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Attorneys for Plaintiff,
CELLSPIN SOFT INC.

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

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| CELLSPIN SOFT, INC.,<br>Plaintiff,<br>v.<br>JK IMAGING LTD.,<br>Defendants. | Case No. 4:17-cv-06881-YGR<br>**AMENDED COMPLAINT FOR INFRINGEMENT OF U.S. PATENT NO. 9,258,698**[1]<br>**DEMAND FOR JURY TRIAL**<br>Original Complaint Filed: October 16, 2017<br>Judge: Honorable Yvonne G. Rogers |

## NATURE OF THE ACTION

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

## THE PARTIES

[1] Cellspin files this Amended Complaint pursuant to the Court's very recent February 27th Order approving the parties' stipulation that pleadings in this case may be "amended, without the need for leave of Court, up to, and including June 5, 2018," and pursuant to very recent decisions from the Court of Appeals for the Federal Circuit -- *see, e.g., Automated Tracking Solutions, LLC v. The Coca-Cola Co.*, 2018 WL 935455 (Fed. Cir. Feb. 16, 2018) – concerning the significance of pled facts in connection with the evaluation of motions brought under 35 U.S.C. § 101. Cellspin is mindful of the fact that § 101 motions (briefed prior to these recent decisions from the Court of Appeals for the Federal Circuit) are currently pending and set for hearing. Cellspin hereby stipulates and agrees that Defendants need not re-file their § 101 motions and that the filing of this Amended Complaint does not render moot such pending motions, and Cellspin is fully prepared to have all relevant matters heard at the Court's upcoming hearing § 101 motions.

2. Plaintiff, Cellspin Soft, Inc. ("Cellspin"), is a California corporation with an office and place business at 1410 Mercy Street, Mountain View, California 94041.

3. Upon information and belief, Defendant, JK Imaging Ltd. ("JK Imaging"), is a corporation organized and existing under the laws of the State of California, with its principal place of business at 17239 S Main St, Gardena, CA 90248. JK Imaging has already been served with process and is being served with this Amended Complaint via ECF.

## JURISDICTION AND VENUE

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

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

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

persons and/or entities in California.

7. Upon information and belief, Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b), including in view of JK Imaging's established place(s) of business and that it resides in California, and at least some of its infringement of the Patents-in-Suit occurs in this District and in California.

## THE PATENTS-IN-SUIT

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

9. The claims of the Patents-in-Suit, including the asserted claims, when viewed as a whole, including as an ordered combination, are not merely the recitation of well-understood, routine, or conventional technologies or components. The claimed inventions were not well-known, routine, or conventional at the time of the invention, over ten years ago, and represent specific improvements over the prior art and prior existing systems and methods.

10. At the time of the patented inventions, publishing captured data from a data capture device to a web service was cumbersome and inefficient.

11. At the time of the priority date of the Patents-in-Suit (December 2007), the same year the world's first prominent mobile "smartphone" was released, and 6 months before the world's first prominent mobile "app store" (*see* History of the iPhone on Wikipedia at https://en.wikipedia.org/wiki/History_of_iPhone & App Store (iOS) on Wikipedia at https://en.wikipedia.org/wiki/App_Store_(iOS)), it was a cumbersome and time consuming process to use a data capture device to acquire data, send that data to a mobile device with an internet connection, and the mobile device to upload that wirelessly received data to a website, especially for large data such as pictures or video data.

12. The most common and practical way to transfer large data was to physically plug a data capture device into, or transfer a memory card from a data capture device to, a computer, upload the data on the capture device or memory card to the computer, and further upload the data from the computer to a web service. *See, e.g.*, '794 at 1:37-54. In the case of using a 2007 mobile phone, the software on both the data capture device and mobile phone that established a paired connection and potentially transferred large data was extremely under developed and

not the intended or foreseeable use of the mobile phone. Further, HTTP transfers of data received over the paired wireless connection to web services was non-existent. Mobile phones of that time exclusively used SMS,[2] MMS,[3] or email-based communication methods (such as POP3 or IMAP[4] to transfer data that was acquired by the mobile phone. It was not until 2009 or later when the leading tech companies, such as Facebook and Google, started releasing HTTP APIs for developers to utilize a HTTP transfer protocol for mobile devices. *See* https://developers.facebook.com/docs/graph-api/changelog/archive; http://mashable.com/2009/05/19/twitter-share-images/#K9kEHwxammq0. Even in 2009 when Facebook and Google HTTP APIs were released, the released HTTP APIs were only used for data that was acquired by the mobile phone, and not for the data that was received wirelessly over the secure paired connection from a physically separate data capture device. Applying HTTP to a data in transit and on intermediary mobile device was not developed until the inventions of the Patents-in-Suit.

13. Including as of the priority date of the Patents-in-Suit, there have been many, albeit vastly inferior, means outside of the claimed invention for achieving the ends of acquiring and transferring data for publication, including on the Internet. For example, as noted in the specification,

> Typically, the user would capture an image using a digital camera or a video camera, store the image on a memory device of the digital camera, and transfer the image to a computing device such as a personal computer (PC). In order to transfer the image to the PC, the user would transfer the image off-line to the PC, use a cable such as a universal serial bus (USB) or a memory stick and plug the cable into the PC. The user would then manually upload the image onto a website which takes time and may be inconvenient for the user.

*See, e.g.*, '794/1:38-47. Another inferior method would be to have the capture device simply forward data to a mobile device as captured. This example is inferior including because, without a paired connection, there is no assurance that the mobile device is capable (*e.g.*, on

[2] Short Message Service (SMS) is a text messaging service component of most telephone, World Wide Web, and mobile device systems. It uses standardized communication protocols to enable mobile devices to exchange short text messages. *See* https://en.wikipedia.org/wiki/SMS.

[3] Multimedia Messaging Service (MMS) is a standard way to send messages that include multimedia content to and from a mobile phone over a cellular network. *See* https://en.wikipedia.org/wiki/Multimedia_Messaging_Service.

[4] *See* https://en.wikipedia.org/wiki/Email#Types.

and sufficiently near) of receiving the data. Such constant and inefficient broadcasting would quickly drain the battery of the capture device. Another inferior method for posting data from a capture device onto the Internet is to have a capture device with built in mobile wireless Internet, for example cellular, capability. As noted in the specification, "[t]he digital data capture device is physically separated from the BT enabled mobile device." *See, e.g.*, '794/2:2-3. This example is inferior including because, especially at the time of the patent priority date in 2007 but also today, it makes the combined apparatus bulky, expensive in terms of hardware, and expensive in terms of requiring a user to purchase an extra and/or separate cellular service for the data capture device.

14. Prior art methods for posting data from a data capture device onto the Internet were inferior. Back at the time of invention, capture devices such as cameras had only rudimentary wireless capabilities as exemplified by the U.S. Patent Application No. 2003/015,796 to Kennedy ("Kennedy") and ancillary prior art addressed extensively during prosecution of certain Patents-in-Suit and related patents. As noted by the inventors during prosecution of the '794 patent, in every day scenarios, the computer attaches a hypertext transfer protocol (HTTP)_header and user ID to the data generated by the computer ("native data"), and the existing home wireless routers did not apply website user information or apply HTTP to the data sent over the wireless network from the computer to the home wireless router. However, the claimed invention improves and builds on this, including because the claimed mobile device is configured to send a HTTP request comprising the website user information and the non-native data, such that the mobile device is acting as more than just a normal home wireless router. According to the inventors, the wireless pairing established is therefore very important for the transfer of non-native data that is acquired by a physically separate device and then transferred to the mobile device over the trusted paired wireless connection.

15. Including at the time of the invention, data capture devices posed a number of specific challenges associated with publishing data to a web service from a capture device using a mobile device. The process to transfer new data from a data capture device to a web service was cumbersome and time consuming for the user. Further, data capture devices typically

house small batteries, so users would be obligated to constantly charge batteries. The technology embodied in the Patents-in-Suit solved these, and other, problems. The claimed inventions comprise superior ways to achieve the ends of uploading data to the Internet via a mobile device. The claimed processes of the asserted claims seamlessly transfer data from a data capture device to a web service with little to no user intervention using a mobile device with a wireless internet connection as the center piece doing most of the heavy lifting. Making changes to the data in transit, at the mobile device, and not at the data capture device where the data originated from, results in a much-improved user experience making the process much easier on the user and improving data capture device battery life. The method of receiving the data at the mobile device, attaching user identifying information and HTTP methods to the data relieves the data capture device or web service of performing those steps which results in a seamless and improved user experience over the previous methods.

16. Among other things, the inventors of the Patents-in-Suit wanted to post onto the Internet content captured while a capture device, such a camera, was capturing data, for example photographs, in "real time" situations, for example, when the capture device was in remote areas, adverse conditions or on the move. As noted in the specification, "[a] user may need to capture and publish data and multimedia content on the Internet in real time." *See, e.g.*, '794/1:37-38. As further noted in the specification, "there is a need for a method and system to utilize a digital data capture device in conjunction with a mobile device for automatically detecting capture of data and multimedia content, transferring the captured data and multimedia content to the mobile device, and publishing the data and multimedia content on one or more websites automatically or with minimal user intervention." *See, e.g.*, '794/1:48-54. But existing technology offered only unacceptably inferior solutions of posting to the Internet content captured from a capture device in "real time" situations.

17. The claims of the Patents-in-Suit are directed to specific improvements in computer and networking functionality and capabilities. Among other things, the claimed inventions improve functionality of data capture devices and methods, systems and networks comprising those devices. Including as noted in the Patents-in-Suit, the claimed technologies comprise

innovative systems and processes which use less power than those existing at the time, and allow for multiple efficiencies resulting in a better user experience and reduced costs. The Patents-in-Suit thus provided concrete applications that improved computer and networking technology, including for publishing directly to a web service from a data capture device.

18. Additionally, the inventions of the asserted claims of the Patents-in-Suit comprise improvements in improving battery life on the data capture device, including that they reduce the processing done by the device and thus reduce battery consumption. Particularly applicable to wireless data capture devices small in size, such as petite fitness tracking devices, battery life plays a major role in the user experience. The Patents-in-Suit allow for a data capture device to be in a low power state to conserve battery life, and send an event notification to the mobile device to initiate a higher power consumption state during a brief communication period, and then revert back to the lower power consumption state. This saves a tremendous amount of power, including because the application on the mobile device, or the Bluetooth client, is charged with the majority of listening, rather than the data capture device, or the Bluetooth server, which results in much better battery life for the data capture device, including since there is "[a] file event listener *in the client application* 203 [which] listens for the signal from the digital data capture device 201. '794 at 4:66-5:1 (emphasis added). Similarly, the Patents-in-Suit allow for a data capture device to be in a low power state to conserve battery life because in certain claimed embodiment the application on the mobile device with the internet connection, is charged with polling the data capture device for new data to transfer.

19. In sum, including as noted above, the claimed technologies of the Patents-in-Suit improved, *inter alia*, prior computer and networking technology, including in connection with:

a. Improving and increasing efficiencies of the claimed inventions, including over inferior alternative means for achieving the same or similar ends of uploading content, including by reducing or eliminating the cumbersome steps of previous methods of data transfer to the Internet and providing the ability to upload or transfer the captured data at a time subsequent to the capture of the data where a connection to the Internet may not be available to the data capture device. *See, e.g.*, '794/1:37-54 & 4:55-5:3.

b. Leveraging the capabilities of mobile devices, including their Internet connection capabilities (through use of custom hardware and/or software), including by shifting the transfer of data from the data capture device to the mobile device, to

greatly enhance the functionality of Internet incapable data capture devices, including because the mobile device, with its larger storage, may then store the captured data for upload or transfer to the web service via the Internet at a later time. *See, e.g.*, '794/2:26-34, 5:18-56, 6:2-46, 9:37-60, & 10:10-61.

c. Uploading captured data from data capture devices to the Internet while avoiding the cost, memory usage, complexity, hardware (*e.g.*, cellular antenna), physical size, and battery consumption of an Internet accessible mobile device, including without the data capture device being capable of wireless Internet connections or being capable of communicating in Internet accessible protocols such as HTTP. *See, e.g.*, '794/2:46-54, 5:4-11, 5:55-6:8, 7:29-33, 7:62-67, 8:23-9:26.

d. Minimizing power usage by the data capture device, including to minimize the need to change batteries or recharge the device. *See, e.g.*, '794 at 4:66-5:1.

e. Using event notification, polling and request/return communication protocols over an already paired connection to have the benefits from an efficient or automated upload system while conserving resources such as batteries by avoiding the data capture device broadcasting captured data when an intermediate mobile device is unavailable (*e.g.*, off or out of Bluetooth range) or incapable of receiving captured data for uploading to the Internet. *See, e.g.*, '794/4:55-5:3 & 5:12-17.

f. Applying HTTP in transit and on an intermediary device. *See, e.g.*, '794/9:61-10:9.

20. The claimed inventions also provide computer and network efficiency at least because they allow data capture devices to have the useful and improved claimed sharing functionality without the need to include expensive and battery consuming electronics, cellular antenna, paying for separate cellular service, and extra software and data processing required on the data capture device. The inventors did more than simply apply current technology to an existing problem. Their invention, as embodied in the asserted claims, was a significant advancement in mobile data capture and sharing technology. The inventions covered by the asserted claims comprise utilization of the mobile Internet to create a novel architecture enabling data captured by non-Internet enabled capture devices to quickly, easily and automatically be uploaded to the Internet, and more specifically to what is referred to today as "the cloud" and "social media." Additionally, the claimed inventions also improve pairing identification, different ways to transfer of new-data between paired devices (event notification, polling, mobile initiated request response), and use of HTTP and adding user information to the wirelessly received new-data on the intermediary mobile device, when the new-data is in transit to the website.

21. These noted improvements over the prior art represent meaningful limitations and/or inventive concepts based upon the state of the art over a decade ago. Further, including in view of these specific improvements, the inventions of the asserted claims, when such claims are viewed as a whole and in ordered combination, are not routine, well-understood, conventional, generic, existing, commonly used, well known, previously known, typical, and the like over a decade ago, including because, until inventions of the asserted claims of the Patents-in-Suit, the claimed inventions were not existing or even considered in the field.

22. The asserted claims, including as a whole and where applicable in ordered combination, comprise, *inter alia*, a non-conventional and non-generic arrangement of communications between a data capture device and a Bluetooth enabled mobile device that is a technical improvement to the communications between the devices and web services, including those improvements noted above.

23. The claimed inventions are necessarily rooted in computer technology, *i.e.*, portable monitoring device technology, and comprise improvement over prior technologies in order to overcome the problems, including those noted above, specifically arising in the realm of computer networks. The claimed solutions amount to an inventive concept for resolving the particular problems and inefficiencies noted above, including in connection publishing data from a data capture device to the Internet described.

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

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

25. U.S. Patent No. 9,258,698 was duly and legally issued by the USPTO on February 9, 2016 after full and fair examination.

26. Claims of the '698 Patent comprise, generally, methods, devices, systems, and computer-readable media comprising digital camera devices having a short-range wireless capability to connect with a cellular phone; acquiring new-media after establishing a secure wireless connection between the camera and the cellular phone; creating a new-media file using the new-media; receiving a data transfer request for the new-media file initiated by a mobile software application on the cellular phone over the wireless connection after storing

the created new-media file in memory of the camera; and transferring the new-media file to be stored on the cellular phone, over the wireless connection, wherein the cellular phone is configured to use HTTP to upload the received new-media file along with user information to a user media publishing website.

27. JK Imaging has infringed, and is now infringing, the '698 patent, including at least claims 1, 3, 4, 5, 7, 8, 10, 11, 12, 13, 15, 16, 17, 18, 19, and 20, in this judicial district, the State of California, and elsewhere, in violation of 35 U.S.C. § 271 through actions comprising the making, using, offering for sale, and/or selling, without authority from Plaintiff, devices, systems, and/or computer-readable media for enabling connection between data capture devices and other wireless devices, such as a cellular phone, acquiring new data on the data capture device, and transferring the data from JK Imaging data capture devices to web servers via wireless mobile devices as a brand licensor using the Kodak brand. On information and belief, JK Imaging practices, and/or induces others to practice, the claimed methods, and/or makes, uses, offers for sale, and/or sells, and/or induces others to use, the claimed devices, systems, and computer-readable media, including camera and other media devices, including DSLR cameras, point-and-click cameras, digital cameras, and other digital media devices as a brand licensor using the Kodak brand, designed to capture digital media, *e.g.*, images, photographs, audio, video, etc., including related data such as GPS coordinates, timestamp, etc., as specified herein, comprising wireless functionality, with such products comprising the 4KVR360, AZ525, AZ526, AZ527, AZ651, AZ652, ORBIT360 4K, S-1, SL10, SL25, SL5, SP1, SP360, and SP360 4K, including when used in conjunction with JK Imaging mobile applications (including iOS and Android versions thereof) comprising PixPro SP360 4K, PixPro SP360, PixPro SP1, PixPro Remote View, and/or PixPro 360 VR Remote Viewer, including when used in conjunction with websites comprising media publishing sites, such as social media websites.

28. Without limitation, the accused JK Imaging devices, including software which practices said methods, support wireless protocols, including short-range wireless protocols, including wireless networking or Wi-Fi protocols, comprising transferring data from digital camera

devices to websites via applications on cellular phones, including via its cameras and other media devices. The accused JK Imaging devices, systems, computer-readable media, and methods comprise the capability to establish a secure wireless connection with a cellular phone. Once the connection between the JK Imaging device and the cellular phone is established, the JK Imaging devices acquire new-media (*e.g.*, photos, audio, and/or videos, and related data), create a new-media file using the acquired new-media, and transfer the new-media file to the cellular phone in response to receiving a data transfer request for the new-media file initiated by the JK Imaging application on the cellular phone, over the established wireless connection, after storing the created new-media file in the memory of the JK Imaging device. The JK Imaging devices transfer the new-media file to the cellular phone so that it is stored, over the established wireless connection, wherein the cellular phone is configured to use HTTP to upload the received new-media file, along with the user's account information, to a media publishing website for the user, including social media, news, database, or other websites. In addition, and in the alternative, to JK Imaging's making, offering for sale, and/or selling of the JK Imaging devices and applications, upon information and belief, at least through JK Imaging's hardware, software, and efforts to test, demonstrate, and otherwise use JK Imaging devices, JK Imaging has used the claimed devices, systems, and computer-readable media via at least the use of the JK Imaging devices, comprising at least the foregoing steps.

29. For example, JK Imaging infringes at least exemplary Claim 1 of the '698 patent, which claims:

A machine-implemented method of media transfer, comprising:

for a digital camera device having a short-range wireless capability to connect with a cellular phone, wherein the cellular phone has access to the Internet, performing in the digital camera device:

establishing a short-range wireless connection between the digital camera device and the cellular phone, wherein establishing the short-range paired wireless connection comprises, the digital camera device cryptographically authenticating

identity of the cellular phone;

acquiring new-media, wherein the new-media is acquired after establishing the short-range paired wireless connection between the digital camera device and the cellular phone;

creating a new-media file using the acquired new-media;

storing the created new-media file in a first non-volatile memory of the digital camera device;

receiving a data transfer request initiated by a mobile software application on a cellular phone, over the established short-range paired wireless connection, wherein the data transfer request is for the new-media file, and wherein the new-media file was created in the digital camera device before receiving the data transfer request; and

transferring the new-media file to the cellular phone, over the established short-range paired wireless connection, wherein the cellular phone is configured to receive the new-media file, wherein the cellular phone is configured to store the received new-media file in a non-volatile memory device of the cellular phone, wherein the cellular phone is configured to use HTTP to upload the received new-media file along with user information to a user media publishing website, and wherein the cellular phone is configured to provide a graphical user interface (GUI) in the cellular phone, wherein the graphical user interface (GUI) is for the received new-media file and to delete the created new-media file

30. The JK Imaging Camera Infringing Instrumentalities comprise a machine-implemented method of media transfer comprising performance of the steps noted below by the JK Imaging Camera Infringing Instrumentality, including by the above JK Imaging digital camera devices and JK Imaging mobile software applications.

31. The JK Imaging Camera Infringing Instrumentalities comprise digital cameras, such as the accused JK Imaging cameras, with at least Wi-Fi wireless capability, which is a short range wireless capability. Such cameras are capable of connecting, including via Wi-Fi, to cellular

phones, which have access to the Internet, including via the cellular network or other network. Almost all cellular phones have access to the Internet, and certainly the cellular phones that make use of JK Imaging's mobile applications, *e.g.*, PixPro SP360 4K, PixPro SP360, PixPro SP1, PixPro Remote View, and/or PixPro 360 VR Remote Viewer (collectively, "JK Imaging PixPro Applications"), have access to the Internet, including those of JK Imaging's customers and/or end-users.

32. With respect to the JK Imaging Camera Infringing Instrumentalities, in accordance with applicable Wi-Fi standards, including as noted below, the JK Imaging digital camera establishes the short-range paired wireless (*e.g.*, Wi-Fi) connection, including via the JK Imaging digital camera cryptographically authenticating the identity of the cellular phone, for example, via the cellular phone's MAC address and using the WPA2-PSK protocol, which comprises such cryptographic connections:

| | |
|---|---|
| Wi-Fi | Supported(802.11b/g/n) |

**Connect Action Cam to smart device (or PC) with Wi-Fi.**

When in Wi-Fi mode, press the button to immediately disconnect and exit Wi-Fi mode.

1. Action Cam:
   Check SSID (Service Set Identifier) (PIXPRO-SP360_XXXX) and password (initial password: 12345678) indicated on the label in the battery compartment of the Action Cam. In the main interface, press the button to switch to Wi-Fi mode. The Action Cam will enter the waiting for connection interface after starting Wi-Fi connection one second later:


If you wish to turn off Wi-Fi, press the button in order to choose whether or not to turn off Wi-Fi. After pressing the or button to select **YES**, press the button to exit Wi-Fi mode.

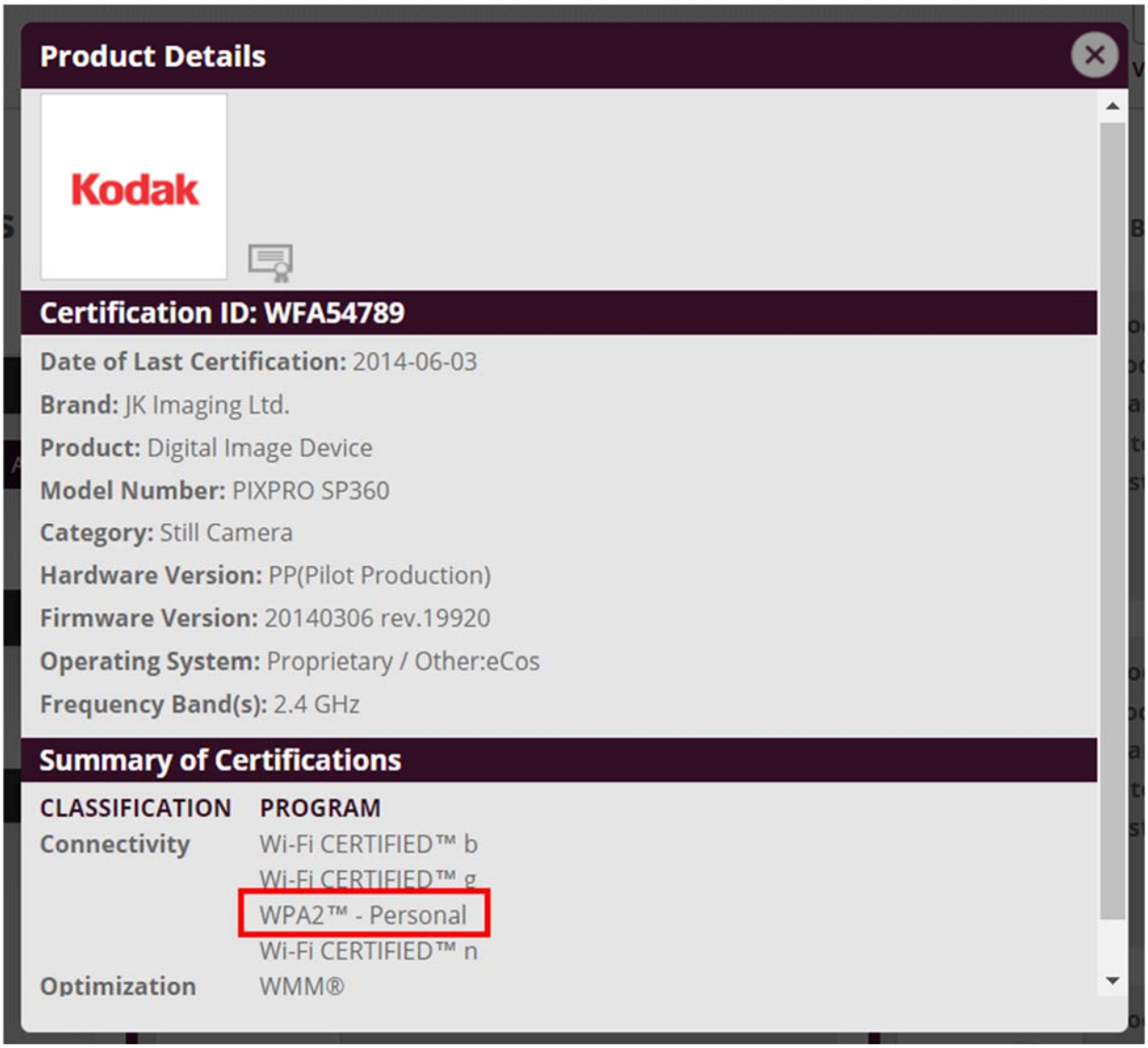

2. Smart Device or PC:
   Enable Wi-Fi mode, it will automatically search the nearby Wi-Fi hotspots. Select the one with the same SSID (PIXPRO-SP360_XXXX) and input the password.
3. Action Cam:
   When the Wi-Fi connection is successful, enter the Wi-Fi connection interface.


If you wish to disconnect, press the button. After pressing the or button to select **YES**, press the button to enter the wait for the connection interface. If you would like to exit WiFi completely, press the button.


4. Smart Device or PC:
   When connected via Wi-Fi, you can tap the App icon on the smart device to start it; or double-click the App icon / on the desktop of the computer to start it.
5. Action Cam:
   When the App is connected to the Action Cam the App connected interface will appear.


If you wish to disconnect, press the button. After pressing the or button to select **YES**, press the button to enter the wait for the connection interface.If you would like to exit WiFi completely, press the button.


*See, e.g.,* Kodak PIXPRO SP360 User Manual at https://kodakpixpro.com/docs/manuals/actioncamera/sp360/sp360-manual-en.pdf




. ¬*See, e.g.*, Wi-Fi Alliance Product Info on the Kodak PIXPRO SP360 found at https://www.wi-fi.org/product-finder-results?keywords=kodak+sp360&op=Search&form_build_id=form-w0RUbzS5pQ6Gjo1DfGlAHQm9UiedE_aWo0myx6SBVJ4&form_id=wifi_cert_api_simple_search_form. Without limitation, the exemplary WPA2-PSK security protocol cryptographically authenticates identity of the cellular phone, *e.g.*, using a MAC address, for encrypting communications between the infringing JK Imaging cameras and JK Imaging PixPro Applications over a Wi-Fi connection. *See, e.g.*, 802.11i-2004 Specification (WPA2) at https://standards.ieee.org/findstds/standard/802.11i-2004.html.

33. The JK Imaging Camera Infringing Instrumentalities acquire new-media (*e.g.*,

images/video), via the JK Imaging digital camera, after the short-range paired wireless (*e.g.*, Wi-Fi) connection is established between said the JK Imaging digital camera and cellular phone. Using the new-media, the JK Imaging Camera Infringing Instrumentalities create a new-media file via the JK Imaging digital camera.

34. The JK Imaging Camera Infringing Instrumentalities store these created new-media files (*e.g.*, images/video) in the non-volatile memory, *e.g.*, in their internal memory and/or inserted memory cards, of the JK Imaging digital cameras.

35. The JK Imaging Camera Infringing Instrumentalities receive data transfer requests for the new-media file (*e.g.*, images/video) at the JK Imaging digital cameras which are initiated by the JK Imaging mobile applications, for example, the JK Imaging PixPro Applications mobile application, which are installed on cellular phones.

36. With the JK Imaging Camera Accused Instrumentalities, such requests are received over the established (*e.g.*, already paired) short-range paired wireless (*e.g.*, Wi-Fi) connection.

37. With the JK Imaging Camera Accused Instrumentalities, new images are taken with the camera before it receives data transfer requests, for example, from a JK Imaging mobile application on a cellular phone.

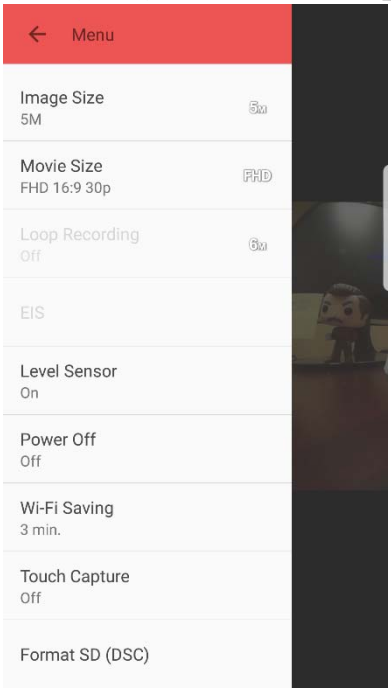
38. The JK Imaging Camera Accused Instrumentalities transfer new-media files, *e.g.*, images, from the JK Imaging digital cameras to cellular phones, via the installed JK Imaging mobile applications, over established (*e.g.*, already paired) short-range paired wireless (*e.g.*, Wi-Fi) connections.

39. The JK Imaging Camera Infringing Instrumentalities comprise digital camera devices, such as the accused JK Imaging digital cameras, comprising Wi-Fi capability, which is a short range wireless capability. Such JK Imaging digital cameras are capable of connecting via Wi-Fi to cellular phones, *e.g.*, smart phones, including a cellular phone of JK Imaging's customers and/or end-users, which are configured to store, via the installed JK Imaging mobile application, the new-media files, *e.g.*, images/video, received via the installed JK Imaging mobile applications, in a non-volatile memory device of the cellular phone, *e.g.*, flash memory.

40. The JK Imaging Camera Infringing Instrumentalities comprise digital camera devices,

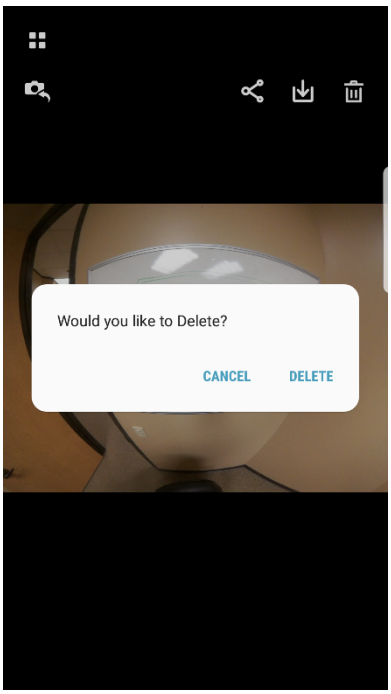
such as the accused JK Imaging digital cameras, comprising Wi-Fi capability, which is a short range wireless capability. Such JK Imaging digital cameras are capable of connecting via Wi-Fi to cellular phones, *e.g.*, smartphones, including a cellular phone of JK Imaging's customers and/or end-users, which are configured to use HTTP protocols to upload, via the installed JK Imaging mobile application, the new-media files, *e.g.*, images/video, received via the installed JK Imaging mobile application, along with user information, *e.g.*, user name, to a user media publishing website.

41. The JK Imaging Camera Infringing Instrumentalities comprise digital camera devices, such as the accused JK Imaging digital cameras, comprising Wi-Fi capability, which is a short range wireless capability. Such JK Imaging digital cameras are capable of connecting via Wi-Fi to cellular phones, *e.g.*, smartphones, including a cellular phone of JK Imaging's customers and/or end-users, which are configured to provide, via the installed JK Imaging mobile application, a graphical user interface (GUI) in the cellular phone, for example:




42. The JK Imaging Wi-Fi Camera Infringing Instrumentalities comprise digital camera devices, such as the accused JK Imaging digital cameras, comprising Wi-Fi capability, which is a short range wireless capability. Such JK Imaging digital cameras are capable of connecting via Wi-Fi to cellular phones, *e.g.*, smartphones, including a cellular phone of JK Imaging's

customers and/or end-users, which are configured to provide, via the installed JK Imaging mobile application, a graphical user interface (GUI) in the cellular phone, wherein the graphical user interface (GUI) is for the received new-media, *e.g.*, image/video, file and also to delete the created new-media file, including via the installed JK Imaging mobile application. For example:




43. On information and belief, JK Imaging was promptly notified of its infringement of the '698 patent once Cellspin notified Eastman Kodak Company, the former maker and seller of Kodak branded cameras, via letters mailed on June 15, 2017 and August 31, 2017, noting Kodak (and thus JK Imaging) infringes at least exemplary claim 1 of the '698 patent. Further, on information and belief, JK Imaging was promptly notified of its infringement of the '698 patent once Cellspin sued Eastman Kodak Company, the former maker and seller of Kodak branded cameras, on October 16, 2017 in Civil Action No. 3:17-cv-05940 (since dismissed in favor of such claims being brought instead against JK Imaging). JK Imaging was further notified of its infringement of the '698 patent via Cellspin's Original Complaint dated December 1, 2018 and served on December 18, 2018 (Docs. 1 & 18).

44. Additionally, or in the alternative, since receiving notice of the '698 patent, JK Imaging has induced, and continues to induce, infringement of the '698 Patent in this judicial district,

the State of California, and elsewhere, by intentionally inducing direct infringement of the '698 Patent, including by knowingly and actively aiding or abetting infringement by users, by and through at least instructing and encouraging the use of the JK Imaging products and software noted above. At a minimum, Plaintiff's Original Complaint filed on October 16, 2017 and served on October 31, 2017, notified JK Imaging that it has been infringing, and has been accused of infringing, the '698 patent. Such aiding and abetting by JK Imaging comprises providing devices, software, applications, including the above-noted JK Imaging mobile applications, *e.g.*, JK Imaging PixPro Applications, websites, manuals, and/or instructions, for example:

**Connect Action Cam to smart device (or PC) with Wi-Fi.**

When in Wi-Fi mode, press the MODE button to immediately disconnect and exit Wi-Fi mode.

1. Action Cam:
Check SSID (Service Set Identifier) (PIXPRO-SP360_XXXX) and password (initial password: 12345678) indicated on the label in the battery compartment of the Action Cam. In the main interface, press the MODE button to switch to Wi-Fi mode. The Action Cam will enter the waiting for connection interface after starting Wi-Fi connection one second later:


If you wish to turn off Wi-Fi, press the ● button in order to choose whether or not to turn off Wi-Fi. After pressing the MODE or ▼ button to select **YES**, press the ● button to exit Wi-Fi mode.


2. Smart Device or PC:
Enable Wi-Fi mode, it will automatically search the nearby Wi-Fi hotspots. Select the one with the same SSID (PIXPRO-SP360_XXXX) and input the password.
3. Action Cam:
When the Wi-Fi connection is successful, enter the Wi-Fi connection interface.


If you wish to disconnect, press the ● button. After pressing the MODE or ▼ button to select **YES**, press the ● button to enter the wait for the connection interface. If you would like to exit WiFi completely, press the MODE button.


4. Smart Device or PC:
When connected via Wi-Fi, you can tap the App icon on the smart device to start it; or double-click the App icon / on the desktop of the computer to start it.
5. Action Cam:
When the App is connected to the Action Cam the App connected interface will appear.


If you wish to disconnect, press the ● button. After pressing the MODE or ▼ button to select **YES**, press the ● button to enter the wait for the connection interface.If you would like to exit WiFi completely, press the MODE button.


*see, e.g.*, Kodak PIXPRO SP360 User Manual at https://kodakpixpro.com/docs/manuals/actioncamera/sp360/sp360-manual-en.pdf, including regarding the use and/or operation of the JK Imaging devices and applications in an infringing manner, including providing instructions for connecting to a secured Wi-Fi connection with a

mobile device, and further including providing the accused JK Imaging devices and applications to users who, in turn, use the claimed devices, systems, and computer-readable media, including as noted above. Use of JK Imaging mobile applications, such as the JK Imaging PixPro Applications, including by JK Imaging's customers, for their customary and intended purpose, necessarily infringes the '698 patent. Thus, including by providing infringing cameras and JK Imaging mobile applications, such as the JK Imaging PixPro Applications, to users, JK Imaging intentionally induces infringement of the '698 patent by such users. Further, on information and belief, all of the Accused JK Imaging Camera Instrumentalities come with written user manuals, including with instructions for connecting Wi-Fi cameras to cellular phones via Wi-Fi and for uploading images to cellular phones for publication on the Internet, for example:


with said manuals containing, among other things, instructions for connecting Wi-Fi cameras to cellular phones via Wi-Fi, and for uploading images to cellular phones for publication on the Internet.

45. Further, on information and belief, JK Imaging provides user manuals for all of the Accused JK Imaging Camera Instrumentalities to its customers, including via its website at

https://kodakpixpro.com/Americas/support/downloads/. On information and belief, JK Imaging's infringement of the asserted claims of the '698 patent is clear, unmistakable, and inexcusable, and on information and belief, JK Imaging has specifically intended such infringement post-notice.

46. Such induced infringement has occurred since JK Imaging became aware of the '698 Patent, at a minimum, as noted above, and the knowledge and awareness that such actions and use by users comprise infringement of the '698 patent.

47. As noted above, at a minimum, Plaintiff's original Complaint filed on October 16, 2017 and served on October 31, 2017, notified JK Imaging that it has been infringing, and has been accused of infringing, the '698 patent. Nonetheless, JK Imaging has continued its infringing activities noted above in an infringing manner post-notice of the '698 patent, including at least exemplary claim 1. JK Imaging's infringement of the asserted claims of the '698 patent is clear, unmistakable, and inexcusable, and on information and belief, JK Imaging has been aware of such infringement post-notice. Such infringement is necessarily willful and deliberate. Plaintiff believes and contends that JK Imaging's intentional continuance of its clear, unmistakable, and inexcusable infringement of the '698 patent post notice is willful, wanton, malicious, bad-faith, deliberate, and/or consciously wrongful.

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

49. Each of JK Imaging's aforesaid activities have been without authority and/or license from Plaintiff.

## DAMAGES

50. By way of its infringing activities, JK Imaging has caused, and continues to cause, Plaintiff to suffer damages, and Plaintiff is entitled to recover from JK Imaging the damages sustained by Plaintiff as a result of JK Imaging's 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 under 35 U.S.C. § 284.

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

52. Plaintiff also requests that the Court make a finding that this is an exceptional case 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 JK Imaging, 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 JK Imaging;

B. An award to Plaintiff of damages adequate to compensate Plaintiff for JK Imaging'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 JK Imaging 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 JK Imaging's infringement has been, and continues to be, willful, including that JK Imaging 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 JK Imaging to pay Plaintiff their damages, costs, expenses, fees, and prejudgment and post-judgment interest for JK Imaging'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: March 2, 2018

**COLLINS EDMONDS & SCHLATHER, PLLC**

By: */s/ John J. Edmonds*
JOHN J. EDMONDS
State Bar No. 274200

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