

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

E-WATCH, INC. and E-WATCH CORPORATION	§	
<i>Plaintiffs,</i>	§	NO. 2:13-CV-01077-JRG-RSP
v.	§	NO. 2:13-CV-01061-JRG-RSP
APPLE, INC., ET AL.	§	(LEAD CASE)
<i>Defendants.</i>	§	JURY TRIAL DEMANDED
	§	

**KYOCERA COMMUNICATIONS, INC. AND KYOCERA INTERNATIONAL, INC.’s
AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS TO
PLAINTIFFS’ COMPLAINT FOR PATENT INFRINGEMENT**

Defendants Kyocera Communications, Inc. (“KCI”) and Kyocera International, Inc. (“KII”) (collectively, “Kyocera”) provide this Amended Answer to the Original Complaint for patent infringement (“Complaint”) filed by Plaintiffs e-Watch, Inc. and e-Watch Corporation (collectively, “e-Watch”).

I. NATURE OF THE ACTION

1. Kyocera admits that e-Watch’s pleading purports to bring a patent infringement action against Kyocera. Kyocera denies the remainder of the allegations in Paragraph 1 of the Complaint, and KII specifically denies that it made, used, sold, offered for sale, or imported any products into the United States and hence denies that it is a proper party to this case.

2. Kyocera admits that, on its face, U.S. Patent No. 7,365,871 (“’871 Patent”) is entitled “Apparatus for Capturing, Converting and Transmitting a Visual Image Signal Via a Digital Transmission System” and issued on April 29, 2008. Kyocera also admits that, on its face, U.S. Patent No. 7,643,168 (“’168 Patent”) is entitled “Apparatus for Capturing, Converting

and Transmitting a Visual Image Signal Via a Digital Transmission System” and issued on January 5, 2010. Kyocera denies that the ’871 Patent and the ’168 Patent (collectively, “Asserted Patents”) were validly issued by the U.S. Patent and Trademark Office.

3. Kyocera lacks the knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 3 of the Complaint and therefore denies them.

4. KCI denies any infringement of the ’871 Patent and the ’168 Patent and thus denies the allegations of Paragraph 4 of the Complaint. KII denies making, using, selling, importing and/or distributing any products into the United States and, thus, is incapable of infringing the Asserted Patents.

5. Kyocera admits that e-Watch purports to seek damages but denies that e-Watch is entitled to any damages. Kyocera denies any infringement of the Asserted Patents and thus also denies that e-Watch is entitled to prejudgment interest as is requested in Paragraph 5 of the Complaint.

II. THE PARTIES

6. Kyocera lacks the knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 6 of the Complaint and therefore denies them.

7. Kyocera lacks the knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 7 of the Complaint and therefore denies them.

8. Kyocera admits that KCI is a corporation organized under the laws of Delaware and that it may be served by serving its registered agent CSC-Lawyers Incorporating Service Company. KCI’s principal place of business is located at 9520 Towne Centre Drive, San Diego, California 92121. Kyocera thus denies the remaining allegations of Paragraph 8 of the Complaint.

9. Kyocera admits that KII is a corporation organized under the laws of California with its principal place of business located at 8611 Balboa Avenue, San Diego, California 92123 and that it may be served by serving its registered agent CSC-Lawyers Incorporating Service Company. Kyocera denies any remaining allegations of Paragraph 9 of the Complaint.

III. JURISDICTION AND VENUE

10. Kyocera admits that the Complaint purports to assert claims for patent infringement arising under the patent laws of the United States, including 35 U.S.C. §§ 271 and 281. Kyocera admits that this Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a). Except as specifically admitted, Kyocera denies the allegations in paragraph 10 of the Complaint.

11. KCI does not dispute that this Court has personal jurisdiction over it in this particular action. KCI admits that its products have been sold in the United States, the State of Texas, and the Eastern District of Texas. KII denies that it made, used, sold, offered for sale, or imported any products into the United States and hence denies that it is a proper party to this case. Kyocera thus denies the remaining allegations in paragraph 11 of the Complaint.

IV. PATENTS-IN-SUIT

12. The allegations of Paragraph 12 of the Complaint present a legal conclusion to which no response is required, but if such a response were required, Kyocera would deny the same.

13. Kyocera lacks the knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 13 of the Complaint and therefore denies them.

14. Kyocera lacks the knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 14 of the Complaint and therefore denies them.

V. DEFENDANTS' ACTS

15. Kyocera denies that it has infringed and is infringing the Asserted Patents and thus denies the allegations of Paragraph 15 of the Complaint.

16. Kyocera denies that it has infringed and is infringing the Asserted Patents and thus denies the allegations of Paragraph 16 of the Complaint.

17. Kyocera denies that it has infringed and is infringing the Asserted Patents and thus denies the allegations of Paragraph 17 of the Complaint.

COUNT ONE

PATENT INFRINGEMENT—U.S. PATENT NO. 7,365,871

18. Kyocera realleges and incorporates by reference its denials and admissions set forth in paragraphs 1-17 above.

19. Kyocera denies the allegations of Paragraph 19 of the Complaint.

20. Kyocera denies the allegations of Paragraph 20 of the Complaint.

COUNT TWO

PATENT INFRINGEMENT—U.S. PATENT NO. 7,643,168

21. Kyocera realleges and incorporates by reference its denials and admissions set forth in paragraphs 1-17 above.

22. Kyocera denies that it has infringed and is infringing the '168 Patent and thus denies the allegations of Paragraph 22 of the Complaint.

23. Kyocera denies that it has infringed and is infringing the '168 Patent and thus denies the allegations of Paragraph 23 of the Complaint.

VI. JURY DEMAND

24. Paragraph 24 sets forth e-Watch's request for a jury trial to which no response is required.

RESPONSE TO PLAINTIFFS' REQUEST FOR RELIEF

Kyocera requests that the Court deny all relief requested by e-Watch and dismiss the Complaint as to Kyocera with prejudice.

AFFIRMATIVE DEFENSES

Kyocera asserts the following defenses in response to the allegations in the Complaint, undertaking the burden of proof only as to those defenses deemed affirmative defenses by law. Kyocera reserves the right to further amend this Amended Answer and the defenses listed below as may be warranted by information developed through subsequent discovery.

FIRST DEFENSE (Non-Infringement of the Asserted Patents)

1. Kyocera has not infringed, and is not infringing any valid claim of the Asserted Patents, either literally or under the doctrine of equivalents.

SECOND DEFENSE (Invalidity of the Asserted Patents)

2. The claims of the Asserted Patents are invalid for failure to comply with the requirements of Title 35 of the United States Code, including but not limited to 35 U.S.C. §§ 101, 102, 103 and/or 112.

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