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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

GARY D. PIGNATO,)	
)	
Plaintiff,)	
)	
vs.)	
)	Civil Action No. 1:16-cv-800
)	
MOBILEYE, INC. and)	
MOBILEYE N.V.,)	
)	JURY TRIAL DEMANDED
Defendants.)	
)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Gary D. Pignato (Pignato or Plaintiff), by and through his attorneys, Brannon Sowers & Cracraft, PC, and Mattingly Burke, Cohen & Biederman LLP, hereby submits his Complaint against Defendants, Mobileye Inc. (Mobile USA), and Mobileye N.V. (Mobileye NV), (collectively Defendants) and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action arising in part under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, and, in particular, 35 U.S.C. § 271.
2. Pignato seeks injunctive relief and monetary damages resulting from Defendants' infringement of his patent rights under United States Patent No. 6,240,346, as set forth more fully below.

THE PARTIES

3. Pignato is an individual who resides in and is a citizen of the State of Illinois.
4. Defendant Mobileye USA is a corporation organized under the laws of the State of Delaware, is doing business as Mobileye, and has a principal place of business at 99 Jericho

Turnpike, Suite 203, Jericho, NY 11753.

5. Defendant Mobileye NV is a corporation organized under the laws of Israel, is doing business as Mobileye, and has a principal place of business at Har Hotzvim, 13 Hartom Street, P.O. Box 45157, Jerusalem, Israel 9777513.

6. Mobileye NV is the parent company of Mobileye USA.

JURISDICTION

7. This Court has exclusive subject matter jurisdiction over the claims asserted herein pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over Mobileye USA, which does business within the State of Indiana and within this Judicial District, committed acts of infringement within this Judicial District, advertised or otherwise promoted its accused products as available in this Judicial District, and placed its products within the stream of commerce with the expectation and/or knowledge that such products would be purchased by customers and/or used by customers within this Judicial District.

9. This Court has personal jurisdiction over Mobileye NV, which does business within the State of Indiana and within this Judicial District, committed acts of infringement within this Judicial District, advertised or otherwise promoted its accused products as available in this Judicial District, and placed its products within the stream of commerce with the expectation and/or knowledge that such products would be purchased by customers and/or used by customers within this Judicial District.

10. Defendants, individually or collectively, maintain a website (www.mobileye.com) promoting their Mobileye 5-Series of Advanced Drive Assistance System Products. Defendants, individually or collectively, solicit orders for, and/or offer to sell, and/or sell, the accused products to, or on behalf of, entities in the United States, including entities located within this Judicial

District.

11. Defendants import the accused products into the United States for sale or use in the United States, including maintaining multiple dealerships in this Judicial District.

12. The conduct of Defendants as alleged herein has been systematic and continuous within the Southern District of Indiana.

VENUE

13. Venue in this Judicial District is proper under 28 U.S.C. § 1391(b), in that a substantial part of the events that give rise to this action occurred and continue to occur in this Judicial District.

14. Venue is proper in this Judicial District at least pursuant to 28 U.S.C. §§ 1391(b) and (d) and 1400(b) because various acts and transactions constituting at least a substantial portion of the claims arose in this Judicial District. Venue is also proper in this Judicial District because Defendants are subject to personal jurisdiction in this Judicial District pursuant to 28 U.S.C. § 1391(c).

U.S. PATENT NO. 6,240,346

15. United States Patent No. 6,240,346 (“the ‘346 patent”), entitled “System with Light Display and Data Recorder for Monitoring Vehicle in Relation to Adjacent Vehicle,” was duly and legally issued. A true and correct copy of the ‘346 patent is attached hereto as Exhibit 1.

16. Pignato is the owner of all rights, title and interests in the ‘346 patent, including the right to sue thereon and the right to recover for infringement thereof.

17. The ‘346 patent is directed to a system for mounting in a vehicle for monitoring leading and trailing vehicles and generating and storing data relating to these vehicles, such as speed and proximity to the resident vehicle.

18. The claims of the ‘346 patent are generally directed to a vehicular data recording

system having a camera or like ranging sensor mounted in a vehicle, a memory, and a controller for periodically sampling and storing data relating to the position and movement of trailing and or leading vehicles.

19. Defendants had prior knowledge of the '346 patent because Plaintiff sent Mobileye correspondence identifying the '346 patent and the raising potential of Mobileye licensing Plaintiff's technology.

DEFENDANTS' INFRINGING ACTIVITIES AND ACCUSED PRODUCTS

20. Defendants refused to license Plaintiff's technology and instead chose to manufacture and make a line of products, which infringes multiple claims of the '346 patent.

21. Defendants' Mobileye 5-Series line of driver assistance systems, and in particular the Mobileye 560 System, include Forward Collision Warning (FCW) technology including a camera or like sensor, an electronic memory, and electronic controller connected to the camera or like sensor and the electronic memory. See <http://ir.mobileye.com/investor-relations/press-releases/press-release-details/2016/Mobileye-To-Present-At-Goldman-Sachs-Cars-2025-Conference/default.aspx>.

22. Defendants, individually or in concert with others or each other, promote, advertise for sale, offer for sale, import, sell and/or use within the United States the Mobileye 5-Series line of driver assistance systems, and in particular the Mobileye 560 System.

23. The Accused Mobileye 5-Series line of driver assistance systems is intended to be installed in vehicles and "includes a smart camera located on the front windshield inside the vehicle." See <http://www.mobileye.com/products/mobileye-5-series/mobileye-560/>.

24. The Accused Mobileye's 5-Series line of driver assistance systems can also be purchased on new vehicles and/or can be installed as an aftermarket item on most vehicles.

25. Plaintiff's technology allowed Mobileye to enter into partnerships with several

auto manufacturers to include Mobileye's 5-Series line of driver assistance systems in their vehicles. *See, e.g.*, <https://www.automotiveworld.com/news-releases/mobileye-n-v-announces-agreements-to-sell-equity-to-leading-institutional-investors/> ("Mobileye's technology is or will be available through 19 automakers worldwide.").

26. The Accused Mobileye's 5-Series line of driver assistance systems are also sold and installed as aftermarket items for automobiles and other vehicles through Mobileye's nationwide network of dealerships. *See* <http://us.mobileye.com/dealers/>.

27. Mobileye's infringement is so complete that each and every claim element of independent claim I of the '346 patent is present, either literally or under the doctrine of equivalents, in the Accused Mobileye 5-Series line of driver assistance systems, and in particular the Mobileye 560 System.

28. Further, each and every claim element of one or more of dependent claims through of the '346 patent is present, either literally or under the doctrine of equivalents, in the Accused Mobileye 5-Series line of driver assistance systems. For example, and without limitation, each and every claim element of dependent claim 38 of the '346 patent is present, either literally or under the doctrine of equivalents, in the Accused Mobileye 560 System.

COUNT I: DIRECT INFRINGEMENT OF THE '346 PATENT

29. Pignato realleges and incorporates Paragraphs 1 through 28 of this Complaint as if specifically set forth herein.

30. Defendants, individually or in concert with others or each other, directly infringed at least independent claims 17, 18, 27, 38 and one or more dependent claims of the '346 patent, including, without limitation, dependent claim 22, 26, 35, 36 and 42 by advertising for sale, offering for sale, importing, selling and/or using within the United States, including by way of example and not by way of limitation as to infringing products, the Accused Mobileye 5-Series

line of driver assistance systems.

31. Defendants' infringement of the '346 patent has been willful.

32. Defendants' activities injured and continue to injure Plaintiff and, as a result thereof, Plaintiff is entitled to recover damages adequate to compensate it for the infringement complained of herein, including lost profits, but in no event less than a reasonable royalty.

33. Defendants' complained-of activities caused and continue to cause Plaintiff substantial damage and irreparable injury by virtue of their past and on-going infringement.

COUNT II: INDUCEMENT TO INFRINGE THE '346 PATENT

34. Pignato realleges and incorporates Paragraphs 1 through 33 of this Complaint as if specifically set forth herein.

35. Defendants knew of the '346 patent.

36. Defendants actively induced infringement of the '346 Patent by advertising for sale, offering to sell, selling and/or importing into the United States the Accused Mobileye 5-Series line of driver assistance systems, and providing instructions for installing the Accused Mobileye 5-Series line of driver assistance systems, which directly infringe at least independent claims 17, 18, 27, 38 and one or more dependent claims of the '346 patent, including, without limitation, dependent claim 22, 26, 35, 36, and 42 of the '346 patent.

37. Defendants' induced the installation of the Accused Mobileye 5-Series line of driver assistance systems into vehicles within the United States, which infringes at least independent claims 17, 18, 27, 38 and one or more dependent claims of the '346 patent, including, without limitation, dependent claim 22, 26, 35, 36, and 42 of the '346 patent.

38. Defendants knew that the sales of the Accused Mobileye 5-Series line of driver assistance systems would actively induce actual infringement of the patent.

39. Defendants' activities injured and continue to injure Plaintiff and, as a result

thereof, Plaintiff is entitled to recover damages adequate to compensate it for the infringement complained of herein, including lost profits, but in no event less than a reasonable royalty.

40. Defendants' complained-of activities caused and continue to cause Plaintiff substantial damage and irreparable injury by virtue of their past and on-going infringement.

COUNT III: CONTRIBUTORY INFRINGEMENT OF THE '346 PATENT

41. Pignato realleges and incorporates Paragraphs 1 through 40 of this Complaint as if specifically set forth herein.

42. Defendants offered for sale, sold and/or imported within the United States the Accused Mobileye 5-Series line of driver assistance systems, which became and continue to become material parts of vehicles which directly infringe the '346 patent.

43. Defendants' Accused Mobileye 5-Series line of driver assistance systems were especially made to be mounted in vehicles, which directly infringes at least independent claims 17, 18, 27, 38 and one or more dependent claims of the '346 patent, including, without limitation, dependent claim 22, 26, 35, 36, and 42 of the '346 patent.

44. Defendants' Accused Mobileye 5-Series line of driver assistance systems were installed in vehicles within the United States, which directly infringes at least independent claims 17, 18, 27, 38 and one or more dependent claims of the '346 patent, including, without limitation, dependent claim 22, 26, 35, 36, and 42 of the '346 patent.

45. Defendants' Accused Mobileye 5-Series line of driver assistance systems are not a staple article or commodity of commerce suitable for substantial non-infringing use.

DEMAND FOR JURY TRIAL

Plaintiff Pignato hereby demands a jury trial of all issues in the above-captioned action which are triable to a jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Pignato prays for relief against Defendants Mobileye Inc. and Mobileye N.V. as follows:

1. Judgment that Defendants directly infringed one or more claims of the '346 patent;
2. Judgment that Defendants actively induced infringement one or more claims of the '346 patent;
3. Judgment that Defendants contributorily infringed one or more claims of the '346 patent;
4. A preliminary and permanent injunction enjoining Defendants, their officers, agents, servants, employees, representatives, licensees, successors, assigns, and those persons in active concert or participation with any of them, from directly or indirectly infringing the '346 patent.
5. Awarding Plaintiff damages adequate to compensate him for the infringement of the patent, but in no event less than a reasonable royalty for use of the invention together with interest and costs under 35 U.S.C. § 284;
6. Awarding pre-judgment and post-judgment interest on the damages assessed;
7. Awarding treble damages on the damages assessed if the infringement is determined to be willful;
8. Declaring that this action be an exceptional case pursuant to 35 U.S.C. § 285 and awarding to Plaintiff his attorneys' fees;
9. Awarding to Plaintiff his costs; and

10. Awarding to Plaintiff such other and further relief as the Court deems just and proper.

Dated: April 11, 2016

Respectfully submitted,

/s/ Sean P. Burke

Sean P. Burke, Attorney No. 26995-49
Hamish S. Cohen, Attorney No. 22931-53
MATTINGLY BURKE COHEN &
BIEDERMAN LLP
5255 Winthrop Avenue, Suite 100
Indianapolis, Indiana 46220
Phone: (317) 614-7320
Email: Sean.burke@mbcblaw.com
Hamish.cohen@mbcblaw.com

Steven G. Cracraft, Attorney No. 3417-49
BRANNON SOWERS & CRACRAFT PC
1 North Pennsylvania Street, Suite 800
Indianapolis, Indiana 462004
Phone: (317) 630-2810
Email: scracraft@bcattorneys.com

Attorneys for Plaintiff Gary D. Pignato