Limited, Inc. v. Fujitsu, et al.*, 2-05 CV-494.





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**THIRD CLAIM**  
**DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE '584 PATENT**

40. Panasonic and MEI hereby restate and reallege the allegations set forth in paragraphs 1 through 39 and incorporates them by reference.

41. Panasonic and MEI seek a declaration that they do not infringe any valid or enforceable claim of the '584 patent.

42. Such a declaration is necessary and appropriate at this time so that Panasonic and MEI can ascertain their rights and duties with respect to designing, developing, marketing and selling their products.

**FOURTH CLAIM**  
**DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE '148 PATENT**

43. Panasonic and MEI hereby restate and reallege the allegations set forth in paragraphs 1 through 42 and incorporates them by reference.

44. Panasonic and MEI seek a declaration that they do not infringe any valid or enforceable claim of the '148 patent.

45. Such a declaration is necessary and appropriate at this time so that Panasonic and MEI can ascertain their rights and duties with respect to designing, developing, marketing and selling their products.

**PRAYER FOR RELIEF**

WHEREFORE, Panasonic and MEI pray for judgment as follows:

1. Declaring that defendants' claims for infringement of the '336 patent are barred by *res judicata*.
2. Declaring that Panasonic and MEI, and their products, do not infringe valid or enforceable claims of the patents-in-suit;
3. Declaring that defendants and each of their officers, employees, agents, alter egos, attorneys, and any persons in active concert or participation with them be restrained and enjoined from further prosecuting or instituting any action against Panasonic or MEI claiming that the patents-in-suit are valid, enforceable, or infringed, or from representing that Panasonic's or MEI's

1 products or services, or that the use thereof, infringe the patents-in-suit;

2 4. A judgment declaring this case exceptional under 35 U.S.C. § 285 and awarding  
3 Panasonic and MEI their attorneys' fees and costs in connection with this case;


4 5. Awarding Panasonic and MEI such other and further relief as the Court deems just  
5 and proper.

6 **DEMAND FOR JURY TRIAL**

7 Panasonic and MEI demand a trial by jury for all claims triable by jury pursuant to Fed. R.  
8 Civ. P. 38 and Civil L.R. 3-6(a).

9 Dated: November 28, 2005

WEIL, GOTSHAL & MANGES LLP

10 By: 

11 Perry Clark  
12 Attorney for Plaintiffs  
13 Panasonic Corporation of North America and  
14 Matsushita Electrical Industrial Co., Ltd.

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