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17 *Corp. and Toshiba America Business*  
18 *Solutions, Inc.*

19 **UNITED STATES DISTRICT COURT**  
20 **CENTRAL DISTRICT OF CALIFORNIA**

21 TOSHIBA TEC CORPORATION and  
22 TOSHIBA AMERICA BUSINESS  
SOLUTIONS, INC.,

23 Plaintiffs,

24 v.

25 KATUN CORPORATION,

26 Defendant.

Case No.

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**[JURY TRIAL DEMANDED]**

1 Plaintiffs Toshiba Tec Corporation and Toshiba America Business Solutions,  
2 Inc. (together, “Toshiba”) file this Complaint against Katun Corporation (“Katun”) for  
3 infringement of United States Patent Nos. 7,792,438 (“the ’438 patent”); 8,150,275  
4 (“the ’275 patent”); 8,311,420 (“the ’420 patent”); 8,606,124 (“the ’124 patent”);  
5 9,098,015 (“the ’015 patent”); D559,895 (“the ’895 patent”); 8,554,091 (“the ’091  
6 patent”); RE40,058 (“the ’058 patent”); and RE41,779 (“the ’779 patent”)  
7 (collectively, “the Asserted Patents”).

8 **The Parties**

9 1. Plaintiff Toshiba Tec Corporation (“TTEC”) is a Japanese corporation  
10 with its principal place of business at Gate City Ohsaki West Tower, 1-11-1, Osaki,  
11 Shinagawa-ku, Tokyo 141-8562, Japan.

12 2. Plaintiff Toshiba America Business Solutions, Inc. (“TABS”) is a  
13 California corporation with its principal place of business at 9740 Irvine Blvd., Irvine,  
14 California 92618.

15 3. On information and belief, Katun is a Minnesota corporation with its  
16 principal place of business at 10951 Bush Lake Road, Minneapolis, Minnesota. On  
17 information and belief, Katun sells toner cartridges accused of infringement in this  
18 action to California residents, among others, through its website, www.katun.com.

19 **Jurisdiction and Venue**

20 4. This is an action for patent infringement arising under the patent laws of  
21 the United States, 35 U.S.C. §§ 1 *et seq.* This Court has jurisdiction over this action  
22 pursuant to 28 U.S.C. §§ 1331 and 1338(a).

23 5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and  
24 1400(b).

25 6. This Court has personal jurisdiction over Defendant, including under  
26 California’s long arm statute. On information and belief, the Defendant regularly  
27 conducts business in the State of California, including in the Central District of  
28 California, by purposefully directing activities at residents of this State and availing

1 itself of the privilege of conducting business within this District. The Defendant has  
2 sufficient minimum contacts with this District such that it should reasonably and fairly  
3 anticipate being haled into court in this District. Defendant's acts of patent  
4 infringement and/or contribution to, or inducement of, acts of patent infringement by  
5 others in this District and elsewhere in California and the United States, as alleged  
6 herein, arise out of or are related to one or more of the Defendant's activities in this  
7 District such that the exercise of jurisdiction would not offend traditional notions of  
8 fair play and substantial justice.

9 **The Asserted Patents**

10 7. The '438 patent, entitled "Toner Cartridge," was duly and legally issued  
11 by the United States Patent & Trademark Office ("USPTO") on September 7, 2010.  
12 A true and correct copy of the '438 patent is attached as Exhibit 1.

13 8. The '275 patent, entitled "Toner Cartridge," was duly and legally issued  
14 by the USPTO on April 3, 2012. A true and correct copy of the '275 patent is  
15 attached as Exhibit 2.

16 9. The '420 patent, entitled "Toner Cartridge," was duly and legally issued  
17 by the USPTO on November 13, 2012. A true and correct copy of the '420 patent is  
18 attached as Exhibit 3.

19 10. The '124 patent, entitled "Toner Cartridge," was duly and legally issued  
20 by the USPTO on December 10, 2013. A true and correct copy of the '124 patent is  
21 attached as Exhibit 4.

22 11. The '015 patent, entitled "Toner Cartridge," was duly and legally issued  
23 by the USPTO on August 4, 2015. A true and correct copy of the '015 patent is  
24 attached as Exhibit 5.

25 12. The '895 patent, entitled "Toner Cartridge," was duly and legally issued  
26 by the USPTO on January 15, 2008. A true and correct copy of the '895 patent is  
27 attached as Exhibit 6.

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1 13. The '091 patent, entitled "Toner Cartridge With Memory For Image  
2 Forming Apparatus," was duly and legally issued by the USPTO on October 8, 2013.  
3 A true and correct copy of the '091 patent is attached as Exhibit 7.

4 14. The '058 patent, entitled "Toner Bottle Capable Of Being Discriminated,  
5 Method And Apparatus For Discriminating Toner Bottle Types According To A  
6 Sensed Object On The Toner Bottle Stirring Toner, And Detecting The Amount Of  
7 Remaining Toner," was duly and legally issued by the USPTO on February 12, 2008.  
8 A true and correct copy of the '058 patent is attached as Exhibit 8.

9 15. The '779 patent, entitled "Toner Bottle And Developer Cartridge For Use  
10 In An Image Forming Apparatus," was duly and legally issued by the USPTO on  
11 September 28, 2010. A true and correct copy of the '779 patent is attached as Exhibit  
12 9.

13 16. The Asserted Patents are valid and enforceable.

14 **Defendant's Infringing Activities**

15 17. Defendant is a provider of imaging supplies, photoreceptors, and parts  
16 which are allegedly compatible with copiers, printers, multi-function peripherals  
17 ("MFPs"), and other imaging equipment sold by major manufacturers in the United  
18 States, including Plaintiffs. Defendant's products are marketed and sold as less  
19 expensive substitutes for comparable, high-quality products sold by Plaintiffs.

20 18. Katun has service centers located domestically and abroad for receiving  
21 and fulfilling orders for products. Katun also allows its customers to purchase its  
22 products through its online catalog available at [www.katun.com](http://www.katun.com).

23 19. On information and belief, Katun has been, and is currently, engaged in  
24 the business of making, using, selling, offering to sell, and/or importing into the  
25 United States toner cartridges for use in one or more Toshiba products, including the  
26 following non-exhaustive list of products, each bearing the designator "Katun PN":  
27 36860, 36861, 36862, 36863, 38816, 38817, 38818, 38819, 39978, 39979, 39980,  
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1 39981, 43270, 43774, 43811, 25627, 37361, 23558, 27373, 44440, 47017, 44260,  
2 44977, 44978, 44979, and 44980.

3 20. On information and belief, Defendant purposefully directs sales and  
4 offers for sale of its products, including those specifically identified above, toward the  
5 State of California, including this District.

6 21. On information and belief, Defendant maintains established distribution  
7 channels within the United States that permit Defendant to ship products, including  
8 those specifically identified above, to the State of California, including this District.

9 **First Cause of Action: Infringement of the '438 Patent**

10 22. Toshiba repeats and incorporates by reference each and every allegation  
11 of paragraphs 1 through 21 of this Complaint as though set forth here in their entirety.

12 23. Plaintiffs are joint assignees of, and together hold all right, title, and  
13 interest in, the '438 patent, including the right to sue, enjoin, and recover damages for  
14 any and all infringements thereof.

15 24. Defendant is directly infringing the '438 patent, either literally or under  
16 the doctrine of equivalents, by making, using, selling, offering to sell, and/or  
17 importing into the United States toner cartridges, including, but not limited to, toner  
18 cartridges bearing Katun PNs 36860, 36861, 36862, 36863, 38816, 38817, 38818,  
19 38819, 39978, 39979, 39980, and 39981. Defendant is on notice of its infringement  
20 of the '438 patent at least upon receiving a copy of this Complaint by formal service,  
21 if not prior to service via informal delivery.

22 25. By reason of Defendant's infringing activities, Toshiba has suffered, and  
23 will continue to suffer, substantial damages in an amount to be determined at trial.

24 26. Defendant's acts complained of herein are damaging, and will continue  
25 to damage, Toshiba irreparably. Toshiba has no adequate remedy at law for these  
26 wrongs and injuries. Toshiba is therefore entitled to injunctive relief restraining and  
27 enjoining Defendant from infringing the claims of the '438 patent.

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1 cartridges bearing Katun PNs 36860, 36861, 36862, 36863, 38816, 38817, 38818,  
2 38819, 39978, 39979, 39980, and 39981. Defendant has had knowledge of the '420  
3 patent and has been on notice of its infringement of the '420 patent at least since on or  
4 about June 26, 2013.

5 35. By reason of Defendant's infringing activities, Toshiba has suffered, and  
6 will continue to suffer, substantial damages in an amount to be determined at trial.

7 36. Defendant's acts complained of herein are damaging, and will continue  
8 to damage, Toshiba irreparably. Toshiba has no adequate remedy at law for these  
9 wrongs and injuries. Toshiba is therefore entitled to injunctive relief restraining and  
10 enjoining Defendant from infringing the claims of the '420 patent.

11 **Fourth Cause of Action: Infringement of the '124 Patent**

12 37. Toshiba repeats and incorporates by reference each and every allegation  
13 of paragraphs 1 through 36 of this Complaint as though set forth here in their entirety.

14 38. Plaintiffs are joint assignees of, and together hold all right, title, and  
15 interest in, the '124 patent, including the right to sue, enjoin, and recover damages for  
16 any and all infringements thereof.

17 39. Defendant is directly infringing the '124 patent, either literally or under  
18 the doctrine of equivalents, by making, using, selling, offering to sell, and/or  
19 importing into the United States toner cartridges, including, but not limited to, toner  
20 cartridges bearing Katun PNs 36860, 36861, 36862, 36863, 38816, 38817, 38818,  
21 38819, 39978, 39979, 39980, and 39981. Defendant is on notice of its infringement  
22 of the '124 patent at least upon receiving a copy of this Complaint by formal service,  
23 if not prior to service via informal delivery.

24 40. By reason of Defendant's infringing activities, Toshiba has suffered, and  
25 will continue to suffer, substantial damages in an amount to be determined at trial.

26 41. Defendant's acts complained of herein are damaging, and will continue  
27 to damage, Toshiba irreparably. Toshiba has no adequate remedy at law for these  
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1 wrongs and injuries. Toshiba is therefore entitled to injunctive relief restraining and  
2 enjoining Defendant from infringing the claims of the '124 patent.

3 **Fifth Cause of Action: Infringement of the '015 Patent**

4 42. Toshiba repeats and incorporates by reference each and every allegation  
5 of paragraphs 1 through 41 of this Complaint as though set forth here in their entirety.

6 43. Plaintiffs are joint assignees of, and together hold all right, title, and  
7 interest in, the '015 patent, including the right to sue, enjoin, and recover damages for  
8 any and all infringements thereof.

9 44. Defendant is directly infringing the '015 patent, either literally or under  
10 the doctrine of equivalents, by making, using, selling, offering to sell, and/or  
11 importing into the United States toner cartridges, including, but not limited to, toner  
12 cartridges bearing Katun PNs 36860, 36861, 36862, 36863, 38816, 38817, 38818,  
13 38819, 39978, 39979, 39980, 39981, 44977, 44978, 44979, and 44980. Defendant is  
14 on notice of its infringement of the '015 patent at least upon receiving a copy of this  
15 Complaint by formal service, if not prior to service via informal delivery.

16 45. By reason of Defendant's infringing activities, Toshiba has suffered, and  
17 will continue to suffer, substantial damages in an amount to be determined at trial.

18 46. Defendant's acts complained of herein are damaging, and will continue  
19 to damage, Toshiba irreparably. Toshiba has no adequate remedy at law for these  
20 wrongs and injuries. Toshiba is therefore entitled to injunctive relief restraining and  
21 enjoining Defendant from infringing the claims of the '015 patent.

22 **Sixth Cause of Action: Infringement of the '895 Patent**

23 47. Toshiba repeats and incorporates by reference each and every allegation  
24 of paragraphs 1 through 46 of this Complaint as though set forth here in their entirety.

25 48. Plaintiffs are joint assignees of, and together hold all right, title, and  
26 interest in, the '895 patent, including the right to sue, enjoin, and recover damage for  
27 any and all infringements thereof.

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1           49. Defendant is directly infringing the '895 patent by making, using, selling,  
2 offering to sell, and/or importing into the United States toner cartridges, including, but  
3 not limited to, toner cartridges bearing Katun PNs 36860, 36861, 36862, 36863,  
4 38816, 38817, 38818, and 38819. Defendant has had knowledge of the '895 patent  
5 and has been on notice of its infringement of the '895 patent since at least on or about  
6 November 9, 2011.

7           50. By reason of Defendant's infringing activities, Toshiba has suffered, and  
8 will continue to suffer, substantial damages in an amount to be determined at trial.

9           51. Defendant's acts complained of herein are damaging and will continue to  
10 damage Toshiba irreparably. Toshiba has no adequate remedy at law for these wrongs  
11 and injuries. Toshiba is therefore entitled to injunctive relief restraining and enjoining  
12 Defendant from infringing the claims of the '895 patent.

13                           **Seventh Cause of Action: Infringement of the '091 Patent**

14           52. Toshiba repeats and incorporates by reference each and every allegation  
15 of paragraphs 1 through 51 of this Complaint as though set forth here in their entirety.

16           53. Plaintiffs are joint assignees of, and together hold all right, title, and  
17 interest in, the '091 patent, including the right to sue, enjoin, and recover damages for  
18 any and all infringements thereof.

19           54. Defendant is directly infringing the '091 patent, either literally or under  
20 the doctrine of equivalents, by making, using, selling, offering to sell, and/or  
21 importing into the United States toner cartridges, including, but not limited to, toner  
22 cartridges bearing Katun PNs 39978, 39979, 39980, 39981, 43270, 43774, and 43811.

23           55. Defendant is also indirectly infringing the '091 patent by virtue of its  
24 inducement of direct infringement of the '091 patent by customers who use  
25 Defendant's toner cartridges in Toshiba printing devices. Defendant is on notice of its  
26 infringement of the '091 patent at least upon receiving a copy of this Complaint by  
27 formal service, if not prior to service via informal delivery.

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1           56. On information and belief, Defendant knowingly induces customers to  
2 use its toner cartridges with specific intent to encourage infringement, including, for  
3 example, by promoting and marketing its toner cartridges for use in specific Toshiba  
4 printers and/or providing customers with instructions for using its toner cartridges in  
5 those printers.

6           57. Defendant is also indirectly infringing the '091 patent by contributing to  
7 the direct infringement of customers who use Defendant's toner cartridges in Toshiba  
8 printing devices.

9           58. On information and belief, Defendant's toner cartridges are material to  
10 practicing the claims of the '091 patent, and Defendant has made, sold, offered for  
11 sale, and/or imported its toner cartridges with knowledge that they are especially made  
12 or adapted for use in a manner that infringes the '091 patent.

13           59. On information and belief, Defendant's toner cartridges are not staple  
14 articles of commerce suitable for any other substantial non-infringing uses.

15           60. By reason of Defendant's infringing activities, Toshiba has suffered, and  
16 will continue to suffer, substantial damages in an amount to be determined at trial.

17           61. Defendant's acts complained of herein are damaging, and will continue  
18 to damage, Toshiba irreparably. Toshiba has no adequate remedy at law for these  
19 wrongs and injuries. Toshiba is therefore entitled to injunctive relief restraining and  
20 enjoining Defendant from infringing the claims of the '091 patent.

21                           **Eighth Cause of Action: Infringement of the '058 Patent**

22           62. Toshiba repeats and incorporates by reference each and every allegation  
23 of paragraphs 1 through 61 of this Complaint as though set forth here in their entirety.

24           63. Plaintiffs are joint assignees of, and together hold all right, title, and  
25 interest in, the '058 patent, including the right to sue, enjoin, and recover damages for  
26 any and all infringements thereof.

27           64. Defendant is directly infringing the '058 patent, either literally or under  
28 the doctrine of equivalents, by making, using, selling, offering to sell, and/or

1 importing into the United States toner cartridges, including, but not limited to, toner  
2 cartridges bearing Katun PNs 25627, 37361, 23558, 27373, 44440, 47017, and 44260.

3 65. Defendant is also indirectly infringing the '058 patent at least by virtue of  
4 its inducement of direct infringement of the '058 patent by customers who use  
5 Defendant's products in Toshiba printing devices. Defendant has had knowledge of  
6 the '058 patent and has been on notice of its infringement of the '058 patent at least  
7 since on or about June 2, 2011.

8 66. On information and belief, Defendant knowingly induces customers to  
9 use its toner cartridges with specific intent to encourage infringement, including, for  
10 example, by promoting and marketing its toner cartridges for use in specific Toshiba  
11 printers and/or providing customers with instructions for using its toner cartridges in  
12 those printers.

13 67. Defendant is also indirectly infringing the '058 patent by contributing to  
14 the direct infringement of customers who use Defendant's toner cartridges in Toshiba  
15 printing devices.

16 68. On information and belief, Defendant's toner cartridges are material to  
17 practicing the claims of the '058 patent, and Defendant has made, sold, offered for  
18 sale, and or imported its toner cartridges with knowledge that they are especially made  
19 or adapted for use in a manner that infringes the '058 patent.

20 69. On information and belief, Defendant's toner cartridges are not staple  
21 articles of commerce suitable for any other substantial non-infringing uses.

22 70. By reason of Defendant's infringing activities, Toshiba has suffered, and  
23 will continue to suffer, substantial damages in an amount to be determined at trial.

24 71. Defendant's acts complained of herein are damaging, and will continue  
25 to damage, Toshiba irreparably. Toshiba has no adequate remedy at law for these  
26 wrongs and injuries. Toshiba is therefore entitled to injunctive relief restraining and  
27 enjoining Defendant from infringing the claims of the '058 patent.

28 **Ninth Cause of Action: Infringement of the '779 Patent**

1           72. Toshiba repeats and incorporates by reference each and every allegation  
2 of paragraphs 1 through 71 of this Complaint as though set forth here in their entirety.

3           73. Plaintiffs are joint assignees of, and together hold all right, title, and  
4 interest in, the '779 patent, including the right to sue, enjoin, and recover damages for  
5 any and all infringements thereof.

6           74. Defendant is directly infringing the '779 patent, either literally or under  
7 the doctrine of equivalents, by making, using, selling, offering to sell, and/or  
8 importing into the United States toner cartridges, including, but not limited to, toner  
9 cartridges bearing Katun PNs 25627, 37361, 23558, 27373, 44440, 47017, and 44260.

10           75. Defendant is also indirectly infringing the '779 patent at least by virtue of  
11 its inducement of direct infringement of the '779 patent by customers who use  
12 Defendant's products in Toshiba printing devices. Defendant has had knowledge of  
13 the '779 patent and has been on notice of its infringement of the '779 patent since at  
14 least on or about November 9, 2011.

15           76. On information and belief, Defendant knowingly induces customers to  
16 use its toner cartridges with specific intent to encourage infringement, including, for  
17 example, by promoting and marketing its toner cartridges for use in specific Toshiba  
18 printers and/or providing customers with instructions for using its toner cartridges in  
19 those printers.

20           77. Defendant is also indirectly infringing the '779 patent by contributing to  
21 the direct infringement of customers who use Defendant's toner cartridges in Toshiba  
22 printing devices.

23           78. On information and belief, Defendant's toner cartridges are material to  
24 practicing the claims of the '779 patent, and Defendant has made, sold, offered for  
25 sale, and/or imported its toner cartridges with knowledge that they are especially made  
26 or adapted for use in a manner that infringes the '779 patent.

27           79. On information and belief, Defendant's toner cartridges are not staple  
28 articles of commerce suitable for any other substantial non-infringing uses.



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Dated: November 25, 2015

/s/ Martin L. Pitha

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