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7 Attorneys for Plaintiff
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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
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14 **RED.COM, INC., dba RED**) Case No.: '13CV0334 MMABGS
15 **DIGITAL CINEMA, a Washington**)
16 Corporation,)
17 Plaintiff,) COMPLAINT FOR PATENT
18 vs.) INFRINGEMENT
19 **SONY CORPORATION OF**) DEMAND FOR JURY TRIAL
20 **AMERICA, a New York corporation,**)
21 and **SONY ELECTRONICS INC., a**)
22 Delaware corporation,)
23 Defendants.)
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1 Plaintiff Red.com, Inc. dba Red Digital Cinema (hereinafter referred to as
2 "RED") hereby complains of Defendants Sony Corporation of America and Sony
3 Electronics, Inc. (hereinafter collectively referred to as "Sony" or "Defendants"),
4 and alleges as follows:

5 JURISDICTION AND VENUE

6 1. Jurisdiction over this action is founded upon 15 U.S.C. § 1121, and 28
7 U.S.C. §§ 1331 and 1338.

8 2. Venue is proper under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. §
9 1400(b). The Defendant has offices within California and within this judicial
10 district, conducts business in California and within this judicial district and has
11 made, used, offered for sale and/or sold infringing products in this judicial district.

12 THE PARTIES

13 3. Plaintiff RED is a corporation organized and existing under the laws
14 of the State of Washington, having its principal place of business at 34 Parker,
15 Irvine, California 92618, and doing business within this judicial district.

16 4. RED is informed and believes, and thereupon alleges that Defendant
17 Sony Corporation of America is a New York corporation having its principal place
18 of business located at 550 Madison Avenue, 27th Floor, New York, New York
19 10022. RED is informed and believes, and thereupon alleges, that Defendant also
20 has offices in California and that it is registered with the California Secretary of
21 State to conduct business in California and in fact does conduct business in
22 California. RED is informed and believes, and thereupon alleges, that Defendant
23 has made, used, offered to sell, advertised and/or sold products, including the
24 accused products identified below, directly and in the stream of commerce
25 knowing such products would be sold in California and in this judicial district.

26 5. RED is informed and believes, and thereupon alleges that Defendant
27 Sony Electronics, Inc. is a Delaware corporation having its principal place of
28 business located at 16530 Via Esprillo, San Diego, California 92127. RED is

1 informed and believes, and thereupon alleges, that Defendant has made, used,
2 offered to sell, advertised and/or sold products, including the accused products
3 identified below, directly and in the stream of commerce knowing such products
4 would be sold in California and in this judicial district.

5 **FACTUAL BACKGROUND**

6 6. Since at least 2005, RED has been and continues to be actively
7 engaged in the design, development, manufacture and sale of high performance
8 digital still and motion cinematography cameras, video equipment and accessories,
9 digital editing software, video players and generally, imaging format technology
10 used in the dissemination, broadcast, or transmission of video. Since the
11 introduction of its revolutionary RED ONE® camera, RED's products have been
12 used to film several blockbuster movies, as well as many other movies and
13 television series. The RED camera and products have been one of the hottest items
14 in the Hollywood industry.

15 7. RED is the owner by assignment of U.S. Patent No. 8,174,560, duly
16 and lawfully issued on May 8, 2012, describing and claiming the invention entitled
17 "Video Camera." A true and correct copy of U.S. Patent No. 8,174,560 is attached
18 hereto as Exhibit 1.

19 8. RED is the owner by assignment of U.S. Patent No. 8,358,357, duly
20 and lawfully issued on January 22, 2013, describing and claiming the invention
21 entitled "Video Camera." A true and correct copy of U.S. Patent No. 8,358,357 is
22 attached hereto as Exhibit 2.

23 9. RED is informed and believes, and thereupon alleges that Sony is
24 selling certain video cameras that unlawfully embody the claimed subject matter of
25 U.S. Patent Nos. 8,174,560 and 8,358,357. In particular, RED is informed and
26 believes, and thereupon alleges, that Defendant's F65, F5, and F55 cameras all
27 embody the subject matter claimed in RED's asserted patents without any license
28 thereunder and thereby infringe RED's U.S. Patent Nos. 8,174,560 and 8,358,357.

1 RED is informed and believes and based thereon alleges that Defendant made,
2 used, imported, advertised, offered for sale and/or sold its accused cameras to
3 multiple distributors, retailers, and/or retail customers.

4 10. Defendants have received written notice of RED's proprietary rights in
5 its patents by way of a cease and desist letter it caused to be sent to Defendant, as
6 well as this lawsuit. Further, Defendants have received constructive notice of
7 RED's patents as RED caused U.S. Patent No. 8,175,560 to be placed plainly on its
8 product and/or packaging. U.S. Patent No. 8,358,357 recently issued and will be
9 marked on RED's product and/or packaging as soon as reasonable. Despite actual
10 and constructive knowledge, Defendants continue to infringe RED's patent rights.
11 On information and belief, such infringement by Defendants must have been
12 willful and wanton.

13 11. RED is informed and believes and thereupon alleges that the sale of
14 Sony's unauthorized, infringing cameras has resulted in lost sales, reduced the
15 business and profit of RED, and greatly injured the general reputation of RED, all
16 to RED's damage in an amount not yet fully determined. The exact amount of
17 profits realized by Defendants as a result of its infringing activities, are presently
18 unknown to RED, as are the exact amount of damages suffered by RED as a result
19 of said activities. These profits and damages cannot be accurately ascertained
20 without an accounting.

21 12. Sony is a competitor of RED. Defendants sell Sony cameras in the
22 same channels as RED. Defendants' unauthorized, infringing sales are likely to
23 cause irreparable harm to RED, which cannot be compensated by damages.
24 Accordingly, RED seeks a preliminary and permanent injunction enjoining
25 Defendants from making, using, offering to sell and selling its F65, F5 and F55
26 cameras.

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1 **FIRST CLAIM FOR RELIEF**
2 **Patent Infringement**

3 13. The allegations of paragraphs 1 through 12 are repled and realleged as
4 though fully set forth herein.

5 14. This is a claim for patent infringement, and arises under 35 U.S.C.
6 Sections 271 and 281.

7 15. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1338.

8 16. RED is the owner of U.S. Patent No.8,174,560, which protects the
9 claimed invention entitled "Video Camera." A true and correct copy of U.S. Patent
10 No. 8,174,560 is attached hereto as Exhibit 1. By statute, the patent is presumed to
11 be valid and enforceable under 35 U.S.C. § 282.

12 17. Defendants, through their agents, employees and servants, have
13 manufactured, imported, advertised, offered to sell, and sold, without any rights or
14 license from RED, cameras that falls within the scope and claim(s) contained in
15 U.S. Patent No. 8,174,560. Such actions constitute direct, indirect, and/or
16 contributory infringement.

17 18. RED is informed and believes and thereupon alleges that Defendants
18 willfully infringed upon RED's exclusive rights under this patent, with full notice
19 and knowledge thereof.

20 19. RED is informed and believes and thereupon alleges that Defendants
21 have derived, received and will continue to derive and receive from the aforesaid
22 acts of infringement, gains, profits and advantages in an amount not presently
23 known to RED. By reason of the aforesaid acts of infringement, RED has been,
24 and will continue to be, greatly damaged.

25 20. Defendants may continue to infringe U.S. Patent No. 8,174,560 to the
26 great and irreparable injury of RED, for which RED has no adequate remedy at law
27 unless the Defendants are enjoined by this court. Accordingly, RED seeks a
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1 preliminary and permanent injunction enjoining Defendants from making, using,
2 importing, offering to sell and/or selling its F65, F5 or F55 cameras.

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4 **SECOND CLAIM FOR RELIEF**
5 **Patent Infringement**

6 21. The allegations of paragraphs 1 through 12 are repled and realleged as
7 though fully set forth herein.

8 22. This is a claim for patent infringement, and arises under 35 U.S.C.
9 Sections 271 and 281.

10 23. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1338.

11 24. RED is the owner of U.S. Patent No.8,358,357, which protects the
12 claimed invention entitled "Video Camera." A true and correct copy of U.S. Patent
13 No. 8,358,357 is attached hereto as Exhibit 2. By statute, the patent is presumed to
14 be valid and enforceable under 35 U.S.C. § 282.

15 25. Defendants, through their agents, employees and servants, have
16 manufactured, imported, advertised, offered to sell, and sold, without any rights or
17 license from RED, a camera that falls within the scope and claim contained in U.S.
18 Patent No. 8,358,357. Such actions constitute direct, indirect, and/or contributory
19 infringement.

20 26. RED is informed and believes and thereupon alleges that Defendants
21 willfully infringed upon RED's exclusive rights under this patent, with full notice
22 and knowledge thereof.

23 27. RED is informed and believes and thereupon alleges that Defendants
24 has derived, received and will continue to derive and receive from the aforesaid
25 acts of infringement, gains, profits and advantages in an amount not presently
26 known to RED. By reason of the aforesaid acts of infringement, RED has been,
27 and will continue to be, greatly damaged.

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1 28. Defendants may continue to infringe U.S. Patent No. 8,358,357 to the
2 great and irreparable injury of RED, for which RED has no adequate remedy at law
3 unless the Defendants are enjoined by this court. Accordingly, RED seeks a
4 preliminary and permanent injunction enjoining Defendants from making, using,
5 importing, offering to sell and/or selling its F65, F5 or F55 cameras.

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7 WHEREFORE, Plaintiff Red.com, Inc. prays as follows:

- 8 1. That Defendants be adjudicated to have infringed RED's U.S. Patent
9 No. 8,174,560, and that the patent is valid and enforceable and is
10 owned by RED;
- 11 2. That Defendants be adjudicated to have infringed RED's U.S. Patent
12 No. 8,358,357, and that the patent is valid and enforceable and is
13 owned by RED;
- 14 3. That Defendants, their agents, servants, employees, and attorneys and
15 all persons in active concert and participation with them, be forthwith
16 preliminarily and thereafter permanently enjoined from making,
17 using, importing, offering to sell or selling any cameras that infringe
18 United States Patent Nos. 8,174,560 or 8,358,357;
- 19 4. That Defendants be required to account to RED for any and all profits
20 derived by them associated with their sale of the accused products,
21 and all damages sustained by RED by reason of Defendants' patent
22 infringement;
- 23 5. For an assessment and award of damages against Defendants in an
24 amount no less than lost profits or a reasonable royalty, pursuant to 35
25 U.S.C. § 284;
- 26 6. For an order requiring Defendant to deliver up and destroy all
27 infringing cameras;

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- 7. That an award of reasonable costs, expenses, and attorneys' fees be awarded against Defendant pursuant to 35 U.S.C. § 285;
- 8. That Defendant be directed to file with this court and serve upon RED within 30 days after the service of the injunction, a report in writing under oath, setting forth in detail the manner and form in which Defendants have complied with the injunction; and
- 9. For such other relief as the Court may deem appropriate at law or equity.

DATED: February 12, 2013 WEEKS, KAUFMAN, NELSON & JOHNSON

/s/ Gregory K. Nelson
Gregory K. Nelson
Attorney for Plaintiff, Red.com, Inc.

JURY DEMAND

Plaintiff RED, Inc. hereby requests a trial by jury in this matter.

DATED: February 12, 2013 WEEKS, KAUFMAN, NELSON & JOHNSON

/s/ Gregory K. Nelson
Gregory K. Nelson
Attorney for Plaintiff, Red.com, Inc.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 RED.COM, INC., dba RED DIGITAL CINEMA, a Washington corporation

(b) County of Residence of First Listed Plaintiff Orange County
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Weeks, Kaufman, Nelson & Johnson
 462 Stevens Avenue, Suite 310
 Solana Beach, CA 92075 Tel: (858) 794-2140

DEFENDANTS
 SONY CORPORATION OF AMERICA, a New York corporation, and
 SONY ELECTRONICS, INC., a Delaware corporation

County of Residence of First Listed Defendant New York County
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) '13CV0334 MMABGS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

| | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|---|--|--|---|--|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
35 U.S.C. Sections 271, 281, 282, 284, and 285

Brief description of cause:
Patent Infringement

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 02/12/2013

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

SIGNATURE OF ATTORNEY OF RECORD