

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

**Spread Spectrum Screening LLC,
Plaintiff**

v.

CIVIL ACTION NO. 1:10-cv-7248

**Dainippon Screen Graphics (USA), LLC
and D.S. North America Holdings, Inc.,
Defendants.**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Spread Spectrum Screening LLC (“Plaintiff” or “S3”) files this complaint against Defendants Dainippon Screen Graphics (USA), LLC (“Dainippon USA”) and D.S. North America Holdings, Inc. (“Dainippon NA”) and alleges as follows:

SUBJECT MATTER JURISDICTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 101, *et seq.* This Court has subject matter jurisdiction over this patent infringement action under 28 U.S.C. §§ 1331, 1332, and 1338(a).

THE PATENT-IN-SUIT: U.S. PATENT NO. 5,689,623

2. United States Patent No. 5,689,623 (“the ’623 patent”), entitled “Spread Spectrum Digital Screening,” was duly and legally issued on November 18, 1997. A copy of the ’623 patent is attached as Exhibit A and is made a part of this Complaint.

3. The ’623 patent discloses and claims digital screening masks having, *inter alia*, certain frequency domain characteristics, methods of using such digital screening

masks, and binary reproductions of a continuous tone image having, *inter alia*, certain frequency domain characteristics.

4. The term “digital halftoning” generally refers to a printing technique that simulates continuous tone imagery through the use of isolated printed dots that vary in size and/or in spacing. For example, a portion of a newspaper image that appears to be dark grey typically does not actually contain grey ink. Instead, a combination of variably sized and/or variably spaced printed black dots on the off-white newsprint substrate creates an optical illusion that causes the combination of black dots and off-white substrate to *appear* grey to the human eye.

5. During the process of converting a continuous tone image to a halftone image suitable for printing (*i.e.*, digital halftoning), a digital representation of the continuous tone image is often compared, on a pixel-by-pixel basis, to what is commonly known as a digital screening mask. Based in part on the characteristics of the digital screening mask, printing equipment is able identify whether, where, and how many dots to print to produce the desired halftone image.

6. Prior to the invention of the '623 patent, most digital screening masks were constructed based on spatial domain characteristics. In other words, such masks were typically constructed based on their characteristics in normal image space, *i.e.*, that which is perceived by the human eye.

7. Mr. Adam I. Pinard, the sole inventor of the '623 patent, recognized no later than 1994 – while working at Boston, Massachusetts-based Optronics International Corporation (“Optronics”) – that the optimal features of a digital screening mask were not

merely its *spatial domain* characteristics. Rather, an optimal digital screening mask is characterized in the *frequency domain* by, *inter alia*, a function in magnitude independent of angle within a band of frequencies between a minimum and maximum frequency.

8. Before Mr. Pinard departed from Optronics, an innovative developer of thermal plate making and proofing devices, rapid screening technologies, and other kinds of imaging devices used by printers and publishers, Mr. Pinard assigned all of his rights in and to the '623 patent to Optronics.

9. Optronics was acquired by ECRM, Inc. in 2000. As part of the acquisition, ECRM, Inc. acquired all right, title and interest in, and full rights to sue, enforce, and recover damages for all past, present, and future infringements of the claims of the '623 patent.

10. ECRM, Inc. subsequently assigned all right, title and interest in, and full rights to sue, enforce, and recover damages for all past, present, and future infringements of the claims of the '623 patent to Acacia Patent Acquisition LLC.

11. Acacia Patent Acquisition LLC subsequently assigned all right, title and interest in, and full rights to sue, enforce, and recover damages for all past, present, and future infringements of the claims of the '623 patent to its wholly-owned subsidiary, Plaintiff S3.

12. Plaintiff S3 has all right, title and interest in, and full rights to sue, enforce, and recover damages for all past, present, and future infringements of the claims of the '623 patent.

13. Plaintiff S3 has never made, sold, or offered to sell any patented article for or under the patent-in-suit, or imported any such patented article into the United States.

14. On information and belief, no assignee or licensee of the '623 patent has made, sold, offered for sale, or imported any article for or under the '623 patent at least for six years prior to the filing of this Complaint. 35 U.S.C. § 286.

PARTIES

15. Plaintiff S3 is a limited liability company organized and existing under the laws of the State of Florida with a principal place of business at 500 Newport Center Drive, 7th Floor, Newport Beach, California 92660.

16. On information and belief, Defendant Dainippon USA is a limited liability company organized and existing under the laws of Illinois and has a principal place of business at 5110 Tollview Drive, Rolling Meadows, Illinois 60008.

17. On information and belief, Dainippon USA's principal place of business is in this judicial district.

18. On information and belief, Defendant Dainippon NA is a corporation organized and existing under the laws of California and has a principal place of business at 5110 Tollview Drive, Rolling Meadows, Illinois 60008.

19. On information and belief, Dainippon NA's principal place of business is in this judicial district.

20. On information and belief, Defendant Dainippon USA is a wholly-owned subsidiary of Defendant Dainippon NA, which is a wholly-owned subsidiary of Dainippon

Screen Manufacturing Co. (“Dainippon Japan”), the latter of which is based in Kyoto, Japan.

21. Defendants Dainippon NA and Dainippon USA will collectively be referred to herein as “Dainippon.”

PERSONAL JURISDICTION

22. This Court has personal jurisdiction over Dainippon in this action.

23. Dainippon regularly conducts business in Illinois.

24. Dainippon, directly and through intermediaries, has sold, offers to sell, imports, ships, distributes, advertises and continues to sell its products, including the products accused of infringement in this case, in the United States, in the State of Illinois, and in this judicial district and/or has purposefully shipped such products into this judicial district through established distribution channels.

25. Dainippon USA has filed and participated in at least three lawsuits in this judicial district as a plaintiff.

26. Dainippon USA has appeared and participated in at least two lawsuits in this judicial district as a defendant.

CLAIMS FOR RELIEF AGAINST DAINIPPON

27. Plaintiff realleges and incorporates herein by reference the allegations stated in paragraphs 1-26 of this Complaint.

28. Dainippon makes, uses, sells, imports, and/or offers for sale digital screening products under the name Spekta (*e.g.*, Spekta and Spekta 2), which Dainippon advertises as “AM/FM hybrid screening technology.”

29. Dainippon has directly infringed and continues to directly infringe, either literally or under the doctrine of equivalents, at least claims 1-9, 11, and 13-18 of the '623 patent: (i) by making, using, selling, importing and/or offering for sale the infringing Spekta products; (ii) by performing the claimed methods using the infringing Spekta products and associated hardware and software (which, on information and belief, Dainippon also makes, uses, sells, imports and/or offers for sale); and (iii) by making, using, selling, importing and/or offering for sale infringing binary reproductions.

30. Dainippon's customers, *inter alia*, (i) use Dainippon's infringing products and (ii) practice claimed methods of the '623 patent, thereby directly infringing, either literally or under the doctrine of equivalents, at least claims 1-9, 11, and 13-17 of the '623 patent.

31. Dainippon has knowledge of the '623 patent at least as of the service of this Complaint.

32. At least as of the service of this Complaint, Dainippon knowingly directs, encourages, and intends such infringing use by its customers. Dainippon thus actively induces infringement of at least claims 1-9, 11, and 13-17 of the '623 patent.

33. At least as of the service of this Complaint, Dainippon also contributes to its customers' direct infringement of at least claims 1-9, 11, and 13-17 of the '623 patent by selling and/or offering for sale a material component of the patented invention that is not a staple article of commerce suitable for substantial non-infringing use (*i.e.*, the infringing Spekta products), with knowledge that the component was especially made or adapted for use in an infringing product and/or method.

34. Plaintiff S3 has suffered damages as a result of Dainippon's infringement and will continue to suffer damages as a result of Dainippon's infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff S3 prays for judgment as follows:

- (a) that Defendants have directly infringed claims of the '623 patent, actively induced direct infringement of claims of the '623 patent, and contributed to direct infringement of claims of the '623 patent;
- (b) that the Court award damages to Plaintiff adequate to compensate for Defendants' infringement of claims of the '623 patent, but in no event no less than a reasonable royalty, together with interest and costs, as provided by 35 U.S.C. § 284;
- (c) that the Court award a reasonable royalty going forward for Defendants' future willful infringement of claims of the '623 patent or, in the alternative, issue an injunction against further infringement of claims of the '623 patent by Defendants and their directors, officers, agents, servants, employees, attorneys and all persons in active concert or participation with them,; and
- (d) that the Court award Plaintiff such other and further relief, in law or in equity, as the Court deems just and equitable.

Dated this 18th day of November, 2010.

Respectfully submitted,

F&B LLP

/s/ Joseph D. Gray

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