

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

MEMORY CONTROL ENTERPRISE, LLC,

Plaintiff,

v.

MIZUNO USA, INC., NIKON INC. and  
SONY ELECTRONICS INC.,

Defendants.

Case No. 1:10-cv-5178

**JURY TRIAL DEMANDED**

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**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Memory Control Enterprise, LLC ("MCE") complains of Defendants Mizuno USA, Inc., Nikon Inc. and Sony Electronics Inc. as follows:

**NATURE OF THE SUIT**

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has exclusive jurisdiction over the subject matter of this case under 28 U.S.C. §§ 1331 and 1338(a).

**PARTIES**

2. Memory Control Enterprise, LLC ("MCE") is an Illinois limited liability company that has a principal place of business at 950 N. Michigan Avenue, Suite 2406, Chicago, Illinois 60611. MCE owns United States Patent No. 6,704,791 B1 ("the '791 Patent"), entitled "Three Dimensional Experience For Thick and Thin Clients," which issued on March 9, 2004. MCE has the exclusive right to license and enforce the '791 Patent and to collect all damages for infringement. MCE also has standing to sue for infringement of the '791 Patent.

3. Mizuno USA, Inc. (“Mizuno”) is a Georgia corporation that has its principal place of business at 4925 Avalon Ridge Parkway, Norcross, Georgia, 30071. Mizuno is registered to do business in the State of Illinois as Mizuno USA, Inc.

4. Mizuno owns and conducts business through its website [www.mizunousa.com](http://www.mizunousa.com), as well as through retail stores, such as Pro Line Golf, Golfsmith, Golf Tec-Halsted Row and Ace Pro Shop, located in this judicial district and throughout the United States. Mizuno is doing business in this judicial district, has purposefully availed itself of the privilege of conducting business within this judicial district, has established sufficient minimum contacts with the State of Illinois such that it should reasonably and fairly anticipate being hailed into court in Illinois, and has purposefully directed activities at residents of Illinois.

5. Nikon Inc. (“Nikon”) is a New York corporation that has its principal place of business at 1300 Walt Whitman Road, Melville, New York, 11747. Nikon is registered to do business in the State of Illinois as Nikon Inc.

6. Nikon owns and conducts business through its website [www.nikonusa.com](http://www.nikonusa.com), as well as through retail stores, such as Sears, Staples and RadioShack, located in this judicial district and throughout the United States. Nikon is doing business in this judicial district, has purposefully availed itself of the privilege of conducting business within this judicial district, has established sufficient minimum contacts with the State of Illinois such that it should reasonably and fairly anticipate being hailed into court in Illinois, and has purposefully directed activities at residents of Illinois.

7. Sony Electronics Inc. (“Sony”) is a Delaware corporation that has its principal place of business at 16530 Via Esprillo, San Diego, California, 92127. Sony is registered to do business in the State of Illinois as Sony Electronics Inc.

8. Sony owns and conducts business through its website [www.sonystyle.com](http://www.sonystyle.com), as well as through retail stores, such as Best Buy, located in this judicial district and throughout the United States. Sony is doing business in this judicial district, has purposefully availed itself of the privilege of conducting business within this judicial district, has established sufficient minimum contacts with the State of Illinois such that it should reasonably and fairly anticipate being hailed into court in Illinois, and has purposefully directed activities at residents of Illinois.

**VENUE**

9. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b).

**CLAIMS FOR PATENT INFRINGEMENT**

10. Mizuno has indirectly infringed and continues to indirectly infringe at least claims 6 and 9 of the '791 Patent under 35 U.S.C. § 271(b) by knowingly and actively inducing infringement of those claims. Mizuno has had knowledge of the '791 Patent by at least August 11, 2010 when MCE wrote to Mizuno and provided a copy of the '791 Patent and actual notice of infringement of at least claims 6 and 9. Mizuno has knowingly and actively induced infringement of at least claims 6 and 9, for example, by creating, providing and promoting its [www.mizunousa.com](http://www.mizunousa.com) website, and by instructing, aiding, assisting and encouraging the use of its server computer upon which its [www.mizunousa.com](http://www.mizunousa.com) website resides in a manner that infringes at least claims 6 and 9 of the '791 Patent. The direct infringers of those claims that are being induced by Mizuno include, without limitation, its customers and users that use a server computer upon which the [www.mizunousa.com](http://www.mizunousa.com) website resides.

11. Mizuno has also indirectly infringed and continues to indirectly infringe at least claims 6 and 9 of the '791 Patent under 35 U.S.C. § 271(c) through, among other things, making and/or using the server computer upon which its [www.mizunousa.com](http://www.mizunousa.com) website resides and by

instructing, aiding, assisting, authorizing, advertising, marketing, promoting, providing for and/or encouraging the use of its [www.mizunousa.com](http://www.mizunousa.com) website and the server computer on which it resides, which constitutes a material part of the patented apparatuses of claims 6 and 9 of the '791 Patent, which Mizuno knows are especially made or adapted for use in an infringement of at least claims 6 and 9 of the '791 Patent, and which are not a staple article of commerce suitable for substantial non-infringing use. The direct infringers for Mizuno's contributory infringement under 35 U.S.C. § 271(c) include, without limitation, its customers and users of the server computer upon which the [www.mizunousa.com](http://www.mizunousa.com) website resides.

12. Nikon has indirectly infringed and continues to indirectly infringe at least claims 6 and 9 of the '791 Patent under 35 U.S.C. § 271(b) by knowingly and actively inducing infringement of those claims. Nikon has had knowledge of the '791 Patent by at least August 11, 2010 when MCE wrote to Nikon and provided a copy of the '791 Patent and actual notice of infringement of at least claims 6 and 9. Nikon has knowingly and actively induced infringement of at least claims 6 and 9, for example, by creating, providing and promoting its [www.nikonusa.com](http://www.nikonusa.com) website, and by instructing, aiding, assisting and encouraging the use of its server computer upon which its [www.nikonusa.com](http://www.nikonusa.com) website resides in a manner that infringes at least claims 6 and 9 of the '791 Patent. The direct infringers of those claims that are being induced by Nikon include, without limitation, its customers and users that use a server computer upon which the [www.nikonusa.com](http://www.nikonusa.com) website resides.

13. Nikon has also indirectly infringed and continues to indirectly infringe at least claims 6 and 9 of the '791 Patent under 35 U.S.C. § 271(c) through, among other things, making and/or using the server computer upon which its [www.nikonusa.com](http://www.nikonusa.com) website resides and by instructing, aiding, assisting, authorizing, advertising, marketing, promoting, providing for

and/or encouraging the use of its [www.nikonusa.com](http://www.nikonusa.com) website and the server computer on which it resides, which constitutes a material part of the patented apparatuses of claims 6 and 9 of the '791 Patent, which Nikon knows are especially made or adapted for use in an infringement of at least claims 6 and 9 of the '791 Patent, and which are not a staple article of commerce suitable for substantial non-infringing use. The direct infringers for Nikon's contributory infringement under 35 U.S.C. § 271(c) include, without limitation, its customers and users of the server computer upon which the [www.nikonusa.com](http://www.nikonusa.com) website resides.

14. Sony has indirectly infringed and continues to indirectly infringe at least claims 6 and 9 of the '791 Patent under 35 U.S.C. § 271(b) by knowingly and actively inducing infringement of those claims. Sony has had knowledge of the '791 Patent by at least August 25, 2006 when MCE wrote to Sony America regarding the [www.sonystyle.com](http://www.sonystyle.com) website and provided a copy of the '791 Patent and actual notice of infringement of at least claims 6 and 9. Sony has knowingly and actively induced infringement of at least claims 6 and 9, for example, by creating, providing and promoting its [www.sonystyle.com](http://www.sonystyle.com) website, and by instructing, aiding, assisting and encouraging the use of its server computer upon which its [www.sonystyle.com](http://www.sonystyle.com) website resides in a manner that infringes at least claims 6 and 9 of the '791 Patent. The direct infringers of those claims that are being induced by Sony include, without limitation, its customers and users that use a server computer upon which the [www.sonystyle.com](http://www.sonystyle.com) website resides.

15. Sony has also indirectly infringed and continues to indirectly infringe at least claims 6 and 9 of the '791 Patent under 35 U.S.C. § 271(c) through, among other things, making and/or using the server computer upon which its [www.sonystyle.com](http://www.sonystyle.com) website resides and by instructing, aiding, assisting, authorizing, advertising, marketing, promoting, providing for

and/or encouraging the use of its [www.sonystyle.com](http://www.sonystyle.com) website and the server computer on which it resides, which constitutes a material part of the patented apparatuses of claims 6 and 9 of the '791 Patent, which Sony knows are especially made or adapted for use in an infringement of at least claims 6 and 9 of the '791 Patent, and which are not a staple article of commerce suitable for substantial non-infringing use. The direct infringers for Sony's contributory infringement under 35 U.S.C. § 271(c) include, without limitation, its customers and users of the server computer upon which the [www.sonystyle.com](http://www.sonystyle.com) website resides.

16. Sony has been aware of the '791 patent and its direct relevance to its [www.sonystyle.com](http://www.sonystyle.com) website since at least August 25, 2006, and has continued its actions without having taken adequate and necessary steps to avoid inducing infringement or contributing to the infringement of others. Even after receiving actual notice of the '791 Patent and its applicability to Sony's business, Sony has failed to take necessary steps to avoid infringement of the '791 Patent. Instead, Sony has continued to infringe the '791 Patent in an objectively reckless manner, with complete disregard of MCE's rights in the '791 Patent, in violation of 35 U.S.C. § 284.

17. The acts of infringement of the '791 Patent by each of the defendants have injured MCE, and MCE is entitled to recover damages adequate to compensate it for such infringement from each defendant, but, in no event less than a reasonable royalty.

18. Further, the acts of infringement of the '791 Patent by each of the defendants have injured and will continue to injure MCE unless and until this Court enters an injunction prohibiting further inducement to infringe and contributory infringement of the '791 Patent.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff MCE respectfully requests that this Court enter judgment against each of the defendants and against their respective subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

A. An award of damages adequate to compensate MCE for the infringement that has occurred, together with prejudgment interest from the date infringement of the '791 Patent began, but, in no event less than a reasonable royalty as permitted under 35 U.S.C. § 284;

B. Increased damages as permitted under 35 U.S.C. § 284;

C. A finding that this case is exceptional and an award to Plaintiff of its attorneys' fees and costs as provided under 35 U.S.C. § 285;

D. A permanent injunction prohibiting further inducement to infringe and contributory infringement of the '791 Patent; and

E. Such other relief that Plaintiff is entitled to under law, and any other and further relief that this Court or a jury may deem just and proper.

**JURY DEMAND**

Plaintiff demands a trial by jury on all issues presented in this Complaint.

Dated: August 17, 2010

Respectfully submitted,

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