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11 *Attorneys for Plaintiff*

12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE DISTRICT OF ARIZONA**

14 OEM Group, Inc., an Arizona corporation,

15 Plaintiff,

Case No.

16 vs.

COMPLAINT

17 ClassOne Equipment, Inc., a Georgia
18 corporation,

JURY DEMAND

19 Defendant.

20 Plaintiff OEM Group, Inc. alleges:

21 **Parties, Jurisdiction, and Venue**

22 1. Plaintiff, OEM Group, Inc. (“OEM”), is an Arizona corporation with its
23 principal place of business in Maricopa County, Arizona.

24 2. Defendant, ClassOne Equipment, Inc. (“ClassOne”), is a Georgia
25 Corporation with its principal place of business in Atlanta, Georgia.

26 3. This is an action for patent infringement in which OEM seeks preliminary
27 and permanent injunctive relief as well as damages resulting from Defendant’s
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1 infringement of U.S. Patent No. 6,334,453 (the “453 Patent”) (a true and correct copy of
2 which is attached hereto as Ex. A), U.S. Patent No. 6,408,863 (the “863 Patent”) (a true
3 and correct copy of which is attached hereto as Ex. B), U.S. Patent No. 6,736,150 (the
4 “150 Patent”) (a true and correct copy of which is attached hereto as Ex. C), and U.S.
5 Patent No. 6,536,450 (the “450 Patent”) (a true and correct copy of which is attached
6 hereto as Ex. D) (collectively “the Patents”).

7 4. This Court has subject matter jurisdiction over OEM’s claims under 28
8 U.S.C. §§ 1331 and 1338(a) because those claims arise under the patent laws of the United
9 States, 35 U.S.C. §§ 101, *et seq.*

10 5. This Court has personal jurisdiction over Defendant because Defendant
11 purposefully directed its activities into this District, and committed acts of infringement
12 within this District by offering for sale an infringing product or service in this District.
13 Among other things, ClassOne has purposefully directed its activities into this District by
14 contracting with another corporation to sell its products and services to residents of this
15 District. *See, e.g.*, July 24, 2013 press release, a true and correct copy of which is attached
16 hereto as Ex. E.

17 6. A substantial part of the events or omissions giving rise to this action
18 occurred in this District. Venue is proper under 28 U.S.C. §§ 1391(b) and 1400(b).

19 **General Allegations**

20 7. This litigation arises from acts of patent infringement committed by
21 Defendant in this District in a continuing effort to compete unfairly with OEM.

22 8. The Patents cover technology related to, among other things, systems,
23 methods and apparatuses for cleaning and etching semiconductive wafers. The wafers are
24 used in various applications. OEM is the owner by assignment of the Patents.

25 9. With global headquarters in metro Phoenix, Arizona, and additional sites
26 throughout the United States, Europe, and Asia, OEM is a semiconductor capital
27 equipment manufacturer and innovator in new and remanufactured tools and services for
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1 the light emitting diode (“LED”), micro-electro-mechanical systems (“MEMS”), Wireless,
2 Power, Energy Harvesting, wafer level package (“WLP”), Data Storage and Logic
3 markets.

4 **COUNT I—Infringement of U.S. Patent No. 6,334,453**

5 10. OEM incorporates each preceding allegation herein.

6 11. ClassOne directly infringes, actively induces infringement, and/or
7 contributes to the infringement of one or more claims of the ‘453 Patent within the
8 meaning of 35 U.S.C. § 271 by making, using, selling, impermissibly reconstructing,
9 and/or offering to sell infringing products and services within the United States.

10 12. ClassOne directly infringes the ‘453 Patent by making, using, selling
11 impermissibly reconstructing, and offering for sale batch tools and other products and
12 services within the United States, including, but not limited to, its impermissible
13 reconstruction of one or more patented components when refurbishing the Semitool Spray
14 Solvent Tool (the “Accused Products”). The Accused Products and other of ClassOne’s
15 products and services infringe the claims of the ‘453 Patent.

16 13. ClassOne’s products and services at issue constitute a component of a
17 patented machine, article, manufacture, combination, or composition, or a material or
18 apparatus for use in practicing processes patented by the ‘453 Patent.

19 14. ClassOne’s products and services at issue constitute a material part of the
20 invention claimed by the ‘453 Patent, and ClassOne knows and has known that the same
21 are especially made or especially adapted for use in an infringement of the ‘453 Patent.

22 15. ClassOne’s products and services at issue are not staple articles or
23 commodities of commerce suitable for substantial noninfringing use.

24 16. Others directly infringe the ‘453 Patent by making, using, selling, and/or
25 offering to sell infringing products and services within the United States.

26 17. Others directly infringe the ‘453 Patent through performance of the
27 methods claimed in the ‘453 Patent using ClassOne’s products and services.

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1 18. On information and belief, ClassOne has actual or constructive
2 knowledge of the '453 Patent.

3 19. On information and belief, ClassOne knows that others infringe the '453
4 Patent by making, using, selling and/or offering for sale infringing products and services
5 within the United States.

6 20. On information and belief, ClassOne specifically intends to induce others
7 to infringe the '453 Patent and/or perform the methods claimed in the '453 Patent by using
8 ClassOne's products and services.

9 21. On information and belief, ClassOne specifically intends and takes steps
10 to ensure that others will directly infringe the '453 Patent through the sale, purchase
11 and/or use of ClassOne's products and services.

12 22. ClassOne's conduct has damaged and will continue to damage OEM in an
13 amount to be proven at trial.

14 23. On information and belief, ClassOne's infringement of the '453 Patent is
15 and has been willful, making this case exceptional under 35 U.S.C. § 285.

16 24. ClassOne threatens to continue to engage in the acts complained of herein
17 and, unless restrained and enjoined, will continue to do so, all to OEM's irreparable
18 injury. It would be difficult to ascertain the amount of compensation that would afford
19 OEM adequate relief for such future and continuing acts, and a multiplicity of judicial
20 proceedings would be required. OEM does not have an adequate remedy at law to
21 compensate it for the injuries threatened.

22 **COUNT II—Infringement of U.S. Patent No. 6,408,863**

23 25. OEM incorporates each preceding allegation herein.

24 26. ClassOne directly infringes, actively induces infringement, and/or
25 contributes to the infringement of one or more claims of the '863 Patent within the
26 meaning of 35 U.S.C. § 271 by making, using, selling, impermissibly reconstructing,
27 and/or offering to sell infringing products and services within the United States.

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1 27. ClassOne directly infringes the ‘863 Patent by making, using, selling
2 impermissibly reconstructing, and offering for sale batch tools and other products and
3 services within the United States, including, but not limited to, the Accused Products. The
4 Accused Products and other of ClassOne’s products and services infringe the claims of the
5 ‘863 Patent.

6 28. ClassOne’s products and services at issue constitute a component of a
7 patented machine, article, manufacture, combination, or composition, or a material or
8 apparatus for use in practicing processes patented by the ‘863 Patent.

9 29. ClassOne’s products and services at issue constitute a material part of the
10 invention claimed by the ‘863 Patent, and ClassOne knows and has known that the same
11 are especially made or especially adapted for use in an infringement of the ‘863 Patent.

12 30. ClassOne’s products and services at issue are not staple articles or
13 commodities of commerce suitable for substantial noninfringing use.

14 31. Others directly infringe the ‘863 Patent by making, using, selling, and/or
15 offering to sell infringing products and services within the United States.

16 32. Others directly infringe the ‘863 Patent through performance of the
17 methods claimed in the ‘863 Patent using ClassOne’s products and services.

18 33. On information and belief, ClassOne has actual or constructive
19 knowledge of the ‘863 Patent.

20 34. On information and belief, ClassOne knows that others infringe the ‘863
21 Patent by making, using, selling and/or offering for sale infringing products and services
22 within the United States.

23 35. On information and belief, ClassOne specifically intends to induce others
24 to infringe the ‘863 Patent and/or perform the methods claimed in the ‘863 Patent by using
25 ClassOne’s products and services.

26 36. On information and belief, ClassOne specifically intends and takes steps
27 to ensure that others will directly infringe the ‘863 Patent through the sale, purchase
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1 and/or use of ClassOne's products and services.

2 37. ClassOne's conduct has damaged and will continue to damage OEM in an
3 amount to be proven at trial.

4 38. On information and belief, ClassOne's infringement of the '863 Patent is
5 and has been willful, making this case exceptional under 35 U.S.C. § 285.

6 39. ClassOne threatens to continue to engage in the acts complained of herein
7 and, unless restrained and enjoined, will continue to do so, all to OEM's irreparable
8 injury. It would be difficult to ascertain the amount of compensation that would afford
9 OEM adequate relief for such future and continuing acts, and a multiplicity of judicial
10 proceedings would be required. OEM does not have an adequate remedy at law to
11 compensate it for the injuries threatened.

12 **COUNT III—Infringement of U.S. Patent No. 6,736,150**

13 40. OEM incorporates each preceding allegation herein.

14 41. ClassOne directly infringes, actively induces infringement, and/or
15 contributes to the infringement of one or more claims of the '150 Patent within the
16 meaning of 35 U.S.C. § 271 by making, using, selling, impermissibly reconstructing,
17 and/or offering to sell infringing products and services within the United States.

18 42. ClassOne directly infringes the '150 Patent by making, using, selling
19 impermissibly reconstructing, and offering for sale batch tools and other products and
20 services within the United States, including, but not limited to, the Accused Products. The
21 Accused Products and other of ClassOne's products and services infringe the claims of the
22 '150 Patent.

23 43. ClassOne's products and services at issue constitute a component of a
24 patented machine, article, manufacture, combination, or composition, or a material or
25 apparatus for use in practicing processes patented by the '150 Patent.

26 44. ClassOne's products and services at issue constitute a material part of the
27 invention claimed by the '150 Patent, and ClassOne knows and has known that the same
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1 are especially made or especially adapted for use in an infringement of the '150 Patent.

2 45. ClassOne's products and services at issue are not staple articles or
3 commodities of commerce suitable for substantial noninfringing use.

4 46. Others directly infringe the '150 Patent by making, using, selling, and/or
5 offering to sell infringing products and services within the United States.

6 47. Others directly infringe the '150 Patent through performance of the
7 methods claimed in the '150 Patent using ClassOne's products and services.

8 48. On information and belief, ClassOne has actual or constructive
9 knowledge of the '150 Patent.

10 49. On information and belief, ClassOne knows that others infringe the '150
11 Patent by making, using, selling and/or offering for sale infringing products and services
12 within the United States.

13 50. On information and belief, ClassOne specifically intends to induce others
14 to infringe the '150 Patent and/or perform the methods claimed in the '150 Patent by using
15 ClassOne's products and services.

16 51. On information and belief, ClassOne specifically intends and takes steps
17 to ensure that others will directly infringe the '150 Patent through the sale, purchase
18 and/or use of ClassOne's products and services.

19 52. ClassOne's conduct has damaged and will continue to damage OEM in an
20 amount to be proven at trial.

21 53. On information and belief, ClassOne's infringement of the '150 Patent is
22 and has been willful, making this case exceptional under 35 U.S.C. § 285.

23 54. ClassOne threatens to continue to engage in the acts complained of herein
24 and, unless restrained and enjoined, will continue to do so, all to OEM's irreparable
25 injury. It would be difficult to ascertain the amount of compensation that would afford
26 OEM adequate relief for such future and continuing acts, and a multiplicity of judicial
27 proceedings would be required. OEM does not have an adequate remedy at law to
28

1 compensate it for the injuries threatened.

2 **COUNT IV—Infringement of U.S. Patent No. 6,536,450**

3 55. OEM incorporates each preceding allegation herein.

4 56. ClassOne directly infringes, actively induces infringement, and/or
5 contributes to the infringement of one or more claims of the ‘450 Patent within the
6 meaning of 35 U.S.C. § 271 by making, using, selling, impermissibly reconstructing,
7 and/or offering to sell infringing products and services within the United States.

8 57. ClassOne directly infringes the ‘450 Patent by making, using, selling
9 impermissibly reconstructing, and offering for sale batch tools and other products and
10 services within the United States, including, but not limited to, the Accused Products. The
11 Accused Products and other of ClassOne’s products and services infringe the claims of the
12 ‘450 Patent.

13 58. ClassOne’s products and services at issue constitute a component of a
14 patented machine, article, manufacture, combination, or composition, or a material or
15 apparatus for use in practicing processes patented by the ‘450 Patent.

16 59. ClassOne’s products and services at issue constitute a material part of the
17 invention claimed by the ‘450 Patent, and ClassOne knows and has known that the same
18 are especially made or especially adapted for use in an infringement of the ‘450 Patent.

19 60. ClassOne’s products and services at issue are not staple articles or
20 commodities of commerce suitable for substantial noninfringing use.

21 61. Others directly infringe the ‘450 Patent by making, using, selling, and/or
22 offering to sell infringing products and services within the United States.

23 62. Others directly infringe the ‘450 Patent through performance of the
24 methods claimed in the ‘450 Patent using ClassOne’s products and services.

25 63. On information and belief, ClassOne has actual or constructive
26 knowledge of the ‘450 Patent.

27 64. On information and belief, ClassOne knows that others infringe the ‘450
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1 Patent by making, using, selling and/or offering for sale infringing products and services
2 within the United States.

3 65. On information and belief, ClassOne specifically intends to induce others
4 to infringe the '450 Patent and/or perform the methods claimed in the '450 Patent by using
5 ClassOne's products and services.

6 66. On information and belief, ClassOne specifically intends and takes steps
7 to ensure that others will directly infringe the '450 Patent through the sale, purchase
8 and/or use of ClassOne's products and services.

9 67. ClassOne's conduct has damaged and will continue to damage OEM in an
10 amount to be proven at trial.

11 68. On information and belief, ClassOne's infringement of the '450 Patent is
12 and has been willful, making this case exceptional under 35 U.S.C. § 285.

13 69. ClassOne threatens to continue to engage in the acts complained of herein
14 and, unless restrained and enjoined, will continue to do so, all to OEM's irreparable
15 injury. It would be difficult to ascertain the amount of compensation that would afford
16 OEM adequate relief for such future and continuing acts, and a multiplicity of judicial
17 proceedings would be required. OEM does not have an adequate remedy at law to
18 compensate it for the injuries threatened.

19 **JURY DEMAND**

20 Plaintiff demands a trial by jury on any issue triable of right by jury.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, OEM requests judgment against Defendants as follows:

23 A. A judgment preliminary and permanently enjoining Defendant ClassOne
24 and any person acting in concert or cooperation with it from further infringing the Patents;

25 B. A judgment that Defendant ClassOne has infringed the Patents;

26 C. An award equal to the damages suffered by Plaintiff OEM resulting from
27 Defendant ClassOne's infringement of the Patents, including interest and costs;

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1 D. Enhanced damages in accordance with the provisions of 35 U.S.C. § 284
2 due to Defendant ClassOne's willful infringement;

3 E. A finding that this case is exceptional under the provisions of 35 U.S.C.
4 § 285;

5 F. An award to Plaintiff OEM of its reasonable attorneys' fees pursuant to
6 35 U.S.C. § 285; and

7 G. That Plaintiff OEM be granted such other and further relief as the Court
8 deems just and proper.

9 DATED this 22nd day of November, 2013.

10 POLSINELLI PC

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