

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

<p>ANDREA ELECTRONICS CORPORATION,  Plaintiff,  v.  ACER INC.; and ACER AMERICA CORPORATION,  Defendants.</p>	<p>CASE NO. 2:14-cv-04488-KAM-GRB  LEAD CASE</p>
<p>ANDREA ELECTRONICS CORPORATION,  Plaintiff,  v.  TOSHIBA CORPORATION, and TOSHIBA AMERICA INFORMATION SYSTEMS, INC.,</p>	<p>CASE NO. 2:14-cv-04492-KAM-GRB  JURY TRIAL DEMANDED</p>

**TOSHIBA CORPORATION'S ANSWER AND AFFIRMATIVE DEFENSES TO  
PLAINTIFF'S FIRST AMENDED COMPLAINT**

Defendant Toshiba Corporation ("Toshiba") hereby answers the First Amended Complaint ("Complaint") filed on November 10, 2014, by Andrea Electronics Corporation ("Andrea" or "Plaintiff"). Toshiba denies all allegations not expressly admitted below and specifically denies that it has committed any acts of patent infringement with respect to U.S. Patent Nos. 5,825,898 ("the '898 Patent"), 6,049,607 ("the '607 Patent"), 6,363,345 ("the '345 Patent"), and 6,483,923 ("the '923 Patent") (collectively "the patents-in-suit") in this district or any other district. Toshiba further denies that Andrea is entitled to the requested relief or any other relief.

### **NATURE OF ACTION<sup>1</sup>**

1. Toshiba admits that the Complaint purports to state a claim arising under 35 U.S.C. §§ 271, *et seq.*, but Toshiba specifically denies that it has committed any acts of patent infringement with respect to the patents-in-suit in this district or any other district. Toshiba further acknowledges that the Complaint purports to seek remedies for alleged infringement of the patents-in-suit, but Toshiba denies that Andrea is entitled to the requested relief or any other relief. Toshiba denies the remaining allegations contained in paragraph 1 of the Complaint.

2. Toshiba admits that the Complaint purports to state a claim for direct infringement, but Toshiba denies that it has committed any acts of direct patent infringement with respect to the patents-in-suit in this district or any other district. Toshiba denies the remaining allegations contained in paragraph 2 of the Complaint.

3. Toshiba admits that the Complaint purports to state a claim for indirect infringement, but Toshiba denies that it has committed any acts of indirect patent infringement with respect to the patents-in-suit in this district or any other district. Toshiba denies the remaining allegations contained in paragraph 3 of the Complaint.

### **THE PARTIES**

4. Toshiba lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint, and therefore denies those allegations.

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<sup>1</sup> Toshiba repeats the headings set forth in the Complaint for ease of reference, but makes no admissions regarding the substance of the headings or any other allegations in the Complaint. To the contrary, to the extent that a particular heading can be construed as an allegation, or otherwise contains factual and/or legal characterizations, Toshiba specifically denies all such allegations and/or characterizations.

5. Toshiba admits that it is a corporation organized and existing under the laws of Japan, with its principal place of business in Tokyo, Japan.

6. Toshiba admits that Toshiba America Information Systems, Inc. (“TAIS”), is headquartered at 9740 Irvine Boulevard, Irvine, California 92618. Toshiba further admits that TAIS is a subsidiary of Toshiba America, Inc. Toshiba denies that TAIS is a corporation organized under the laws of the State of Delaware.

### **JURISDICTION AND VENUE**

7. Toshiba admits that the Complaint purports to state a claim for patent infringement. Toshiba further admits that this Court has subject matter jurisdiction over actions for patent infringement pursuant to 28 U.S.C. §§ 1331 and 1338(a), but Toshiba denies that it has committed any acts of patent infringement with respect to the patents-in-suit in this district or any other district.

8. For purposes of this action only, Toshiba admits that this Court has specific personal jurisdiction over it. Toshiba also admits that it acknowledged specific personal jurisdiction for this action in its answer to the original Complaint, but Toshiba denies that it has committed any acts of patent infringement with respect to the patents-in-suit in this district or any other district. The remainder of paragraph 8 contains legal conclusions which do not require a response from Toshiba. To the extent a response is required, Toshiba lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 8 of the Complaint, and therefore denies those allegations.

9. For purposes of this action only, Toshiba admits that venue is proper in this district, but Toshiba reserves its right to seek transfer to another venue under 28 U.S.C. § 1404 or otherwise. Toshiba denies the remaining allegations contained in paragraph 9 of the Complaint,

and specifically denies that it has committed any acts of patent infringement with respect to the patents-in-suit in this district or any other district.

**BACKGROUND AND FACTS RELATED TO THIS ACTION**

10. Toshiba lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint, and therefore denies those allegations.

11. Toshiba lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint, and therefore denies those allegations.

12. Toshiba lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Complaint, and therefore denies those allegations.

13. Toshiba lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Complaint, and therefore denies those allegations.

14. Toshiba lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the Complaint, and therefore denies those allegations.

15. Toshiba lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint, and therefore denies those allegations.

16. Toshiba lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint, and therefore denies those allegations.

17. Toshiba lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint, and therefore denies those allegations.

18. Toshiba lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Complaint, and therefore denies those allegations.

19. Toshiba lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the Complaint, and therefore denies those allegations.

20. Toshiba lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the Complaint, and therefore denies those allegations.

### **COUNT I**

#### **(Alleged Infringement of the '898 Patent)**

21. Toshiba hereby incorporates by reference its answers to paragraphs 1-20 of the Complaint.

22. Toshiba admits that what Plaintiff purports to be a true and correct copy of the '898 Patent is attached as Exhibit A to the Complaint and is entitled "System and Method for Adaptive Interference Cancelling." Toshiba further admits that the document attached as Exhibit

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