

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 AMERICA INFORMATION SYSTEMS, INC.’S ANSWER AND  
AFFIRMATIVE DEFENSES TO PLAINTIFF’S FIRST AMENDED COMPLAINT**

Defendant Toshiba America Information Systems, Inc. (“TAIS”), hereby answers the First Amended Complaint (“Complaint”) filed on November 10, 2014, by Andrea Electronics Corporation (“Andrea” or “Plaintiff”). TAIS 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. TAIS further denies that Andrea is entitled to the requested relief or any other relief.

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

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

2. TAIS admits that the Complaint purports to state a claim for direct infringement, but TAIS 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. TAIS denies the remaining allegations contained in paragraph 2 of the Complaint.

3. TAIS admits that the Complaint purports to state a claim for indirect infringement, but TAIS 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. TAIS denies the remaining allegations contained in paragraph 3 of the Complaint.

### **THE PARTIES**

4. TAIS 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.

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

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<sup>1</sup> TAIS 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, TAIS specifically denies all such allegations and/or characterizations.

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

### **JURISDICTION AND VENUE**

7. TAIS admits that the Complaint purports to state a claim for patent infringement. TAIS 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 TAIS 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, TAIS admits that this Court has specific personal jurisdiction over it. TAIS also admits that it acknowledged specific personal jurisdiction for this action in its answer to the original Complaint, but TAIS 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 TAIS. To the extent a response is required, TAIS 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, TAIS admits that venue is proper in this district, but TAIS reserves its right to seek transfer to another venue under 28 U.S.C. § 1404 or otherwise. TAIS 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. TAIS 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. TAIS 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. TAIS 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. TAIS 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. TAIS 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. TAIS 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. TAIS 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. TAIS 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. TAIS 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. TAIS 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. TAIS 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. TAIS hereby incorporates by reference its answers to paragraphs 1-20 of the Complaint.

22. TAIS 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." TAIS further admits that the document attached as Exhibit A indicates on its face that it was issued on October 20, 1998. TAIS denies the remaining allegations in paragraph 22 of the Complaint.

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