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ATTORNEYS FOR PLAINTIFF
ADASA INC.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

Eugene Division

ADASA INC.,	§	Case No.: 6:17-cv-287
	§	
Plaintiff,	§	COMPLAINT FOR
	§	PATENT INFRINGEMENT
v.	§	
	§	JURY TRIAL DEMANDED
AVERY DENNISON CORPORATION,	§	
	§	
Defendant.	§	

Plaintiff ADASA INC. ("Plaintiff" or "ADASA") files this Original Complaint against
Defendant AVERY DENNISON CORPORATION, alleging as follows:

I. THE PARTIES

1. ADASA INC. is a corporation organized and existing under the laws of the State of Oregon, with a principal place of business in Eugene, Oregon.

2. Upon information and belief, Defendant AVERY DENNISON CORPORATION (“Defendant” or “AVERY DENNISON”) is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business in Glendale, CA. Avery Dennison may be served with process through its registered agent, CT Corporation System located at 388 State Street, Suite 420, Salem, OR 97301.

II. JURISDICTION AND VENUE

3. Plaintiff’s claims for patent infringement against AVERY DENNISON arise under the patent laws of the United States, including 35 U.S.C. §§ 271 and 2871. Consequently, this Court has exclusive jurisdiction of such action under Title 28 U.S.C. § 1331 and 1338.

4. AVERY DENNISON is a company with offices throughout the United States. AVERY DENNISON is subject to both the specific and general personal jurisdiction of this Court because, among other things, it has established continuous and systematic contacts with Oregon and in this judicial district, including by conducting business in the District of Oregon and throughout the State of Oregon; it has committed acts of patent infringement within Oregon and this judicial district giving rise to this action; and it has minimum contacts with the forum such that the exercise of jurisdiction over it would not offend traditional notions of fair play and substantial justice. Particularly, AVERY DENNISON’s Retail Branding and Information Solutions headquarters, which includes, at least in part, its retail RFID business, is located in Beaverton, Oregon. For all of these reasons, personal jurisdiction exists and venue is proper in this Court under 28 U.S.C. §§ 1391(b)(1), (2) and (c)(2) and 28 U.S.C. § 1400(b).

PATENT-IN-SUIT

5. On March 1, 2016, U.S. Patent No. 9,272,805 B2 (“the ‘805 Patent”) was duly and legally issued for “SYSTEMS, METHODS, AND DEVICES FOR COMMISSIONING WIRELESS SENSORS.” A true and correct copy of the ‘805 patent is attached hereto as Exhibit A.

6. Plaintiff is the owner of the ‘805 Patent with the exclusive right to enforce the ‘805 Patent against infringers, and collect damages for all relevant times, including the right to prosecute this action.

7. The ‘805 Patent very generally speaking, relates to systems for encoding and commissioning wireless radio frequency identification (“RFID”) devices. The ‘805 Patent teaches an RFID transponder or inlay with an RFID integrated circuit chip (“IC chip”) having encoded memory structure that ensures uniqueness within the serial number portion of the code.

BACKGROUND

8. Clarke McAllister, the named inventor of the ‘805 Patent, has worked with and in the RFID industry since the early 1990s, including founding his own RFID company, ADASA, in 2004.

9. At the time McAllister founded ADASA, the RFID industry was beginning to challenge the then-predominant method of using individual bar codes to keep track of merchandise. The industry has since developed standards and guidelines for encoding data onto the RFID tags to provide additional information beyond what can be stored in a barcode, which allows for identifying and tracking individual items in the supply chain.

10. As a brief technical background, in the RFID industry, and particularly for merchandise tracking applications, the memory bank of an RFID tag is encoded with an

Electronic Product Code (“EPC”), which is an identifier for an item in the supply chain to uniquely identify that particular item. This identifier is serialized to be unique for avoidance of duplicate numbers among items in the supply chain, which allows an RFID reader to differentiate between items without human intervention. The EPC can be in a format in accordance with one of various EPC tag data standards set by GS1 for a serialized identifier, such as a Serialized Global Trade Item Number (SGTIN), Serial Shipping Container Code (SSCC), Serial Global Location Number (SGLN), or the like.

11. For the SGTIN format, the EPC contains object class information and a serial number. The object class information includes, among other things, a GS1 company prefix which identifies the managing organization responsible for the item (*i.e.*, the brand owner) and an item reference number which identifies the class of item offered by a brand owner (which generally corresponds to the UPC or SKU of a bar code). Brand owners sell multiple instances of items within each object class, thus the object class by itself is not sufficient to uniquely identify each item within that object class. In order to provide a unique identifier and avoid duplication of numbers, the brand owner is responsible for assigning a unique serial number for each item within an object class. The combination of an object class and unique serial number provides a unique object number that is contained within the EPC.

12. In early 2008, McAllister set out to improve the existing RFID technology to solve various problems encountered in the RFID tag and encoding industry. McAllister recognized that one such challenge was that there was no reliable way to ensure global uniqueness of the serial number of the EPC for items within one object class when the RFID tags are encoded by different encoders in different locations across the distribution chain. To address this problem, McAllister configured the structure of the memory of a 64-, 96-, 128-, or 256-bit

RFID IC chip to be encoded with an EPC number to define an important sector that provides for uniqueness of the serial number.

13. More specifically, the memory bank of the RFID IC chip consists of a number of bits of memory space in which the EPC is encoded. With the use of SGITN-96, for example, the memory bank consists of at least 96 total bits of memory space, with an object class space that includes 8 bits for a header which identifies the version of the protocol of the EPC, 3 bits for a filter value, 3 bits for a partition value, 24 bits for a GS1 company prefix, and 20 bits for an item reference number, and a serial number space that includes the last 38 bits for a serial number. McAllister configured the structure to further delineate a sector of the leading bits of the serial number space, which are referred to in the '805 Patent as the "most significant bits." This sector of most significant bits is allocated as a block of serial numbers by designation of the brand owner, or by agreement between the brand owner and a third-party encoder, for use by an encoder that encodes the tags for a specific object class. A block can be allocated to an entity, such as a service bureau, manufacturer, distributor, or retailer; a location, such as an assembly line or manufacturing facility; or to an encoding machine. This creates a separately managed serial numbering space for each encoder to reliably ensure the uniqueness of the serial numbers encoded to the tags at the item-level across the global distribution chain.

15. In the years after McAllister originally filed for patent protection for his invention, invention, the industry began implementing McAllister's idea in wide-spread fashion and without attribution. For instance, third party encoders, such as AVERY DENNISON, encode RFID tags for brand owners using a block of three or more of the most significant bits of the serial number portion of the memory structure of an encoded tag to create unique serial numbers. Additionally, several industry manufacturers banded together after McAllister's invention to

create what became known as the “multi-vendor chip-based serialization” agreement (“MCS”). This agreement is, in effect, a new guideline for the industry that assigned a three bit code to each manufacturer of IC chips, which are then encoded within the three most significant bits of the serial number to create a unique serial number. These most significant bits are often called the “MCS prefix” or “MCS allocation” bits by industry participants.

FIRST CLAIM FOR RELIEF
(Patent Infringement)

17. Plaintiff incorporates by reference Paragraphs 1 - 16 of this Complaint as if set forth below.

18. AVERY DENNISON is liable under 35 U.S.C. §271(a) for direct infringement of the ‘805 Patent, either literally or under the doctrine of equivalents, because it makes, uses, sells, offers for sale, and/or imports encoded RFID tags and labels that use the unique encoded structure identified in the claims of the ‘805 Patent.

19. More specifically, AVERY DENNISON in the past has directly infringed and continues to directly infringe at least claims 1, 2, 4, 5, and 6 of the ‘805 Patent by, at a minimum, AVERY DENNISON’s RFID Ticket Express Service Bureau, making, encoding, selling, and offering to sell EPC Class 1, Generation 2 UHF RFID tags and labels to its customers, such as brand owners, manufacturers, distributors, retailers and other end users.

20. AVERY DENNISON makes, encodes, sells, and offers to sell RFID tags and labels for customers, which are RFID transponders that comprise a substrate, an antenna, and an RFID IC chip. The IC chips are provided to AVERY DENNISON in the accused products by Impinj, NXP, EM Microelectronics, and other chip manufacturers. AVERY DENNISON manufactures inlays using these IC chips and then converts the inlays into tags and labels. AVERY DENNISON then encodes the IC chips of the tags and labels pursuant to GS1 standards

and guidelines; however, the ultimate authority to decide how the AVERY DENNISON products are encoded is left to managing organization responsible for the item, *i.e.*, brand-owners.

21. In particular, AVERY DENNISON encodes the RFID tags and labels with an EPC having a unique serial number for a specific object class, in which a block of the most significant bits of the memory structure of the serial number space is allocated to the encoder by the brand owner and/or by agreement between the brand owner and AVERY DENNISON, to ensure the uniqueness of the serial number.

22. Upon information and belief, this block of most significant bits of the serial number space is allocated to provide distinguishing information for items within an object class, such as identifying AVERY DENNISON as the third party who is authorized to perform the encoding of the RFID tag or label, the particular location or encoding machine used by AVERY DENNISON to encode the RFID tag or label, and/or the assembly line, manufacturing facility, contract manufacturer, distributor, or retailer where the tag or label is to be applied to the item.

23. Plaintiff has been damaged as a result of AVERY DENNISON's infringing conduct. AVERY DENNISON is, thus, liable to Plaintiff in an amount that adequately compensates Plaintiff for AVERY DENNISON's infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

PRAYER FOR RELIEF

Plaintiff requests that the Court find in its favor and against AVERY DENNISON, and that the Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of the '805 Patent have been infringed, either literally and/or under the doctrine of equivalents, by AVERY DENNISON;

- b. Judgment that AVERY DENNISON account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of AVERY DENNISON's infringing activities and other conduct complained of herein;
- c. That AVERY DENNISON, its officers, agents, servants and employees, and those persons in active concert and participation with any of them, be permanently enjoined from infringement of the '805 Patent. In the alternative, if the Court finds that an injunction is not warranted, Plaintiff requests an award of post judgment royalty to compensate for future infringement;
- d. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to it by reason of AVERY DENNISON's infringing activities and other conduct complained of herein;
- e. That this Court declare this an exceptional case and award Plaintiff its reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285; and
- f. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

JURY DEMAND

Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

DATED: February 21, 2017.

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