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Attorneys for Defendant
Hisense Co., Ltd.

ELECTRONICALLY
FILED
*Superior Court of California,
County of San Francisco*
06/09/2017
Clerk of the Court
BY: JUDITH NUNEZ
Deputy Clerk

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO

SHARP CORPORATION,

Plaintiffs,

v.

HISENSE CO., LTD; HISENSE USA
CORPORATION; HISENSE ELECTRIC
CO., LTD.; and HISENSE USA
MULTIMEDIA R&D CENTER, INC.,

Defendants.

Case No. CGC-17-558743

**NOTICE OF REMOVAL TO THE
CLERK OF THE SUPERIOR COURT
FOR THE CITY AND COUNTY OF
SAN FRANCISCO**

Complaint Filed: May 9, 2017

TO THE CLERK OF THE SUPERIOR COURT:

Defendant Hisense Co., Ltd. ("Hisense") hereby gives notice that it filed the attached notice of removal in the United States District Court for the Northern District of California on June 9, 2017. Hisense removed this action to the United States District Court under 28 U.S.C. § 1441(d).

Dated: June 9, 2017

WHITE & CASE LLP

By: /s/Matthew P. Lewis
Matthew P. Lewis

Attorneys for Defendant
Hisense Co., Ltd.

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Hisense Co., Ltd.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHARP CORPORATION,

Plaintiff,

v.

HISENSE CO., LTD.; HISENSE USA
CORPORATION; HISENSE ELECTRIC CO.,
LTD.; and HISENSE USA MULTIMEDIA
R&D CENTER, INC.,

Defendants.

Case No. 3:17-cv-3341

Removed from the Superior
Court of California for the City
and County of San Francisco,
Case No. CGC-17-558743

**NOTICE OF REMOVAL OF
ACTION UNDER 28. U.S.C. §
1441(d) (FOREIGN
SOVEREIGN IMMUNITIES
ACT OF 1976)**

Defendant Hisense Co., Ltd. (“Hisense”) hereby removes to the United States District Court for the Northern District of California the state court action, described below, under 28 U.S.C. § 1441(d). Hisense makes a limited appearance for the purpose of removal only and reserves all rights and defenses, including but not limited to asserting its sovereign immunity and challenging personal jurisdiction.

I. PROCEDURAL HISTORY

1. On May 9, 2017, plaintiff Sharp Corporation (“Plaintiff”) filed a complaint against Hisense and certain other defendants in the Superior Court of California for the City and County of San Francisco, styled *Sharp Corp. v. Hisense Co. Ltd., et al.*, Case No. CGC-17-558743 (“State Court Action”). The complaint asserts a single claim for unlawful, unfair, and fraudulent business practices under California Business & Professions Code § 17200 for alleged conduct that is the subject of a pending arbitration in the Singapore International Arbitration Centre (“SIAC”). Hisense denies that any of its alleged conduct is unlawful.

2. As required by 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders received by Hisense in connection with the State Court Action are attached to this notice of removal as Exhibit A.

II. BASIS FOR REMOVAL

3. Hisense removes the entire State Court Action to this Court under the Foreign Sovereign Immunities Act (“FSIA”). The FSIA grants federal district courts original jurisdiction over any civil action against a “foreign state,” as that term is defined in 28 U.S.C. § 1603. 28 U.S.C. § 1330(a). A foreign state has the right to remove any civil action from a state court to a federal court. 28 U.S.C. § 1441(d).

4. The FSIA defines a “foreign state” to include an “agency or instrumentality” of a foreign state. 28 U.S.C. § 1603(a). An “agency or instrumentality” of a foreign state is an entity which: (1) has a separate legal identity; (2) is either an “organ of a foreign state or political subdivision” or, as relevant here, has a “majority of . . . shares or other ownership interest [] owned by a foreign state or political subdivision thereof”; and (3) is neither a citizen of the United States nor created under the laws of any third country. 28 U.S.C. § 1603(b).

5. Hisense is an “agency or instrumentality” of the Qingdao Municipal government, a political subdivision of China. Specifically, Hisense is a separate limited liability company, wholly-owned by a political subdivision of the Chinese government, created pursuant to Chinese law, and is neither a citizen of the United States nor any third country. Thus, as a foreign state under the FSIA, Hisense may unilaterally remove the entire State Court Action to this Court.

6. As an alternative and independent basis in addition to the FSIA, the action is subject to removal based on federal question jurisdiction, under 28 U.S.C. §§ 1331 and 1441(a), in that the claims in the complaint are substantially predicated on alleged violations of federal laws and regulations, including the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1), 16 C.F.R., Part 410, and the Federal Communications Act, 47 U.S.C. §§ 151 *et seq.*, 47 C.F.R. 15.109. *See, e.g., People of the State of Cal., ex rel Lockyer v. Dynegy, Inc.*, 375 F.3d 831, 841 (9th Cir. 2004) (affirming denial of a motion to remand in an action asserting a section 17200 claim because it was predicated on federal law).

III. VENUE

7. Plaintiff’s State Court Action is pending in the Superior Court of California for the City and County of San Francisco, which is within this judicial district and division. 28 U.S.C. § 84(a). The United States District Court for the Northern District of California is, therefore, the proper venue for removal. 28 U.S.C. § 1446(a).

IV. TIMELINESS

8. Plaintiff purports to have served a copy of the summons and complaint on Hisense on May 10, 2017, and Hisense sought removal within 30 days of such date. Accordingly, this notice of removal is timely filed. 28 U.S.C. § 1446(b) (“The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise.”) (emphasis added). Hisense asserts that it has not been properly served.

V. NOTICE

9. As required by 28 U.S.C. § 1446(d), Hisense is serving written notice of this notice of removal on Plaintiff and filing a copy of it with the clerk of the Superior Court of the State of California for the City and County of San Francisco.

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2 Dated: June 9, 2017

WHITE & CASE LLP

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4 By: /s/ Matthew P. Lewis
Matthew P. Lewis

5 Attorneys for Defendant
6 Hisense Co., Ltd.
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1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18
3 and not a party to the within action. My business address is 555 South Flower Street, Suite 2700,
4 Los Angeles, CA 90071-2433. I am employed by a member of the Bar of this Court at whose
5 direction the service was made.

6 On June 9, 2017, I served the foregoing document(s) described as NOTICE OF
7 REMOVAL TO THE CLERK OF THE SUPERIOR COURT FOR THE CITY AND COUNTY
8 OF SAN FRANCISCO on the person(s) below, as follows:

9 Harold H. Davis, Esq. Attorneys for Sharp Corporation
10 Matthew G. Ball, Esq.
11 K&L Gates LLP
12 Four Embarcadero Center, Suite 1200
13 San Francisco, CA 94111
14 Telephone: (415) 882-8200
15 Facsimile: (415) 882-8220

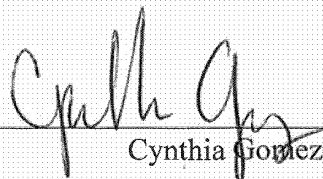
16 Seth A. Gold, Esq. Attorneys for Sharp Corporation
17 K&L Gates LLP
18 10100 Santa Monica Blvd., 8th Floor
19 Los Angeles, CA 90067
20 Telephone: (310) 552-5000
21 Facsimile: (310) 552-5001

22 ☐ (BY MAIL) I enclosed the document(s) in a sealed envelope or package
23 addressed to the person(s) at the address(es) listed above and placed the envelope
24 for collection and mailing at White & Case LLP, Los Angeles, California,
25 following our ordinary business practices. I am readily familiar with White &
26 Case LLP's practice for collection and processing of correspondence for mailing
27 with the United States Postal Service. Under that practice, the correspondence
28 would be deposited in the United States Postal Service on that same day in the
ordinary course of business.

☒ (BY OVERNIGHT DELIVERY) I enclosed the document(s) in an envelope or
package provided by an overnight delivery carrier and addressed to the person(s) at
the address(es) listed above. I placed the envelope or package for collection and
overnight delivery at an office or a regularly utilized drop box of the overnight
delivery carrier, or delivered it to an authorized courier or driver authorized by the
carrier to receive documents, with delivery fees paid.

Executed June 9, 2017, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California and the United
States of America that the above is true and correct.

26 
27 Cynthia Gomez
28