

Exhibit 2003

in LG Electronics Inc. v. Mondis Technology Ltd, IPR2015-00938

“Defendants LG Electronics, Inc. and LG Electronics U.S.A., Inc.’s
Answer, Affirmative Defenses, and Counterclaims”
in *Mondis Technology Ltd. v. LG Electronics, Inc. et al.*,
E.D. Tex. no. 2:14-cv-00702

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MONDIS TECHNOLOGY LTD., Plaintiff, v. LG ELECTRONICS, INC. and LG ELECTRONICS U.S.A., INC., Defendants.	Civil Action No. 2:14-cv-00702 JURY TRIAL DEMANDED
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**DEFENDANTS LG ELECTRONICS, INC. AND LG ELECTRONICS U.S.A., INC.’S
ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS**

Defendants LG Electronics, Inc. and LG Electronics U.S.A., Inc. (collectively, “LG” or “Defendants”), by their attorneys, hereby answer the Complaint for patent infringement of Plaintiff Mondis Technology Ltd. (“Mondis” or “Plaintiff”) as follows:

NATURE OF ACTION

1. LG admits that the Complaint purports to make allegations under the patent laws of the United States, 35 U.S.C. § 101 *et seq.*, but LG denies those allegations.

THE PARTIES

2. LG lacks sufficient knowledge or information to confirm or deny the allegations and content of Paragraph 2 of Mondis’s Complaint and therefore denies the same.

3. LG admits that LG Electronics, Inc. (“LG Korea”) is a corporation organized under the laws of Korea with its principal place of business at LG Twin Tower 128, Yeoui-daero, Yeongdeungpo-gu, Seoul, Korea. LG admits that LG Korea is in the business of developing,

manufacturing, and selling consumer electronics and that such devices include, but are not limited to, televisions. LG otherwise denies the allegations of Paragraph 3.

4. LG admits that LG Electronics U.S.A., Inc. ("LG U.S.A.") is a company organized under the laws of the state of Delaware with its principal place of business at 1000 Sylvan Avenue, Englewood Cliffs, New Jersey and that it has a service agent, United States Corporation Company, located at 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218 U.S.A. LG admits that LG U.S.A. is in the business of importing and selling electronic devices and that such devices include, but are not limited to, televisions. LG otherwise denies the allegations of Paragraph 4.

JURISDICTION AND VENUE

5. LG admits that the Complaint purports to make allegations under the patent laws of the United States, including 35 U.S.C. § 271, *et seq.* LG admits that this Court has original jurisdiction over the subject matter of this Complaint under 28 U.S.C. § 1338(a).

6. LG does not dispute that it is subject to personal jurisdiction in this District for the purposes of this action only; however, LG is without sufficient knowledge or information to determine whether Mondis has standing or legal capacity to sue on the Asserted Patents identified in the Complaint, and, on that basis, LG denies the remaining allegations of Paragraph 6. LG specifically denies any express or implied allegations that it has infringed, or is now infringing, directly or indirectly, any patent, or any claim of the '088, '970, '342, '180, and '588 Patents, or has ever harmed Mondis. Except as expressly admitted herein, LG denies the allegations of Paragraph 6 of the Complaint.

7. LG does not dispute that it is subject to personal jurisdiction in this District for the purposes of this action only; however, LG is without sufficient knowledge or information to determine whether Mondis has standing or legal capacity to sue on the asserted patents identified

in the Complaint, and, on that basis, LG denies the remaining allegations of Paragraph 7. LG specifically denies any express or implied allegations that it has infringed, or is now infringing, directly or indirectly, any patent, or any claim of the '088, '970, '342, '180, and '588 Patents, or has ever harmed Mondis. LG lacks sufficient knowledge or information to confirm or deny the allegations that the accused televisions have been sold in the Eastern District of Texas, including in Wal-Mart and Best Buy stores located therein, and, on that basis, denies those allegations. LG denies that it has knowingly placed the accused televisions into the stream of commerce with the intent that they be distributed and sold in the state of Texas and this District.

8. LG does not dispute that it is subject to personal jurisdiction in this District for the purposes of this action only; however, LG is without sufficient knowledge or information to determine whether Mondis has standing or legal capacity to sue on the asserted patents identified in the Complaint, and on that basis, LG denies the remaining allegations of Paragraph 8. LG specifically denies any express or implied allegations that it has infringed, or is now infringing, directly or indirectly, any patent, or any claim of the '088, '970, '342, '180, and '588 Patents, or has ever induced others to commit patent infringement. LG lacks sufficient knowledge or information to confirm or deny the allegation that the accused televisions have been purchased by consumers in the Eastern District of Texas and, on that basis, denies that allegation. Except as expressly admitted herein, LG denies the allegations of Paragraph 8 of the Complaint.

9. LG admits that venue is proper in this Court pursuant to 28 U.S.C. §§1391(b), (c), and (d), as well as 28 U.S.C. § 1400(b), in that LG is subject to personal jurisdiction in this District for the purposes of this action only; however, LG denies that it has committed acts or continues to commit acts within this judicial district giving rise to this action. LG does not admit that venue is convenient under 28 U.S.C. § 1404 and reserves its right to move for a change of

venue under 28 U.S.C. § 1404. LG incorporates by reference its responses to paragraphs 6, 7, and 8 of the Complaint.

THE PATENTS-IN-SUIT

10. LG admits that U.S. Patent No. 6,513,088 (“the ’088 Patent”), attached to the Complaint as Exhibit A, is entitled DISPLAY UNIT AND METHOD ENABLING BIDIRECTIONAL COMMUNICATION WITH VIDEO SOURCE. LG admits that Ikuya Arai and Kouji Kitou are identified as inventors on the face of the ’088 Patent. LG admits that the ’088 Patent states on its face that it issued on January 28, 2003. LG lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 10, and, on that basis denies those allegations.

11. LG admits that U.S. Patent No. 6,549,970 (“the ’970 Patent”), attached to the Complaint as Exhibit B, is entitled DISPLAY UNIT WITH CONTROLLER ENABLING BI-DIRECTIONAL COMMUNICATION WITH COMPUTER. LG admits that Ikuya Arai and Kouji Kitou are identified as inventors on the face of the ’970 Patent. LG admits that the ’970 Patent states on its face that it issued on April 15, 2003. LG lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 11, and, on that basis denies those allegations.

12. LG admits that U.S. Patent No. 7,089,342 (“the ’342 Patent”), attached to the Complaint as Exhibit C, is entitled METHOD ENABLING DISPLAY UNIT TO BIDIRECTIONALLY COMMUNICATE WITH VIDEO SOURCE. LG admits that Ikuya Arai and Kouji Kitou are identified as inventors on the face of the ’342 Patent. LG admits that the ’342 Patent states on its face that it issued on August 8, 2006. LG lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 12, and, on that basis denies those allegations.

13. LG admits that U.S. Patent No. 7,475,180 (“the ’180 Patent”), attached to the Complaint as Exhibit D, is entitled DISPLAY UNIT WITH COMMUNICATION CONTROLLER AND MEMORY FOR STORING IDENTIFICATION NUMBER FOR IDENTIFYING DISPLAY UNIT. LG admits that Ikuya Arai and Kouji Kitou are identified as inventors on the face of the ’180 Patent. LG admits that the ’180 Patent states on its face that it issued on January 6, 2009. LG lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 13, and, on that basis denies those allegations.

14. LG admits that U.S. Patent No. 6,639,588 (“the ’588 Patent”), attached to the Complaint as Exhibit E, is entitled IMAGE DISPLAY APPARATUS. LG admits that Ikuya Arai, Kouji Kitou, and Yuji Sano are identified as inventors on the face of the ’588 Patent. LG admits that the ’588 Patent states on its face that it issued on October 28, 2003. LG lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 14, and, on that basis denies those allegations.

FACTUAL BACKGROUND

Prior Litigation

15. LG admits that, on December 31, 2007, Mondis filed a Complaint in this district against LG *et. al.*, (Case No. 2:07-CV-565), alleging that certain LG computer monitors infringed, *inter alia*, the ’088, ’970, and ’588 Patents.

16. LG admits that, on May 14, 2008, Mondis filed a First Amended Complaint in this Case No. 2:07-CV-565, alleging that certain LG computer monitors infringed the ’342 Patent.

17. LG admits that, on March 9, 2009, Mondis filed a Second Amended Complaint in this Case No. 2:07-CV-565, alleging that certain LG computer monitors infringed the ’180 Patent.

18. LG admits that Mondis and LG subsequently reached a settlement with respect to Mondis's claims against LG's computer monitors. LG further admits that, on September 17, 2009, the district court entered an Order of Dismissal, stating that: "[a]ll claims and counterclaims in the above-captioned action between the parties are hereby dismissed: (a) with prejudice in relation to all products other than 'Unreleased Products' noted in the parties' Settlement Agreement, and (b) without prejudice in relation to those 'Unreleased Products.'"

19. LG admits that all claims and counterclaims between LG and Mondis were dismissed without prejudice as to "Unreleased Products," as defined in the parties' settlement agreement. LG denies the remaining allegations.

20. LG denies that it ever exchanged periodic communications with Mondis or engaged in repeated negotiations regarding its "need" for a license following the settlement in Case No. 2:07-CV-565. LG is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20 of the Complaint and therefore denies those allegations.

21. Based on publicly available information, LG admits that, after it was dismissed from Case No. 2:07-CV-565, the case proceeded against named co-defendants Innolux and Hon Hai and that the jury returned a verdict finding that the accused Innolux and Hon Hai televisions infringed claim 15 of the '342 Patent and claim 14 of the '180 Patent. LG also admits that the jury determined that a reasonable royalty rate for televisions was 0.75%. LG is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 21 of the Complaint and therefore denies those allegations.

Plug-and-Play ("PnP") Functionality

22. LG admits that the Video Electronics Standards Association ("VESA") is an industry standards-setting organization for monitors and displays. LG is without knowledge or

information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 22 of the Complaint and therefore denies those allegations.

23. LG is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 23 of the Complaint and therefore denies those allegations.

24. LG is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 24 of the Complaint and therefore denies those allegations.

25. LG is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 25 of the Complaint and therefore denies those allegations.

26. LG is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 26 of the Complaint and therefore denies those allegations.

27. LG specifically denies any express or implied allegations that it has infringed, or is now infringing, directly or indirectly, any patent, or any claim of the '088, '970, '342, '180, and '588 Patents, or has ever harmed Mondis. LG is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 27 of the Complaint and therefore denies those allegations.

28. LG admits that Mondis alleges that "LG TV's that provide Plug-and-Play or EDID functionality comprise the accused televisions." LG admits that Mondis alleges that "[n]on-limiting examples of such televisions include: 26LG30, 22LF10, 32LH20, 37LH20, 50PJ350, and 47LM6200." LG is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 28 of the Complaint and therefore denies those allegations. LG specifically denies any express or implied allegations that it has infringed, or is now infringing, directly or indirectly, any patent, or any claim of the '088, '970, '342, '180, and '588 Patents, or has ever harmed Mondis.

Smart TV Functionality

29. LG admits that on or about June 2009, LG U.S.A. began importing and selling, in the United States, televisions that are capable of receiving and displaying streaming video signals that are provided via an internet connection, by such services as Netflix, CinemaNow, HuluPlu, Amazon, YouTube, and VuDu. The video streaming functionality has been or is marketed under “NetCast” and “Smart TV.” LG is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 29 of the Complaint and therefore denies those allegations.

30. LG is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 30 of the Complaint and therefore denies those allegations.

31. LG is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 31 of the Complaint and therefore denies those allegations.

32. LG is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 32 of the Complaint and therefore denies those allegations.

33. LG is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 33 of the Complaint and therefore denies those allegations.

34. LG is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 34 of the Complaint and therefore denies those allegations.

35. LG admits that Mondis alleges that so-called “LG Smart TV’s comprise accused televisions.” LG admits that Mondis alleges that “[n]on-limiting examples of such accused televisions include: 47LH50, 50PS80, 47LM6200 and 55LM6200.” LG is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 34 of the Complaint and therefore denies those allegations. LG specifically denies any express or implied allegations that it has infringed, or is now infringing, directly or indirectly, any patent, or any claim of the ’088, ’970, ’342, ’180, and ’588 Patents, or has ever harmed Mondis. Except as expressly admitted herein, LG denies the allegations of Paragraph 35 of the Complaint.

COUNT I

(LG’s Infringement of the ’088 Patent)

36. Paragraphs 1-35 are incorporated by reference as if fully restated herein.

37. LG denies that it had actual knowledge no later than December 31, 2007 of the ’088 Patent pursuant to 35 U.S.C. §287(a). LG admits that it was aware of Mondis’s allegations that certain LG monitors infringed the ’088 patent on or after January 11, 2008.

38. LG denies the allegations of Paragraph 38.

39. LG denies the allegations of Paragraph 39.

40. LG denies the allegations of Paragraph 40.

41. LG denies the allegations of Paragraph 41.

42. LG denies that it has infringed or is now infringing – directly, indirectly, willfully, or otherwise – any of the Asserted Patents. LG denies that it had actual knowledge no later than December 31, 2007 of the ’088 Patent pursuant to 35 U.S.C. §287(a). LG admits that it engaged in prior litigation with Mondis over the ’088 Patent and that it was aware of Mondis’s allegations that certain LG monitors infringed the ’088 Patent on or after January 11, 2008. LG denies that

the prior litigation provided it knowledge or notice of any allegations against LG's televisions. LG denies that it was objectively reckless or had specific intent to infringe the '088 Patent, or that it has infringed any of the Asserted Patents. LG is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 42 of the Complaint and therefore denies those allegations.

43. LG denies the allegations of Paragraph 43. LG specifically denies any express or implied allegations that it has infringed, or is now infringing, directly or indirectly, any patent, or any claim of the '088 Patent, or has ever harmed Mondis.

COUNT II

(LG's Infringement of the '970 Patent)

44. Paragraphs 1-35 are incorporated by reference as if fully restated herein.

45. LG denies that it had actual knowledge no later than December 31, 2007 of the '970 Patent pursuant to 35 U.S.C. §287(a). LG admits that it was aware of Mondis's allegations that certain LG monitors infringed the '970 Patent on or after January 11, 2008.

46. LG denies the allegations of Paragraph 46.

47. LG denies the allegations of Paragraph 47.

48. LG denies the allegations of Paragraph 48.

49. LG denies the allegations of Paragraph 49.

50. LG denies that it has infringed or is now infringing – directly, indirectly, willfully, or otherwise – any of the Asserted Patents. LG denies that it had actual knowledge no later than December 31, 2007 of the '970 Patent pursuant to 35 U.S.C. §287(a). LG admits that it engaged in prior litigation with Mondis over the '970 Patent and that it was aware of Mondis's allegations that certain LG monitors infringed the '970 Patent on or after January 11, 2008. LG denies that the prior litigation provided it knowledge or notice of any allegations against LG's televisions.

LG denies that it was objectively reckless or had specific intent to infringe the '970 patent, or that it has infringed any of the Asserted Patents. LG is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 50 of the Complaint and therefore denies those allegations.

51. LG denies the allegations of Paragraph 51. LG specifically denies any express or implied allegations that it has infringed, or is now infringing, directly or indirectly, any patent, or any claim of the '970 Patent, or has ever harmed Mondis.

COUNT III

(LG's Infringement of the '342 Patent)

52. Paragraphs 1-35 are incorporated by reference as if fully restated herein.

53. LG denies that it had actual knowledge no later than May 14, 2008 of the '342 Patent pursuant to 35 U.S.C. §287(a). LG admits that it was aware of Mondis's allegations that certain LG monitors infringed the '342 patent on or after May 14, 2008.

54. LG denies the allegations of Paragraph 54.

55. LG denies the allegations of Paragraph 55.

56. LG denies the allegations of Paragraph 56.

57. LG denies that it has infringed or is now infringing – directly, indirectly, willfully, or otherwise – any of the Asserted Patents. LG denies that it had actual knowledge no later than May 14, 2008 of the '342 Patent pursuant to 35 U.S.C. §287(a). LG admits that it engaged in prior litigation with Mondis over the '342 Patent and that it was aware of Mondis's allegations that certain LG monitors infringe the '342 Patent. LG denies that the prior litigation provided it knowledge or notice of any allegations against LG's televisions. LG denies that it was objectively reckless or had specific intent to infringe the '342 Patent. LG is without knowledge

or information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 57 of the Complaint and therefore denies those allegations.

58. LG denies the allegations of Paragraph 58. LG specifically denies any express or implied allegations that it has infringed, or is now infringing, directly or indirectly, any patent, or any claim of the '342 Patent, or has ever harmed Mondis.

COUNT IV

(LG's Infringement of the '180 Patent)

59. Paragraphs 1-35 are incorporated by reference as if fully restated herein.

60. LG denies that it had actual knowledge no later than March 9, 2009 of the '180 patent pursuant to 35 U.S.C. §287(a). LG admits that it was aware of Mondis's allegations that certain LG monitors infringe the '180 Patent on or after March 9, 2009.

61. LG denies the allegations of Paragraph 61.

62. LG denies the allegations of Paragraph 62.

63. LG denies the allegations of Paragraph 63.

64. LG denies the allegations of Paragraph 64.

65. LG denies that it has infringed or is now infringing – directly, indirectly, willfully, or otherwise – any of the Asserted Patents. LG denies that it had actual knowledge no later than March 9, 2009 of the '180 Patent pursuant to 35 U.S.C. §287(a). LG admits that it engaged in prior litigation with Mondis over the '180 Patent and that it was aware of Mondis's allegations that certain LG monitors infringe the '180 Patent on or after March 9, 2009. LG denies that the prior litigation provided it knowledge or notice of any allegations against LG's televisions. LG denies that it was objectively reckless or had specific intent to infringe the '180 Patent. LG is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 65 of the Complaint and therefore denies those allegations.

66. LG denies the allegations of Paragraph 66. LG specifically denies any express or implied allegations that it has infringed, or is now infringing, directly or indirectly, any patent, or any claim of the '180 Patent, or has ever harmed Mondis.

COUNT V

(LG's Infringement of the '588 Patent)

67. Paragraphs 1-35 are incorporated by reference as if fully restated herein.

68. LG denies that it had actual knowledge no later than December 31, 2007 of the '588 Patent pursuant to 35 U.S.C. §287(a). LG admits that it was aware of Mondis's allegations that certain LG monitors infringed the '588 Patent on or after January 11, 2008.

69. LG denies the allegations of Paragraph 69.

70. LG denies the allegations of Paragraph 70.

71. LG denies the allegations of Paragraph 71.

72. LG denies the allegations of Paragraph 72.

73. LG denies that it had actual knowledge no later than December 31, 2007 of the '588 patent pursuant to 35 U.S.C. §287(a). LG admits that it engaged in prior litigation with Mondis over the '588 Patent and was aware of Mondis's allegations that certain LG monitors infringed the '588 Patent on or after January 11, 2008. LG denies that the prior litigation provided it knowledge or notice of any allegations against LG's televisions. LG denies that it was objectively reckless or had specific intent to infringe the '588 Patent. LG is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 73 of the Complaint and therefore denies those allegations.

74. LG denies the allegations of Paragraph 74. LG specifically denies any express or implied allegations that it has infringed, or is now infringing, directly or indirectly, any patent, or any claim of the '588 Patent, or has ever harmed Mondis

DEMAND FOR JURY TRIAL

75. LG admits that Mondis “demands a trial by jury on all claims and issues so triable.”

PRAYER FOR RELIEF

LG denies that Mondis is entitled to any relief, and specifically denies each allegation and request for relief in Paragraphs a) through f) of Mondis’s Prayer for Relief.

AFFIRMATIVE DEFENSES

76. Subject to the responses above, LG alleges and asserts the following defenses in response to the allegations, undertaking the burden of proof only as to those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated herein. In addition to the affirmative defenses described below, subject to the responses above, LG reserves the right to supplement its defenses as the result of any information that it confirms or learns during the course of discovery in this matter.

FIRST DEFENSE

Failure to State a Claim

77. The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Non-Infringement

78. LG has not infringed, contributed to the infringement, or induced the infringement of any valid and enforceable claim of the ’088 Patent either literally or under the doctrine of equivalents, and is not liable as an infringer with respect to any valid and enforceable claim of the ’088 Patent.

79. LG has not infringed, contributed to the infringement, or induced the infringement of any valid and enforceable claim of the ’970 Patent either literally or under the doctrine of

equivalents, and is not liable as an infringer with respect to any valid and enforceable claim of the '970 Patent.

80. LG has not infringed, contributed to the infringement, or induced the infringement of any valid and enforceable claim of the '342 Patent either literally or under the doctrine of equivalents, and is not liable as an infringer with respect to any valid and enforceable claim of the '342 Patent.

81. LG has not infringed, contributed to the infringement, or induced the infringement of any valid and enforceable claim of the '180 Patent either literally or under the doctrine of equivalents, and is not liable as an infringer with respect to any valid and enforceable claim of the '180 Patent.

82. LG has not infringed, contributed to the infringement, or induced the infringement of any valid and enforceable claim of the '588 Patent either literally or under the doctrine of equivalents, and is not liable as an infringer with respect to any valid and enforceable claim of the '588 patent.

THIRD DEFENSE

Patent Invalidity

83. The claims of the '088 Patent are invalid for failure to comply with one or more of the conditions for patentability set forth in the Patent Laws of the United States Code, Title 35, at least in Sections 101, 102, 103, and/or 112.

84. The claims of the '970 Patent are invalid for failure to comply with one or more of the conditions for patentability set forth in the Patent Laws of the United States Code, Title 35, at least in Sections 101, 102, 103, and/or 112.

85. The claims of the '342 Patent are invalid for failure to comply with one or more of the conditions for patentability set forth in the Patent Laws of the United States Code, Title 35, at least in Sections 101, 102, 103, and/or 112.

86. The claims of the '180 Patent are invalid for failure to comply with one or more of the conditions for patentability set forth in the Patent Laws of the United States Code, Title 35, at least in Sections 101, 102, 103, and/or 112.

87. The claims of the '588 Patent are invalid for failure to comply with one or more of the conditions for patentability set forth in the Patent Laws of the United States Code, Title 35, at least in Sections 101, 102, 103, and/or 112.

FOURTH DEFENSE

Inequitable Conduct

88. Pursuant to 37 C.F.R. § 1.56, inventors, patent counsel and others associated with the filing and prosecution of a patent application are under a duty to disclose all information to the U.S. Patent & Trademark Office ("PTO") that is known to them and that a reasonable patent examiner would find material to patentability.

89. For the reasons set forth in greater detail below, on information and belief, U.S. Patent Nos. 5,625,845 ("845 Patent"), 5,887,147 ("147 Patent"), and 6,247,090 ("090 Patent"), to which certain asserted patents claim priority, and the Asserted Patents are unenforceable as a result of inequitable conduct before the PTO.

Prosecuting Attorney Kraus Improperly Failed to Disclose Moriconi 1 and 2 During the Prosecution of the '845, '147, '090, '088, and the '970 Patents

90. Prosecuting attorney Melvin Kraus's failure to comply with his absolute duty of candor and good faith before the PTO by his knowing and deliberate failure to disclose prior art to the PTO during the prosecution of the '845, '147, '090, '088, and the '970 Patents was so

material that but for such non-disclosure the '845, '147, '088, and '970 Patents would not have issued. Furthermore, Kraus's failure to disclose prior art to the PTO was done with the intent to deceive the PTO into allowing the '845, '147, '088, and '970 Patents, such that each of these acts of inequitable conduct independently renders each of the '845, '147, '088, and '970 Patents unenforceable. Moreover, the '147, '088, '090, '970, '180, and '342 Patents were rendered unenforceable through inequitable conduct occurring during the prosecution of patents to which they claimed priority.

91. As set forth below in more detail, U.S. Patent No. 5,262,759 to Moriconi ("Moriconi 1") and U.S. Patent No. 5,546,098 to Moriconi ("Moriconi 2") are prior art to the '845, '147, '088, '090 and '970 Patents, and are highly material to the patentability of the '845, '147, '088, '090, and '970 Patents, such that, but for their non-disclosure, the PTO would not have issued the '845, '147, '088, and '970 Patents, which, on information and belief, were withheld by prosecuting attorney Kraus with an intent to deceive the PTO.

92. Moriconi 1 was filed on July 27, 1992 and issued on November 16, 1993 and accordingly is at least prior art under 35 U.S.C. § 102(e) against the '845, '147, '088, '090, and '970 Patents. Moriconi 2 was filed on July 26, 1993 as a divisional to the application which led to Moriconi 1. Accordingly, Moriconi 2 claims priority to Moriconi 1's July 27, 1992 filing date. Moriconi 2 issued on August 13, 1996 and is at least prior art under 35 U.S.C. § 102(e) against the '845, '147, '088, '090, and '970 Patents.

93. Moriconi 2, as a divisional, shares common disclosure with Moriconi 1, and particularly discloses all of the subject matter that is disclosed in Moriconi 1. The shared disclosure of Moriconi 1 and Moriconi 2 anticipates numerous claims of the '845, '147, '090, '088, and '970 Patents and thus is highly material to the patentability of each of those patents.

94. In Reexamination Control No. 95/000,457, the Examiner held that Moriconi 1 anticipated claims 23, 25, 27, and 28 of the '970 Patent. The Examiner's determination was subsequently upheld by the Patent Trial and Appeals Board. These claims are anticipated by Moriconi 1 for at least the reasons set forward in the July 9, 2014 Decision on Appeal. In Reexamination Control No. 95/000,459 the PTO held that Moriconi 1 anticipated claims 1, 2, 5, 10-24, and 26-33 of the '088 Patent and issued a reexamination certificate cancelling claims 1, 2, 5, 10-24, and 26-33. These claims are anticipated by Moriconi 1 for at least the reasons set forward in the July 10, 2014 Decision on Appeal. The shared disclosure of Moriconi 1 and Moriconi 2 also anticipates and/or renders obvious at least claim 1 of the '845 Patent, claim 1 of the '147 Patent, and claim 3 of the '090 Patent, and claim 1 of the '088 Patent.

95. Accordingly, the PTO would not have issued the '845, '147, '090, '088, and '970 Patents had Moriconi 1 and Moriconi 2 been disclosed to the PTO.

96. Kraus was the prosecuting attorney of record during the prosecution of the '845, '147, '090, '088, and '970 Patents.

97. Kraus was also the prosecuting attorney of record during the prosecution of U.S. Patent No. 5,670,969 (the "'969 Patent"). On information and belief the '969 Patent is assigned to Hitachi, the original assignee of the '845, '147, '088, '090, and '970 Patents.

98. The '969 Patent claims, *inter alia*, a "a display device including a panel type display and display control means storing attribute information of said panel type display which is readable/writable by said CPU through said read/write bus, said display control means controlling the display of said panel type display in accordance with display data received from said CPU through said read/write bus."

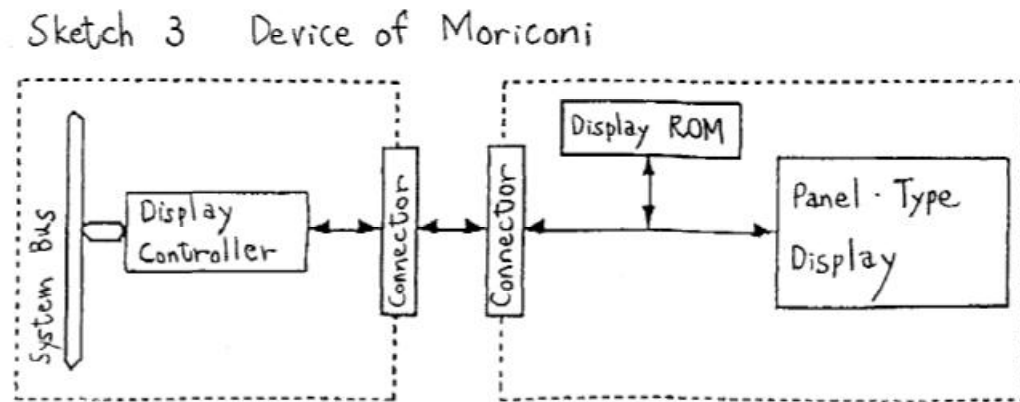
99. Accordingly, Kraus was on notice that prior art cited during the prosecution of the '969 Patent might be relevant to the claims of the '845, '147, '088, '090, and '970 Patents.

100. During the prosecution of the '969 Patent the Examiner based claim rejections over Moriconi 1 in an August 8, 1995 Office Action, a May 13, 1996 Office Action, and an August 15, 1996 Office Action.

101. In a February 9, 1996 response, during the prosecution of the '969 Patent, Kraus discussed what he alleged to be the substantive features of Moriconi 1, noting that Moriconi 1 disclosed a display that includes a memory storing "display type" information and transmits this information to a connected display controller:

Irrespective of the Examiner's contentions concerning this patent, applicants note that Moriconi et al discloses in column 4, line 51, column 5, line 30, that the EEPROM 51 is located in the display device and plural panel type display information are stored, the information according to the connected panel type information is read out via the connector 39 from the EEPROM 51 to the display device 13 and the data is processed according to the information by the display controller so that plural types of panel type displays can be connected. As may be considered from such description, the display controller is located in the main body and the particular interface between the display device and the main body is used such that the types of connectors are restricted and the types of panel type displays connectable are also restricted. Applicants note that the structural arrangement of Moriconi et al differs from the present invention as clearly shown by the attached sketch 3 representative of Moriconi et al.

102. In his February 9, 1996 response, Kraus attached a handwritten sketch of Moriconi 1 setting forth his understanding of Moriconi 1's disclosure. Kraus's sketch illustrated that Moriconi 1 disclosed bidirectional communication between a display controller and a display:



103. Kraus was also the prosecuting attorney of record during the prosecution of U.S. Patent No. 5,977,934 (the “’934 Patent”).

104. The ’934 Patent was originally assigned to Hitachi, the original assignee of the ’845, ’147, ’088, ’090, and ’970 Patents.

105. The ’934 Patent claims, *inter alia*,

means for generating identification signals for specifying the display specifications of said display devices;

instruction execution means for reading one of the display specification setting instructions from said memory means in response to an identification signal to execute the display specification setting instruction, said instruction execution means receiving the identification signal from said identification signal generation means to specify the display specification setting instruction;

and a display controller for outputting the display signal in

accordance with the display specification of the display specification setting instruction

106. Accordingly, Kraus was on notice that prior art cited during the prosecution of the ’934 Patent might be relevant to the claims of the ’845, ’147, ’088, ’090, and ’970 Patents.

107. During the prosecution of the '934 Patent, the Examiner based claim rejections on Moriconi 2 in a May 15, 1997 Office Action, an April 13, 1998 Office Action, a May 26, 1998 Office Action, and a February 16, 1999 Office Action.

108. During the prosecution of the '934 Patent, Kraus described what he alleged to be the disclosure of Moriconi 2 in August 15, 1997 and November 11, 1998 responses to the PTO.

109. Particularly, in his November 11, 1998 response, during the prosecution of the '934 Patent, Kraus filed a detailed two-page summary of Moriconi 2 in which he discussed what he considered to be his understanding of Moriconi 2's disclosure. Kraus argued in his response that the display of Moriconi communicates identification information to a main body, such as a computer.

Consequently, each of the applied references discusses an information processing apparatus in which the identification signal generating means (whether it be oscillator circuit 131 in the Dalton device or EEPROM 51 in Moriconi) is contained in the display device and the generated signal is transmitted to the main body through a connection between the display device and the main body.

110. In this November 11, 1998 response, Kraus also quoted a section of Moriconi 2 that described the disclosed system of Moriconi 2 as having an EEPROM that stored identification codes identifying the display and that the identification codes were provided to a display controller:

In the present embodiment EEPROM 51 is programmed with a unique identity code for the specific type of module. Each type of module offered for the computer has a specific identity code. On initializing, the system BIOS queries the display to ascertain the module type, and loads the correct routines to operate that module. For the situation where a new type or improved display module is introduced, a simple BIOS upgrade allows previously manufactured computers to use the new display module.

111. Though Moriconi 1 and Moriconi 2 were discussed in at least nine communications during the prosecutions of the '969 and '934 Patents, spanning a three year period, Kraus never disclosed Moriconi 1 or Moriconi 2 to the PTO during the prosecutions of the '845, '147, '088, '090, and '970 Patents.

112. Accordingly, based on information and belief, Kraus was aware of Moriconi 1 and Moriconi 2 during prosecution of the '845, '147, '088, '090, and '970 Patents and understood that Moriconi 1 and Moriconi 2 were highly material to the claims of the '845, '147, '088, '090, and '970 Patents.

113. Based on information and belief and the facts above, the PTO would not have issued the '845, '147, '090, '088, and '970 Patents, but for Kraus's failure to disclose Moriconi 1 and Moriconi 2 to the PTO.

114. Additionally, notwithstanding the fact that Kraus's written remarks during the prosecutions of '969 and '934 Patents demonstrated that he understood that Moriconi 1 and Moriconi 2 disclosed (A) a memory in a display storing display information; (B) that the display information is provided to a connected display controller; and (C) bi-directional communication between the display controller and display, Kraus continued to make arguments distinguishing certain claims on these bases.

115. By way of a non-limiting example, in a May 6, 1996 amendment in the prosecution of the '845 Patent Kraus notified the Examiner that certain pending claims had previously been allowed in the abandoned parent application, Application No. 08/190,848. On information and belief, this statement was made to cause the Examiner to rely on the previous allowance of those claims and allow them in the '845 Patent. However, the Examiner's October 11, 1995 statement allowing the claims in Application No. 08/190,848 relied upon the purported

patentability of features that as of May 6, 1996, Kraus had previously identified in Moriconi 1 and 2:

Independent claims 13, 22, 26, and 27 each describe a combination of a computer and display unit that bidirectionally communicate with each other, and that store identification information about each other so that this communication will be proper for the combination. No prior art could be found, either individually or in combination, that described this.

116. By way of another non-limiting example, Kraus attempted to distinguish the cited prior art in a June 16, 2000 response during the prosecution of the '090 Patent by arguing that the prior art did not include bi-directional communication:

As discussed at the-interview, claims 54-62 generally corresponding to claims 41-49 of the proposed amendment submitted to the Examiner prior to the interview, recite the features of bi-directional communication and a process and it is not apparent that such features as claimed are disclosed in the cited art.

117. On information and belief, and based on Kraus's extensive contact with Moriconi 1 and 2 and his attempts to distinguish pending claims based upon features that he knew were disclosed in Moriconi 1 and 2, Kraus failed to disclose Moriconi 1 and Moriconi 2 with the specific intent to deceive the PTO.

118. Each of Kraus's acts of inequitable conduct renders all subsequent continuation or divisional applications within the patent family unenforceable under the doctrine of infectious unenforceability. *See, e.g., Consolidated Aluminum Corp. v. Foseco Int'l Ltd.*, 910 F.2d 804 (Fed. Cir. 1990).

119. Kraus's inequitable conduct during prosecution of the '845 Patent renders the '845, '147, '090, '088, '970, '180, and '342 Patents unenforceable.

120. Kraus's inequitable conduct during prosecution of the '147 Patent renders the '147, '090, '088, '970, '180, and '342 Patents unenforceable.

121. Kraus's inequitable conduct during prosecution of the '090 Patent renders the '090, '088, '970, '180, and '342 Patents unenforceable.

122. Kraus's inequitable conduct during prosecution of the '088 Patent renders the '088, '970, '180, and '342 Patents unenforceable.

123. Kraus's inequitable conduct during prosecution of the '970 Patent renders the '180 and '342 Patents unenforceable.

Prosecuting Attorney Kraus Misrepresented The Disclosure Of Moriconi 1 During The Prosecution Of The '180 Patent

124. In Reexamination Control No. 95/000,480, the reexamination of the '180 patent, the Examiner held in both an Office Action and in a subsequent Action Closing Prosecution that claims 1-13 of the '180 Patent were anticipated by Moriconi 1. These claims are anticipated by Moriconi 1 for at least the reasons set forth in the November 10, 2014 Examiner's Answer.

125. On information and belief, Kraus intentionally misrepresented the disclosure of Moriconi 1 during the prosecution of the '180 Patent. In an August 12, 2004 interview summary, Kraus alleged that the system disclosed in Moriconi 1 was not capable of bidirectional communication and did not send the identification information stored in memory to the video source or controller:

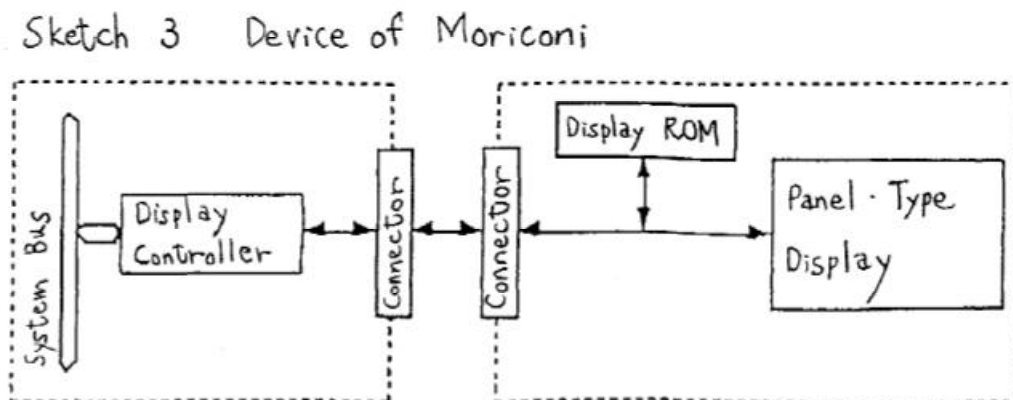
Thus, it is apparent that Moriconi et al does not disclose a display unit as claimed, and although the display module 13 in the form of the flat panel display 43 as illustrated in Fig. 4 has EEPROM memory device 51 for storing a code, it is not seen that the panel includes a communication controller which sends the identification number stored in the memory to the video source and that the communication controller is capable of bi-directionally communicating with a video source as recited in the claims of this application.

126. This characterization was false and the allegedly missing features are disclosed by Moriconi 1.

127. Additionally, Kraus's August 12, 2004 characterization directly contradicts his February 9, 1996 description of Moriconi 1 during the prosecution of the '969 Patent in which he characterized Moriconi as sending identification information from a display to a video source.

Irrespective of the Examiner's contentions concerning this patent, applicants note that Moriconi et al discloses in column 4, line 51, column 5, line 30, that the EEPROM 51 is located in the display device and plural panel type display information are stored, the information according to the connected panel type information is read out via the connector 39 from the EEPROM 51 to the display device 13 and the data is processed according to the information by the display controller so that plural types of panel type displays can be connected. As may be considered from such description, the display controller is located in the main body and the particular interface between the display device and the main body is used such that the types of connectors are restricted and the types of panel type displays connectable are also restricted. Applicants note that the structural arrangement of Moriconi et al differs from the present invention as clearly shown by the attached sketch 3 representative of Moriconi et al.

128. Kraus's August 12, 2004 characterization also directly contradicts his February 9, 1996 description of Moriconi 1 during the prosecution of the '969 Patent, in which he submitted a handwritten drawing that illustrates Moriconi 1 as being capable of bi-directional communication between the display and video source.



129. Kraus's August 12, 2004 characterization of Moriconi 1 also directly contradicts his November 11, 1998 characterization of Moriconi 2, which has a shared disclosure with Moriconi 1, during the prosecution of the '934 Patent. Kraus, in describing Moriconi 2, argued that Moriconi 2 disclosed transmitting identification information from a display to an external computer, referred to as a main body.

Consequently, each of the applied references discusses an information processing apparatus in which the identification signal generating means (whether it be oscillator circuit 131 in the Dalton device or EEPROM 51 in Moriconi) is contained in the display device and the generated signal is transmitted to the main body through a connection between the display device and the main body.

130. Accordingly, based on information and belief and the facts above, Kraus knew that his August 12, 2004 characterization of Moriconi 1 was false based on his previous statements regarding the disclosures of Moriconi 1 and Moriconi 2.

131. During reexamination of the '180 Patent, in Reexamination Control No. 95/000,480 the Examiner held in both an Office Action and in a subsequent Action Closing Prosecution that claims 1-13 of the '180 Patent were anticipated by Moriconi 1. These claims are anticipated by Moriconi 1 for at least the reasons set forward in the November 10, 2014 Examiner's Answer. Upon information and belief, if not for Kraus's knowingly false statements, the '180 Patent would not have issued. Upon information and belief and the facts above, Kraus's knowingly false statements were made with an intent to deceive.

132. Kraus's acts of inequitable conduct renders all subsequent continuation or divisional applications within the patent family unenforceable under the doctrine of infectious unenforceability. *See, e.g., Consolidated Aluminum Corp. v. Foseco Int'l Ltd.*, 910 F.2d 804 (Fed. Cir. 1990).

133. Kraus's inequitable conduct during prosecution of the '180 Patent renders the '180 and '342 Patents unenforceable.

Named Inventors Arai and Kitou Failed to Disclose VESA Prior Art References With An Intent To Deceive The PTO

134. In the period of time leading up to February 10, 1993 (the earliest priority date claimed in the Asserted Patents), VESA was the only standards-setting organization that focused directly on the subject matter described and claimed in these patents. Specifically, it was the only standards-setting organization that was focused on different techniques for allowing communication between a display device and an external video source, such as a computer. Prior to the priority dates for the Asserted Patents, VESA provided an industry forum to develop, promote and support open standards for the display industry. This forum included a Monitor Committee that discussed, debated, agreed on, and adopted standards for computer monitors.

135. Prior to the filing of the asserted patents, and during these patents' prosecutions, Hitachi and/or its U.S. subsidiaries or affiliates including, but not limited to, Hitachi America Ltd. and Hitachi Yokohama USA, were members of VESA's Monitor Committee. On information and belief, Hitachi representatives received materials disseminated by VESA and its Monitor Committee members relating to standards for display designs prior to the filing of the Asserted Patents.

136. Such materials are material to the patentability of one or more of the Asserted Patents to the extent that they define a communications protocol that allows for the exchange of configuration information between a display and a video controller in a computer body. By way of a non-limiting example, VDDP Proposal Draft 5.05, was disseminated to VESA members on July 24, 1992. VDDP Proposal Draft 5.05, either alone or in combination of the prior art of record, anticipates or renders obvious at least claim 1 of the '845 Patent, claim 1 of the '147

Patent, claim 3 of the '090 Patent, claim 23 of the '970 Patent, claim 1 of the '088 Patent, and claim 1 of the '588 Patent under the broadest reasonable interpretation of those claims.

137. Upon information and belief, the named inventors of the asserted patents, Ikuya Arai and Kouji Kitou, as engineers working in the same field at Hitachi, were aware of VESA Materials including the VDDP Proposal Draft 5.05 and its materiality to the Asserted Patents.

138. Upon information and belief, the '845, '147, '090, '970, '088, and '588 Patents would not have issued, but for the non-disclosure of VESA Materials including the VDDP Proposal Draft 5.05.

139. Notwithstanding their knowledge of the materiality of the information disclosed in the VESA materials, Arai and Kitou did not disclose VESA Materials including the VDDP Proposal Draft 5.05 to the PTO during prosecution of the '845, '147, '090, '970, '088, and '588 Patents, and this failure to disclose was done with an intent to deceive.

140. Arai and Kitou's acts of inequitable conduct render all subsequent continuation or divisional applications within the patent family unenforceable under the doctrine of infectious unenforceability. *See, e.g., Consolidated Aluminum Corp. v. Foseco Int'l Ltd.*, 910 F.2d 804 (Fed. Cir. 1990).

141. Arai and Kitou's inequitable conduct, during prosecution of the '845 Patent, renders the '845, '147, '088, '090, '970, '180, and '342 Patents unenforceable.

142. Arai and Kitou's inequitable conduct, during prosecution of the '147 Patent, renders the '174, '088, '090, '970, '180, and '342 Patents unenforceable.

143. Arai and Kitou's inequitable conduct, during prosecution of the '090 Patent, renders the '090, '088, '970, '180, and '342 Patents unenforceable.

144. Arai and Kitou's inequitable conduct, during prosecution of the '088 Patent, renders the '088, '970, '180, and '342 Patents unenforceable.

145. Arai and Kitou's inequitable conduct, during prosecution of the '970 Patent, renders the '970 Patent unenforceable.

146. Arai and Kitou's inequitable conduct, during prosecution of the '588 Patent, renders the '588 Patent unenforceable.

FIFTH DEFENSE

147. On information and belief, Plaintiff is barred in whole or in part from asserting at least the '088, '970, '342, '180, and '588 Patents against LG under the doctrine of laches, equitable estoppel, or both.

SIXTH DEFENSE

148. Plaintiff's claims for damages, if any, against LG are statutorily limited by 35 U.S.C. § 286 and § 287.

SEVENTH DEFENSE

149. Plaintiff's claims against LG are barred under LG's express or implied license to any valid claim of the '088, '970, '342, '180, and '588 Patents, and/or under the doctrines of patent exhaustion and first sale, to the extent that Plaintiff seeks royalties or damages for any activity that is, or will be, licensed to persons or companies that supply accused services, devices or their infrastructure to LG.

EIGHTH DEFENSE

150. Plaintiff is estopped by virtue of prior art and/or due to conduct and representations during the prosecution of the '088, '970, '342, '180, and '588 Patents from asserting infringement against LG.

NINTH DEFENSE

151. To the extent that Mondis, its alleged predecessors in interest to the Asserted Patents, and/or their respective licensees, failed to properly mark any of the relevant products as required by 35 U.S.C. § 287 or otherwise give proper notice that LG's actions allegedly infringed the Asserted Patents, LG is not liable to Mondis for the acts alleged to have been performed before it received actual notice that it was allegedly infringing the Asserted Patents.

TENTH DEFENSE

152. Plaintiff is estopped from asserting a construction of any claim of the '088, '970, '342, '180, and '588 patents in any manner inconsistent with prior positions taken before the United States Patent and Trademark Office or any court.

ELEVENTH DEFENSE

153. Plaintiff is estopped by reasons of prosecution history estoppel from asserting infringement of the '088, '970, '342, '180, and '588 Patents by application of the doctrine of equivalents.

TWELFTH DEFENSE

154. The '088, '970, '342, '180, and '588 Patents are unenforceable because Plaintiff has unclean hands and/or has misused the Asserted Patents by attempting to enforce them despite knowing that they are invalid, unenforceable, and/or not infringed by methods or systems manufactured, used, imported, sold or offered for sale by LG.

THIRTEENTH DEFENSE

155. Upon information and belief, Mondis lacks standing to bring this action.

COUNTERCLAIMS

156. Without admitting any of the allegations of the Complaint other than those admitted herein and without prejudice to LG's right to plead additional counterclaims as the facts

of the matter warrant, Counterclaimants LG Electronics, Inc. and LG Electronics U.S.A., Inc. (“LG”) assert the following counterclaims for Declaratory Relief against Mondis Technology Ltd. (“Mondis”) and allege as follows:

NATURE OF THE ACTION

157. This is a civil action for declaratory judgment of non-infringement, patent invalidity, and unenforceability of one or more claims of the '088, '970, '342, '180, and '588 Patents under 35 U.S.C. §§ 1, *et. seq.* and 28 U.S.C. §§ 2201 and 2202.

THE PARTIES

158. Plaintiff LG Electronics, Inc. is a corporation organized under the laws of Korea with its principal place of business at LG Twin Tower 128, Yeoui-daero, Yeongdeungpo-gu, Seoul, Korea.

159. Plaintiff LG Electronics U.S.A., Inc. is a company organized under the laws of the state of Delaware with its principal place of business at 1000 Sylvan Avenue, Englewood Cliffs, New Jersey.

160. On information and belief, Mondis is a corporation organized under the laws of England with its principal place of business at Suite 3C, Lyttelton House, 2 Lyttelton Road, London N2 0EF, England.

JURISDICTION AND VENUE

161. LG's counterclaims arise under Title 35 of the United States Code. The Court has original jurisdiction over the subject matter of these counterclaims pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

162. Personal jurisdiction in this judicial District is proper at least because Mondis availed itself of this Court to litigate its patent infringement claims against LG.

163. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(a). Although venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(a), venue is not convenient under 28 U.S.C. § 1404. Accordingly, LG reserves its right to move for a change of venue under 28 U.S.C. § 1404.

164. As demonstrated by the Complaint filed by Mondis in this action, an actual justiciable controversy exists between LG and Mondis concerning the non-infringement, invalidity, and unenforceability of U.S. Patent Nos. 6,513,088 (“the ’088 Patent”), 6,549,970 (“the ’970 Patent”), 7,089,342 (“the ’342 patent”), 7,475,180 (“the ’180 Patent”), and 6,639,588 (“the ’588 Patent”) (collectively the “Asserted Patents”). Mondis, by its Complaint, has asserted that LG has infringed and is infringing the Asserted Patents. LG asserts that it has not infringed and is not infringing the Asserted Patents and that the Asserted Patents are invalid and/or unenforceable. Absent a declaration of non-infringement, invalidity, and/or unenforceability, Counterclaim Defendant Mondis will continue to wrongfully assert the Asserted Patents against Counterclaim Plaintiff LG, and thereby cause it irreparable injury and damage.

COUNTERCLAIM I

(Declaration of Noninfringement of U.S. Patent No. 6,513,088)

165. LG realleges and incorporates by reference each and every allegation contained in Paragraphs 156-164 of its Counterclaims as though fully set forth herein.

166. LG has not infringed and is not infringing any valid claim of the ’088 Patent directly, contributorily, by way of inducement, literally or under the doctrine of equivalents.

167. LG is entitled to judgment that the claims of the ’088 Patent are not infringed by LG.

COUNTERCLAIM II

(Declaration of Invalidity of U.S. Patent No. 6,513,088)

168. LG realleges and incorporates by reference each and every allegation contained in Paragraphs 156-164 of its Counterclaims as though fully set forth herein.

169. On information and belief, the claims of the '088 Patent that are allegedly infringed by LG are invalid for failure to comply with one or more of the conditions for patentability specified under Title 35 of the United States Code, including without limitation, Sections 101, 102, 103, and/or 112.

170. LG is entitled to judgment that the claims of the '088 Patent are invalid.

COUNTERCLAIM III

(Declaration of Noninfringement of U.S. Patent No. 6,549,970)

171. LG realleges and incorporates by reference each and every allegation contained in Paragraphs 156-164 of its Counterclaims as though fully set forth herein.

172. LG has not infringed and is not infringing any valid claim of the '970 Patent directly, contributorily, by way of inducement, literally or under the doctrine of equivalents.

173. LG is entitled to judgment that the claims of the '970 Patent are not infringed by LG.

COUNTERCLAIM IV

(Declaration of Invalidity of U.S. Patent No. 6,549,970)

174. LG realleges and incorporates by reference each and every allegation contained in Paragraphs 156-164 of its Counterclaims as though fully set forth herein.

175. On information and belief, the claims of the '970 Patent that are allegedly infringed by LG are invalid for failure to comply with one or more of the conditions for

patentability specified under Title 35 of the United States Code, including without limitation, Sections 101, 102, 103, and/or 112.

176. LG is entitled to judgment that the claims of the '970 Patent are invalid.

COUNTERCLAIM V

(Declaration of Noninfringement of U.S. Patent No. 7,089,342)

177. LG realleges and incorporates by reference each and every allegation contained in Paragraphs 156-164 of its Counterclaims as though fully set forth herein.

178. LG has not infringed and is not infringing any valid claim of the '342 Patent directly, contributorily, by way of inducement, literally or under the doctrine of equivalents.

179. LG is entitled to judgment that the claims of the '342 Patent are not infringed by LG.

COUNTERCLAIM VI

(Declaration of Invalidity of U.S. Patent No. 7,089,342)

180. LG realleges and incorporates by reference each and every allegation contained in Paragraphs 156-164 of its Counterclaims as though fully set forth herein.

181. On information and belief, the claims of the '342 Patent that are allegedly infringed by LG are invalid for failure to comply with one or more of the conditions for patentability specified under Title 35 of the United States Code, including without limitation, Sections 101, 102, 103, and/or 112.

182. LG is entitled to judgment that the claims of the '342 Patent are invalid.

COUNTERCLAIM VII

(Declaration of Noninfringement of U.S. Patent No. 7,475,180)

183. LG realleges and incorporates by reference each and every allegation contained in Paragraphs 156-164 of its Counterclaims as though fully set forth herein.

184. LG has not infringed and is not infringing any valid claim of the '180 Patent directly, contributorily, by way of inducement, literally or under the doctrine of equivalents.

185. LG is entitled to judgment that the claims of the '180 Patent are not infringed by LG.

COUNTERCLAIM VIII

(Declaration of Invalidity of U.S. Patent No. 7,475,180)

186. LG realleges and incorporates by reference each and every allegation contained in Paragraphs 156-164 of its Counterclaims as though fully set forth herein.

187. On information and belief, the claims of the '180 Patent that are allegedly infringed by LG are invalid for failure to comply with one or more of the conditions for patentability specified under Title 35 of the United States Code, including without limitation, Sections 101, 102, 103, and/or 112.

188. LG is entitled to judgment that the claims of the '180 Patent are invalid.

COUNTERCLAIM IX

(Declaration of Noninfringement of U.S. Patent No. 6,639,588)

189. LG realleges and incorporates by reference each and every allegation contained in Paragraphs 156-164 of its Counterclaims as though fully set forth herein.

190. LG has not infringed and is not infringing any valid claim of the '588 Patent directly, contributorily, by way of inducement, literally or under the doctrine of equivalents.

191. LG is entitled to judgment that the claims of the '588 Patent are not infringed by LG.

COUNTERCLAIM X

(Declaration of Invalidity of U.S. Patent No. 6,639,588)

192. LG realleges and incorporates by reference each and every allegation contained in Paragraphs 156-164 of its Counterclaims as though fully set forth herein.

193. On information and belief, the claims of the '588 Patent that are allegedly infringed by LG are invalid for failure to comply with one or more of the conditions for patentability specified under Title 35 of the United States Code, including without limitation, Sections 101, 102, 103, and/or 112.

194. LG is entitled to judgment that the claims of the '588 Patent are invalid.

COUNTERCLAIM XI

(Declaration of Unenforceability of the Patents-In-Suit Due to Equitable Estoppel)

195. LG realleges and incorporates by reference each and every allegation contained in Paragraphs 156-164 of its Counterclaims as though fully set forth herein.

196. Upon information and belief, the '088, '970, '342, '180, and '588 Patents may be alleged to have been assigned to Mondis, by Hitachi, Ltd. ("Hitachi"), a corporation organized and existing under the laws of Japan.

197. Upon information and belief, Hitachi, through its subsidiaries and agents, has been a member of the Video Electronic Standards Association ("VESA"), a non-profit standards-setting association composed of virtually all major computer hardware and software manufacturers, since 1991.

198. VESA requires its members to disclose the existence of patents and pending patent applications relating to proposed standards. Prior to approval of a proposed standard by VESA, VESA members are required to either certify that they do not hold and do not anticipate to hold any patents required to practice the proposed standard or to disclose the patents and/or

applications required to practice the proposed standard and certify that the patents and/or applications will be licensed without compensation or under reasonable and non-discretionary terms and conditions for the purpose of implementing the standard.

199. From the early 1990s, VESA developed a number of design standards for a “display data channel” (“DDC”) to standardize “plug and play” monitors.

200. Compatibility with standards such as DDC is effectively mandatory to participate in the market for plug-and-play monitors.

201. Upon information and belief, Hitachi, through its subsidiaries and agents, participated in the development of the VESA DDC standards. Hitachi withheld from VESA, during the development of the VESA DDC standards, pending applications that Hitachi knew were potentially relevant to proposed or actual VESA DDC standards. These pending applications later resulted in the '088, '970, '342, '180, and '588 Patents.

202. Had VESA known about the then pending applications that resulted in the '088, '970, '342, '180, and '588 Patents, VESA would have revised the proposed standards and/or negotiated a royalty-free license for the implementation of the proposed standards.

203. As a consequence, Hitachi, by its non-disclosure of the then pending applications that resulted in the '088, '970, '180, '342, and '588 Patents to VESA during the development of the VESA DDC standards, is equitably estopped from asserting infringement of the '088, '970, '342, '180, and '588 Patents by implementation of the VESA DDC standards.

204. Mondis, if proven as an assignee of the '088, '970, '180, '342, and '588 Patents by Hitachi, receives only those rights to which Hitachi is entitled to assign. Mondis is, therefore, also estopped from asserting infringement of the '088, '970, '342, '180, and '588 Patents by implementation of the VESA DDC standards.

205. Mondis, if proven as an assignee of the '088, '970, '342, '180, and '588 Patents by Hitachi, has actual and/or imputed knowledge that Hitachi withheld information of the then pending applications that resulted in the '088, '970, '342, '180, and '588 Patents to VESA during the development of the VESA DDC standards. Mondis is, therefore, additionally estopped from asserting infringement of the '088, '970, '342, '180, and '588 Patents by implementation of the VESA DDC standards.

COUNTERCLAIM XII

(Declaration of Unenforceability of the Patents-In-Suit Due to Implied License)

206. The allegations of Paragraphs 156-164 are incorporated herein.

207. Mondis is estopped from asserting infringement of the '088, '970, '342, '180, and '588 patents by implementation of the VESA DDC standards, because an implied license was created to '088, '970, '342, '180, and '588 Patents by the non-disclosure of the then pending applications that resulted in the '088, '970, '342, '180, and '588 Patents to VESA during the development of the VESA DDC standards.

COUNTERCLAIM XIII

(Declaration of Unenforceability of the Patents-In-Suit Due to Patent Misuse)

208. The allegations of Paragraphs 156-164 are incorporated herein.

209. Mondis is estopped from asserting infringement of the '088, '970, '342, '180, and '588 patents by implementation of the VESA DDC standards, because Mondis impermissibly broadened the scope of the '088, '970, '342, '180, and '588 patents by withholding disclosure of the then pending applications that resulted in the '088, '970, '342, '180, and '588 patents to VESA during the development of the VESA DDC standards.

210. The '088, '970, '342, '180, and '588 Patents are unenforceable, because Plaintiff has unclean hands and/or has misused the Patents-in-Suit by attempting to enforce them despite

knowing that they are invalid, unenforceable, and/or not infringed by methods or systems manufactured, used, imported, sold or offered for sale by LG. Pursuant to 37 C.F.R. § 1.56, inventors, patent counsel and others associated with the filing and prosecution of a patent application are under a duty to disclose all information to the PTO that is known to them and that a reasonable patent examiner would find material to patentability.

COUNTERCLAIM XIV

(Declaration of Unenforceability of the Patents-In-Suit Due to Inequitable Conduct)

211. The allegations of Paragraphs 156-64 are incorporated herein.

212. As set forth in LG's Fourth Affirmative Defense at Paragraphs 88-123, which are incorporated by reference herein, U.S. Patent Nos. 5,652,845 ("845 Patent"), 5,887,147 ("147 Patent"), 6,247,090 ("090 Patent"), to which certain asserted patents claim priority, and the '088, '970, '180, and '342 Patents are unenforceable as a result of inequitable conduct before the Patent and Trademark Office ("PTO"). Prosecuting attorney of record, Melvin Kraus, breached his absolute duty of candor and good faith before the PTO by his knowing and deliberate failure to disclose, to the PTO during the prosecution of the '088, '970, '180, and '342 Patents, prior art that was so material that, but for such non-disclosure, the '088, '970, '180, and '342 Patents would not have issued. This failure to disclose was done with the intent to deceive the PTO into allowing the '088, '970, '180, and '342 Patents such that each of these patents are unenforceable. Additionally, these acts of inequitable conduct render the '180 and '342 Patents unenforceable through the doctrine of infectious inequitable conduct.

213. For the reasons set forth in greater detail in LG's Fourth Affirmative Defense at Paragraphs 124-133, which are incorporated by reference herein, upon information and belief, the '180 Patent is unenforceable as a result of inequitable conduct before the PTO. Kraus breached his absolute duty of candor and good faith before the PTO by knowingly making false

statements to the PTO regarding the disclosure of the prior art that was so material that, but for such false statements, the '180 Patent would not have issued. These false statements were made with the intent to deceive the PTO into allowing the '180 Patent to issue and such inequitable conduct renders the '180 Patent unenforceable. Additionally, these acts of inequitable conduct render the '342 Patent unenforceable through the doctrine of infectious inequitable conduct.

214. For the reasons set forth in greater detail in LG's Fourth Affirmative Defense at Paragraphs 134-146, which are incorporated by reference herein, the asserted patents are unenforceable as a result of inequitable conduct before the PTO. Named inventors Ikuya Arai and Kouji Kitou breached their absolute duty of candor and good faith before the PTO by their knowing and deliberate failure to disclose, to the PTO during the prosecution of the '845, '147, '090, '088, '588, and '970 Patents, prior art that was so material that, but for such non-disclosure, the '845, '147, '090, '088, '588, and '970 Patents would not have issued. This failure to disclose was done with the intent to deceive the PTO into allowing the patents. Accordingly, each of these acts of inequitable conduct renders the '845, '147, '090, '088, '588, and '970 Patents unenforceable. Additionally, these same acts of inequitable conduct render the '180 and '342 Patents unenforceable through the doctrine of infectious inequitable conduct.

PRAYER FOR RELIEF

WHEREFORE, LG denies that Mondis is entitled to any of the relief prayed for in its Complaint, and LG prays that judgment be entered against Mondis as follows:

- a) That the Court enter judgment in favor of LG and against Mondis on all of the claims in Mondis's Complaint;
- b) That Mondis's claims be dismissed in their entirety, with prejudice;
- c) That Mondis takes nothing by way of its claims;

- d) That the Court enter judgment in favor of LG on each of its Counterclaims against Mondis;
- e) That LG be found not to have infringed the '088 Patent;
- f) That the '088 patent be declared to be invalid and unenforceable against LG;
- g) That LG be found not to have infringed the '970 Patent;
- h) That the '970 patent be declared to be invalid and unenforceable against LG;
- i) That LG be found not to have infringed the '342 Patent;
- j) That the '342 patent be declared to be invalid and unenforceable against LG;
- k) That LG be found not to have infringed the '180 Patent;
- l) That the '180 patent be declared to be invalid and unenforceable against LG;
- m) That LG be found not to have infringed the '588 Patent;
- n) That the '588 patent be declared to be invalid and unenforceable against LG;
- o) That this case be declared an exceptional case;
- p) That LG be awarded its costs and attorneys' fees pursuant to 35 U.S.C. § 285; and
- q) That LG be awarded such other and further relief as this Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, LG hereby requests a trial by jury on all claims and issues so triable.

Respectfully submitted,

MAYER BROWN LLP

Dated: January 21, 2015

By: /s/ Jamie B. Beaber

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INC. and LG ELECTRONICS U.S.A., INC.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a) on this 21st day of January, 2015. Any other counsel of record will be served via First Class U.S. Mail on this same date.

/s/ Jamie B. Beaber
Jamie B. Beaber