

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

ZENITH ELECTRONICS LLC,

Plaintiff,

v.

SONY CORPORATION, SONY
CORPORATION OF AMERICA, AND SONY
ELECTRONICS, INC.,

Defendant(s).

Case No. 5:10-CV-184

JURY TRIAL DEMANDED

**PLAINTIFF ZENITH ELECTRONICS LLC'S
COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Zenith Electronics LLC ("Zenith"), on personal knowledge as to its own acts and upon information and belief formed after reasonable inquiry as to the acts of others, for its Complaint for Patent Infringement against Sony Corporation, Sony Corporation of America, and Sony Electronics, Inc. hereby avers the following:

PARTIES

1. Plaintiff Zenith is a limited liability company organized under the laws of the State of Delaware, with its principal place of business at 2000 Millbrook Drive, Lincolnshire, Illinois 60069.

2. Defendant Sony Corporation is organized under the laws of Japan with its principal place of business at 7-1, Konan 1-Chome, Minato-ku, Tokyo 108-0075, Japan, and conducts business in this District, in conjunction with its wholly-owned subsidiaries including those identified herein.

3. Defendant Sony Corporation of America ("SCA") is a Delaware corporation with a principal place of business at 550 Madison Avenue, New York, New York 10022, and is a wholly-owned subsidiary of Sony Corporation conducting business in this District.

4. Defendant Sony Electronics, Inc. ("SEL") is a Delaware corporation with its headquarters at 16530 Via Esprillo, San Diego, CA 92127, and is a wholly-owned subsidiary of Sony Corporation of America and/or of Sony Corporation conducting business in this District.

5. Sony Corporation in conjunction with its wholly-owned subsidiaries SCA and SEL (collectively "Sony") manufactures and sells flat panel televisions and other display devices in the United States, including within this District, by shipping infringing products directly and/or indirectly into this District and through its ecommerce websites www.sony.com and/or www.sonystyle.com and provides repair and refurbishment and warranty support for such products, including within this District. Sony's established distribution network includes national distributors and resellers, and Sony distributes to national and local retailers that have stores located in this District. By shipping into, selling, offering to sell, and/or using products that infringe the patents-in-suit in this District, or by inducing or causing those acts to occur, Sony has transacted and continues to transact business and perform work and services in this District, has supplied and continues to supply services and things in this District, has caused and continues to cause injury and damages in this District by acts and omissions in this District, and has caused and continues to cause injury and damages in this District by acts or omissions outside of this District while deriving substantial revenue from services or things used or consumed within this District, and will continue to do so unless enjoined by this Court.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action concerns infringement of a United States Patent.

7. This Court has personal jurisdiction over Sony at least by virtue of Sony having conducted business in this District and/or having committed one or more acts of infringement in this District.

8. Venue is proper under 28 U.S.C. §§ 1391 and 1400.

FACTUAL BACKGROUND

9. Zenith was founded in 1918 and, since its founding, has been a pioneer in the consumer electronics industry, bringing the world such things as subscription television and the modern remote control. Most notably here, Zenith was a pioneer in the development of high definition television ("HDTV") and Zenith's technology has been adopted as the industry standard for HDTV broadcasts in the United States. Zenith's innovations related to HDTV are protected by a valuable portfolio of patents that are the subject of over 100 licenses with industry participants. In light of these facts, Zenith cannot permit the continued infringement of its patents by unlicensed market participants and will, if necessary, vigorously protect its patent rights through appropriate procedures. Indeed, Zenith patents related to the industry standard have been the subject of litigation in this forum including the cases styled *Zenith Electronics Corporation v. Thomson, Inc., et al.*, C.A. No. 5:06-CV-017-DF (resulting in settlement with each defendant entering into a license under Zenith's patents) and *Zenith Electronics LLC v. V, Inc., et al.*, C.A. No. 5:06-CV-246-DF (resulting in settlements as to some defendants and a judgment for Zenith finding infringement of patents asserted herein and awarding damages to Zenith for unlawful infringement as to other defendants).

10. By way of further background, in early 1987, the Federal Communications Commission ("FCC") initiated a rule making proceeding to consider the technical and public policy issues surrounding the use of advanced television technologies by television broadcast licensees. Later that year, and in order to assist the FCC in gathering and processing necessary information on advanced television technologies, the FCC established the Advisory Committee on Advanced Television Service ("the Advisory Committee"). The Advisory Committee was given the broad mandate to advise the FCC on the facts and circumstances regarding advanced television systems for the FCC's consideration of the technical and public policy issues.

11. As the Advisory Committee considered various proposals, a number of systems were selected for further evaluation and the system proponents formed a coalition called the "Digital HDTV Grand Alliance," which included Zenith. Zenith's vestigial sideband modulation ("VSB") transmission subsystem was selected by the Grand Alliance as the preferred transmission subsystem. In addition to the Grand Alliance, the Advanced Television Systems Committee ("ATSC"), a standards body formed in 1983, was also involved. The ATSC prepared a document entitled the ATSC Digital Television Standard A/53 ("ATSC Standard"), which included the specifications from the Grand Alliance's system. The ATSC Standard was adopted by the ATSC on September 16, 1995. On November 28, 1995, the FCC Advisory Committee issued its Final Report, concluding that the ATSC Standard should be adopted as the standard for digital terrestrial television broadcasts in the United States. On December 24, 1996, the FCC adopted the major elements of the ATSC Standard, mandating its use for digital terrestrial television broadcasts in the United States.

12. As a result of its work related to the development of the technology behind the standard, Zenith applied for and was awarded numerous patents directed to ATSC Standard

technology, including Zenith Patents asserted herein. Zenith is the sole owner of the entire right, title, and interest in the Zenith Patents asserted herein, which are related to the ATSC Standard. Zenith has complied with the ATSC's patent policy by disclosing its intention to protect its inventions and offering its inventions at reasonable and non-discriminatory rates.

13. Sony is a leading supplier of HDTV products (including TVs and other receivers) that are compliant with the ATSC Standard and has enjoyed the success of the HDTV market established by Zenith. For example, Sony "Bravia" television models such as KDL-46HX800 and KDL-32EX500 are HDTV products compliant with the ATSC standard. The Sony HDTVs and receiver products compliant with the ATSC Standard are hereinafter referred to as the "Accused Sony HDTVs." While Sony Corporation was previously licensed to certain Zenith patents, that license has expired and Sony Corporation's sales of ATSC-standard-compliant HDTVs have been and continue to be unlicensed sales in violation of Zenith's patent rights. Sony has been unwilling to take a license to Zenith's patents.

FIRST CLAIM FOR RELIEF

(Infringement of United States Patent No. 5,416,524)

Zenith incorporates by reference paragraphs 1 through 13 as if set forth here in full.

14. United States Patent No. 5,416,524 ("the '524 patent"), entitled "Digital Television Synchronization System and Method," was issued on May 16, 1995, based on an application filed on June 5, 1992. Zenith is the sole owner of the entire right, title, and interest in the '524 patent, including the right to recover for past, present and future infringements and violations thereof.

15. Zenith is informed and believes, and based thereon alleges, that Sony has been and is currently directly infringing, contributing to the infringement of, and/or inducing

infringement of the '524 patent by, among other things, making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, Accused Sony HDTVs.

16. As a result of Sony's unlawful infringement of the '524 patent, Zenith has suffered and will continue to suffer damage. Zenith is entitled to recover from Sony the damages adequate to compensate for such infringement, which have yet to be determined.

17. Sony's acts of infringement of the '524 patent herein have been made with full knowledge of Zenith's rights in the patent and constitute willful and deliberate infringement, entitling Zenith to enhanced damages and reasonable attorney fees and costs.

18. Sony's acts of infringement have caused and will continue to cause irreparable harm to Zenith unless and until enjoined by this Court.

SECOND CLAIM FOR RELIEF

(Infringement of United States Patent No. 5,598,220)

Zenith incorporates by reference paragraphs 1 through 18 as if set forth here in full.

19. United States Patent No. 5,598,220 ("the '220 patent"), entitled "Digital Signal with Multilevel Symbols and Sync Recognition," was issued on January 28, 1997, based on an application filed on March 2, 1994. Zenith is the sole owner of the entire right, title, and interest in the '220 patent, including the right to recover for past, present and future infringements and violations thereof.

20. Zenith is informed and believes, and based thereon alleges, that Sony has been and is currently directly infringing, contributing to the infringement of, and/or inducing infringement of the '220 patent by, among other things, making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, Accused Sony HDTVs.

21. As a result of Sony's unlawful infringement of the '220 patent, Zenith has suffered and will continue to suffer damage. Zenith is entitled to recover from Sony the damages adequate to compensate for such infringement, which have yet to be determined.

22. Sony's acts of infringement of the '220 patent herein have been made with full knowledge of Zenith's rights in the patent and constitute willful and deliberate infringement, entitling Zenith to enhanced damages and reasonable attorney fees and costs.

23. Sony's acts of infringement have caused and will continue to cause irreparable harm to Zenith unless and until enjoined by this Court.

THIRD CLAIM FOR RELIEF

(Infringement of United States Patent No. 5,619,269)

Zenith incorporates by reference paragraphs 1 through 23 as if set forth here in full.

24. United States Patent No. 5,619,269 ("the '269 patent"), entitled "Frame Sync Signal for Digital Transmission System," was issued on April 8, 1997, based on an application filed on June 7, 1995. Zenith is the sole owner of the entire right, title, and interest in the '269 patent, including the right to recover for past, present and future infringements and violations thereof.

25. Zenith is informed and believes, and based thereon alleges, that Sony has been and is currently directly infringing, contributing to the infringement of, and/or inducing infringement of the '269 patent by, among other things, making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, Accused Sony HDTVs.

26. As a result of Sony's unlawful infringement of the '269 patent, Zenith has suffered and will continue to suffer damage. Zenith is entitled to recover from Sony the damages adequate to compensate for such infringement, which have yet to be determined.

27. Sony's acts of infringement of the '269 patent herein have been made with full knowledge of Zenith's rights in the patent and constitute willful and deliberate infringement, entitling Zenith to enhanced damages and reasonable attorney fees and costs.

28. Sony's acts of infringement have caused and will continue to cause irreparable harm to Zenith unless and until enjoined by this Court.

FOURTH CLAIM FOR RELIEF

(Infringement of United States Patent No. 5,629,958)

Zenith incorporates by reference paragraphs 1 through 28 as if set forth here in full.

29. United States Patent No. 5,629,958 ("the '958 patent"), entitled "Data Frame Structure and Synchronization System for Digital Television Signal," was issued on May 13, 1997, based on an application filed on July 8, 1994. Zenith is the sole owner of the entire right, title, and interest in the '958 patent, including the right to recover for past, present and future infringements and violations thereof.

30. Zenith is informed and believes, and based thereon alleges, that Sony has been and is currently directly infringing, contributing to the infringement of, and/or inducing infringement of the '958 patent by, among other things, making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, Accused Sony HDTVs.

31. As a result of Sony's unlawful infringement of the '958 patent, Zenith has suffered and will continue to suffer damage. Zenith is entitled to recover from Sony the damages adequate to compensate for such infringement, which have yet to be determined.

32. Sony's acts of infringement of the '958 patent herein have been made with full knowledge of Zenith's rights in the patent and constitute willful and deliberate infringement, entitling Zenith to enhanced damages and reasonable attorney fees and costs.

33. Sony's acts of infringement have caused and will continue to cause irreparable harm to Zenith unless and until enjoined by this Court.

FIFTH CLAIM FOR RELIEF

(Infringement of United States Patent No. 5,636,251)

Zenith incorporates by reference paragraphs 1 through 33 as if set forth here in full.

34. United States Patent No. 5,636,251 ("the '251 patent"), entitled "Receiver for a Trellis Coded Digital Television Signal," was issued on June 3, 1997, based on an application filed on January 29, 1996. Zenith is the sole owner of the entire right, title, and interest in the '251 patent, including the right to recover for past, present and future infringements and violations thereof.

35. Zenith is informed and believes, and based thereon alleges, that Sony has been and is currently directly infringing, contributing to the infringement of, and/or inducing infringement of the '251 patent by, among other things, making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, Accused Sony HDTVs.

36. As a result of Sony's unlawful infringement of the '251 patent, Zenith has suffered and will continue to suffer damage. Zenith is entitled to recover from Sony the damages adequate to compensate for such infringement, which have yet to be determined.

37. Sony's acts of infringement of the '251 patent herein have been made with full knowledge of Zenith's rights in the patent and constitute willful and deliberate infringement, entitling Zenith to enhanced damages and reasonable attorney fees and costs.

38. Sony's acts of infringement have caused and will continue to cause irreparable harm to Zenith unless and until enjoined by this Court.

SIXTH CLAIM FOR RELIEF

(Infringement of United States Patent No. 5,677,911)

Zenith incorporates by reference paragraphs 1 through 38 as if set forth here in full.

39. United States Patent No. 5,677,911 ("the '911 patent"), entitled "Data Frame Format for a Digital Signal Having Multiple Data Constellations," was issued on October 14, 1997, based on an application filed on April 6, 1995. Zenith is the sole owner of the entire right, title, and interest in the '911 patent, including the right to recover for past, present and future infringements and violations thereof.

40. Zenith is informed and believes, and based thereon alleges, that Sony has been and is currently directly infringing, contributing to the infringement of, and/or inducing infringement of the '911 patent by, among other things, making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, Accused Sony HDTVs.

41. As a result of Sony's unlawful infringement of the '911 patent, Zenith has suffered and will continue to suffer damage. Zenith is entitled to recover from Sony the damages adequate to compensate for such infringement, which have yet to be determined.

42. Sony's acts of infringement of the '911 patent herein have been made with full knowledge of Zenith's rights in the patent and constitute willful and deliberate infringement, entitling Zenith to enhanced damages and reasonable attorney fees and costs.

43. Sony's acts of infringement have caused and will continue to cause irreparable harm to Zenith unless and until enjoined by this Court.

SEVENTH CLAIM FOR RELIEF

(Infringement of United States Patent No. 5,802,107)

Zenith incorporates by reference paragraphs 1 through 43 as if set forth here in full.

44. United States Patent No. 5,802,107 ("the '107 patent"), entitled "Symbol Rotator," was issued on September 1, 1998, based on an application filed on September 13, 1996. Zenith is the sole owner of the entire right, title, and interest in the '107 patent, including the right to recover for past, present and future infringements and violations thereof. Zenith is informed and believes, and based thereon alleges, that Sony has been and is currently directly infringing, contributing to the infringement of, and/or inducing infringement of the '107 patent by, among other things, making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, Accused Sony HDTVs.

45. As a result of Sony's unlawful infringement of the '107 patent, Zenith has suffered and will continue to suffer damage. Zenith is entitled to recover from Sony the damages adequate to compensate for such infringement, which have yet to be determined.

46. Sony's acts of infringement of the '107 patent herein have been made with full knowledge of Zenith's rights in the patent and constitute willful and deliberate infringement, entitling Zenith to enhanced damages and reasonable attorney fees and costs.

47. Sony's acts of infringement have caused and will continue to cause irreparable harm to Zenith unless and until enjoined by this Court.

EIGHTH CLAIM FOR RELIEF

(Infringement of United States Patent Reissue No. 36,992)

Zenith incorporates by reference paragraphs 1 through 47 as if set forth here in full.

48. United States Patent No. Re. 36,992 ("the '992 reissue"), entitled "VSB HDTV Transmission System with Reduced NTSC Co-Channel Interference," was issued on December 19, 2000, based on a reissue application filed on February 9, 1994. Zenith is the sole owner of

the entire right, title, and interest in the '992 reissue, including the right to recover for past, present and future infringements and violations thereof.

49. Zenith is informed and believes, and based thereon alleges, that Sony has been and is currently directly infringing, contributing to the infringement of, and/or inducing infringement of the '992 reissue by, among other things, making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, Accused Sony HDTVs.

50. As a result of Sony's unlawful infringement of the '992 reissue, Zenith has suffered and will continue to suffer damage. Zenith is entitled to recover from Sony the damages adequate to compensate for such infringement, which have yet to be determined.

51. Sony's acts of infringement of the '992 reissue herein have been made with full knowledge of Zenith's rights in the patent and constitute willful and deliberate infringement, entitling Zenith to enhanced damages and reasonable attorney fees and costs.

52. Sony's acts of infringement have caused and will continue to cause irreparable harm to Zenith unless and until enjoined by this Court.

NINTH CLAIM FOR RELIEF

(Infringement of United States Patent No. 5,534,938)

Zenith incorporates by reference paragraphs 1 through 52 as if set forth here in full.

53. United States Patent No. 5,534,938 ("the '938 patent"), entitled "Digital TV System Using Segment and Field Sync Signals," was issued on July 9, 1996, based on an application filed on October 17, 1994. Zenith is the sole owner of the entire right, title, and interest in the '938 patent, including the right to recover for past, present and future infringements and violations thereof.

54. Zenith is informed and believes, and based thereon alleges, that Sony has been and is currently directly infringing, contributing to the infringement of, and/or inducing infringement of the '938 patent by, among other things, making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, Accused Sony HDTVs.

55. As a result of Sony's unlawful infringement of the '938 patent, Zenith has suffered and will continue to suffer damage. Zenith is entitled to recover from Sony the damages adequate to compensate for such infringement, which have yet to be determined.

56. Sony's acts of infringement of the '938 patent herein have been made with full knowledge of Zenith's rights in the patent and constitute willful and deliberate infringement, entitling Zenith to enhanced damages and reasonable attorney fees and costs.

57. Sony's acts of infringement have caused and will continue to cause irreparable harm to Zenith unless and until enjoined by this Court.

TENTH CLAIM FOR RELIEF

(Infringement of United States Patent No. 5,602,595)

Zenith incorporates by reference paragraphs 1 through 57 as if set forth here in full.

58. United States Patent No. 5,602,595 ("the '595 patent"), entitled "ATV/MPEG Sync System," was issued on February 11, 1997, based on an application filed on June 7, 1995. Zenith is the sole owner of the entire right, title, and interest in the '595 patent, including the right to recover for past, present and future infringements and violations thereof.

59. Zenith is informed and believes, and based thereon alleges, that Sony has been and is currently directly infringing, contributing to the infringement of, and/or inducing infringement of the '595 patent by, among other things, making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, Accused Sony HDTVs.

60. As a result of Sony's unlawful infringement of the '595 patent, Zenith has suffered and will continue to suffer damage. Zenith is entitled to recover from Sony the damages adequate to compensate for such infringement, which have yet to be determined.

61. Sony's acts of infringement of the '595 patent herein have been made with full knowledge of Zenith's rights in the patent and constitute willful and deliberate infringement, entitling Zenith to enhanced damages and reasonable attorney fees and costs.

62. Sony's acts of infringement have caused and will continue to cause irreparable harm to Zenith unless and until enjoined by this Court.

PRAYER FOR RELIEF

Wherefore, Zenith prays for a Judgment from this Honorable Court in favor of Zenith and against Sony as follows:

1. That the '524 patent, the '220 patent, the '269 patent, the '958 patent, the '251 patent, the '911 patent, the '107 patent, the '992 reissue, the '938 patent, and the '595 patent are valid and enforceable;

2. That Sony has directly infringed the '524 patent, the '220 patent, the '269 patent, the '958 patent, the '251 patent, the '911 patent, the '107 patent, the '992 reissue, the '938 patent, and the '595 patent;

3. That Sony has contributed to the infringement of the '524 patent, the '220 patent, the '269 patent, the '958 patent, the '251 patent, the '911 patent, the '107 patent, the '992 reissue, the '938 patent, and the '595 patent;

4. That Sony has induced the infringement of the '524 patent, the '220 patent, the '269 patent, the '958 patent, the '251 patent, the '911 patent, the '107 patent, the '992 reissue, the '938 patent, and the '595 patent;

5. An order enjoining Sony and their affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns, and all those acting for them and on their behalf, or acting in concert with them directly or indirectly, from further acts of infringement of the '524 patent, the '220 patent, the '269 patent, the '958 patent, the '251 patent, the '911 patent, the '107 patent, the '992 Reissue, the '938 patent, and the '595 patent;

6. A full accounting by Sony and awards and damages to Zenith for Sony's infringement of the '524 patent, the '220 patent, the '269 patent, the '958 patent, the '251 patent, the '911 patent, the '107 patent, the '992 Reissue, the '938 patent, and the '595 patent, including enhanced damages pursuant to 35 U.S.C. § 284, together with pre- and post-judgment interest, in an amount according to proof;

7. Adjudge that this case to be "exceptional" within the meaning of 35 U.S.C. § 285, entitling Zenith to an award of its reasonable attorneys' fees, expenses, and costs; and

8. A grant of such other and further equitable or legal relief as the Court deems proper.

DEMAND FOR JURY TRIAL

Zenith hereby demands trial by jury on all issues so triable.

Dated: October 29, 2010

Respectfully submitted,

FISH & RICHARDSON P.C.

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