

Hon Hai Precision Industry Co., Ltd. (“Hon Hai”), an above-named Defendant and Third Party Plaintiff, bring this Third Party Complaint against including AOC International (“AOC”); Lite-On Technology Corporation and Lite-On Trading USA, Incorporated (collectively, “Lite-On”); Tatung Company (“Tatung”); and TPV Technology, Limited and TPV International (USA), Incorporated (collectively, “TPV”). Hereinafter, AOC, Lite-On, Tatung, and TPV shall be referred to collectively as the “Third Party Defendants.” Hon Hai alleges as follows:

NATURE OF THE ACTION

1. This is an action by Hon Hai against the Third Party Defendants for indemnification arising out of claims of infringement of U.S. Patent Nos. 6,057,812; 6,247,090; 6,304,236; 6,513,088; 6,549,970; 6,639,588; 6,686,895; 7,089,342; 7,475,180 B2; and 7,475,181 B2 (collectively, the “patents-in-suit”).

2. Mondis Technology, Ltd. (“Mondis”) commenced in this Judicial District a patent infringement action against Hon Hai and other above-referenced Defendants on or about December 31, 2007. *See* Docket Entry No. 1. Subsequently, on or about May 14, 2008, Mondis filed its First Amended Complaint. *See* Docket Entry No. 44. The Second Amended Complaint (“SAC”) was filed on or about March 9, 2009. *See* Docket Entry No. 103. In the SAC, Mondis alleges that Hon Hai and other Defendants infringe the patents-in-suit, either directly or indirectly. A copy of Mondis’ SAC, showing the basis of Mondis’ claims against Hon Hai and other Defendants, is attached hereto as Exhibit A, and is incorporated herein by reference.

THE PARTIES

3. Hon Hai is a corporation organized and existing under the laws of Taiwan, R.O.C., with its principal place of business in Taipei, Taiwan, R.O.C.

4. Upon information and belief, AOC is a company organized and existing under the laws of Taiwan, R.O.C., with its principal place of business in Taipei, Taiwan, R.O.C.

5. Upon information and belief, AOC manufactures monitors for personal computers.

6. Upon information and belief, Lite-On Technology Corp. is a company organized and existing under the laws of Taiwan, R.O.C., with its principal place of business in Taipei, Taiwan, R.O.C.

7. Upon information and belief, Lite-On Trading USA, Inc. is a company organized and existing under the laws of the state of California, with its principal place of business in Milpitas, California.

8. Upon information and belief, Lite-On is an inter-related group of companies which are (is) involved in the business of manufacturing monitors for personal computers.

9. Upon information and belief, Tatung Co. is a company organized and existing under the laws of Taiwan, R.O.C., with its principal place of business in Taipei, Taiwan, R.O.C.

10. Upon information and belief, Tatung manufactures monitors for personal computers.

11. Upon information and belief, TPV Technology, Ltd. is a company organized and existing under the laws of the Taiwan, R.O.C., with its principal place of business in Taipei, Taiwan, R.O.C.

12. Upon information and belief, TPV International (USA), Inc. is a company organized and existing under the laws of the state of Texas, with its principal place of business in Austin, Texas.

13. Upon information and belief, TPV is an inter-related group of companies which are (is) involved in the business of manufacturing monitors for personal computers.

14. Upon information and belief, TPV and AOC are related companies.

JURISDICTION AND VENUE

15. This Court has supplemental jurisdiction over this action pursuant to 28 U.S.C. § 1367(a), in that the claims against the Third Party Defendants are so related to the subject matter of Mondis' lawsuit against Hon Hai that such claims form part of the same case or controversy.

16. This Court has personal jurisdiction over AOC, Lite-On, Tatung, and TPV, in that

each has established minimum contacts with the forum. AOC, Lite-On, Tatung, and TPV each manufactures and/or assembles products that are and have been used, offered for sale, sold, and/or purchased in Texas, including in this Judicial District. Therefore, the exercise of jurisdiction over AOC, Lite-On, Tatung, and TPV would not offend traditional notions of fair play and substantial justice.

17. Upon information and belief, AOC conducts business in the state of Texas and has introduced products into the stream of commerce in the United States knowing that such products would be sold in Texas. Venue is proper in this Judicial District under 28 U.S.C. § 1391.

18. Upon information and belief, Lite-On conducts business in the state of Texas and has introduced products into the stream of commerce in the United States knowing that such products would be sold in Texas. Venue is proper in this Judicial District under 28 U.S.C. § 1391.

19. Upon information and belief, Tatung conducts business in the state of Texas and has introduced products into the stream of commerce in the United States knowing that such products would be sold in Texas. Venue is proper in this Judicial District under 28 U.S.C. § 1391.

20. Upon information and belief, TPV conducts business in the state of Texas and has introduced products into the stream of commerce in the United States knowing that such products would be sold in Texas. Venue is proper in this Judicial District under 28 U.S.C. § 1391.

CLAIM ONE

BREACH OF WARRANTY OF TITLE AND NON-INFRINGEMENT

(U.C.C. § 2-312 as adopted by Tex. Bus. & Com. Code Ann. § 2.312)

21. Hon Hai alleges and incorporates by reference the allegations contained in Paragraphs 1-20, as though fully set forth herein.

22. Mondis has asserted claims of infringement of the patents-in-suit against Hon Hai in the above-captioned lawsuit.

23. AOC is a merchant regularly dealing in goods of the kind of products accused by Mondis of infringing the patents-in-suit.

24. Upon information and belief, the pricing of the products that Mondis accuses of infringing the patents-in-suit is negotiated between AOC and Hon Hai's customers, including U.S.-based customers such as Dell, Acer, and/or Hewlett-Packard, and AOC is aware that its products are introduced into the stream of commerce in the U.S. by pass-through entities, such as Hon Hai.

25. Pursuant to Uniform Commercial Code Section 2-312, as adopted by Texas Business and Commerce Code Section 2.312, AOC has warranted to Hon Hai that the products sold to Hon Hai would be free of any claim of patent infringement.

26. AOC has breached its warranty of title and freedom from a claim of patent infringement.

27. As a proximate result of AOC's breach of its warranty of title and freedom from a claim of patent infringement, Hon Hai has suffered damages in an amount to be proved at trial, but not less than \$75,000.

28. Lite-On is a merchant regularly dealing in goods of the kind of products accused by Mondis of infringing the patents-in-suit.

29. Upon information and belief, the pricing of the products that Mondis accuses of infringing the patents-in-suit is negotiated between Lite-On and Hon Hai's customers, including U.S.-based customers such as Acer and Hewlett-Packard, and Lite-On is aware that its products are introduced into the stream of commerce in the U.S. by pass-through entities, such as Hon Hai.

30. Pursuant to Uniform Commercial Code Section 2-312, as adopted by Texas Business and Commerce Code Section 2.312, Lite-On has warranted to Hon Hai that the

products sold to Hon Hai would be free of any claim of patent infringement.

31. Lite-On has breached its warranty of title and freedom from a claim of patent infringement.

32. As a proximate result of Lite-On's breach of its warranty of title and freedom from a claim of patent infringement, Hon Hai has suffered damages in an amount to be proved at trial, but not less than \$75,000.

33. Tatung is a merchant regularly dealing in goods of the kind of products accused by Mondis of infringing the patents-in-suit.

34. Upon information and belief, the pricing of the products that Mondis accuses of infringing the patents-in-suit is negotiated between Tatung and Hon Hai's customers, including U.S.-based customers such as Gateway and Hewlett-Packard, and Tatung is aware that its products are introduced into the stream of commerce in the U.S. by pass-through entities, such as Hon Hai.

35. Tatung has shipped computer monitor products directly to Texas.

36. Pursuant to Uniform Commercial Code Section 2-312, as adopted by Texas Business and Commerce Code Section 2.312, Tatung has warranted to Hon Hai that the products sold to Hon Hai would be free of any claim of patent infringement.

37. Tatung has breached its warranty of title and freedom from a claim of patent infringement.

38. As a proximate result of Tatung's breach of its warranty of title and freedom from a claim of patent infringement, Hon Hai has suffered damages in an amount to be proved at trial, but not less than \$75,000.

39. TPV is a merchant regularly dealing in goods of the kind of products accused by Mondis of infringing the patents-in-suit.

40. Upon information and belief, the pricing of the products that Mondis accuses of infringing the patents-in-suit is negotiated between TPV and Hon Hai's customers, including

U.S.-based customers such as Dell, Acer, and Hewlett-Packard, and TPV is aware that its products are introduced into the stream of commerce in the U.S. by pass-through entities, such as Hon Hai.

41. Pursuant to Uniform Commercial Code Section 2-312, as adopted by Texas Business and Commerce Code Section 2.312, TPV has warranted to Hon Hai that the products sold to Hon Hai would be free of any claim of patent infringement.

42. TPV has breached its warranty of title and freedom from a claim of patent infringement.

43. As a proximate result of TPV's breach of its warranty of title and freedom from a claim of patent infringement, Hon Hai has suffered damages in an amount to be proved at trial, but not less than \$75,000.

CLAIM TWO

DECLARATORY JUDGMENT

44. Hon Hai realleges and incorporates by reference the allegations contained in Paragraphs 1-20, as though fully set forth herein.

45. Mondis has asserted claims of infringement of the patents-in-suit against Hon Hai in the above-captioned action.

46. On or about March 10, 2008 and October 21, 2009, Hon Hai notified AOC of Mondis' lawsuit and Hon Hai requested defense and indemnity in connection with the lawsuit. To date, AOC has declined to defend and/or indemnify Hon Hai.

47. An actual controversy has arisen and now exists between Hon Hai and AOC with respect to: (i) whether, as between Hon Hai and AOC, responsibility for the damages, if any, claimed by Mondis in the Second Amended Complaint rests entirely, or in part, on AOC; and (ii) whether, as a result, AOC is obligated to defend and partially or fully indemnify Hon Hai for any sums that it may be compelled to pay as a result of any damages, by judgment or other recovery by Mondis against Hon Hai, and for reasonable attorneys' fees incurred by Hon Hai in defending

against Mondis' allegations.

48. On or about March 10, 2008 and November 20, 2009, Hon Hai notified Lite-On of Mondis' lawsuit and Hon Hai requested defense and indemnity in connection with the lawsuit. To date, Lite-On has declined to defend and/or indemnify Hon Hai.

49. An actual controversy has arisen and now exists between Hon Hai and Lite-On with respect to: (i) whether, as between Hon Hai and Lite-On, responsibility for the damages, if any, claimed by Mondis in the Second Amended Complaint rests entirely, or in part, on Lite-On; and (ii) whether, as a result, Lite-On is obligated to defend and partially or fully indemnify Hon Hai for any sums that it may be compelled to pay as a result of any damages, by judgment or other recovery by Mondis against Hon Hai, and for reasonable attorneys' fees incurred by Hon Hai in defending against Mondis' allegations.

50. On or about November 20, 2009, Hon Hai notified Tatung of Mondis' lawsuit and Hon Hai requested defense and indemnity in connection with the lawsuit. To date, Tatung has declined to defend and/or indemnify Hon Hai.

51. An actual controversy has arisen and now exists between Hon Hai and Tatung with respect to: (i) whether, as between Hon Hai and Tatung, responsibility for the damages, if any, claimed by Mondis in the Second Amended Complaint rests entirely, or in part, on Tatung; and (ii) whether, as a result, Tatung is obligated to defend and partially or fully indemnify Hon Hai for any sums that it may be compelled to pay as a result of any damages, by judgment or other recovery by Mondis against Hon Hai, and for reasonable attorneys' fees incurred by Hon Hai in defending against Mondis' allegations.

52. On or about March 10, 2008 and October 21, 2009, Hon Hai notified TPV of Mondis' lawsuit and Hon Hai requested defense and indemnity in connection with the lawsuit. To date, TPV has declined to defend and/or indemnify Hon Hai.

53. An actual controversy has arisen and now exists between Hon Hai and TPV with respect to: (i) whether, as between Hon Hai and TPV, responsibility for the damages, if any,

claimed by Mondis in the Second Amended Complaint rests entirely, or in part, on TPV; and (ii) whether, as a result, TPV is obligated to defend and partially or fully indemnify Hon Hai for any sums that it may be compelled to pay as a result of any damages, by judgment or other recovery by Mondis against Hon Hai, and for reasonable attorneys' fees incurred by Hon Hai in defending against Mondis' allegations.

54. Hon Hai seeks a judicial determination and declaration that AOC, Lite-On, Tatung, and/or TPV are required to defend Hon Hai and to indemnify Hon Hai for damages, costs, and fees reasonably incurred in defending Mondis' lawsuit.

CLAIM THREE

EQUITABLE INDEMNITY

55. Hon Hai realleges and incorporates herein by reference Paragraphs 1-20, as though fully set forth herein.

56. AOC, Lite-On, Tatung, and/or TPV are responsible for any liability resulting from this action if Hon Hai is found liable to Mondis for infringement of the patents-in-suit. Therefore, Hon Hai is entitled to indemnification from AOC, Lite-On, Tatung, and/or TPV for any liabilities Hon Hai incurs, including reasonable attorneys' fees, if Hon Hai is required to pay Mondis by settlement, by judgment, and/or pursuant to any other damage award against Hon Hai.

PRAYER FOR RELIEF

WHEREFORE, Hon Hai prays that this Court enter a judgment in favor of Hon Hai and against AOC, Lite-On, Tatung, and/or TPV as to the products sold by them to Hon Hai and accused by Mondis of infringing the patents-in-suit:

1. For a judicial determination that each AOC, Lite-On, Tatung, and/or TPV has breached its warranty of title and non-infringement;

2. For a judicial determination that each AOC, Lite-On, Tatung, and/or TPV is responsible and liable for the damages alleged by Mondis, if any are found to exist;

3. For a declaration that each AOC, Lite-On, Tatung, and/or TPV shall defend Hon Hai, and if Hon Hai is required to pay any damages to Mondis, AOC, Lite-On, Tatung, and/or TPV are liable to indemnify Hon Hai, in whole or in part, for any sums resulting from settlement, judgment, and/or other awards;

4. For a declaration that each AOC, Lite-On, Tatung, and/or TPV is obligated to Hon Hai to sell products that are free of patent infringement claims by Mondis and/or covered by licenses from Mondis;

5. For costs of suit, including reasonable attorneys' fees incurred in defending against Mondis' lawsuit alleging patent infringement;

6. For costs of suit, including reasonable attorneys' fees incurred in bringing this Third Party Action; and

7. For such other and further relief as the Court may deem just and proper.

DATED: November 30, 2009

Respectfully submitted,

/s/ Katherine F. Murray

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CERTIFICATE OF SERVICE

I, Katherine F. Murray, hereby certify that, on November 30, 2009, the foregoing document, entitled “HON HAI PRECISION INDUSTRY CO., LTD’S THIRD PARTY COMPLAINT FOR INDEMNIFICATION,” was filed electronically in compliance with Local Rule CV-5(a). As such, a true and correct copy of this document was served on all counsel who are deemed to have consented to electronic service. *See* Local Rule CV-5(a)(3)(A).

Pursuant to Rule 5(d) of the Federal Rules of Civil Procedure and Local Rule CV-5(e), all other counsel of record who have not been deemed to have consented to electronic service were served with a true and correct copy of the foregoing document by certified mail, return receipt requested, on November 30, 2009. In addition, a true and correct copy of the foregoing document was sent to counsel pursuant to the below-listed service list.

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