

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

SCANNER TECHNOLOGIES CORP.,

Plaintiff,

v.

NVIDIA CORPORATION,

Defendant.

C.A. NO. 9:06 CV-205 RHC-KFG

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Scanner Technologies Corporation ("Scanner") for its Complaint against NVIDIA Corporation ("NVIDIA"), alleges and states as follows:

PARTIES

1. Plaintiff Scanner Technologies Corporation ("Scanner" or "Plaintiff") is a New Mexico corporation with its principal office located at 14505 21st Avenue North, Suite 220, Minneapolis, Minnesota 55447. Scanner develops, makes and licenses vision inspection technology for the semiconductor industry.

2. Upon information and belief, Defendant NVIDIA Corporation ("NVIDIA" or "Defendant"), at all times pertinent hereto, is a corporation incorporated under the laws of the State of Delaware, with its principal place of business at 2701 San Tomas Expressway, Santa Clara, CA 95050. NVIDIA's web site is <http://www.nvidia.com/>. NVIDIA Corporation claims to be the worldwide leader in programmable graphics processor technologies. The Company creates products for computing, consumer electronics, and mobile devices. NVIDIA has offices throughout Asia, Europe, and the Americas. NVIDIA is a global company with assets and operations dispersed throughout the United States. NVIDIA is engaged in the development, manufacture, marketing and distribution of, inter alia, ball grid array ("BGA" or "BGAs") devices and packages. NVIDIA

markets and distributes its devices and packages to persons and entities in this judicial district and elsewhere. NVIDIA is registered to do business in the State of Texas. NVIDIA may be served with this Complaint through its registered agent, CT Corporation System, 350 N. St. Paul St., Dallas, Texas 75201.

JURISDICTION

3. These Claims are for Patent Infringement under the Patent Laws of the United States, particularly, 35 U.S.C. § 271. This Court has subject matter jurisdiction over these Claims for Patent Infringement pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over NVIDIA, because NVIDIA conducts business in the State of Texas and in this judicial district and offers for sale and sells its products in the Eastern District of Texas and places its products into the stream of commerce with the expectation that they will be purchased by consumers in the Eastern District of Texas. Venue is proper under 28 U.S.C. §§ 1391(b) and (c) and 1400(b) in that NVIDIA has committed acts of infringement in this judicial district.

SCANNER'S PATENTS

5. Scanner is the owner of record of U.S. Patent No. 7,079,678 ("678 Patent") entitled "Electronic Component Products Made According to a Process that Includes a Method for Three Dimensional Inspection," which duly and legally issued July 18, 2006. A true and correct copy of the '678 Patent is attached hereto as Exhibit A. The '678 Patent discloses a patented process, which is directed to a step in the manufacture of a ball grid array device. The '678 Patent discloses a method of three-dimensional ("3D") inspection that allows the BGA device to be manufactured more precisely and efficiently.

6. Scanner is the owner of record of U.S. Patent No. 7,085,411 ("411 Patent") entitled "Method of Manufacturing Electronic Components Including a Method for Three Dimensional Inspection," which duly and legally issued August 1, 2006. A true and correct copy of the '411 Patent is attached hereto as Exhibit B. The '411 Patent discloses a patented process, which is directed to a step in the manufacture of a ball grid array device. The '411 Patent discloses a method

of three-dimensional ("3D") inspection that allows the BGA device to be manufactured more precisely and efficiently.

7. The '678 and '411 Patents relate to methods of manufacturing electronic components, including ball array devices, ball grid arrays, chip scale packages, and bump on wafers, which are used to conduct electrical impulses in electrical devices. BGA devices are found in various electronic devices.

NVIDIA'S BGA DEVICES

8. Upon information and belief, NVIDIA has made, used, offered to sell, sold and/or imported and/or is presently making, using, offering to sell, selling and/or importing electronic devices, which include BGAs throughout the United States. NVIDIA BGA devices are a component in graphic cards, motherboards, computers, video game consoles, cell phones and handheld devices.

9. Upon information and belief, NVIDIA has made, used, offered to sell, sold and/or imported and/or is presently making, using, offering to sell, selling and/or importing electronic devices, which contain at least one BGA device manufactured outside of the United States.

10. Upon information and belief, NVIDIA products that contain a BGA device include:

- a. nVidia GeForce Products;
- b. nVidia SLI Products;
- c. nVidia GoForce Products;
- d. nVidia Quadro Products;
- e. nVidia nForce Products;
- f. nVidia TurboCache Products; and
- g. nVidia PureVideo Products.

11. Upon information and belief, products that contain an NVIDIA BGA device are offered for sale throughout the Eastern District of Texas and have been and continue to be offered for sale at such outlets as Best Buy in Lufkin, Texas and throughout this District.

12. Scanner requests that NVIDIA provide detailed information about the NVIDIA BGA devices that have been manufactured with three dimensional vision equipment and that NVIDIA has made, used, offered to sell, sold and/or imported and/or is presently making, using, offering to sell, selling and/or importing such as the datasheet, serial number, date code, lot number and invoice for each BGA device, and place a litigation hold on such information and the BGA devices so to prevent spoliation of evidence for the duration of this Action.

COUNT I
INFRINGEMENT OF SCANNER U.S. PATENT NO. 7,079,678

13. For its First Claim of Patent Infringement against NVIDIA, Scanner repeats and incorporates by reference the allegations of paragraphs 1-12 as though set forth fully and independently herein.

14. Upon information and belief, NVIDIA has made, used, sold, offered to sell and/or imported and/or is presently making, using, selling, offering to sell and or importing devices that include a BGA device throughout the United States, which are covered by the one or more of the claims of the '678 Patent. By the acts complained of herein, NVIDIA has infringed the '678 Patent in violation of 35 U.S.C. § 271, literally or under the Doctrine of Equivalents.

15. Upon information and belief, NVIDIA has and will continue to infringe and induce others including its customers to infringe the '678 Patent unless enjoined by the Court.

16. Scanner is entitled to recover from NVIDIA all damages sustained by Scanner as a result of NVIDIA's wrongful acts, including not less than a reasonable royalty.

17. Upon information and belief, NVIDIA has had actual knowledge of the '678 Patent prior to commencement of this action. NVIDIA's infringement of the '678 Patent has been and continues to be willful and deliberate. To the best knowledge of Plaintiff, NVIDIA has not received

any opinion from any legal or patent counsel as to infringement, validity and/or enforceability of the '678 Patent.

COUNT II
INFRINGEMENT OF SCANNER U.S. PATENT NO. 7,085,411

18. For its Second Claim of Patent Infringement against NVIDIA, Scanner repeats and incorporates by reference the allegations of paragraphs 1-12 as though set forth fully and independently herein.

19. Upon information and belief, NVIDIA has made, used, sold, offered to sell and/or imported and/or is presently making, using, selling, offering to sell and/or importing devices that include a BGA device throughout the United States, which are covered by one or more claims of the '411 Patent. By the acts complained of herein, NVIDIA has infringed the '411 Patent in violation of 35 U.S.C. § 271, literally or under the Doctrine of Equivalents.

20. Upon information and belief, NVIDIA has and will continue to infringe and induce others including its customers to infringe the '411 Patent unless enjoined by the Court.

21. Scanner is entitled to recover from NVIDIA all damages sustained by Scanner as a result of NVIDIA's wrongful acts, including not less than a reasonable royalty.

22. Upon information and belief, NVIDIA has had actual knowledge of the '411 Patent prior to commencement of this action. NVIDIA's infringement of the '411 Patent has been and continues to be willful and deliberate. To the best knowledge of Plaintiff, NVIDIA has not received any opinion from any legal or patent counsel as to infringement, validity and/or enforceability of the '411 Patent.

CONSOLIDATED PRAYER FOR RELIEF

WHEREFORE, Scanner prays that the Court order the following relief:

A. For a judicial determination and declaration that the '678 and '411 Patents are valid and enforceable;

B. For a judicial determination and a declaration that NVIDIA directly, contributorily and through inducement infringes the '678 and '411 Patents, and that its infringement is willful;

C. For an order preliminarily and permanently enjoining NVIDIA, its directors, officers, shareholders, employees, attorneys, agents and all persons in active concert or participation with any of the foregoing from further acts of direct infringement, contributory infringement or inducement of infringement of the '678 and '411 Patents;

D. For an Order that this Court require NVIDIA to file with this Court, within thirty (30) days after entry of a final judgment, a written statement under oath setting forth in detail the manner in which NVIDIA has complied with the injunction;

E. For damages resulting from infringement of the '678 and '411 Patents by NVIDIA in an amount to be determined at trial, and the trebling of such damages due to the willful nature of its infringement;

F. For an award of interest and damages;

G. For a declaration that this case is exceptional pursuant to 35 U.S.C. § 285 and an award of attorneys' fees and costs; and

H. For an award of such other and further relief as this Court deems just and proper.

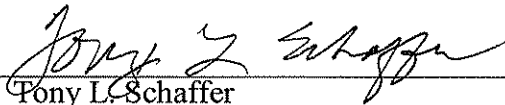
DEMAND FOR JURY TRIAL

Scanner hereby demands a trial by jury on all issues triable to a jury.

Respectfully Submitted,

Dated: April 13, 2007

By:



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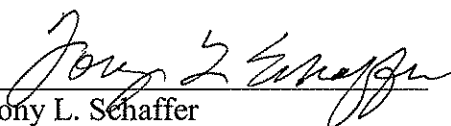
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CERTIFICATE OF SERVICE

This is to certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

Dated: April 13, 2007


Tony L. Schaffer