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5 Attorneys for Plaintiff,
6 CELLSPIN SOFT INC.

7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

11 CELLSPIN SOFT, INC.,
12 Plaintiff,
13 v.

14 CANON U.S.A., Inc.,
15 Defendant.

Case No. 4:17-cv-05938-YGR

**AMENDED COMPLAINT FOR
INFRINGEMENT OF U.S. PATENT NO.
9,258,698¹**

DEMAND FOR JURY TRIAL

Original Complaint Filed: October 16, 2017
Judge: Honorable Yvonne G. Rogers

16
17 **NATURE OF THE ACTION**

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

21 **THE PARTIES**

22
23 ¹ Cellspin files this Amended Complaint pursuant to the Court's very recent February 27th
24 Order approving the parties' stipulation that pleadings in this case may be "amended, without
25 the need for leave of Court, up to, and including June 5, 2018," and pursuant to very recent
26 decisions from the Court of Appeals for the Federal Circuit -- *see, e.g., Automated Tracking*
27 *Solutions, LLC v. The Coca-Cola Co.*, 2018 WL 935455 (Fed. Cir. Feb. 16, 2018) -- concerning
28 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.

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

3 3. Upon information and belief, Defendant, Canon U.S.A., Inc. (“Canon”), is a corporation
4 organized and existing under the laws of the State of New York, with its principal place of
5 business at One Canon Park, Melville, New York, 11747. Canon has already been served with
6 process and is being served with this Amended Complaint via ECF.

7 **JURISDICTION AND VENUE**

8 4. This action arises under the patent laws of the United States, 35 U.S.C. § 1 et seq.,
9 including 35 U.S.C. §§ 271, 281, 283, and 284. This Court has subject matter jurisdiction over
10 this case for patent infringement, including pursuant to 28 U.S.C. §§ 1331 and 1338(a).

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

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

1 7. Upon information and belief, Venue is proper in this District pursuant to 28 U.S.C. §§
2 1391 and 1400(b), including in view of Canon has at least one regular and established place
3 of business, including Canon Kiosks, in this District and in California, and at least some of its
4 infringement of the Patent-in-Suit occurs in this District and in California.

5 THE PATENT-IN-SUIT

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

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

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

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

22 12. The most common and practical way to transfer large data was to physically plug a data
23 capture device into, or transfer a memory card from a data capture device to, a computer,
24 upload the data on the capture device or memory card to the computer, and further upload the
25 data from the computer to a web service. *See, e.g.*, '698 at 1:37-54. In the case of using a 2007
26 mobile phone, the software on both the data capture device and mobile phone that established
27 a paired connection and potentially transferred large data was extremely under developed and
28 not the intended or foreseeable use of the mobile phone. Further, HTTP transfers of data

1 received over the paired wireless connection to web services was non-existent. Mobile phones
2 of that time exclusively used SMS,² MMS,³ or email-based communication methods (such as
3 POP3 or IMAP⁴ to transfer data that was acquired by the mobile phone. It was not until 2009
4 or later when the leading tech companies, such as Facebook and Google, started releasing
5 HTTP APIs for developers to utilize a HTTP transfer protocol for mobile devices. *See*
6 <https://developers.facebook.com/docs/graph-api/changelog/archive>; [http://mashable.com/](http://mashable.com/2009/05/19/twitter-share-images/#K9kEHwxammq0)
7 [2009/05/19/twitter-share-images/#K9kEHwxammq0](http://mashable.com/2009/05/19/twitter-share-images/#K9kEHwxammq0). Even in 2009 when Facebook and
8 Google HTTP APIs were released, the released HTTP APIs were only used for data that was
9 acquired by the mobile phone, and not for the data that was received wirelessly over the secure
10 paired connection from a physically separate data capture device. Applying HTTP to a data in
11 transit and on intermediary mobile device was not developed until the inventions of the Patent-
12 in-Suit.

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

17 Typically, the user would capture an image using a digital camera or a video
18 camera, store the image on a memory device of the digital camera, and transfer
19 the image to a computing device such as a personal computer (PC). In order to
20 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.

21 *See, e.g.*, '698/1:38-47. Another inferior method would be to have the capture device simply
22 forward data to a mobile device as captured. This example is inferior including because,
23 without a paired connection, there is no assurance that the mobile device is capable (*e.g.*, on
24 and sufficiently near) of receiving the data. Such constant and inefficient broadcasting would

25 _____
26 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>.

27 ³ Multimedia Messaging Service (MMS) is a standard way to send messages that include multimedia content
28 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>.

1 quickly drain the battery of the capture device. Another inferior method for posting data from
2 a capture device onto the Internet is to have a capture device with built in mobile wireless
3 Internet, for example cellular, capability. As noted in the specification, “[t]he digital data
4 capture device is physically separated from the BT enabled mobile device.” *See, e.g.*, ‘698/2:2-
5 3. This example is inferior including because, especially at the time of the patent priority date
6 in 2007 but also today, it makes the combined apparatus bulky, expensive in terms of hardware,
7 and expensive in terms of requiring a user to purchase an extra and/or separate cellular service
8 for the data capture device.

9 14. Prior art methods for posting data from a data capture device onto the Internet were
10 inferior. Back at the time of invention, capture devices such as cameras had only rudimentary
11 wireless capabilities as exemplified by the U.S. Patent Application No. 2003/015,796 to
12 Kennedy (“Kennedy”) and ancillary prior art addressed extensively during prosecution of
13 certain Patent-in-Suit and related patents. As noted by the inventors during prosecution of the
14 ‘698 patent, in every day scenarios, the computer attaches a hypertext transfer protocol
15 (HTTP)_header and user ID to the data generated by the computer (“native data”), and the
16 existing home wireless routers did not apply website user information or apply HTTP to the
17 data sent over the wireless network from the computer to the home wireless router. However,
18 the claimed invention improves and builds on this, including because the claimed mobile
19 device is configured to send a HTTP request comprising the website user information and the
20 non-native data, such that the mobile device is acting as more than just a normal home wireless
21 router. According to the inventors, the wireless pairing established is therefore very important
22 for the transfer of non-native data that is acquired by a physically separate device and then
23 transferred to the mobile device over the trusted paired wireless connection.

24 15. Including at the time of the invention, data capture devices posed a number of specific
25 challenges associated with publishing data to a web service from a capture device using a
26 mobile device. The process to transfer new data from a data capture device to a web service
27 was cumbersome and time consuming for the user. Further, data capture devices typically
28 house small batteries, so users would be obligated to constantly charge batteries. The

1 technology embodied in the Patent-in-Suit solved these, and other, problems. The claimed
2 inventions comprise superior ways to achieve the ends of uploading data to the Internet via a
3 mobile device. The claimed processes of the asserted claims seamlessly transfer data from a
4 data capture device to a web service with little to no user intervention using a mobile device
5 with a wireless internet connection as the center piece doing most of the heavy lifting. Making
6 changes to the data in transit, at the mobile device, and not at the data capture device where
7 the data originated from, results in a much-improved user experience making the process much
8 easier on the user and improving data capture device battery life. The method of receiving the
9 data at the mobile device, attaching user identifying information and HTTP methods to the
10 data relieves the data capture device or web service of performing those steps which results in
11 a seamless and improved user experience over the previous methods.

12 16. Among other things, the inventors of the Patent-in-Suit wanted to post onto the Internet
13 content captured while a capture device, such a camera, was capturing data, for example
14 photographs, in “real time” situations, for example, when the capture device was in remote
15 areas, adverse conditions or on the move. As noted in the specification, “[a] user may need to
16 capture and publish data and multimedia content on the Internet in real time.” *See, e.g.*,
17 ‘698/1:37-38. As further noted in the specification, “there is a need for a method and system
18 to utilize a digital data capture device in conjunction with a mobile device for automatically
19 detecting capture of data and multimedia content, transferring the captured data and
20 multimedia content to the mobile device, and publishing the data and multimedia content on
21 one or more websites automatically or with minimal user intervention.” *See, e.g.*, ‘698/1:48-
22 54. But existing technology offered only unacceptably inferior solutions of posting to the
23 Internet content captured from a capture device in “real time” situations.

24 17. The claims of the Patent-in-Suit are directed to specific improvements in computer and
25 networking functionality and capabilities. Among other things, the claimed inventions
26 improve functionality of data capture devices and methods, systems and networks comprising
27 those devices. Including as noted in the Patent-in-Suit, the claimed technologies comprise
28 innovative systems and processes which use less power than those existing at the time, and

1 allow for multiple efficiencies resulting in a better user experience and reduced costs. The
2 Patent-in-Suit thus provided concrete applications that improved computer and networking
3 technology, including for publishing directly to a web service from a data capture device.

4 18. Additionally, the inventions of the asserted claims of the Patent-in-Suit comprise
5 improvements in improving battery life on the data capture device, including that they reduce
6 the processing done by the device and thus reduce battery consumption. Particularly applicable
7 to wireless data capture devices small in size, such as petite fitness tracking devices, battery
8 life plays a major role in the user experience. The Patent-in-Suit allow for a data capture device
9 to be in a low power state to conserve battery life, and send an event notification to the mobile
10 device to initiate a higher power consumption state during a brief communication period, and
11 then revert back to the lower power consumption state. This saves a tremendous amount of
12 power, including because the application on the mobile device, or the Bluetooth client, is
13 charged with the majority of listening, rather than the data capture device, or the Bluetooth
14 server, which results in much better battery life for the data capture device, including since
15 there is “[a] file event listener *in the client application* 203 [which] listens for the signal from
16 the digital data capture device 201. ‘698 at 4:66-5:1 (emphasis added). Similarly, the Patent-
17 in-Suit allow for a data capture device to be in a low power state to conserve battery life
18 because in certain claimed embodiment the application on the mobile device with the internet
19 connection, is charged with polling the data capture device for new data to transfer.

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

- 22 a. Improving and increasing efficiencies of the claimed inventions, including over
23 inferior alternative means for achieving the same or similar ends of uploading
24 content, including by reducing or eliminating the cumbersome steps of previous
25 methods of data transfer to the Internet and providing the ability to upload or
26 transfer the captured data at a time subsequent to the capture of the data where a
27 connection to the Internet may not be available to the data capture device. *See*,
28 *e.g.*, ‘698/1:37-54 & 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

1 captured data for upload or transfer to the web service via the Internet at a later
2 time. *See, e.g.*, ‘698/2:26-34, 5:18-56, 6:2-46, 9:37-60, & 10:10-61.

- 3 c. Uploading captured data from data capture devices to the Internet while avoiding
4 the cost, memory usage, complexity, hardware (*e.g.*, cellular antenna), physical
5 size, and battery consumption of an Internet accessible mobile device, including
6 without the data capture device being capable of wireless Internet connections or
7 being capable of communicating in Internet accessible protocols such as HTTP.
8 *See, e.g.*, ‘698/2:46-54, 5:4-11, 5:55-6:8, 7:29-33, 7:62-67, 8:23-9:26.
- 9 d. Minimizing power usage by the data capture device, including to minimize the
10 need to change batteries or recharge the device. *See, e.g.*, ‘698 at 4:66-5:1.
- 11 e. Using event notification, polling and request/return communication protocols
12 over an already paired connection to have the benefits from an efficient or
13 automated upload system while conserving resources such as batteries by
14 avoiding the data capture device broadcasting captured data when an intermediate
15 mobile device is unavailable (*e.g.*, off or out of Bluetooth range) or incapable of
16 receiving captured data for uploading to the Internet. *See, e.g.*, ‘698/4:55-5:3 &
17 5:12-17.
- 18 f. Applying HTTP in transit and on an intermediary device. *See, e.g.*, ‘698/9:61-
19 10:9.

20 20. The claimed inventions also provide computer and network efficiency at least because
21 they allow data capture devices to have the useful and improved claimed sharing functionality
22 without the need to include expensive and battery consuming electronics, cellular antenna,
23 paying for separate cellular service, and extra software and data processing required on the
24 data capture device. The inventors did more than simply apply current technology to an
25 existing problem. Their invention, as embodied in the asserted claims, was a significant
26 advancement in mobile data capture and sharing technology. The inventions covered by the
27 asserted claims comprise utilization of the mobile Internet to create a novel architecture
28 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

1 inventive concepts based upon the state of the art over a decade ago. Further, including in view
2 of these specific improvements, the inventions of the asserted claims, when such claims are
3 viewed as a whole and in ordered combination, are not routine, well-understood, conventional,
4 generic, existing, commonly used, well known, previously known, typical, and the like over a
5 decade ago, including because, until inventions of the asserted claims of the Patent-in-Suit, the
6 claimed inventions were not existing or even considered in the field.

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

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

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

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

20 25. U.S. Patent No. 9,258,698 was duly and legally issued by the USPTO on February 9,
21 2016 after full and fair examination.

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

1 stored on the cellular phone, over the wireless connection, wherein the cellular phone is
2 configured to use HTTP to upload the received new-media file along with user information to
3 a user media publishing website.

4 27. Canon has infringed, and is now infringing, the '698 patent, including at least claims 1,
5 3, 4, 5, 7, 8, 10, 11, 12, 13, 15, 16, 17, 18, 19, and 20, in this judicial district, the State of
6 California, and elsewhere, in violation of 35 U.S.C. § 271 through actions comprising the
7 making, using, offering for sale, and/or selling, without authority from Plaintiff, devices,
8 systems, and/or computer-readable media for enabling connection between data capture
9 devices and other wireless devices, such as a cellular phone, acquiring new data on the data
10 capture device, and transferring the data from Canon data capture devices to web servers via
11 wireless mobile devices. On information and belief, Canon practices, and/or induces others to
12 practice, the claimed methods, and/or makes, uses, offers for sale, and/or sells, and/or induces
13 others to use, the claimed devices, systems, and computer-readable media, including camera
14 and other media devices, including DSLR cameras, point-and-click cameras, digital cameras,
15 and other digital media devices, designed to capture digital media, *e.g.*, images, photographs,
16 audio, video, etc., including related data such as GPS coordinates, timestamp, etc., as specified
17 herein, comprising wireless functionality, with such products comprising the EOS 1300D,
18 EOS 200D, EOS 5D Mark IV, EOS 6D Mark II, EOS 6D(WG/W), EOS 70D(W), EOS 750D,
19 EOS 760D, EOS 77D, EOS 7D Mark II w/ Wi-Fi Adapter Kit, EOS 800D, EOS 80D, EOS
20 M10, EOS M100, EOS M2(W), EOS M3, EOS M5, EOS M6, EOS Rebel SL2, EOS Rebel
21 T6, EOS Rebel T6i, EOS Rebel T6s, EOS Rebel T7i, IXUS 135, IXUS 140, IXUS 180, IXUS
22 182, IXUS 190, IXUS 240 HS, IXUS 245 HS, IXUS 255 HS, IXUS 265 HS, IXUS 275 HS,
23 IXUS 285 HS, IXUS 510 HS, LEGRIA HF R86, LEGRIA HF R87, LEGRIA HF R88,
24 PowerShot A3500 IS, PowerShot A3550 IS, PowerShot ELPH 120 IS, PowerShot ELPH 130
25 IS, PowerShot ELPH 190 IS, PowerShot ELPH 320 HS, PowerShot ELPH 330 HS, PowerShot
26 ELPH 340 HS, PowerShot ELPH 350 HS, PowerShot ELPH 360 HS, PowerShot ELPH 530
27 HS, PowerShot G1 X Mark II, PowerShot G1 X Mark III, PowerShot G16, PowerShot G3 X,
28 PowerShot G5 X, PowerShot G7 X, PowerShot G7 X Mark II, PowerShot G9 X, PowerShot

1 G9 X Mark II, PowerShot N, PowerShot N100, PowerShot N2, PowerShot S110, PowerShot
2 S120, PowerShot S200, PowerShot SX 610 HS, PowerShot SX 710 HS, PowerShot SX280
3 HS, PowerShot SX420 IS, PowerShot SX430 IS, PowerShot SX432 IS, PowerShot SX510
4 HS, PowerShot SX530 HS, PowerShot SX540 HS, PowerShot SX60 HS, PowerShot SX600
5 HS, PowerShot SX620 HS, PowerShot SX700 HS, PowerShot SX720 HS, PowerShot SX730
6 HS, VIXIA HF R80, VIXIA HF R82, and EOS Rebel T7, including when used in conjunction
7 with Canon mobile applications (including iOS and Android versions thereof) comprising
8 Canon Camera Connect, Canon Online Photo Album, Canon CameraWindow, and/or EOS
9 Remote (collectively the “Canon Camera Infringing Instrumentalities”), including when used
10 in conjunction with websites comprising media publishing sites, such as social media websites.

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

1 efforts to test, demonstrate, and otherwise use Canon devices, Canon has used the claimed
2 devices, systems, and computer-readable media via at least the use of the Canon devices,
3 comprising at least the foregoing steps.

4 29. For example, Canon infringes at least exemplary Claim 1 of the '698 patent, which
5 claims:

6 A machine-implemented method of media transfer, comprising:

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

10 establishing a short-range wireless connection between the digital camera device and
11 the cellular phone, wherein establishing the short-range paired wireless
12 connection comprises, the digital camera device cryptographically authenticating
13 identity of the cellular phone;

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

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

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

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

25 transferring the new-media file to the cellular phone, over the established short-range
26 paired wireless connection, wherein the cellular phone is configured to receive
27 the new-media file, wherein the cellular phone is configured to store the received
28 new-media file in a non-volatile memory device of the cellular phone, wherein

1 the cellular phone is configured to use HTTP to upload the received new-media
2 file along with user information to a user media publishing website, and wherein
3 the cellular phone is configured to provide a graphical user interface (GUI) in the
4 cellular phone, wherein the graphical user interface (GUI) is for the received new-
5 media file and to delete the created new-media file

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

10 31.The Canon Camera Infringing Instrumentalities comprise digital cameras, such as the
11 accused Canon cameras, with at least Wi-Fi wireless capability, which is a short range wireless
12 capability. Such cameras are capable of connecting, including via Wi-Fi, to cellular phones,
13 which have access to the Internet, including via the cellular network or other network. Almost
14 all cellular phones have access to the Internet, and certainly the cellular phones that make use
15 of Canon's mobile applications, *e.g.*, Mobile Connect, have access to the Internet, including
16 those of Canon's customers and/or end-users.

17 32.With respect to the Canon Camera Infringing Instrumentalities, in accordance with
18 applicable Wi-Fi standards, including as noted below, the Canon digital camera establishes the
19 short-range paired wireless (*e.g.*, Wi-Fi) connection, including via the Canon digital camera
20 cryptographically authenticating the identity of the cellular phone, for example, via the cellular
21 phone's MAC address and using the WPA2-PSK protocol, which comprises such
22 cryptographic connections:
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1	Wireless	
2	NFC	NFC Forum Type 3/4 Tag compliant (Dynamic)
3	Bluetooth	
4	Compliance standards	Bluetooth Ver. 4.1 (Bluetooth low energy technology)
5	Transmission method	GFSK modulation
6	Wi-Fi	
7	Compliance standards	IEEE 802.11b/g/n
8	Transmission frequency	
9	Frequency	2.4 GHz
10	Channels	1-11ch
11	Security	
12	Infrastructure mode	WPA2-PSK (AES/TKIP), WPA-PSK (AES/TKIP), WEP
13		* Wi-Fi Protected Setup compliant
14	Camera access point mode	WPA2-PSK (AES)
15	Ad hoc mode	WPA2-PSK (AES)

16 *See, e.g.,* Canon PowerShot SX730 HS User Guide at <http://gdlp01.c-wss.com/gds/5/0300026535/02/pssx730hs-cu2-en.pdf>. Specifically, 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 Canon cameras and Canon Camera Connect mobile application over a Wi-Fi connection. *See, e.g.,* 802.11i-2004 Specification (WPA2) at <https://standards.ieee.org/findstds/standard/802.11i-2004.html>.

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

18 34. The Canon 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 Canon digital cameras.

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

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

21 37. With the Canon Camera Accused Instrumentalities, new images are taken with the

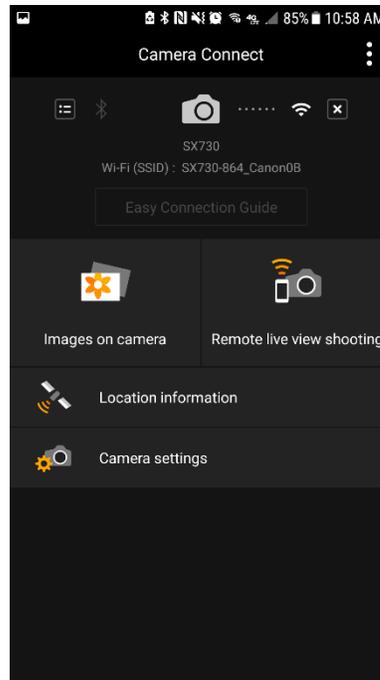
1 camera before it receives data transfer requests, for example, from a Canon mobile application
2 on a cellular phone.

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

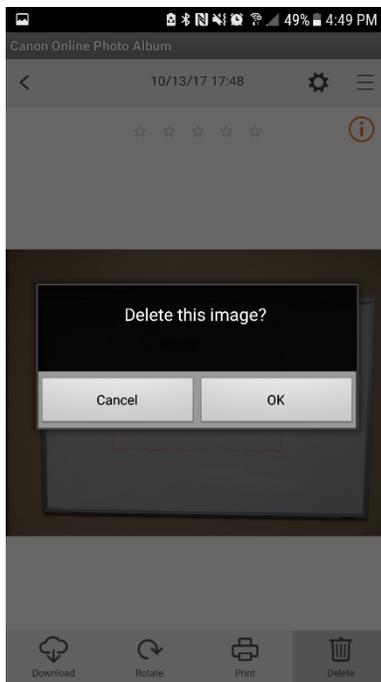
6 39. The Canon Camera Infringing Instrumentalities comprise digital camera devices, such
7 as the accused Canon digital cameras, comprising Wi-Fi capability, which is a short range
8 wireless capability. Such Canon digital cameras are capable of connecting via Wi-Fi to cellular
9 phones, *e.g.*, smart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

13 40. The Canon Camera Infringing Instrumentalities comprise digital camera devices, such
14 as the accused Canon digital cameras, comprising Wi-Fi capability, which is a short range
15 wireless capability. Such Canon digital cameras are capable of connecting via Wi-Fi to cellular
16 phones, *e.g.*, smartphones, including a cellular phone of Canon's customers and/or end-users,
17 which are configured to use HTTP protocols to upload, via the installed Canon mobile
18 application, the new-media files, *e.g.*, images/video, received via the installed Canon mobile
19 application, along with user information, *e.g.*, user name, to a user media publishing website,
20 *e.g.*, the Canon Image Gateway.

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



43. Upon information and belief, Canon has had at least constructive notice of the '698 patent pursuant to the Patent Act. Further, at a minimum, Plaintiff's Original Complaint filed on October 16, 2017 and served on October 31, 2017 (Docs. 1 & 11), notified Canon that it has been infringing, and has been accused of 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. Doc. 1, ¶ 11.

44. Additionally, or in the alternative, since receiving notice of the '698 patent, Canon 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 Canon products and software noted above. At a minimum, Plaintiff's original Complaint filed on October 16, 2017 and served on October 31, 2017, notified Canon that it has been infringing, and has been accused of infringing, the '698 patent. Such aiding and abetting by Canon comprises providing devices, software, applications, including the above-noted Canon mobile applications, *e.g.*, Canon Connect, websites, manuals, and/or instructions, including via the Canon Easy Connection Guide, for example:

On the smartphone's Wi-Fi settings screen, select the network name (SSID) displayed on the camcorder and enter the password if necessary.

After connecting via Wi-Fi, return to this page.



Display smartphone's Wi-Fi settings screen

If the previous password is registered in the smartphone's settings, the Wi-Fi connection may not be established correctly. In that case, on the smartphone's Wi-Fi settings screen, delete the connection settings for the camcorder and enter the connection settings again.

Return

including regarding the use and/or operation of the Canon 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 Canon devices and applications to users who, in turn, use the claimed devices, systems, and computer-readable media, including as noted above. Use of Canon mobile applications, such as Canon Connect, including by Canon's customers, for its customary and intended purpose, necessarily infringes the '698 patent. Thus, including by providing infringing cameras and Canon mobile applications, such as Canon Connect, to users, Canon intentionally induces infringement of the '698 patent by such users. Further, on information and belief, all of the Accused Canon 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:

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Canon

EOS 5D Mark IV
EOS 5D Mark IV (WG)

**Wi-Fi (Wireless Communication) Function
Basic Instruction Manual**

In Wi-Fi (Wireless Communication) Function Basic Instruction Manual, basic operation procedures for easy-to-use "Communicate with a smartphone" and "Save images to Connect Station" are explained.

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, Canon provides user manuals for all of the Accused Canon Camera Instrumentalities to its customers, including via its website at <https://www.usa.canon.com/internet/portal/us/home/support/user-manual-library>. On information and belief, Canon's infringement of the asserted claims of the '698 patent is clear, unmistakable, and inexcusable, and on information and belief, Canon has specifically intended such infringement post-notice.

46. Such induced infringement has occurred since Canon 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 Canon that it has been infringing, and has been accused of infringing, the '698 patent. Nonetheless, Canon has continued its infringing activities noted above in an infringing manner post-notice of the '698 patent. Canon's infringement of the asserted claims of the '698 patent is clear, unmistakable, and inexcusable, and on information and belief, Canon has been aware of such infringement post-notice. Such infringement is necessarily willful and deliberate. Plaintiff believes and contends that Canon's

1 intentional continuance of its clear, unmistakable, and inexcusable infringement of the '698
2 patent post notice is willful, wanton, malicious, bad-faith, deliberate, and/or consciously
3 wrongful.

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

8 49. Each of Canon's aforesaid activities have been without authority and/or license from
9 Plaintiff.

10 **DAMAGES**

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

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

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

21 **PRAYER FOR RELIEF**

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

- 24 A. An adjudication that one or more claims of the Patent-in-Suit has been directly and/or
25 indirectly infringed by Canon;
- 26 B. An award to Plaintiff of damages adequate to compensate Plaintiff for Canon's past
27 infringement, together with pre-judgment and post-judgment interest, and any
28 continuing or future infringement through the date such judgment is entered, including

1 interest, costs, expenses, and an accounting of all infringing acts including, but not
2 limited to, those acts not presented at trial;

3 C. A grant of preliminary and permanent injunction pursuant to 35 U.S.C. § 283, enjoining
4 Canon and all persons, including its officers, directors, agents, servants, affiliates,
5 employees, divisions, branches, subsidiaries, parents, and all others acting in active
6 concert or participation therewith, from making, using, offering to sell, or selling in the
7 United States or importing into the United States any methods, systems, or computer
8 readable media that directly or indirectly infringe any claim of the Patent-in-Suit, or any
9 methods, systems, or computer readable media that are colorably different;

10 D. That this Court declare that Canon's infringement has been, and continues to be, willful,
11 including that Canon acted to infringe the Patent-in-Suit despite an objectively high
12 likelihood that its actions constituted infringement of a valid patent and, accordingly,
13 award enhanced damages, including treble damages, pursuant to 35 U.S.C. § 284;

14 E. That this Court declare this to be an exceptional case and award Plaintiff reasonable
15 attorneys' fees and costs in accordance with 35 U.S.C. § 285; and

16 F. A judgment and order requiring Canon to pay Plaintiff their damages, costs, expenses,
17 fees, and prejudgment and post-judgment interest for Canon's infringement of the
18 Patent-in-Suit as provided under 35 U.S.C. §§ 284 and/or 285; and

19 G. Any and all further relief for which Plaintiff may show itself justly entitled that this
20 Court deems just and proper.

21 **DEMAND FOR JURY TRIAL**

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

1 Dated: March 2, 2018

**COLLINS EDMONDS &
SCHLATHER, PLLC**

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3 By: /s/ John J. Edmonds

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