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15 SEMICONDUCTOR CO., LTD and
16 SEOUL SEMICONDUCTOR, INC.

17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**
19 **SOUTHERN DIVISION**

20
21 DOCUMENT SECURITY SYSTEMS,
INC., a New York corporation,

22 Plaintiff,

23 v.

24 SEOUL SEMICONDUCTOR CO.,
25 LTD., a Korean corporation, and
26 SEOUL SEMICONDUCTOR, INC., a
California corporation,

27 Defendants.

Case No. 8:17-cv-00981-JVS-JCG

**DEFENDANTS' REPLY MEMORANDUM
OF LAW IN SUPPORT OF THEIR MOTION
TO DISMISS PLAINTIFF'S RESTATED
WILLFUL INFRINGEMENT CLAIM**

Judge: Honorable James V. Selna

Date: February 5, 2018

Time: 1:30 pm

Courtroom: 10C

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INTRODUCTION

1
2 DSS barely responds to Seoul's argument that DSS's willful infringement
3 allegations in its Second Amended Complaint ("SAC," Ex. A) are, in substance,
4 unchanged from those in its First Amended Complaint ("FAC," Ex. B) which this
5 Court dismissed, and therefore likewise should be dismissed.¹

6 DSS does not even try to explain how its current allegations are any different
7 until the final pages of its opposition. DSS's primary response is that DSS
8 removed the language conceding that it could not plead sufficient facts to state a
9 willful infringement claim. Docket No. 48 at 10-11. But DSS's removal of its
10 concession does not change the fact that DSS remains unable to plead sufficient
11 facts. The only allegations DSS asserts are new—"that Defendants 'failed to
12 investigate and remedy their infringement' and 'continued to offer infringing
13 products without having modified or altered those products in a manner that would
14 not infringe'" (*id.* at 12 (quoting Ex. A, Docket No. 40 at ¶¶ 22, 33 & 46))—are no
15 different, in substance or detail, than DSS's prior allegation that Defendants "failed
16 to remedy their infringement." Ex. B, FAC, Docket No. 18, at ¶¶ 22, 33, and 46.

17 Unable to distinguish its current allegations from its previously dismissed
18 allegations, DSS bases its opposition on the false premise that Seoul confuses the
19 pleading standard with the standard for proving willfulness. To the contrary,
20 unlike DSS, Seoul applied the basic pleading standard throughout its brief.
21 Compare Seoul's motion, Docket No. 45 (citing Ashcroft v. Iqbal, 556 U.S. 662
22 (2009), and/or Bell Atl. Corp. v. Twombly, 550 U.S. 544 (2007), on pages 1, 2, 4,
23 6, 8, and 10), with DSS's opposition, Docket No. 48 (citing Iqbal and/or Twombly
24 only on page 2). DSS also cannot distinguish the multiple cases cited in Seoul's
25 brief dismissing willfulness allegations analogous to those here, so DSS asserts
26 without explanation that its allegations are better and that the cases involved

27
28 ¹ Exs. A-G accompanied Seoul's motion, Docket No. 45.

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