

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

FREESCALE SEMICONDUCTOR, INC.

Plaintiff,

v.

CIVIL ACTION NO. 11-CA-704

**VIZIO, INC.; SHARP CORPORATION;
SHARP ELECTRONICS CORPORATION;
SANYO ELECTRIC CO., LTD.; SANYO
NORTH AMERICA CORPORATION;
SANYO MANUFACTURING
CORPORATION; TPV TECHNOLOGY
LIMITED; TPV INTERNATIONAL (USA)
INC.; TOP VICTORY ELECTRONICS
(TAIWAN) CO., LTD.; TOP VICTORY
ELECTRONICS (FUJIAN) CO., LTD.; AOC
INTERNATIONAL (USA) LTD.; ENVISION
PERIPHERALS, INC.; AMTRAN
TECHNOLOGY CO., LTD.; AMTRAN
LOGISTICS, INC.**

Defendants.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Freescale Semiconductor, Inc., hereby files this Complaint for patent infringement against Defendants Vizio, Inc.; Sharp Corporation; Sharp Electronics Corporation; Sanyo Electric Co., Ltd.; Sanyo North America Corporation; Sanyo Manufacturing Corporation; TPV Technology Limited; TPV International (USA) Inc.; Top Victory Electronics (Taiwan) Co., Ltd.; Top Victory Electronics (Fujian) Co., Ltd.; AOC International (USA) Ltd.; Envision Peripherals, Inc.; Amtran Technology Co., Ltd.; Amtran Logistics, Inc. (collectively, "Defendants").

PARTIES

1. Plaintiff, Freescale Semiconductor, Inc. ("Freescale"), is a Delaware corporation with its headquarters located at 6501 William Cannon Drive West, Austin, Texas. Freescale was formed in 2004 as a result of the divestiture of the Semiconductor Products Sector of Motorola, Inc.

2. Upon information and belief, Defendant Vizio, Inc. is a corporation organized under the laws of California, and maintains its principal place of business at 39 Tesla, Irvine, CA 92618.

3. Defendant Vizio, Inc. is hereinafter referred to as "Vizio."

4. Upon information and belief, Defendant Sharp Corporation is a corporation organized under the laws of Japan, and maintains its principal place of business in 22-22 Nagaike-cho, Abeno-ku, Osaka 545-8522, Japan.

5. Upon information and belief, Defendant Sharp Electronics Corporation is a corporation organized under the laws of New York, and maintains its principal place of business at 1 Sharp Plaza, Ste 1, Mahwah, NJ 07430.

6. Defendants Sharp Corporation and Sharp Electronics Corporation are hereinafter referred to as "Sharp."

7. Upon information and belief, Defendant Sanyo Electric Co., Ltd. is a corporation organized under the laws of Japan, and maintains its principal place of business in 5-5 Keihan-Hondori, 2-chome Moriguchi, Osaka, Japan.

8. Upon information and belief, Defendant Sanyo North America Corporation is a corporation organized under the laws of California, and maintains its principal place of business at 2055 Sanyo Ave, San Diego, CA 92154.

9. Upon information and belief, Defendant Sanyo Manufacturing Corporation is a corporation organized under the laws of Delaware, and maintains its principal place of business at 3333 Sanyo Road, Forrest City, Arkansas 72335.

10. Defendants Sanyo Electric Co., Ltd.; Sanyo North America Corporation; and Sanyo Manufacturing Corporation are hereinafter referred to as "Sanyo."

11. Upon information and belief, Defendant TPV Technology Limited is a corporation organized under the laws of Bermuda, and maintains its principal place of business at Suite 1023, 10th Floor, Ocean Centre, Harbour City, 5 Canton Road, Tsim Sha Tsui, Kowloon, Hong Kong.

12. Upon information and belief, Defendant TPV International (USA) Inc. is a corporation organized under the laws of California, and maintains its principal place of business at 3737 Executive Center Dr., Ste. 261, Austin TX 78731.

13. Upon information and belief, Defendant Top Victory Electronics (Taiwan) Co., Ltd. is a corporation organized under the laws of Taiwan, and maintains its principal place of business in Zhonghe City, Taiwan.

14. Upon information and belief, Defendant Top Victory Electronics (Fujian) Co., Ltd. is a corporation organized under the laws of the People's Republic of China, and maintains its principal place of business in in Fuqing City, China.

15. Upon information and belief, Defendant AOC International (USA) Ltd. is a corporation that maintains its principal place of business at 47490 Seabridge Dr., Fremont, CA 94538.

16. Upon information and belief, Defendant Envision Peripherals, Inc. is a corporation organized under the laws of California, and maintains its principal place of business at 47490 Seabridge Dr., Fremont, CA 94538.

17. Defendants TPV Technology Limited, TPV International (USA) Inc., Top Victory Electronics (Taiwan) Co., Ltd., Top Victory Electronics (Fujian) Co., Ltd., AOC International (USA) Ltd., and Envision Peripherals, Inc. are hereinafter referred to as "TPV."

18. Upon information and belief, Defendant Amtran Technology Co., Ltd. is a corporation organized under the laws of Taiwan, and maintains its principal place of business at No. 268, LiánChéng Rd., Zhonghe District, Xinbei City, Taiwan.

19. Upon information and belief, Defendant Amtran Logistics, Inc. is a corporation organized under the laws of California, and maintains its principal place of business at 9 Goddard, Irvine, CA 92618.

20. Defendants Amtran Technology Co., Ltd. and Amtran Logistics, Inc. are hereinafter referred to as "Amtran."

JURISDICTION AND VENUE

21. This is a civil action for patent infringement, injunctive relief, and damages arising under the patent laws of the United States, 35 U.S.C. §§ 1, et seq. This Court has exclusive subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

22. Upon information and belief, Defendants have ongoing and systematic contacts within the State of Texas and within this district. Defendants, directly or through intermediaries (including distributors, retailers, and others), ship, distribute, offer for sale, sell, and/or advertise

their television products in the United States, the State of Texas, and the Western District of Texas.

23. Defendants have purposefully and voluntarily placed one or more of their infringing television products into the stream of commerce with the expectation that they will be purchased by consumers in the Western District of Texas. These infringing products have been and continue to be purchased by consumers in the Western District of Texas.

24. Defendants have committed the tort of patent infringement within the State of Texas, and, more particularly, within the Western District of Texas. Therefore, this Court has personal jurisdiction over Defendants.

25. Venue is proper in the Western District of Texas under 28 U.S.C. §§ 1391 and 1400(b).

U.S. PATENT NO. 5,467,455

26. On November 14, 1995, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,467,455 (the "'455 patent" or the "Gay patent"), titled "Data processing system and method for performing dynamic bus termination," to James G. Gay and William B. Ledbetter, Jr. A true and correct copy of the '455 patent is attached as Exhibit 1.

27. Motorola was the owner by assignment of the '455 patent until Motorola divested its Semiconductor Products Sector business and Freescale was formed. Motorola assigned the '455 patent to Freescale. Freescale is the sole owner and assignee of all right, title, and interest in and to the '455 patent and possesses all rights of recovery under the '455 patent, including the right to recover damages for past infringements.

28. The '455 patent is valid and enforceable.

GENERAL ALLEGATIONS

29. Upon information and belief, Defendants make, use, sell, and offer to sell within the United States, and/or import into the United States one or more products, including but not limited to televisions that contain certain integrated circuits that have dynamic bus termination circuitry that practice each of the elements of one or more claims of the '455 patent, without license from Freescale, in the Western District of Texas and throughout the United States.

30. Defendants' continuing acts of infringement are irreparably harming and causing damage to Freescale. Freescale has no adequate remedy at law to redress Defendants' continuing acts of infringement. The hardships that would be imposed upon Defendants by an injunction are less than those faced by Freescale should an injunction not issue. Furthermore, the public interest would be served by issuance of an injunction.

31. Upon information and belief, Defendants have knowledge of the '455 patent and have not ceased their infringing activities in light of such knowledge.

Count One – Infringement of U.S. Patent No. 5,467,455

32. This count incorporates by reference paragraphs 1 through 31 as if fully set forth herein.

33. Upon information and belief, Defendants make, use, sell, and offer to sell within the United States, and/or import into the United States one or more products, including but not limited to those identified in Paragraph 29, that practice each of the elements of one or more claims of the '455 patent, without license from Freescale, in the Western District of Texas and throughout the United States.

34. By making, using, selling, and offering to sell within the United States, and/or importing into the United States its products, Defendants have directly infringed, and will

continue to directly infringe, one or more claims of the '455 patent under 35 U.S.C. § 271 (a), literally and/or under the doctrine of equivalents.

35. Upon information and belief, Defendants' infringing products are not staple articles of commerce and have no substantial noninfringing uses.

36. By selling, offering to sell within the United States, and/or importing into the United States its products, Defendants have contributorily infringed, and will continue to contributorily infringe, one or more claims of the '455 patent under 35 U.S.C. § 271 (c), literally and/or under the doctrine of equivalents.

37. Defendants have actively induced infringement of, and will continue to actively induce infringement of, one or more claims of the '455 patent under 35 U.S.C. § 271 (b), literally and/or under the doctrine of equivalents.

38. As a direct and proximate consequence of the acts and practices of Defendants, Freescale has been, is being and, unless such acts and practices are enjoined by the Court, will continue to be injured in its business and property rights, and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284.

39. As a direct and proximate consequence of the acts and practices of Defendants, those defendants have also caused, are causing and, unless such acts and practices are enjoined by the Court, will continue to cause irreparable harm to Freescale for which there is no adequate remedy at law, and for which Freescale is entitled to injunctive relief under 35 U. S. C. § 283.

40. Upon information and belief, Defendants' infringement of the '455 patent has been and continues to be willful and deliberate.

REQUEST FOR A JURY TRIAL

41. Freescale requests a jury trial of all issues in this action so triable.

PRAYER FOR RELIEF

WHEREFORE, Freescale prays for judgment against Defendants as follows and for the following relief:

- A. a judgment that the '455 Patent was duly and legally issued, is valid and is enforceable;
- B. a permanent injunction restraining Defendants and their respective officers, employees, agents, parents, subsidiaries, affiliates, and anyone else in active concert or participation with them, from taking any actions that would directly or indirectly infringe the '455 patent ;
- C. a judgment that Defendants have directly infringed, contributorily infringed, and/or induced infringement of one or more claims of the '455 Patent;
- D. a judgment that Defendants have willfully infringed one or more claims of the '455 Patent;
- E. actual damages through verdict and post-verdict until Defendants are enjoined from further infringing activities;
- F. an accounting of damages through verdict and post-verdict until Defendants are enjoined from further infringing activities;
- G. all pre-judgment and post-judgment interest allowed by law, including an award of prejudgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the Patent-in-Suit to the day a damages judgment is entered, and further award of post-judgment

interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid, at the maximum rate allowed by law;

H. a judgment and order finding this to be an exceptional case and requiring Defendants to pay the costs of this action (including all disbursements) and attorneys' fees as provided by 35 U.S.C. § 285;

I. reasonable attorneys' fees and costs;

J. an award of increased damages pursuant to 35 U.S.C. § 284 for Defendants' willful and deliberate patent infringement; and

K. such other and further relief as the Court deems just and equitable.

Dated: Aug. 16, 2011

Respectfully submitted,

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