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9 Attorneys for Plaintiff,
10 CELLSPIN SOFT INC.

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

13 CELLSPIN SOFT, INC.,
14 Plaintiff,
15 v.
16 EASTMAN KODAK COMPANY,
17 Defendant.

Case No. 3:17-cv-05940

**COMPLAINT FOR INFRINGEMENT
OF U.S. PATENT NO. 9,258,698**

DEMAND FOR JURY TRIAL

Complaint Filed: October 16, 2017

18 **NATURE OF THE ACTION**

19 1. This is a patent infringement action to stop Defendant’s infringement of United States
20 Patent No. 9,258,698 entitled “Automatic Multimedia Upload for Publishing Data and
21 Multimedia Content” (the “‘698 patent” or “Patent-in-Suit”).

22 **THE PARTIES**

23 2. Plaintiff, Cellspin Soft, Inc. (“Cellspin”), is a California Company with an office and
24 place business at 1410 Mercy Street, Mountain View, California 94041.

25 3. Upon information and belief, Defendant, Eastman Kodak Company (“Kodak”), is a
26 corporation organized and existing under the laws of the State of New Jersey, with its principal
27 place of business at 343 State Street, Rochester, New York 14650. Eastman Kodak Company
28 can be served with process through its registered agent Corporation Service Company at 211
East 7th Street, Suite 620, Austin, Texas 78701.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, 35 U.S.C. § 1 et seq.,

1 including 35 U.S.C. §§ 271, 281, 283, and 284. This Court has subject matter jurisdiction over
2 this case for patent infringement, including pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3 5. Plaintiff is the assignee of the Patent-in-Suit with all right, title and interest to bring the
4 claims herein comprising those for past and present infringement, including to recover
5 damages therefor.

6 6. The Court has personal jurisdiction over Kodak, including because Kodak has minimum
7 contacts within the State of California; Kodak has purposefully availed itself of the privileges
8 of conducting business in the State of California; Kodak regularly conducts business within
9 the State of California; and Plaintiff's cause of action arises directly from Kodak's business
10 contacts and other activities in the State of California, including at least by virtue of Kodak's
11 infringing methods and products, which are at least practiced, made, used, offered for sale, and
12 sold in the State of California. Kodak is subject to this Court's specific and general personal
13 jurisdiction, pursuant to due process and the California Long Arm Statute, due at least to its
14 continuous and systematic business contacts in California. Further, on information and belief,
15 Kodak is subject to the Court's specific jurisdiction, including because Kodak has committed
16 patent infringement in the State of California, including as detailed herein. In addition, Kodak
17 induces infringement of the Patent-in-Suit by customers and/or infringing users located in
18 California. Further, on information and belief, Kodak regularly conducts and/or solicits
19 business, engages in other persistent courses of conduct, and/or derives substantial revenue
20 from goods and services provided to persons and/or entities in California.

21 7. Upon information and belief, Venue is proper in this District pursuant to 28 U.S.C. §§
22 1391 and 1400(b), including in view of Kodak's established place of business in this District
23 and in California, including its established Kiosks throughout this District and California, and
24 at least some of its infringement of the Patents-in-Suit occurs in this District and in California.

25 **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 9,258,698**

26 8. Plaintiff refers to and incorporates herein the allegations in the above paragraphs.

27 9. U.S. Patent No. 9,258,698 was duly and legally issued by the USPTO on February 9,
28 2016 after full and fair examination. *See* Exhibit A.

1 10. Claims of the '698 Patent comprise, generally, methods, devices, systems, and
2 computer-readable media comprising digital camera devices having a short-range wireless
3 capability to connect with a cellular phone; acquiring new-media after establishing a secure
4 wireless connection between the camera and the cellular phone; creating a new-media file
5 using the new-media; receiving a data transfer request for the new-media file initiated by a
6 mobile software application on the cellular phone over the wireless connection after storing
7 the created new-media file in memory of the camera; and transferring the new-media file to be
8 stored on the cellular phone, over the wireless connection, wherein the cellular phone is
9 configured to use HTTP to upload the received new-media file along with user information to
10 a user media publishing website.

11 11. Kodak has infringed, and is now infringing, the '698 patent, including at least claims 1,
12 3, 4, 5, 7, 8, 10, 11, 12, 13, 15, 16, 17, 18, 19, and 20, in this judicial district, the State of
13 California, and elsewhere, in violation of 35 U.S.C. § 271 through actions comprising the
14 making, using, offering for sale, and/or selling, without authority from Plaintiff, devices,
15 systems, and/or computer-readable media for enabling connection between data capture
16 devices and other wireless devices, such as a cellular phone, acquiring new data on the data
17 capture device, and transferring the data from Kodak data capture devices to web servers via
18 wireless mobile devices. On information and belief, Kodak practices, and/or induces others to
19 practice, the claimed methods, and/or makes, uses, offers for sale, and/or sells, and/or induces
20 others to use, the claimed devices, systems, and computer-readable media, including camera
21 and other media devices, including DSLR cameras, point-and-click cameras, digital cameras,
22 and other digital media devices, designed to capture digital media, *e.g.*, images, photographs,
23 audio, video, etc., including related data such as GPS coordinates, timestamp, etc., as specified
24 herein, comprising wireless functionality, with such products comprising the SP360 4K,
25 SP360, SP1, SPZ1, AZ651, AZ526, AZ525, AZ522, AZ521, AZ501, AZ421, AZ401, AZ365,
26 AZ362, AZ361, AZ252, AZ251, FZ201, FZ152, FZ151, FZ53, FZ51, FZ43, FZ41, S-1, WP1,
27 SL25, SL10, SL5, AZ422, ORBIT360 4K, 4KVR360, including when used in conjunction
28 with Kodak mobile applications (including iOS and Android versions thereof) comprising

1 PixPro SP360 4K, PixPro SP360, PixPro SP1, PixPro Remote View, and/or PixPro 360 VR
2 Remote Viewer, including when used in conjunction with websites comprising media
3 publishing sites, such as social media websites.

4 12. Without limitation, the accused Kodak devices, including software which practices said
5 methods, support wireless protocols, including short-range wireless protocols, including
6 wireless networking or Bluetooth protocols, comprising transferring data from digital camera
7 devices to websites via applications on cellular phones, including via its cameras and other
8 media devices. The accused Kodak devices, systems, computer-readable media, and methods
9 comprise the capability to establish a secure wireless connection with a cellular phone. Once
10 the connection between the Kodak device and the cellular phone is established, the Kodak
11 devices acquire new-media (*e.g.*, photos, audio, and/or videos, and related data), create a new-
12 media file using the acquired new-media, and transfer the new-media file to the cellular phone
13 in response to receiving a data transfer request for the new-media file initiated by the Kodak
14 application on the cellular phone, over the established wireless connection, after storing the
15 created new-media file in the memory of the Kodak device. The Kodak devices transfer the
16 new-media file to the cellular phone so that it is stored, over the established wireless
17 connection, wherein the cellular phone is configured to use HTTP to upload the received new-
18 media file, along with the user's account information, to a media publishing website for the
19 user, including social media, news, database, or other websites. In addition, and in the
20 alternative, to Kodak's making, offering for sale, and/or selling of the Kodak devices and
21 applications, upon information and belief, at least through Kodak's hardware, software, and
22 efforts to test, demonstrate, and otherwise use Kodak devices, Kodak has used the claimed
23 devices, systems, and computer-readable media via at least the use of the Kodak devices,
24 comprising at least the foregoing steps.

25 13. Kodak has had notice of its infringement of the '698 patent pursuant to notifications
26 from Plaintiff comprising letters mailed on June 15, 2017 and August 31, 2017.

27 14. Additionally, or in the alternative, Kodak has induced, and continues to induce,
28 infringement of the '698 Patent in this judicial district, the State of California, and elsewhere,

1 by intentionally inducing direct infringement of the '698 Patent, including by knowingly and
2 actively aiding or abetting infringement by users, by and through at least instructing and
3 encouraging the use of the Kodak products and software noted above. Such aiding and abetting
4 comprises providing devices, software, websites, and/or instructions regarding the use and/or
5 operation of the Kodak devices and applications in an infringing manner, and further including
6 providing the accused Kodak devices and applications to users who, in turn, use the claimed
7 devices, systems, and computer-readable media, including as noted above. Further, the direct
8 infringement of the claimed methods by users that occurs in connection with Kodak's
9 applications and/or websites occurs under the direction or control of Kodak, including Kodak
10 software and hardware, including because user devices perform said steps in order to receive
11 the benefits of Kodak's mobile application, and/or because Kodak conditions use of its mobile
12 applications upon performance of the remaining method steps. Further, the direct infringement
13 by users of the claimed systems provides the user with a direct benefit from the use of Kodak
14 devices and applications. Such induced infringement has occurred since Kodak became aware
15 of the '698 Patent, at a minimum, as noted above, and the knowledge and awareness that such
16 actions and use by users comprise infringement of the '698.

17 15. To the extent Kodak continues, and has continued, its infringing activities noted above
18 in an infringing manner post-notice of the '698 patent, such infringement is necessarily willful
19 and deliberate. Plaintiff believes and contends that Kodak's continuance of its clear and
20 inexcusable infringement of the '698 patent post notice is willful, wanton, malicious, bad-
21 faith, deliberate, and/or consciously wrongful.

22 16. Including on account of the foregoing, Plaintiff contends such activities by Kodak
23 qualify this as an egregious case of misconduct beyond typical infringement, entitling Plaintiff
24 to enhanced damages. Including based on the foregoing, Plaintiff requests an award enhanced
25 damages, including treble damages, pursuant to 35 U.S.C. § 284.

26 17. Each of Kodak's aforesaid activities have been without authority and/or license from
27 Plaintiff.

28 DAMAGES

1 18. By way of its infringing activities, Kodak has caused, and continues to cause, Plaintiff
2 to suffer damages, and Plaintiff is entitled to recover from Kodak the damages sustained by
3 Plaintiff as a result of Kodak's wrongful acts in an amount subject to proof at trial, which, by
4 law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this
5 Court under 35 U.S.C. § 284.

6 19. Kodak's infringement of Plaintiff's rights under the Patent-in-Suit will continue to
7 damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law,
8 unless enjoined by this Court.

9 20. Plaintiff also requests that the Court make a finding that this is an exceptional case
10 entitling Plaintiff to recover their attorneys' fees and costs pursuant to 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff hereby respectfully requests that this Court enter judgment in favor of Plaintiff and against Kodak, and that the Court grant Plaintiff the following relief:

- A. An adjudication that one or more claims of the Patent-in-Suit has been directly and/or indirectly infringed by Kodak;
- B. An award to Plaintiff of damages adequate to compensate Plaintiff for Kodak’s past infringement, together with pre-judgment and post-judgment interest, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses, and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A grant of preliminary and permanent injunction pursuant to 35 U.S.C. § 283, enjoining Kodak and all persons, including its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation therewith, from making, using, offering to sell, or selling in the United States or importing into the United States any methods, systems, or computer readable media that directly or indirectly infringe any claim of the Patent-in-Suit, or any methods, systems, or computer readable media that are colorably different;
- D. That this Court declare that Kodak’s infringement has been, and continues to be, willful, including that Kodak acted to infringe the Patent-in-Suit despite an objectively high likelihood that its actions constituted infringement of a valid patent and, accordingly, award enhanced damages, including treble damages, pursuant to 35 U.S.C. § 284;
- E. That this Court declare this to be an exceptional case and award Plaintiff reasonable attorneys’ fees and costs in accordance with 35 U.S.C. § 285; and
- F. A judgment and order requiring Kodak to pay Plaintiff their damages, costs, expenses, fees, and prejudgment and post-judgment interest for Kodak’s infringement of the Patent-in-Suit as provided under 35 U.S.C. §§ 284 and/or 285; and
- G. Any and all further relief for which Plaintiff may show itself justly entitled that this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby respectfully requests a trial by jury of any issues so triable by right.

Dated: October 16, 2017

**COLLINS EDMONDS
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By: /s/ John J. Edmonds

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