

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. This Court has exclusive subject matter jurisdiction over this case for patent infringement under 28 U.S.C. § 1338.

5. Venue is proper in the Northern District of Texas under 28 U.S.C. §§ 1391 and 1400(b).

6. This Court has personal jurisdiction over GE. GE has conducted and does conduct business in the State of Texas. GE, directly or through subsidiaries or intermediaries (including distributors, retailers, and others) ships, distributes, offers for sale, sells, and advertises its products and/or services in the United States, the State of Texas, and the Northern District of Texas. As described below, GE has sold products specifically designed to be used in an infringing manner to its customers in the State of Texas, including in this District. GE has committed acts of patent infringement within the State of Texas and more specifically, within the Northern District of Texas.

ASSERTED PATENTS

7. On February 7, 2012, United States Patent No. 8,110,405 (“the ’405 patent”) entitled “Fluorescent Nanoscopy Method” duly and legally issued with Andrey Alexeevich Klimov, Dmitry Andreevich Klimov, Evgeniy Andreevich Klimov, and Tatiana Vitalyevna Klimova as the named inventors. Super Resolution Technologies owns all rights, title, and interest in the ’405 patent, including all rights to recover damages for infringement of the ’405 patent. A copy of the ’405 patent is attached as Exhibit A.

COUNT I
INFRINGEMENT OF THE '405 PATENT BY GE

8. Super Resolution Technologies incorporates by reference paragraphs 1–7 above as if set forth fully herein. As described below, GE has infringed and/or continues to infringe the '405 patent.

9. GE sells, offers to sell, and uses a super-resolution microscope system referred to as OMX with Monet localization microscopy—specific models include at least the OMX V4 Monet and OMX V4 MX systems, on each of which Monet localization is standard, and OMX V4SI and OMX V4 Blaze systems with Monet localization as an option—collectively these systems are herein referred to as “OMX systems.” GE describes the Monet localization imaging process (herein referred to as “Monet imaging”) as follows:

Localization microscopy has its foundation in single molecule imaging techniques which determine the position of fluorophores by statistically determining their position within an image. With localization microscopy, only one (or a few) fluorophores is allowed to fluoresce at a given time. Control of the fluorescence is achieved through the use of photoactivatable proteins, photoswitchable dyes or ground state depletion systems.

Monet localization microscopy use a proprietary algorithm that is able to determine the location of the fluorophores in overlapping diffraction limited spots. This differs from other localization microscopy techniques which rely on single Gaussian fitting models.

Deltavision OMX V4 Systems Brochure at 5 (attached as Exhibit B). GE’s own use of OMX systems to perform Monet imaging directly infringes at least claim 1 of the '405 patent, in accordance with 35 U.S.C. § 271(a).

10. GE has demonstrated Monet imaging with OMX systems for customers and/or potential customers. For example, GE demonstrated Monet imaging with an OMX system at the Emory Winship Cancer Institute June 18–28, 2013. GE’s use of OMX systems to perform Monet imaging, including at least in the above-described demonstration, directly infringes at least claim 1 of the '405 patent.

11. On March 8, 2013, Yves Dubaquie, Managing Director GE Healthcare emailed Dmitry Klimov, one of the inventors of the '405 patent, requesting more information regarding the patented technology. Mr. Klimov, Mr. Dubaquie, and others from GE have engaged in a series of correspondence since then regarding the patented technology. By at least March 25, 2013, GE, via an email to Mr. Dubaquie, had notice of the '405 patent, which it confirmed it reviewed. GE therefore had notice of the '405 patent.

12. On information and belief, GE collaborates with customers to assist them in performing Monet imaging, including at least researchers in the Department of Biophysics at UT Southwestern Medical Center, which is located within the Northern District of Texas.

13. Further, GE sells OMX systems to customers and instructs customers on how to use OMX systems to perform Monet imaging. GE provides links to instructive articles and video tutorials on its website, and those of its agents, that instruct GE's customers on Monet imaging, including how to perform such imaging. GE sold an OMX system to the UT Southwestern Medical Center, which is located within the Northern District of Texas. On information and belief, GE has instructed and/or made available or provided instructive articles, videos, and/or manuals to researchers at the UT Southwestern Medical Center who have used and/or currently use the OMX system to perform Monet imaging.

14. GE has sold and/or is selling OMX systems to other customers throughout the United States and has instructed and/or is instructing its customers to use OMX systems to perform Monet imaging. GE therefore indirectly infringes by inducing infringement by others, such as OMX system end-user customers, in accordance with 35 U.S.C. § 271(b), because GE has actively induced and/or is inducing its customers to directly infringe the '405 patent.

15. Based on GE's prior notice of the '405 patent and/or its willful blindness to the

'405 patent, GE's infringement of the '405 patent has been willful.

DEMAND FOR JURY TRIAL

Super Resolution Technologies demands a jury for all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Super Resolution Technologies prays for the following relief:

1. A judgment that GE has directly infringed the '405 patent and induced infringement of the '405 patent;
2. A preliminary and permanent injunction preventing GE and its respective officers, directors, agents, servants, employees, attorneys, licensees, successors, and assigns, and those in active concert or participation with any of them, from directly infringing or inducing the infringement of the '405 patent;
3. A judgment that GE's infringement of the '405 patent has been willful;
4. A ruling that this case be found exceptional under 35 U.S.C. § 285, and a judgment awarding Super Resolution Technologies its attorney's fees in prosecuting this action;
5. A judgment and order requiring GE to pay Super Resolution Technologies' damages under 35 U.S.C. § 284, including supplemental damages for any continuing post-verdict infringement up until the entry of final judgment, with an accounting, as needed, and treble damages for willful infringement as provided for by 35 U.S.C. § 284;
6. A judgment and order requiring GE to pay Super Resolution Technologies the costs of this action (including all disbursements);
7. A judgment and order requiring GE to pay Super Resolution Technologies pre-judgment and post-judgment interest on the damages awarded;
8. A judgment and order requiring that, in the event a permanent injunction

preventing future acts of infringement is not granted, that Super Resolution Technologies be awarded a compulsory ongoing licensing fee; and

9. Such other and further relief as the Court may deem just and proper.

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Respectfully submitted,

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