

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

CMC MAGNETICS CORP.

Plaintiff,

v.

VICTOR COMPANY OF JAPAN, LTD.

Defendant.

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Civil Action No. 2:09-CV-156

**JURY TRIAL DEMANDED**

**PLAINTIFF CMC MAGNETICS CORP.’S ORIGINAL COMPLAINT**

Plaintiff CMC Magnetics Corporation brings this action for patent infringement against Defendant Victor Company of Japan, Ltd. and alleges as follows:

**PARTIES**

1. Plaintiff CMC Magnetics Corporation (“CMC”) is organized under the laws of Taiwan and has its principle place of business at 15F, No. 53, Min Chuan West Road, Taipei, Taiwan.

2. Upon information and belief, Defendant Victor Company of Japan (“JVC”) is organized under the laws of Japan with its principle place of business at 12, Moriya-och 3 chome, Kanagawa-ku, Yokohma, Kanagawa 221-8528, Japan.

**JURISDICTION AND VENUE**

3. This action arises under the Patent Laws of the United States, 35 U.S.C. § 101 *et seq.* The jurisdiction of this Court is founded upon 28 U.S.C. § 1331 and §1338(a).

4. This Court has personal jurisdiction over the Defendant. Upon information and belief, Defendant has transacted business in this judicial district and has committed, contributed to, and/or induced acts of patent infringement in this judicial district including, among other things, by placing goods in the stream of commerce, knowing that the likely destination of those goods was Texas, via online retailers such as Amazon.com, CompUSA.com, and Buy.com. Upon information and belief, infringing products made by Defendant are sold directly to the residents of this judicial district from the aforementioned web sites. Upon information and belief, Defendant has purposely availed itself of conducting commercial activities in this judicial district and knowingly interacted with residents of this district via the Internet as well as in stores located within this judicial district. Upon information and belief, Defendant has systematic and continuous contacts in this judicial district and is subject to the personal jurisdiction of this Court.

5. Venue within this District is proper under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

6. Defendant resides in this judicial district for the purpose of venue, insofar as it is subject to the personal jurisdiction in this judicial district, has committed acts of infringement in this judicial district (either directly or through intermediaries such as online stores), solicits business in this judicial district (either directly or through intermediaries such as online stores), provides services in this judicial district, encourages others to practice infringing methods in this judicial district, and conducts other business in this judicial district.

**PATENT INFRINGEMENT OF THE '132 PATENT**

7. The allegations of paragraphs 1-6 are incorporated herein by reference.

8. Plaintiff CMC is the owner by assignment of United States Patent No. 6,188,132 (“the ‘132 Patent”) issued on February 13, 2001 which is attached as **Exhibit A**.

9. The ‘132 Patent is for an invention titled “Two-Wavelength Semiconductor Laser Diode Package for Use on the Read/Write Head of an Optical Drive Capable of Reading Different Types of Optical Discs.” A true and correct copy of the ‘132 Patent is attached as Exhibit A.

10. The technologies protected by the ‘132 Patent provide a laser diode package which packs two laser diodes of different specifications in wavelength therein, allowing the laser package to be used in optical drives capable of reading data from different types of optical discs, such as CD (compact disc), CD-R (CD Recordable) and DVD (digital versatile disc).

11. Upon information and belief, Defendant has infringed and, if not enjoined, will continue to infringe one or more claims of the ‘132 Patent by making, using, selling, offering for sale, and/or importing in or into the United States, without authority, products that fall within the scope of the claims of the ‘132 Patent in violation of 35 U.S.C. § 271(a), including but not limited to the product known as JVC XV-N670B.

12. Upon information and belief, by making, using, selling, offering for sale, and/or importing in or into the United States, without authority, products that fall within the scope of the claims of the ‘132 patent, Defendant has also induced infringement of the ‘132 Patent under 35 U.S.C. § 271(b), and has contributed to the infringement of the ‘132 Patent under 35 U.S.C. § 271(c). The infringing products have no substantial non-infringing uses.

13. Upon information and belief, Defendant has infringed and continues to infringe the ‘132 Patent with knowledge of Plaintiff’s patent rights and without a

reasonable basis for believing that Defendant's conduct is lawful. Defendant's acts of infringement have been willful, deliberate, and in reckless disregard of Plaintiff's patent rights, and will continue unless enjoined by the Court.

14. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

15. As a direct and proximate result of Defendant's acts of patent infringement, Plaintiff has been and continues to be injured and has sustained and will continue to sustain substantial damages.

16. Plaintiff has no adequate remedy at law against Defendant's acts of patent infringement. Unless Defendant is preliminarily and permanently enjoined from its infringement of the '132 Patent, Plaintiff will suffer irreparable harm.

#### **JURY DEMAND**

Pursuant to Federal Rules of Civil Procedure 38, Plaintiff CMC hereby demands a jury trial on all issues triable to a jury.

#### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiff petitions this Court and requests that a judgment be entered and relief be granted as follows:

- A. Declaring that the '132 Patent is valid and enforceable;
- B. Declaring that Defendant has infringed the '132 Patent as alleged herein (directly, by inducement, and/or contributorily);
- C. Preliminarily and permanently enjoining, restraining, and prohibiting Defendant, and any party acting through, for, or in concert with Defendant from further infringing (directly, by inducement, or contributorily) any claim of the '132 Patent;

D. Awarding Plaintiff such monetary or compensatory damages as may be found or deemed adequate to fully compensate Plaintiff for any of Defendant's acts of infringement of the '132 Patent and/or any other injury suffered by Plaintiff due to Defendant's acts of infringement of the '132 Patent;

E. Awarding to Plaintiff its costs; and

F. Awarding to Plaintiff such other, further, or general relief as this Court may deem proper.

Dated: May 15, 2009

Respectfully submitted,

McGINNIS, LOCHRIDGE & KILGORE, L.L.P.

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