



3. Upon information and belief, Toshiba America, Inc., is incorporated under the laws of the State of Delaware, has conducted and regularly conducts business within this District, has purposefully availed itself of the privileges of conducting business in this District, and has sought protection and benefit from the laws of the State of Delaware. Upon information and belief, Toshiba America, Inc., claims as its principal place of business, 1251 Avenue of the Americas, Suite 4110, New York, New York 10020. Upon information and belief, Toshiba America, Inc., may be served with process by serving its registered agent, the Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. Upon information and belief, Toshiba America, Inc., is a subsidiary of Toshiba Corporation.

4. Upon information and belief, Toshiba America Electronic Components, Inc., is a California corporation that claims as its principal place of business, 9740 Irvine Blvd., Irvine, California 92618. Upon information and belief, Toshiba America Electronic Components, Inc., is a subsidiary of Toshiba America, Inc. Upon information and belief, Toshiba America Electronic Components, Inc., has conducted and regularly conducts business within this District, has purposefully availed itself of the privileges of conducting business in this District, and has sought protection and benefit from the laws of the State of Delaware by being directed and/or controlled by its parent, Toshiba America, Inc. Upon information and belief, Toshiba America Electronic Components, Inc., may be served with process by serving its agent for service of process, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

## II. JURISDICTION AND VENUE

5. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

6. As further detailed herein, this Court has personal jurisdiction over Defendants. Defendants have conducted and regularly conduct business within the United States and this District. Defendants have purposefully availed themselves of the privileges of conducting business in the United States, and more specifically in this District. Defendants have sought protection and benefit from the laws of the State of Delaware by incorporating in the State of Delaware, and/or by placing infringing products into the stream of commerce through an established distribution channel with the expectation and/or knowledge that they will be purchased by consumers in this District and/or by owning, directly and/or indirectly, defendants that are Delaware Corporations and/or are owned by Delaware Corporations. Plaintiff's cause of action arises directly from Defendants' business contacts and other activities in this District.

7. Defendants, directly or through intermediaries (including distributors, retailers, and others), subsidiaries, alter egos, and/or agents, have and continue to ship, distribute, offer for sale, and/or sell their products in the United States and this District. Defendants have purposefully and voluntarily placed one or more of their infringing products, as described below, into the stream of commerce with the expectation and/or knowledge that they will be purchased by consumers in this District. Defendants knowingly and purposefully have and continue to ship infringing products into this District through an established distribution channel. These infringing products have been and continue to be purchased by consumers in this District. Upon information and belief, Defendants have committed the tort of patent infringement in this

District, have contributed to patent infringement in this District, and/or have induced others to commit patent infringement in this District.

8. Venue is proper in this Court under 28 U.S.C. §§ 1391(b), (c), and (d), as well as 28 U.S.C. § 1400(b), in that, upon information and belief, Defendants have committed acts within this judicial District giving rise to this action and do (and have done) business in this District, including but not limited to making sales in this District, providing service and support to their respective customers in this District, and/or operating an interactive website that is available to persons in this District, which website advertises, markets, and/or offers for sale infringing products.

### **III. BACKGROUND**

#### **A. THE PATENTS-IN-SUIT**

9. U.S. Patent No. 6,166,405, titled “Solid-State Imaging Device,” (“the ’405 patent”) was duly and legally issued by the U.S. Patent and Trademark Office on December 26, 2000 after full and fair examination. Plaintiff is the sole owner of the ’405 patent by assignment. A true and correct copy of the ’405 patent is attached as **Exhibit “A”** and made a part hereof.

10. U.S. Patent No. 7,696,543, titled “Solid State Imaging Device,” (“the ’543 patent”) was duly and legally issued by the U.S. Patent and Trademark Office on April 13, 2010, after full and fair examination. Plaintiff is the sole owner of the ’543 patent. A true and correct copy of the ’543 patent is attached as **Exhibit “B”** and made a part hereof.

11. U.S. Patent No. 7,471,322, titled “Solid State Imaging Device and Driving Method Thereof,” (“the ’322 patent”) was duly and legally issued by the U.S. Patent and Trademark Office on December 30, 2008, after full and fair examination. Plaintiff is the sole owner of the ’322 patent. A true and correct copy of the ’322 patent is attached as **Exhibit “C”** and made a part hereof.

**B. DEFENDANTS' INFRINGING CONDUCT**

12. Upon information and belief, Defendants collectively make, made, use, used, offer, offered to sell, and/or sells, sold within, and/or imported, or imports into the United States semiconductor devices that utilize technologies covered by the patents-in-suit. Upon information and belief, the infringing semiconductor devices include, but are not limited to CMOS image sensors, and related technologies and products. Upon information and belief, Defendants' semiconductor devices are also incorporated into products, including but not limited to digital cameras sold by Nikon Corporation, mobile handsets by various telecommunications service providers operating in this State such as Verizon, AT&T and Sprint, as well as other consumer electronics that are made, used, offered for sale, and/or sold within, and/or imported into the United States, including this District.

**III. COUNTS OF INFRINGEMENT**

**COUNT I**

**Patent Infringement of U.S. Patent No. 6,166,405**

13. Plaintiff repeats and re-alleges each and every allegation of paragraphs 1-12 as though fully set forth herein.

14. The '405 patent is valid and enforceable.

15. Defendants are not, and were not at any time, either expressly or impliedly, licensed under the '405 patent.

16. Upon information and belief, to the extent any marking or notice was required by 35 U.S.C. § 287, Plaintiff has complied with the requirements of that statute, including, but not limited to, by providing actual or constructive notice to Defendants of their alleged infringement.

17. Upon information and belief, Defendants have been directly and equivalently infringing under the doctrine of equivalents and/or indirectly infringing, by way of inducement

with specific intent under 35 U.S.C. § 271(b) and/or contributory infringement under 35 U.S.C. § 271(c), the '405 patent by making, using, offering to sell, and/or selling to customers and/or distributors (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without authority, semiconductor devices or products containing semiconductor devices that include all of the limitations of one or more claims of the '405 patent, including, but not limited to, CMOS image sensors, and related products and technologies, including, but not limited to, Toshiba CMOS image sensors such as the Model 5105 CMOS image sensor, and other Toshiba CMOS products.

18. Upon information and belief, a reasonable opportunity for further investigation or discovery will likely show that, with knowledge or willful blindness of the existence of the '405 patent Defendants are and have been directly and equivalently infringing under the doctrine of equivalents and/or indirectly infringing, in violation of 35 U.S.C. § 271(b). Defendants have knowingly induced, and are inducing, the direct infringement of one or more claims of the '405 patent by selling, providing support for, and/or providing instructions for use of their CMOS image sensors to customers, with the intent to encourage those customers to directly infringe the '405 patent by using Defendants' CMOS image sensors. Defendants know that their customers infringe the '405 patent by the normal and intended use of Defendants' CMOS image sensors.

19. Upon information and belief, a reasonable opportunity for further investigation or discovery will likely show that, with knowledge or willful blindness of the existence of the '405 patent, Defendants, in violation of 35 U.S.C. § 271(c), have contributorily infringed, and are contributorily infringing, the '405 patent by making, using, offering to sell, and/or selling to customers and/or distributors (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without

authority, products containing semiconductor devices that include all of the limitations of one or more claims of the '405 patent, including, but not limited to the Nikon D5200 camera, the Nikon D7000 camera, and other similar consumer electronics products, knowing these products are material to practicing the claimed inventions, are not staple articles or commodities of commerce suitable for substantial non-infringing use, and are especially made or especially adapted for use in an infringement of the '405 patent. Such discovery or investigation will likely show that Defendants sold their CMOS image sensors to customers knowing that the products directly infringe the '405 patent when used for their normal and intended purpose. The semiconductor devices found in such products perform substantially the same function as the inventions embodied in one or more claims of the '405 patent in substantially the same way to achieve the same result.

20. Upon information and belief, the products containing these semiconductor devices have no substantial non-infringing uses, and Defendants had knowledge of the non-staple nature of the products containing these semiconductor devices and the '405 patent throughout the entire period of its infringing conduct or at least by April 30, 2014, when Defendants were formally placed on notice of their infringement through a letter sent to Toshiba Corporation's President of Semiconductor and Storage Company, Mr. Yasuo Naruke at Toshiba Corporation, 1-1, Shibaura 1-Chrome, Minato-Ku, Tokyo, 105-8001, Japan, which letter identified the '405 patent and products accused of infringement.

## COUNT II

### **Patent Infringement of U.S. Patent No. 7,696,543**

21. Plaintiff repeats and re-alleges each and every allegation of paragraphs 1-20 as though fully set forth herein.

22. The '543 patent is valid and enforceable.

23. Defendants are not, and were not at any time, either expressly or impliedly, licensed under the '543 patent.

24. Upon information and belief, to the extent any marking or notice was required by 35 U.S.C. § 287, Plaintiff has complied with the requirements of that statute, including, but not limited to, by providing actual or constructive notice to Defendants of its alleged infringement.

25. Upon information and belief, Defendants have been directly and equivalently infringing under the doctrine of equivalents and/or indirectly infringing, by way of inducement with specific intent under 35 U.S.C. § 271(b) and/or contributory infringement under 35 U.S.C. § 271(c), the '543 patent by making, using, offering to sell, and/or selling to customers and/or distributors (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without authority, semiconductor devices or products containing semiconductor devices that include all of the limitations of one or more claims of the '543 patent, including, but not limited to, CMOS image sensors, and related products and technologies, including, but not limited to, Toshiba CMOS image sensors such as the Model 5105 CMOS image sensor, and other Toshiba CMOS products.

26. Upon information and belief, Defendants have been directly and equivalently infringing under the doctrine of equivalents and/or indirectly infringing, by way of inducement with specific intent under 35 U.S.C. § 271(b) and/or contributory infringement under 35 U.S.C. § 271(c), the '543 patent by making, using, offering to sell, and/or selling to customers and/or distributors (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without authority, products containing semiconductor devices that include all of the limitations of one or more claims of the '543 patent, including, but not limited to the Nikon D5200 camera, the Nikon D7000 camera,



and other similar consumer electronics products. The semiconductor devices found in such products perform substantially the same function as the inventions embodied in one or more claims of the '543 patent in substantially the same way to achieve the same result.

27. Upon information and belief, the products containing these semiconductor devices have no substantial non-infringing uses, and Defendants had knowledge of the non-staple nature of the products containing these semiconductor devices and the '543 patent throughout the entire period of its infringing conduct or at least by July 2, 2014, when Defendants were formally placed on notice of this infringement at a meeting held at Toshiba's offices located at Toshiba Corporation, 1-1, Shibaura 1-Chrome, Minato-Ku, Tokyo, 105-8001, Japan, at which time the Plaintiff made a presentation identifying the '543 patent and the Defendants' products accused of infringement.

### COUNT III

#### **Patent Infringement of U.S. Patent No. 7,471,322**

28. Plaintiff repeats and re-alleges each and every allegation of paragraphs 1-27 as though fully set forth herein.

29. The '322 patent is valid and enforceable.

30. Defendants are not, and were not at any time, either expressly or impliedly, licensed under the '322 patent.

31. Upon information and belief, to the extent any marking or notice was required by 35 U.S.C. § 287, Plaintiff has complied with the requirements of that statute, including, but not limited to, by providing actual or constructive notice to Defendants of their alleged infringement.

32. Upon information and belief, Defendants have been directly and equivalently infringing under the doctrine of equivalents and/or indirectly infringing, by way of inducement with specific intent under 35 U.S.C. § 271(b) and/or contributory infringement under 35 U.S.C.

§ 271(c), the '322 patent by making, using, offering to sell, and/or selling to customers and/or distributors (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without authority, semiconductor devices or products containing semiconductor devices that include all of the limitations of one or more claims of the '322 patent, including, but not limited to, Toshiba CMOS image sensors such as the Model T4K82 and T4KA3CMOS image sensors. The products containing these semiconductor devices, including the LG G4 F500K and the LG G4 handset, offered for sale in this District by Verizon, AT&T and Sprint, perform substantially the same function as the inventions embodied in one or more claims of the '322 patent in substantially the same way to achieve the same result.

33. Upon information and belief, the products containing these semiconductor devices have no substantial non-infringing uses, and Defendants had knowledge of the non-staple nature of the products containing these semiconductor devices and the '322 patent throughout the entire period of its infringing conduct or at least by February 4, 2015, when Defendants were formally placed on notice of this infringement at a meeting held at Toshiba's offices located at Toshiba Corporation, 1-1, Shibaura 1-Chrome, Minato-Ku, Tokyo, 105-8001, Japan, at which time the Plaintiff made a presentation identifying the '322 patent and Defendants' products accused of infringement.

#### **IV. CONCLUSION**

34. Plaintiff is entitled to recover from Defendants the damages sustained by Plaintiff as a result of Defendants' wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court.

35. A judgment and order requiring Defendants to pay Plaintiff damages under 35 U.S.C. § 284, including up to treble damages for willful infringement as provided by 35 U.S.C. § 284, and any royalties determined to be appropriate.

36. Plaintiff has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute create an exceptional case within the meaning of 35 U.S.C. § 285, and Plaintiff is entitled to recover its reasonable and necessary attorneys' fees, costs, and expenses.

**V. JURY DEMAND**

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

**VI. PRAYER FOR RELIEF**

38. Plaintiff respectfully request that the Court find in its favor and against Defendants, and that the Court grant Plaintiff the following relief:

- A. A judgment that Defendants have infringed the patents-in-suit as alleged herein, directly and/or indirectly by way of inducing or contributing to infringement of such patents;
- B. A judgment for an accounting of all damages sustained by Plaintiff as a result of the acts of infringement by Defendants;
- C. A judgment and order requiring Defendants to pay Plaintiff damages under 35 U.S.C. § 284, including up to treble damages for willful infringement as provided by 35 U.S.C. § 284, and any royalties determined to be appropriate, including, but not limited to, past, present, and future royalties;

- D. A judgment and order requiring Defendants to pay Plaintiff pre-judgment and post-judgment interest on the damages awarded;
- E. A judgment and order finding this to be an exceptional case and requiring Defendants to pay the costs of this action (including all disbursements) and attorneys' fees as provided by 35 U.S.C. § 285; and
- F. Such other and further relief as the Court deems just and equitable.

Dated: July 16, 2015

Respectfully submitted,

**FARNAN LLP**

/s/ Brian E. Farnan

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