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IN THE UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

MONUMENT PEAK VENTURES, LLC Plaintiff, v. TOSHIBA AMERICA BUSINESS SOLUTIONS, INC.; TOSHIBA AMERICA ELECTRONIC COMPONENTS, INC. AND TOSHIBA CORPORATION Defendants.	Case No. 8:19-cv-02181-DOC-DFM **SECOND AMENDED COMPLAINT FOR INFRINGEMENT OF U.S. PATENT NOS. 6,903,762; 7,177,484; 7,583,294; 7,684,090; 8,964,064 AND 9,549,095** **DEMAND FOR JURY TRIAL**

Plaintiff Monument Peak Ventures, LLC ("MPV") hereby submits its Second Amended Complaint against Defendants Toshiba America Business Solutions, Inc.,

Toshiba America Electronic Components, Inc., and Toshiba Corporation, and alleges as follows:

PARTIES

1. Plaintiff MPV is a Texas limited liability company with its principal place of business in Plano, Texas.

2. On information and belief, Defendant Toshiba America Business Solutions, Inc. ("TABS") is a California corporation with its principal place of business in Irvine, California.

3. On information and belief, Defendant Toshiba America Electronic Components, Inc. ("TAEC") is a California corporation with its principal place of business in Irvine, California.

4. On information and belief, Toshiba Corporation ("Toshiba Corp.") is a Japanese corporation with its principal place of business in Tokyo, Japan. Hereinafter, TABS, TAEC and Toshiba Corp. are collectively referred to as "Toshiba" or Defendants.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over MPV's claims for patent infringement pursuant to the 28 U.S.C. §§ 1331 and 1338(a).

6. Upon information and belief, this Court has personal jurisdiction over Defendants in this action because TABS and TAEC are incorporated in this State and all Defendants have committed acts within this District giving rise to this action and have established minimum contacts with this forum such that the exercise of jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice. Defendants have committed acts of patent infringement and have regularly and systematically conducted and solicited business in this District by and through at least their sales and offers for sale of Defendants' products and/or services in this District and, on information and belief, their leases and/or ownership of office space in this District.

7. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and 1400(b) at

least because Defendants have committed acts of infringement in this District and have a regular and established place of business in this District. Further, Toshiba Corp. is a foreign corporation for which venue is proper at least under 28 U.S.C. § 1391(c)(3). On information and belief, Defendants employ many people who work in their facilities in this District.

NATURE OF THE ACTION

8. This is a civil action for infringement under the patent laws of the United States, 35 U.S.C. § 271 et seq.

9. MPV owns all right, title and interest in U.S. Patent Nos. 6,903,762; 7,177,484; 7,583,294; 7,684,090; 8,964,064 and 9,549,095 (collectively the "Asserted Patents"), including all rights to sue and collect damages for past, present and future infringement thereof.

10. MPV alleges that Toshiba directly and indirectly has infringed and continues to infringe the Asserted Patents by, *inter alia*, making, using, offering for sale, selling, importing, using (including in connection with internal uses and/or demonstrations) and/or inducing such actions, including in connection with providing the infringing products and instructions/specifications for their use. MPV seeks damages and other relief for Toshiba's infringement of the Asserted Patents.

11. On or about June 20, 2018, MPV approached Toshiba and their affiliates to offer a license to MPV's Kodak portfolio. Since MPV acquired the Kodak portfolio it has successfully licensed multiple companies without resorting to litigation. Consistent with MPV's overall strategy to use litigation only as a last resort, MPV expressed on several occasions its desire to consummate a license with Toshiba outside of litigation.

12. On or about June 20, 2018, MPV informed Toshiba of its infringement through a data room that included a full list of all patents owned by MPV and evidence of use presentations detailing Toshiba's infringement.

13. Toshiba has had actual and/or constructive notice of the infringements alleged herein, including as noted above.

The Asserted Patents Come From the Iconic Kodak Patent Portfolio

14. The Asserted Patents claim inventions born from the ingenuity of the Eastman Kodak Company ("Kodak"), an iconic American imaging technology company that dates back to the late 1800s. The first model of a Kodak camera was released in 1888.

15. In 1935 Kodak introduced "Kodachrome," a color reversal stock for movie and slide film. In 1963 Kodak introduced the Instamatic camera; an easy-to-load point-and-shoot camera.

16. By 1976 Kodak was responsible for 90% of the photographic film and 85% of the cameras sold in the United States.

17. At the peak of its domination of the camera industry, Kodak invented the first self-contained digital camera in 1975.

18. By 1986 Kodak had created the first megapixel sensor that was capable of recording 1,400,000 pixels. While innovating in the digital imaging space Kodak developed an immense patent portfolio and extensively licensed its technology in the space. For example, in 2010, Kodak received $838,000,000 in patent licensing. As part of a reorganization of its business, Kodak sold many of its patents to some of the biggest names in technology that included Google, Facebook, Amazon, Microsoft, Samsung, Adobe Systems, HTC and others for $525,000,000.

19. While scores of digital imaging companies have paid to license the Kodak patent portfolio owned by MPV, without justification Toshiba has refused to do so

Count 1 – Infringement of U.S. Patent No. 6,903,762

20. The application for U.S. Patent No. 6,903,762 (the "'762 patent) was filed on Dec. 13, 2000 and the patent issued on June 7, 2005. The '762 patent also has priority as a continuation of U.S. Patent Application No. 09/549,356, filed on April14, 2000;

and from Provisional U.S. Patent Application No. 60/137,078, filed on June 2, 1999.

21. At the time of the '762 invention, the graphical user interfaces of digital cameras enabled many different features, including complex features, to be selected. This made the digital cameras complicated, and thus, difficult for users, especially first-time users, to use and understand. Further, including due to this difficulty, the actual features of the digital camera normally remained the same for all users of the same model.

22. The inventive features of '762 claimed inventions have multiple advantages over conventional prior art, including by providing methods for customizing a digital camera for at least two particular users by programming the programmable memory of the digital camera as claimed. Such methods overcome the above shortcomings and other shortcomings of the art at the time. The '762 claimed inventions address technical problems, including that, at the time of the '762 inventions, the graphical user interfaces of digital cameras enabled many different features and were thus difficult for users to navigate and understand. '762/1:22-25: 1:34-40. This made it difficult for different users to customize desired features. *Id.*

23. The '762 claimed inventions provide specific technological solutions, including allowing first and second users to select first and second desired camera features, respectively, and program the programmable memory of the digital camera to enable the first desired camera feature and disable the second desired camera feature when the digital camera is used by the first user, and to enable the second desired camera feature and disable the first desired camera feature when the digital camera is used by the second user.

24. The '762 claimed inventions provide specific inventive technological improvements, including programming the programmable memory of a digital camera to enable features desired by a specific user and disable other features for a duration of time when the digital camera is being used by the specific user. Further, claim 1 provides

the specific inventive technological improvement of the claimed customization taking place via customization software executed external to the digital camera accessing the camera's firmware.

25. The '762 claimed inventions achieve their inventive improvements in unconventional ways. Without limitation, it was unconventional at the time of the '762 inventions to allow multiple users to customize the same camera by programming programmable memory of the camera to enable user desired features and disable other features for a given duration of time. Further, as to claim 1, it was also unconventional to allow two users to customize the same camera via customization software executed external to the digital camera accessing the camera's firmware.

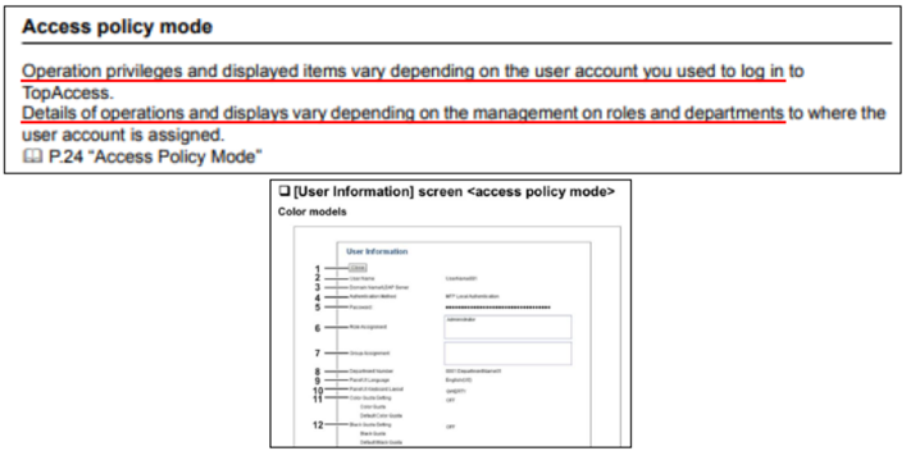
26. Claim 19 of the '762 patent covers "method for customizing a digital camera for at least two particular users by programming the programmable memory of the digital camera which controls the operation of the digital camera, the method comprising the steps of: (a) displaying a list of selectable camera features that can be provided by the digital camera; (b) a first user selecting a first desired camera feature from the displayed list of camera features; (c) a second user selecting a second desired camera feature from the displayed list of camera features, wherein the second desired camera feature is different than the first desired camera feature; (d) programming the programmable memory of the digital camera to enable the first desired camera feature and disable the second desired camera feature when the digital camera is used by the first user, and to enable the second desired camera feature and disable the first desired camera feature when the digital camera is used by the second user."

27. The '762 claimed inventions, including programming the programmable memory of the digital camera to enable the first desired camera feature and disable the second desired camera feature when the digital camera is used by the first user, and to enable the second desired camera feature and disable the first desired camera feature when the digital camera is used by the second user is not something that has long been

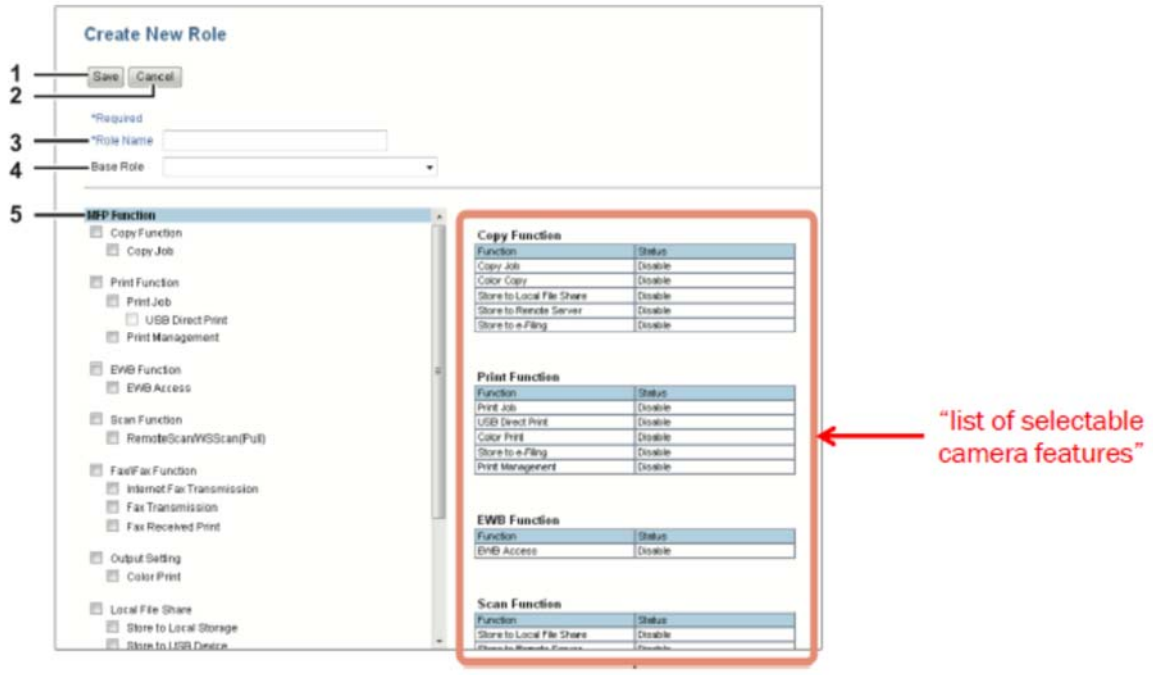
performed by mental processes or by pencil and paper.

28. At least claim 19 of the '762 patent is infringed by TABS and/or Toshiba Corp., including under 35 U.S.C. §271(a)-(b), by methods comprising the use of at least TABS's e-STUDIO2050C/2550C multi-function printers (the "'762 Infringing Instrumentalities"). Without limitation, sale, importation and/or use of the '762 Infringing Instrumentalities comprises and/or induces the steps noted below.

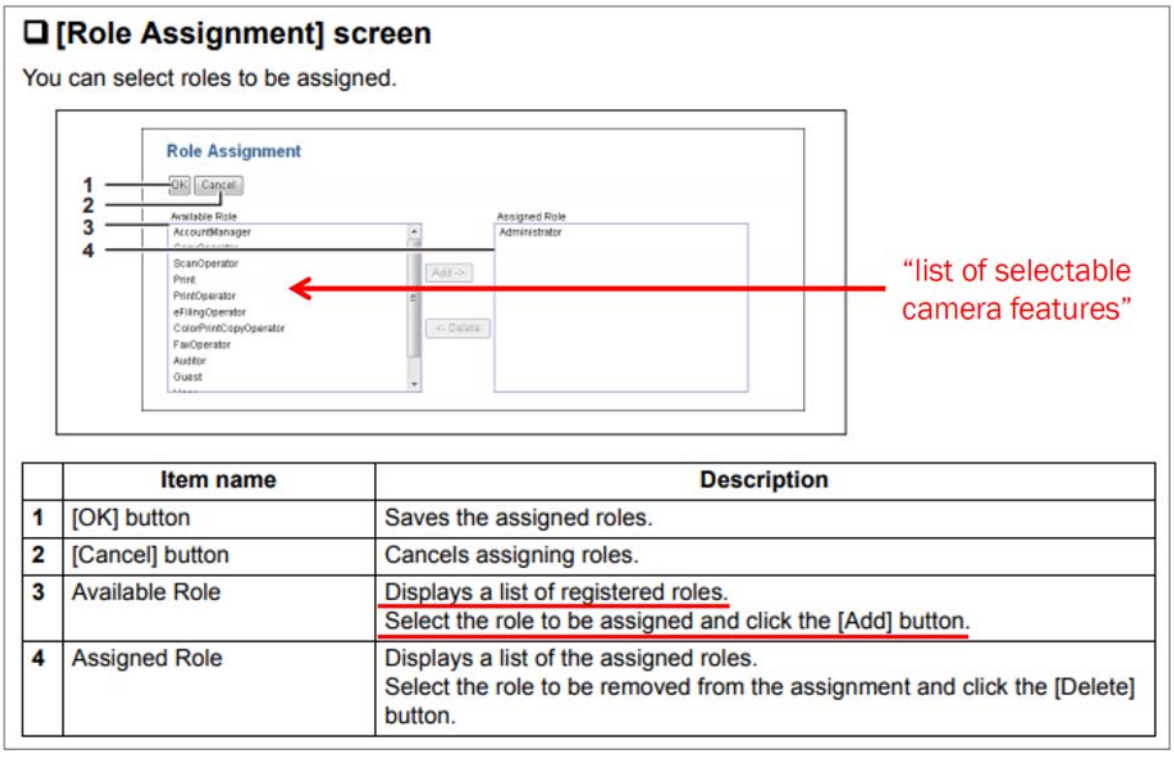
29. To the extent the preamble is limiting, the '762 Infringing Instrumentalities comprise a method for customizing a digital camera for at least two particular users by programming the programmable memory of the digital camera which controls the operation of the digital camera, the method comprising the steps including those noted below. Without limitation, *see, e.g.*, FC-2050C_TAG_EN_0009:



30. The '762 Infringing Instrumentalities comprise displaying a list of selectable camera features that can be provided by the digital camera. Without limitation, *see, e.g.*, FC-2050C_TAG_EN_0009:



and



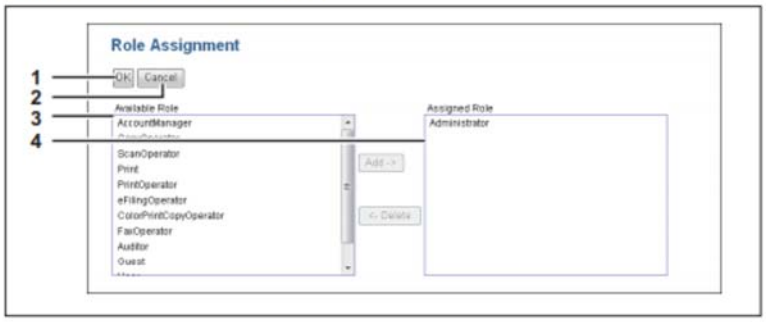
	Item name	Description
1	[OK] button	Saves the assigned roles.
2	[Cancel] button	Cancels assigning roles.
3	Available Role	Displays a list of registered roles. Select the role to be assigned and click the [Add] button.
4	Assigned Role	Displays a list of the assigned roles. Select the role to be removed from the assignment and click the [Delete] button.

31. The '762 Infringing Instrumentalities comprise a first user selecting a first desired camera feature from the displayed list of camera features; and they further comprise a second user selecting a second desired camera feature from the displayed list of camera features, wherein the second desired camera feature is different than the first

desired camera feature, Without limitation, a first user, for example with administrator privileges, may select a given role (*i.e.*, "a first desired camera feature") from the displayed list of roles. Similarly, a second user, for example with administrator privileges, may select another given role (*i.e.*, "a second desired camera feature") from the displayed list of roles. Each selected role has its own privileges and permitted options. Without limitation, *see, e.g.*, FC-2050C_TAG_EN_0009:

❑ [Role Assignment] screen

You can select roles to be assigned.

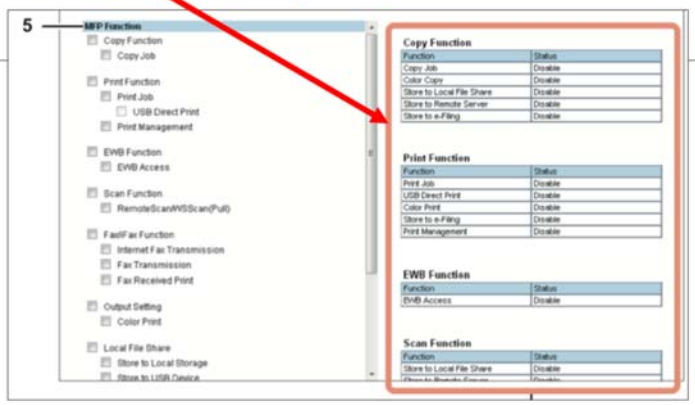


	Item name	Description
1	[OK] button	Saves the assigned roles.
2	[Cancel] button	Cancels assigning roles.
3	Available Role	Displays a list of registered roles. Select the role to be assigned and click the [Add] button.
4	Assigned Role	Displays a list of the assigned roles. Select the role to be removed from the assignment and click the [Delete] button.

and

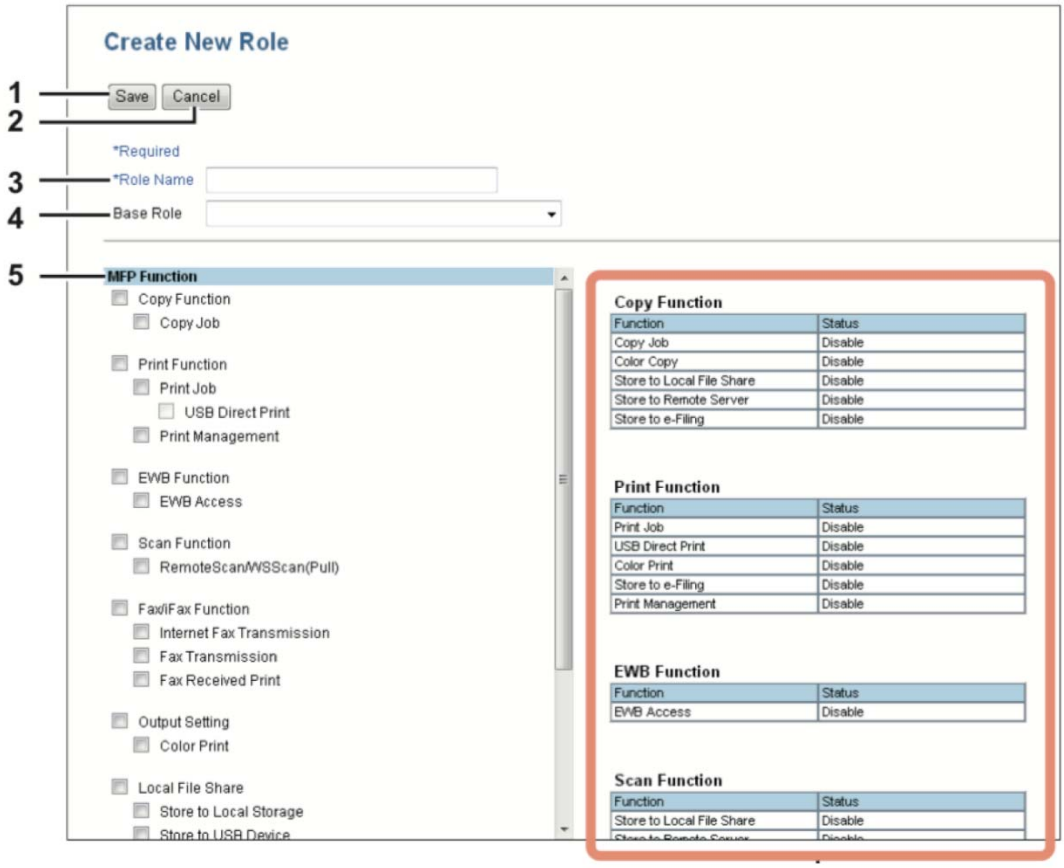
❑ Default roles and privileges

The following table describes privileges granted to default roles.
The functions listed in "Privileges" and "Permitted operations (functions)" below are displayed in "6 Function list" on the [Create New Role] screen.
📖 P.141 "[Create New Role] screen"



32. The '762 Infringing Instrumentalities comprise programming

programmable memory of the digital camera to enable the first desired camera feature and disable the second desired camera feature when the digital camera is used by the first user, and to enable the second desired camera feature and disable the first desired camera feature when the digital camera is used by the second user. Without limitation, including based on the above selections, the scanner programs the memory to enable operations/functions permitted in the first role (i.e., "first desired camera feature") and disable operations functions not permitted in the first role (i.e., "second desired camera feature") when the scanner is used by the first user. Similarly, the scanner programs the memory in an analogous manner to enable operations/functions permitted in the second role (i.e., "second desired camera feature") and disable operations functions not permitted in the second role (i.e., "first desired camera feature") when the scanner is used by the second user. Without limitation, see, e.g., FC-2050C_TAG_EN_0009:



33. Defendants' acts of infringement of the '762 patent have been willful and intentional under the standard of *Halo*. Defendants were made aware of their

infringement of the '762 patent, including via an infringement chart, at least in April 2019. Defendants' were further made aware of their infringement of the '762 patent by and through the infringement allegations set forth in Plaintiff's Original Complaint, of which Defendants were aware at least by the time they filed for an extension of time to respond to said Complaint on January 3, 2020. Defendants' infringement has been and remains clear, unmistakable and inexcusable. On information and belief, Defendants' knew or should have known of their clear, unmistakable and inexcusable infringing conduct at least as early as April 2019.

34. Including based upon the facts set forth above, MPV believes and contends that Defendants' knowing and intentional pre-suit and post-suit continuance of its unjustified, clear, and inexcusable infringement of the '762 Patent since receiving notice (see above) of its infringement of the '762 Patent, is willful, wanton, malicious, in bad-faith, deliberate, consciously wrongful and flagrant, and that it constitutes egregious misconduct worthy of a finding of willful infringement.

35. Accordingly, since at least April 2019, Defendants have willfully infringed the '762 patent.

36. Further, since at least April 2019 Defendants have actively induced the direct infringement of customers and/or end users, including by providing the '762 Infringing Instrumentalities and instructions/specifications for their use, and including with the intent that such direct infringement occur.

37. The '762 Infringing Instrumentalities clearly meet the asserted claim limitations in their normal and expected usage. On information and belief, normal and expected usage of the '762 Infringing Instrumentalities by customers and/or end users satisfies the claim limitations for direct infringement. Further, at minimum, the provision of products clearly capable of such infringing usage and/or provision of instructions/specifications for such infringing usage constitutes inducement of directly infringing usage.

38. Further, as noted above, Defendants were made aware of infringement of the '762 patent through use of the '762 Infringing Instrumentalities, including via an infringement chart, at least in April 2019. Defendants' were further made aware of infringement of the '762 patent by and through use of the '762 Infringing Instrumentalities via the infringement allegations set forth in Plaintiff's Original Complaint, of which Defendants were aware at least by the time they filed for an extension of time to respond to said Complaint on January 3, 2020. Such direct and induced infringement has been and remains clear, unmistakable and inexcusable. On information and belief, Defendants' knew or should have known of the clear, unmistakable and inexcusable direct and induced infringing conduct at least as early as April 2019. Thus, on information and belief, Defendants have, since at least April 2019, specifically intended to induce direct infringement by customers and/or end users.

39. Defendants' acts of direct, indirect and willful infringement of the '762 patent have caused damage to MPV, and MPV is entitled to recover damages sustained as a result of Defendants' wrongful acts in an amount subject to proof at trial.

Count 2 – Infringement of U.S. Patent No. 7,177,484

40. The application for U.S. Patent No. 7,177,484 (the "'484 patent) was filed on February 26, 2003, and the patent issued on February 13, 2007.

41. At the time of the '484 invention, to obtain conventional imaging services and/or products, users typically went to a food/mass/drug retailer who offered such imaging service or products. It was the financial benefit of the retailer to sell as many imaging services or products as possible to the customer/user. Retailers displayed generic pictures or other advertising to entice a user to purchase imaging services or products. These pictures/ads may have had little or no interest to the user. In addition, clerks at retail locations were coached to ask users if they would like to try a new or existing imaging service or product. However, many users were unfamiliar with the offered services or are too busy to inquire. Further, many retailers use kiosks, rather

than clerks, to take in orders for imaging services and/or products.

42. The '484 claimed inventions address technical problems, including that, at the time of the '484 inventions, there was a need for improved digital advertising of imaging services and/or products. '484/1:18-38. Retailers had used generic pictures/ads to entice a user to purchase imaging services and/or products, but the user may have had little to no interest in these pictures/ads. '484/1:27-30.

43. During prosecution, the primary reference cited was U.S. Patent No. 6,414,693 to Berger, *et al.*, which represents conventional and inferior approaches at the time. Inferior to the '484 claimed inventions, Berger is directed to a method of merely customizing articles with user custom graphics. 9/6/06 Office Action Response. Berger's method is designed for use by companies wishing to promote their own company through a logo on a promotional item to be sold or given away, the promotional item acting as an advertisement for the company. *Id.* The method requires creation of a graphic artwork by the company or supplier, selection by the customer from among a database of supplier scaled images, and customer drag-and-drop placement of the selected artwork on a representation of the promotional item. *Id*. As noted by the Patentee during prosecution, Berger does not disclose or suggest at least a predetermined image location, including because Berger provides a large area of the item on which the artwork can be placed, as opposed to the strict placement over which the user has no control to place the artwork outside of pre-set bounds. *Id*. Further, Berger does not disclose or suggest modifying at least a portion of the user-supplied image to simulate application of the image to the actual promotional product. *Id*. Because Berger applies the artwork image as is, it fails to provide a realistic representation of the artwork on the promotional item. *Id*. Including for these reasons, the conventional Berger patent did not disclose or suggest at least the inventive steps of providing a digital image representative of a promotional product having a predetermined image location adapted to receive at least a portion of the user-supplied digital image,

generating a modified user image by modifying the at least a portion of the user-supplied digital image to simulate an application of the at least a portion of the user-supplied image to the promotional product, or generating a customized digital image representative of the customized promotional product having the modified user image disposed within the predetermined image location.

44. The '484 claimed inventions provide specific technological solutions, including generating a customized digital image for a user by modifying a digital image to simulate an application of a user-supplied image to a promotional product and by disposing the image at a predetermined location of a digital image of the promotional product. *E.g.*, '484, claim 1. For example, at step 104, a modified user image is generated by modifying at least a portion of the user-supplied image to simulate an application of the modified portion of the user-supplied image to the promotional product. '484/4:46-55. *See* Fig. 3. Simulating the application of the modified user-supplied image allows the user to more particularly obtain an accurate representation of the final product that would be purchased. '484/4:55-58. As such, the customized digital image comprises the promotional product digital image having the modified user-supplied image disposed within the predetermined image location. '484/5:10-13. FIGS. 5a through 5c show customized products 34a and 34c comprised of, respectively, products 30a and 30c and user-supplied image 24 disposed with predetermined image location 32a and 32c, respectively. '484/5:13-16.

45. The '484 claimed inventions provide specific inventive technological improvements, including that a digital image of a promotional product is designated with a predetermined location for application of a user-supplied image, and the user-supplied digital image is modified to simulate an application of the at least a portion of the user-supplied image to the promotional product. *E.g.*, '484, claim 1.

46. The '484 claimed inventions have unconventional aspects. Without limitation, it was unconventional at the of the invention to have predetermined locations

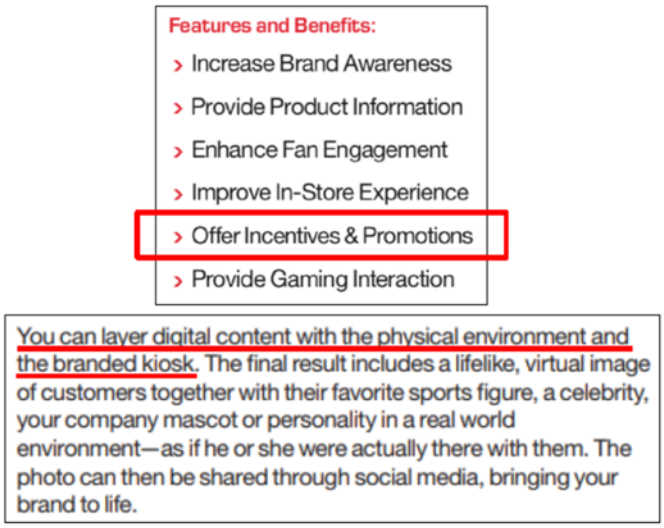
on digital product images for application of modified user-supplied digital images. Claim 1 of the '484 patent covers a "method of offering a customized promotional product to a user, the method comprising the steps of: accessing a user-supplied digital image at a digital imaging device; providing a digital image representative of a promotional product, the promotional product digital image having a predetermined image location adapted to receive at least a portion of the user-supplied digital image; generating a modified user image by modifying the at least a portion of the user-supplied digital image to simulate an application of the at least a portion of the user-supplied image to the promotional product; generating a customized digital image representative of the customized promotional product, the customized digital image comprising the promotional product digital image having the modified user image disposed within the predetermined image location; and displaying the customized digital image to the user on a display of the digital imaging device."

47. The '484 claimed inventions do not involve any process that has long been performed by pen and paper; nor does it merely automate or computerize advertising pitch mock-up sketches. At minimum, the limitation of having a modified user image constrained to be disposed within the bounds of a pre-determined image location of a promotional product is not something known to be in prior art or prior manual practices.

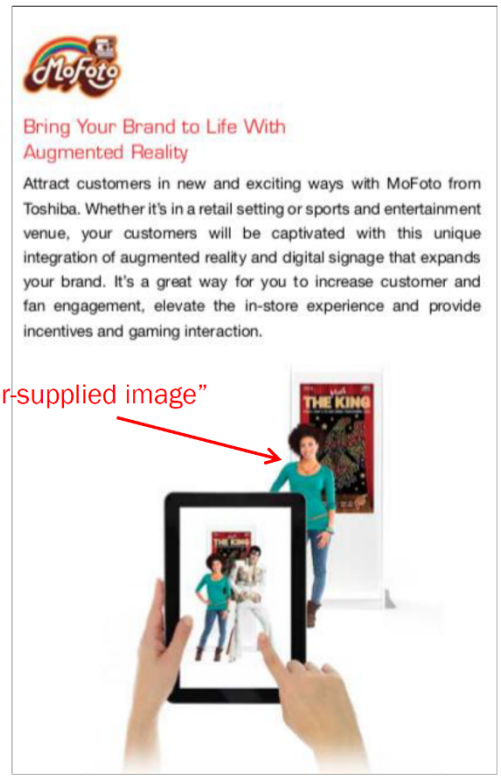
48. At least claim 4 of the '484 patent has been infringed by TABS and/or Toshiba Corp., including under 35 U.S.C. §271(a)), by methods comprising the use of TABS's MoFoto applications and/or hardware implementing said applications (the "'484 Infringing Instrumentalities"). Without limitation, the sale and/or use of the '484 Infringing Instrumentalities has comprised the steps noted below.

49. To the extent the preamble is limiting, the '484 Infringing Instrumentalities comprise a method of offering a customized promotional product to a user, the method comprising the steps below. Without limitation, *see*, *e.g.*, http://tgcs04.toshibacommerce.com/cs/groups/internet/documents/document/b3mx/mj

cw/~edisp/prod.tos1270895.pdf and http://brochure.copiercatalog.com/toshiba/Toshiba-Full-Line-Brochure-1.pdf:



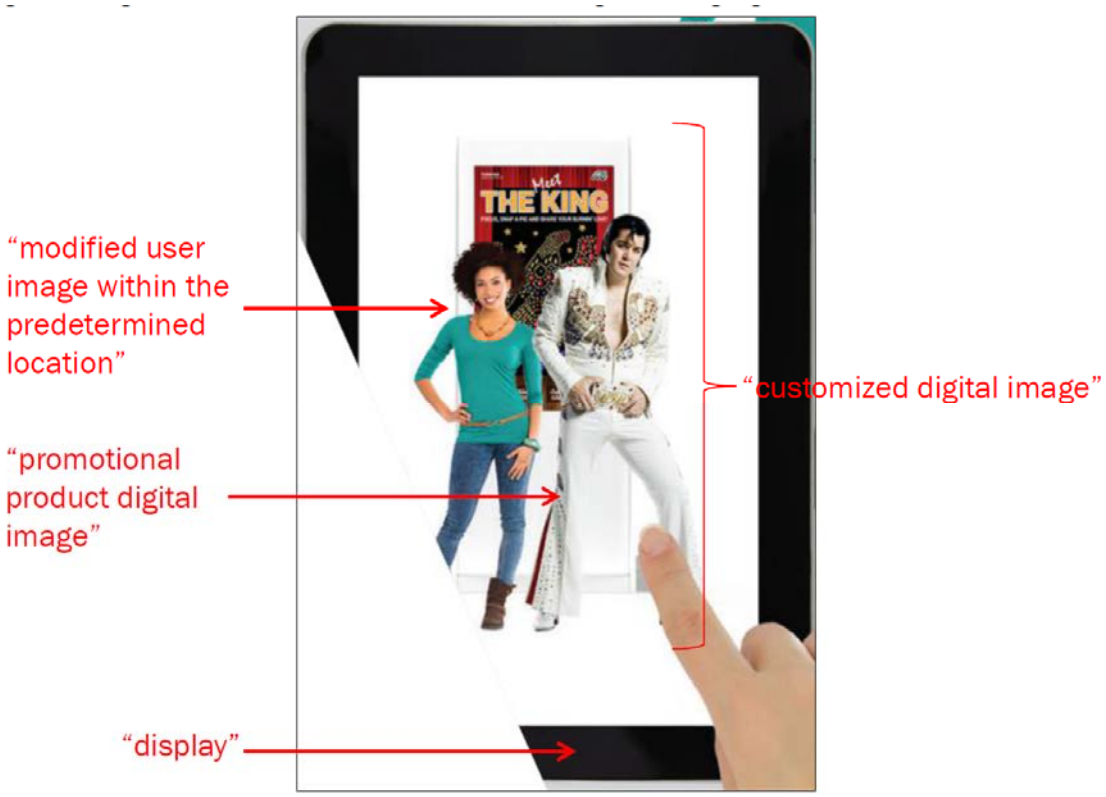
50. The '484 Infringing Instrumentalities comprise accessing a user-supplied digital image at a digital imaging device, for example a smartphone or tablet. Without limitation, *see, e.g.*, http://tgcs04.toshibacommerce.com/cs/groups/internet/documents/document/b3mx/mjcw/~edisp/prod.tos1270895.pdf and http://brochure.copiercatalog.com/toshiba/Toshiba-Full-Line-Brochure-1.pdf:



51. The '484 Infringing Instrumentalities comprise providing a digital image representative of a promotional product, the promotional product digital image having a predetermined image location adapted to receive at least a portion of the user-supplied digital image. Without limitation, the '484 Infringing Instrumentalities comprise providing digital content of promotional figures and/or celebrities (including their accoutrements such as uniforms) having a predetermined location to receive the user-supplied image. Without limitation, *see, e.g.*, http://tgcs04.toshibacommerce.com/cs/groups/internet/documents/ document/b3mx/mjcw/~edisp/prod.tos1270895.pdf:

> You can layer digital content with the physical environment and the branded kiosk. The final result includes a lifelike, virtual image of customers together with their favorite sports figure, a celebrity, your company mascot or personality in a real world environment—as if he or she were actually there with them. The photo can then be shared through social media, bringing your brand to life.

52. The '484 Infringing Instrumentalities comprise generating a modified user image by modifying the at least a portion of the user-supplied digital image to simulate an application of the at least a portion of the user-supplied image to the promotional product. Without limitation, the '484 Infringing Instrumentalities generate a modified image by modifying at least a portion of the user-captured image to simulate that the user is actually with the figure, celebrity, etc. (*i.e.*, that simulate an application of at least a portion of the user-supplied image to the promotional product). Without limitation, *see, e.g.*, http://tgcs04.toshibacommerce.com/cs/groups/internet/documents/document/b3mx/mjcw/~edisp/prod.tos1270895.pdf:



53. Including as noted immediately above, the '484 Infringing Instrumentalities comprise generating a customized digital image representative of the customized promotional product, the customized digital image comprising the promotional product digital image having the modified user image disposed within the predetermined image location.

54. The '484 Infringing Instrumentalities comprise displaying the customized digital image to the user on a display of the digital imaging device, for example the smart phone or tablet, including as noted above.

55. Defendants' acts of direct infringement of the '484 patent have caused damage to MPV, and MPV is entitled to recover damages sustained as a result of Defendants' wrongful acts in an amount subject to proof at trial.

Count 3 – Infringement of U.S. Patent No. 7,583,294

56. The application for U.S. Patent No. 7,583,294 (the "'294 patent) was filed on May 5, 2005, and the patent issued on September 1, 2009. The '294 patent also has priority as a continuation of U.S. Patent Application No. No. 09/514,436, filed on

February 28, 2000.

57. Claim 5 of the '294 patent covers a "method for determining the presence of a face from image data, said method comprising the steps of: (a) prescreening the image data with a first algorithm by using an algorithm interface adapter, the first algorithm determining a plurality of face candidates; and (b) operating on the face candidates with a second algorithm, the second algorithm processing the face candidates to determine the presence of the face; wherein the first algorithm has a first rate of false positives, and the second algorithm has a second rate of false positives lower than the first rate of false positives."

58. The '294 claimed inventions comprise prescreening image data with a first algorithm to determine a plurality of face candidates, and operating on the face candidates with a second algorithm to determine the presence of a face, wherein the second algorithm has a rate of false positives lower than the rate of false positives for the first algorithm. An advantage of this combination is that the first algorithm can be designed to operate quickly, albeit with the potential for false positives, and the second component algorithm can restrict its more computationally intensive processing to the relatively few regions that have passed the first algorithm. Further, knowledge of the presence and location of people in an image, and especially the presence and location of their faces, enables many beneficial improvements to be made in the image capture process. Another advantage is that data associated with the detection of faces in an image can be automatically recorded and included with or as an annotation of an image. This permits the automatic recording of significant subjects within a photographic record of events without requiring the annotation to be done by the photographer at the time of image acquisition or at a later time. The detection of faces in the scene then opens the way for significant additional enhancements to the image capture event and to subsequent processing of the image. For example, face detection provides a convenient means of indexing images for later retrieval, for example by fetching images

containing one or more people as subjects. Consequently, running the face detection algorithm provides face data corresponding to one or more parameters such as location, orientation, scale and pose of one or more of the detected faces. In addition, once faces have been detected, a face recognition algorithm can be applied to identify faces from a gallery.

59. The ’294 claimed inventions address technical problems, including that, at the time of the ’294 inventions, face detection was an area that demanded impressive computational requirements, particularly for robust face detection. ’294/1:52-55. Methods that had been devised that show reasonable performance over a range of imaging conditions were more successfully implemented only in large scale processing equipment already possessing sophisticated processing capability. ‘294/1:55-61. The challenge was to successfully implement these face detection methods in systems with limited memory resources, and with low computational cost. ‘294/1:61-63. With this accomplished successfully through the ’294 inventions, the detection of faces in a scene now serves as a springboard to numerous other improvements. 294/1:64-2:3.

60. During prosecution of the ‘294 patent, the closest prior art noted by the Patent Examiner was U.S. Patent No. 6,263,113 to Abdel-Mottaleb, et al. (the ‘113 patent”). The ‘113 patent disclosed certain methods for detecting a face in digital images. There is no indication in the ‘113 patent that its methods could be performed with a digital camera, it is highly unlikely that a digital camera could perform the ‘113 patent’s methods, and there is no information available to conclude that such methods have ever been performed with a digital camera. See ‘113/3:31-38.

61. The ‘294 claimed inventions provide specific technological solutions, including determining the presence of a face from image data by (a) prescreening the image data with a first algorithm having a first rate of false positives, which determines plurality of face candidates; and (b) operating on the face candidates with a second algorithm, which has a second rate of false positives lower than the first rate, and which

processes face candidates to determine the presence of the face. 294/claim 5. Determining the presence of a face from image data using a method for (a) prescreening the image data with a first algorithm which determines a plurality of face candidates utilizing a pattern matching technique that identifies image windows likely to contain faces based on color and shape information; and (b) operating on the face candidates with a second algorithm which uses a posterior probability function classifier to determine the presence of the face; wherein the first algorithm has a first rate of false positives, and the second algorithm has a second rate of false positives lower than the first rate of false positives.

62. Multiple claims specify that the methods are implemented in a digital camera, namely '294 claims 2, 4, 6, 13 and 14.

63. Further, claim 1 comprises that the first algorithm for determining a plurality of face candidates utilizes a pattern matching technique that identifies image windows likely to contain faces based on color and shape information, and that the second algorithm for processing the face candidates uses a posterior probability function classifier to determine the presence of the face. These inventive features were not found in the prior art of record, and they have not been shown to be conventional or even in the prior art.

64. The '294 claimed inventions provide specific inventive technological improvements, including (1) a two-step process for face detection involving a first algorithm with a first rate of false positives, and a second algorithm with a second rate of false positives lower than the first rate of false positives. '294/claim 5; and (2) a two-step process for face detection involving a first algorithm, which determines plurality of face candidates utilizing a pattern matching technique that identifies image windows likely to contain faces based on color and shape information, and which has a first rate of false positives; and involving a second algorithm which uses a posterior probability function classifier to determine the presence of the face, and which has a second rate of

false positives lower than the first rate of false positives. '294/claim 1.

65. Further, multiple claims specify that the methods are implemented in a digital camera, namely '294 claims 2, 4, 6, 13 and 14.

66. The '294 claimed inventions are not something that can be performed with a human eye, pencil or paper. Nor would there be any reason for human to manually implement the two-step '294 claimed method, which conserves camera memory and processing by only performing step 2 after the pre-screen. Human review of images for faces would have no need for pre-screening – the human would simply draw a judgment based upon what was seen the first time using all that human's available vision and brainpower. Including for these reasons, the '294 claimed inventions do not automate any human or pre-computer process; nor do they merely use a computer as a tool to perform any human process, especially any long-standing human process.

67. The foregoing paragraph is fully applicable to '294 claim 5, but even more applicable to narrower claim 1, wherein there is a two-step process for face detection involving a first algorithm, which determines plurality of face candidates utilizing a pattern matching technique that identifies image windows likely to contain faces based on color and shape information, and which has a first rate of false positives; and further involving a second algorithm which uses a posterior probability function classifier to determine the presence of the face, and which has a second rate of false positives lower than the first rate of false positives. '294/claim 1.

68. As noted by the Patentee during prosecution of the '294 patent, the prior art, namely the '113 patent, did not teach or suggest prescreening image data with a first algorithm having a first rate of false positives, which determines plurality of face candidates; and then operating on the face candidates with a second algorithm, which has a second rate of false positives lower than the first rate, and which processes face candidates to determine the presence of the face. '294/claim 5. An "advantage of this combination is that the first component algorithm can be designed to operate quickly

albeit with the potential for false positives and the second component algorithm can restrict its more computationally intensive processing to the relatively few regions that have passed the first algorithm." '294/4:28-32. The '294 two-step process involving pre-screening for faces and then analyzing the pre-screened face candidates provides a more robust algorithm for reliable face detection while requiring less processing and less processing capability, thus making it a viable technique in a camera having limited memory and processing resources. '294/1:61-63. Detection of faces with the camera "serve[s] as a springboard to numerous other improvements in the image capture process." '294/1:64-66. This improvement allows the camera to obtain better and more pleasing photographs. '294/2:41-45; 4:33-46, including via red eye correction, exposure control, flash control, improved color balance, improved composition and auto-focus on a preponderance of the faces in a scene. 294/4:47-41: 6:58-65. Multiple claims specify that the methods are implemented in a digital camera, namely '294 claims 2, 4, 6, 13 and 14.

69. Further, claim 1, comprises that the first algorithm for determining a plurality of face candidates utilizes a pattern matching technique that identifies image windows likely to contain faces based on color and shape information, and that the second algorithm for processing the face candidates uses a posterior probability function classifier to determine the presence of the face. These inventive features were not found in the prior art of record, and they have not been shown to be conventional, nor are the conventional, nor have they been shown to be in any relevant prior art combinations.

70. The '294 claimed inventions achieve their inventive improvements in unconventional ways. Without limitation, these include: (1) A two-step process for face detection involving a first algorithm, which determines plurality of face candidates utilizing a pattern matching technique that identifies image windows likely to contain faces based on color and shape information, and which has a first rate of false positives; and involving a second algorithm which uses a posterior probability function classifier

to determine the presence of the face in the identified image windows, and which has a second rate of false positives lower than the first rate of false positives; (2) Facial recognition on a camera with limited storage and processing capabilities (enabled by the inventive step method); (3) An algorithm interface adapter; and (4) A two-step process noted above using claim 1's first algorithm for determining a plurality of face candidates utilizing a pattern matching technique that identifies image windows likely to contain faces based on color and shape information, and its second algorithm for processing the face candidates uses a posterior probability function classifier to determine the presence of the face in the identified image windows.

71. Claim 5 of the '294 patent covers a "method for determining the presence of a face from image data, said method comprising the steps of: (a) prescreening the image data with a first algorithm by using an algorithm interface adapter, the first algorithm determining a plurality of face candidates; and (b) operating on the face candidates with a second algorithm, the second algorithm processing the face candidates to determine the presence of the face; wherein the first algorithm has a first rate of false positives, and the second algorithm has a second rate of false positives lower than the first rate of false positives."

72. At least claim 5 of the '294 patent is infringed by TAEC and/or Toshiba Corp., including under 35 U.S.C. §271(a)-(b), by methods comprising the use of TAEC's Visconti family (*e.g.*, Visconti, Visconti2 and related series, *e.g.*, the TMPV760 Series) of image recognition processors, including within camera-based systems (the '294 Infringing Instrumentalities"). Without limitation, the sale, importation and/or use of the '294 Infringing Instrumentalities comprises and/or induces the steps noted below.

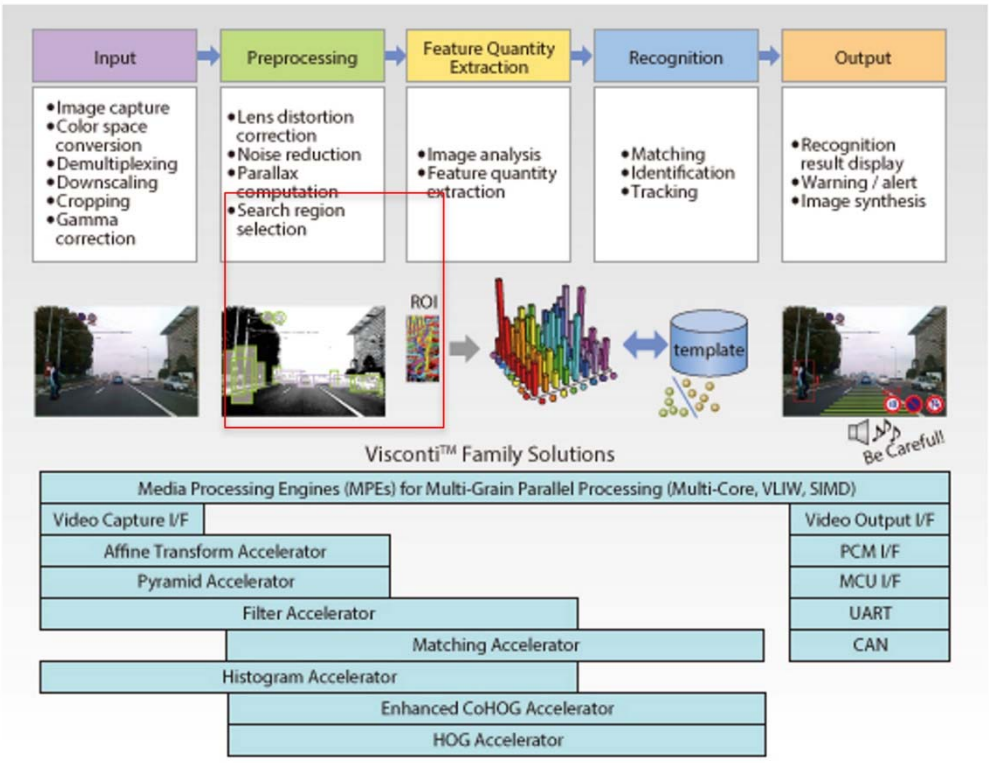
73. To the extent the preamble is limiting, the '294 Infringing Instrumentalities comprise a method for determining the presence of a face from image data, said method comprising the steps noted below. See, *e.g.*, TMPV760 Series Image Recognition

Processor Technical Datasheet, rev. 1.3.0, available at https://toshiba.semicon-storage.com/ap-en/product/assp/detail.TMPV7608XBG.html:

Preface

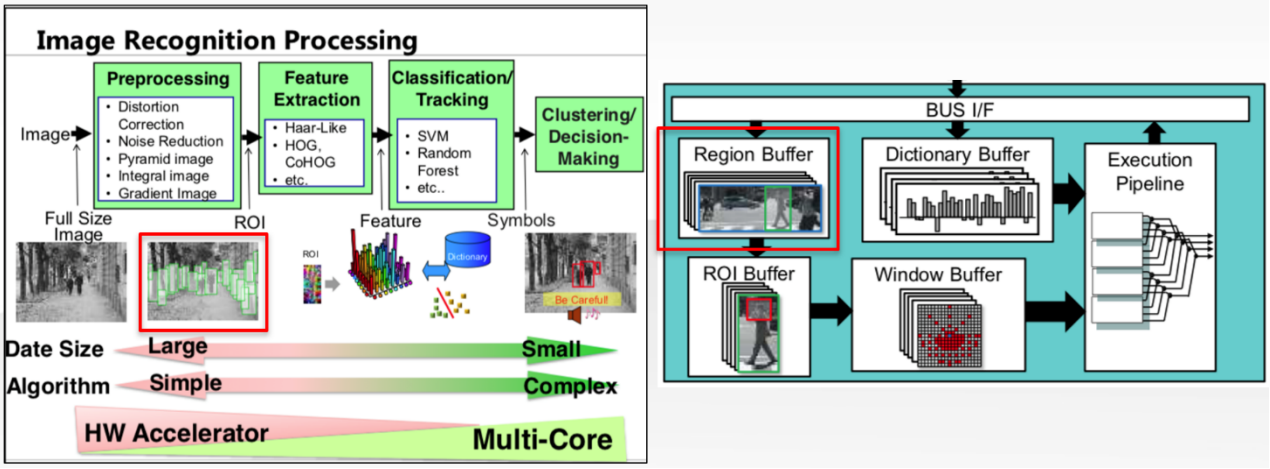
The TMPV760 Series are image recognition processors that process input video images in real-time. They detect target objects such as persons, faces, hands, vehicles, traffic lanes, and so on. The series can be used for camera vision systems utilizing various image-recognition technologies such as the Advanced Driver Assistance System (ADAS), the Intelligent Transport System (ITS), surveillance cameras, gaming devices, and energy control systems for air conditioning and lighting, etc.

74. The '294 Infringing Instrumentalities comprise prescreening the image data with a first algorithm by using an algorithm interface adapter, the first algorithm determining a plurality of face candidates. Without limitation, the '294 Infringing Instrumentalities' image recognition processors prescreen image data with a first algorithm to determine a plurality of face candidates, including using "search region extraction" to segment the input image into regions of non-overlapping homogenous color or texture. Without limitation, *see. e.g.*, https://toshiba.semicon-storage.com/us/product/automotive/image-recognition/features.html:

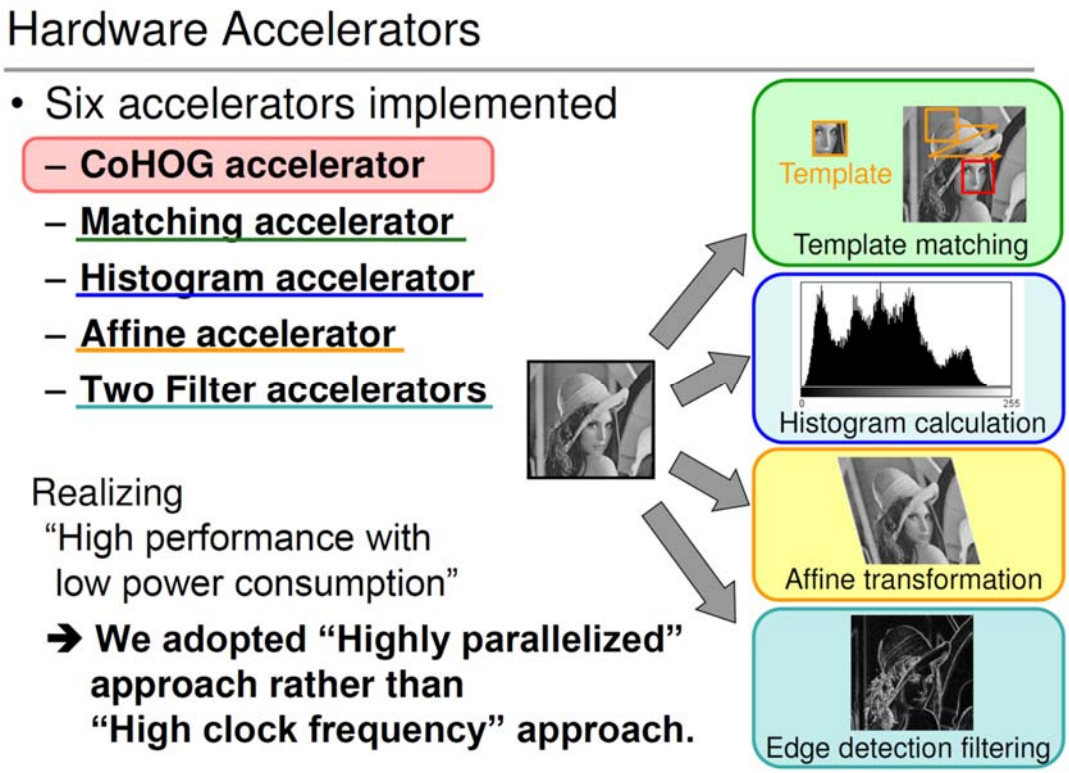


This process includes, without limitation, utilizing co-occurrence histograms of oriented gradients, including, without limitation, in connection with, driver monitoring, region buffers and/or bounding boxes.

75. Further, the '294 Infringing Instrumentalities' first algorithm finds a plurality of face candidates. Without limitation, see above and *see. e.g.*, http://www.mpsoc-forum.org/previous/2015/slides/9B-Takashi%20Miyamori.pdf and HC24.28.425-Visconti2-Uchiyama-Toshiba.pdf:



and



76. The '294 Infringing Instrumentalities comprise operating on the face candidates with a second algorithm, the second algorithm processing the face candidates to determine the presence of the face. Without limitation, *see, e.g.*, TMPV760 Series Image Recognition Processor Technical Datasheet, rev. 1.3.0, available at https://toshiba.semicon-storage.com/ap-n/product/assp/detail.TMPV7608XBG.html and https://news.toshiba.com/press-release/corporate/ai-contributes-cutting-car-accidents-toshibas-image-recognition-lsi:

(4) **HOG (Histograms of Oriented Gradients) Accelerator**
Calculation of HOG or Toshiba CoHOG (Co-occurrence Histograms of Oriented Gradients) features and likelihood score output by using LSVM (Linear Support Vector Machine) with templates for human recognition

(5) **Enhanced CoHOG Accelerator**
Determination whether a person or not is processed by the linear support vector machine based on the histogram of the feature amount using color information, in addition to luminance gradient orientation.

A small chip that instantly processes massive amounts of image information and recognizes objects

Toshiba's image recognition LSI does all this without relying on the massive processing power of a dedicated onboard computer. Instead, it is a highly capable, self-contained solution, equipped with a "visual dictionary," a rich storehouse of data that allows it to recognize that an object on the road is actually a pedestrian not a lamppost. This is done by comparing image data with characteristics stored in the dictionary.

77. The '294 Infringing Instrumentalities comprise operating on the face candidates with a second algorithm, the second algorithm processing the face candidates to determine the presence of the face (see above); wherein the first algorithm has a first rate of false positives, and the second algorithm has a second rate of false positives lower than the first rate of false positives. Without limitation, the algorithm used to identify regions which may contain a face (*e.g.*, face candidate windows) will have a higher rate of false positives than the second algorithm (*e.g.*, Linear Support Vector Machine), which operates on face candidate windows to output a likelihood score with templates for human (*i.e.*, face) recognition. Without limitation, *see, e.g.*, TMPV760 Series Image Recognition Processor Technical Datasheet, rev. 1.3.0, available at https://toshiba.semicon-storage.com/ap-en/product/assp/detail.TMPV7608XBG.html:

(4) **HOG (Histograms of Oriented Gradients) Accelerator**
Calculation of HOG or Toshiba CoHOG (Co-occurrence Histograms of Oriented Gradients) features and likelihood score output by using LSVM (Linear Support Vector Machine) with templates for human recognition

(5) **Enhanced CoHOG Accelerator**
Determination whether a person or not is processed by the linear support vector machine based on the histogram of the feature amount using color information, in addition to luminance gradient orientation.

78. Defendants' acts of infringement of the '294 patent have been willful and intentional under the standard of Halo. Since at least December 2018, Defendants' acts of infringement of the '294 patent have been willful and intentional under the standard of *Halo*. Defendants were made aware of their infringement of the '294 patent, including via an infringement chart, at least in September 2018. Defendants' were further made aware of their infringement of the '294 patent by and through the infringement allegations set forth in Plaintiff's Original Complaint, of which Defendants were aware at least by the time they filed for an extension of time to respond to said Complaint on January 3, 2020. Defendants' infringement has been and remains clear, unmistakable and inexcusable. On information and belief, Defendants' knew or should have known of their clear, unmistakable and inexcusable infringing conduct at least as early as September 2018.

79. Including based upon the facts set forth above, MPV believes and contends that Defendants' knowing and intentional pre-suit and post-suit continuance of its unjustified, clear, and inexcusable infringement of the '294 Patent since receiving notice (see above) of its infringement of the '294 Patent, is willful, wanton, malicious, in bad-faith, deliberate, consciously wrongful and flagrant, and that it constitutes egregious misconduct worthy of a finding of willful infringement.

80. Accordingly, since at least September 2018, Defendants have willfully infringed the '294 patent.

81. Further, since at least September 2018 Defendants have actively induced the direct infringement of customers and/or end users, including by providing the '294 Infringing Instrumentalities and instructions/specifications for their use, and including

with the intent that such direct infringement occur.

82. The '294 Infringing Instrumentalities clearly meet the asserted claim limitations in their normal and expected usage. On information and belief, normal and expected usage of the '294 Infringing Instrumentalities by customers and/or end users satisfies the claim limitations for direct infringement. Further, at minimum, the provision of products clearly capable of such infringing usage and/or provision of instructions/specifications for such infringing usage constitutes inducement of directly infringing usage.

83. Further, as noted above, Defendants were made aware of infringement of the '294 patent through use of the '294 Infringing Instrumentalities, including via an infringement chart, at least in September 2018. Defendants' were further made aware of infringement of the '294 patent by and through use of the '294 Infringing Instrumentalities via the infringement allegations set forth in Plaintiff's Original Complaint, of which Defendants were aware at least by the time they filed for an extension of time to respond to said Complaint on January 3, 2020. Such direct and induced infringement has been and remains clear, unmistakable and inexcusable. On information and belief, Defendants' knew or should have known of the clear, unmistakable and inexcusable direct and induced infringing conduct at least as early as September 2018. Thus, on information and belief, Defendants have, since at least September 2018, specifically intended to induce direct infringement by customers and/or end users.

84. Defendants' acts of direct, indirect and willful infringement of the '294 patent have caused damage to MPV, and MPV is entitled to recover damages sustained as a result of Defendants' wrongful acts in an amount subject to proof at trial.

Count 4 – Infringement of U.S. Patent No. 7,684,090

85. The application for U.S. Patent No. 7,684,090 (the "'090 patent) was filed on December 20, 2005 and the patent issued on March 23, 2010.

86. Conventional printer technology is described in the background portion of the '090 specification. Without limitation, at the time of the '090 invention, traditionally, printers were arranged in a manner that has a printing path for a receiver media that is aligned in a parallel direction with user controls. This allowed users to conveniently load receiver media, remove printed images and access the controls while facing a common "front end" of the printer. Accordingly, most users attempted to arrange such printers on a storage surface so that the "front end" faces outwardly to confront a user. However, this arrangement could create problems when printers have a long axis leading to the "front end" because it can be difficult to store such printers on a relatively short width on conventional shelving units without extending the "front end" of the printer beyond the edge of the shelf. Further, storing such printers with the long axis arranged parallel to a length of the shelf makes it difficult to access and utilize user controls. To further complicate this situation, printer positioning could also be influenced by factors such as a need to arrange the printer in a way that permits easy reloading of donor materials such as thermal ribbons, ink and toner as well as the need to provide adequate ventilation and cord/cable access. Thus, a user of a printer may have had little flexibility in the arrangement of a printer within a particular storage area causing the printer to be arranged in a position in from which it was difficult to access printer controls.

87. A similar problem arose when printers were equipped with status indicators or an image display in that such indicators and/or image displays were also typically arranged to be viewed from the "front face' of the printer. For example, a digital printer may have included an image display as part of a printer graphical user interface (GUI) to allow the user to select images to be printed and to perform other printer functions. However, such a display typically faced the front end only.

88. Yet another problem of this type was created when a printer was a so-called "docking printer" that is designed to receive a display device Such as a cellular phone,

digital camera, photo viewer, personal display device, handheld personal computer or like item in a docking station, cradle or like structure to allow cooperation between the printer and the docked display device. Typically, such docking printers were adapted to receive a display device that was loaded by a person standing at the "front end thus, for some printers, it could become more difficult to dock such display devices when the user could not stand facing the printer. This reduced the frequency with which the devices were docked thus reducing the effective usefulness of the combination.

89. What is needed in the art included the need for a printer that could provide more flexibility and customization of orientation without sacrificing its feature set. The '090 inventions provided inventive apparatuses for addressing this need and other needs, and for addressing these and other shortcomings of the conventional prior art.

90. Claim 1 of the '090 patent covers a "printer for use with a display device having images stored in a memory therein, a display device controller, and an image display for displaying the stored images, the printer comprising: an external structure housing a print engine and receiver medium transport adapted to cooperate to cause donor materials to be transferred to a receiver medium in an image wise fashion; a display device interface, said display device interface being adapted to receive the display device and to position the display device so that a display device electrical connector can form an electrical connection with the electrical interface to provide an electrical connection between the printer and the display device; and, a printer processor adapted to transmit signals to the display device controller influencing what is presented on the image display; wherein the display device interface is adjustably mounted to the external structure, with the display device interface being movable between a range of positions relative to the external structure of the printer while maintaining the electrical connection between the printer and the display device, so that the image display can be positioned at more than one position relative to the external structure of the printer while in a connected relationship with the printer."

91. At least claim 1 of the '090 patent is infringed by TABS and/or Toshiba Corp., including under 35 U.S.C. §271(a)-(b), by methods comprising the use of at least multifunction printers comprising TABS's e-STUDIO2010AC, e-STUDIO2018A, e-STUDIO2510AC, e-STUDIO2515AC, e-STUDIO2518A, e-STUDIO3015AC, e-STUDIO3015ACG, e-STUDIO3018A, e-STUDIO3018AG, e-STUDIO3515AC, e-STUDIO3518A, e-STUDIO4508LP, e-STUDIO4515AC, e-STUDIO4518A, e-STUDIO5015AC, e-STUDIO5015ACG, e-STUDIO5018AG, e-STUDIO5508A, e-STUDIO5516AC, e-STUDIO5516ACTG, e-STUDIO5518A, e-STUDIO6516AC, e-STUDIO6518A, e-STUDIO6518AG, e-STUDIO7516AC, e-STUDIO7516ACTG, e-STUDIO7518A, e-STUDIO8518A and e-STUDIO8518AG multifunction printers (the "'090 Infringing Instrumentalities"). Without limitation, sale, importation and/or use of the '090 Infringing Instrumentalities comprises and/or induces the steps noted below.

92. To the extent the preamble is limiting, the '090 Infringing Instrumentalities comprise a printer for use with a display device having images stored in a memory therein, a display device controller, and an image display for displaying the stored images, the printer comprising the elements noted below. Without limitation, *see, e.g.*, http://business.toshiba.com/products/mfps/details.jsp?model=e-STUDIO5018AG; http://business.toshiba.com/media/tabs/downloads/product/mfp/3018AG-5018AG%20Brochure.pdf:

and

93. The '090 Infringing Instrumentalities comprise an external structure housing a print engine and receiver medium transport adapted to cooperate to cause donor materials to be transferred to a receiver medium in an image wise fashion. Without limitation, the printer includes an external structure housing a print engine and a receiver medium transport (*e.g.*, document feeder) to cause paper to be transferred to a receiver medium for print operations. Without limitation, *see, e.g.*, http://business.toshiba.com/media/tabs/downloads/product/mfp/3018AG-5018AG%20Brochure.pdf:

THE FEATURES YOU EXPECT, AND MORE.

1 Document Feeder Options

MR4000B	Dual-Scan Document Feeder (DSDF)
MR3031B	Reversing Automatic Document Feeder (RADF)
KA5005PC	Platen Cover

2 Accessory Tray & Keyboard Options

GR1330	Accessory Tray
GR9000	Bluetooth Keyboard
GR1340	10-Key Numeric Keypad

3 Finishing Options

MJ1042B	50-Sheet Inner Finisher
MJ1109B	50-Sheet Console Finisher
MJ1110B	50-Sheet Saddle-Stitch Finisher
MJ5015	Job Separator 5018AG
MJ5014	Job Separator 3018AG

4 Additional Paper Options

KD1058B	Paper Feed Pedestal
KD1059B	2,000-Sheet Large Capacity Feeder
MY1048B	Additional Drawer Module for PFP
MY1049B	Envelope Cassette

94. The '090 Infringing Instrumentalities comprise a display device interface, said display device interface being adapted to receive the display device and to position the display device so that a display device electrical connector can form an electrical connection with the electrical interface to provide an electrical connection between the printer and the display device. Without limitation, *see, e.g.*, http://business.toshiba.com/products/mfps/details.jsp?model=e-STUDIO5018AG and http://business.toshiba.com/media/tabs/downloads/product/mfp/3018AG-5018AG%20Brochure.pdf:

e-STUDIO™ 3018AG/5018AG

Main Specifications

Copy System	Indirect Electrostatic Photographic Method/OPC/Laser Printing/ Heat Roller Fusing
Display	10.1" Color WSVGA Touch Screen Tilting Display
Copy Speed	30/50 PPM (LT)

and

95. The '090 Infringing Instrumentalities comprise a printer processor adapted to transmit signals to the display device controller influencing what is presented on the image display. Without limitation, *see*, *e.g.*, http://business.toshiba.com/media/tabs/downloads/product/mfp/3018AG-5018AG%20Brochure.pdf; https://media.toshiba-solutions.com/ITM/eS5018A/index.html#; http://business.toshiba.com/media/tabs/downloads/product/mfp/3018AG-5018AG%20Brochure.pdf:

and

and

96. The '090 Infringing Instrumentalities comprise a printer processor adapted to transmit signals to the display device controller influencing what is presented on the image display (see above), wherein the display device interface is adjustably mounted to the external structure, with the display device interface being movable between a range of positions relative to the external structure of the printer while maintaining the electrical connection between the printer and the display device, so that the image display can be positioned at more than one position relative to the external structure of the printer while in a connected relationship with the printer. Without limitation, *see, e.g.*, http://business.toshiba.com/media/tabs/downloads/product/mfp/3018AG-

5018AG%20Brochure.pdf (annotated):

97. Defendants' acts of infringement of the '090 patent have been willful and intentional under the standard of *Halo*. Since at least July 2018, Defendants' acts of infringement of the '090 patent have been willful and intentional under the standard of *Halo*. Defendants were made aware of their infringement of the '090 patent, including via an infringement chart, at least in July 2018. Defendants' were further made aware of their infringement of the '090 patent by and through the infringement allegations set forth in Plaintiff's Original Complaint, of which Defendants were aware at least by the time they filed for an extension of time to respond to said Complaint on January 3, 2020. Defendants' infringement has been and remains clear, unmistakable and inexcusable. On information and belief, Defendants' knew or should have known of their clear, unmistakable and inexcusable infringing conduct at least as early as July 2018.

98. Including based upon the facts set forth above, MPV believes and contends that Defendants' knowing and intentional pre-suit and post-suit continuance of its unjustified, clear, and inexcusable infringement of the '090 Patent since receiving notice (see above) of its infringement of the '090 Patent, is willful, wanton, malicious, in bad-faith, deliberate, consciously wrongful and flagrant, and that it constitutes egregious misconduct worthy of a finding of willful infringement.

99. Accordingly, since at least July 2018, Defendants have willfully infringed

the ’090 patent.

100. Further, since at least July 2018 Defendants have actively induced the direct infringement of customers and/or end users, including by providing the ‘090 Infringing Instrumentalities and instructions/specifications for their use, and including with the intent that such direct infringement occur.

101. The ‘090 Infringing Instrumentalities clearly meet the asserted claim limitations. On information and belief, usage of the ‘090 Infringing Instrumentalities by customers and/or end users satisfies the claim limitations for direct infringement. Further, at minimum, the provision of products that infringe and/or provision of instructions/specifications for infringing usage constitutes inducement of directly infringing usage.

102. Further, as noted above, Defendants were made aware of infringement of the ‘090 patent through use of the ‘090 Infringing Instrumentalities, including via an infringement chart, at least in July 2018. Defendants’ were further made aware of infringement of the ‘090 patent by and through use of the ‘090 Infringing Instrumentalities via the infringement allegations set forth in Plaintiff’s Original Complaint, of which Defendants were aware at least by the time they filed for an extension of time to respond to said Complaint on January 3, 2020. Such direct and induced infringement has been and remains clear, unmistakable and inexcusable. On information and belief, Defendants’ knew or should have known of the clear, unmistakable and inexcusable direct and induced infringing conduct at least as early as July 2018. Thus, on information and belief, Defendants have, since at least July 2018, specifically intended to induce direct infringement by customers and/or end users.

103. Defendants’ acts of direct, indirect and willful infringement of the ‘090 patent have caused damage to MPV, and MPV is entitled to recover damages sustained as a result of Defendants’ wrongful acts in an amount subject to proof at trial.

Count 5 – Infringement of U.S. Patent No. 8,964,064

104. The application for U.S. Patent No. 8,964,064 (the "'064 patent) was filed on April 11, 2014 and the patent issued on February 24, 2015. The '064 patent also has priority as a continuation of U.S. Patent Application No. 12/642,275, filed on Dec. 18, 2009; and from Provisional U.S. Patent Application No. 61/138,729, filed on December 18, 2008.

105. At the time of the '064 invention, users of digital image capture devices were likely to be unaware whether particular images have already been transferred from the camera to remote storage. This made it difficult to know whether images could be deleted, including to free up space for more images, and made it more difficult to use the image capture device. Further, users faced difficulty when a camera's internal memory filled up. The inventive features of '064 claimed inventions helped solve these and other problems and shortcomings with conventional art at the time.

106. The '064 claimed inventions address technical problems, including that, with prior art digital cameras, because the user does not need to perform a physical action in order to wirelessly transfer images captured with a wireless digital camera, the user may not understand whether images captured by their camera have been transferred to other devices. 064/2:4-8. Users would be forced to cross-check against offloaded storage, which is cumbersome, prone to error, and may be impractical depending on users' ability to access offloaded storage. . Thus, users may not know whether images on the camera may be deleted, including when camera memory is full and they wish to free up space for new images. 064/2:21-30. This also makes mass deletion of all previously downloaded images very difficult.

107. The '064 patent is a continuation of U.S. Patent Application No. 12/642,275, now issued U.S. Patent No. 8,730,351 (the "'351 patent). During prosecution of the '351 patent, claims 1, 2, 6-9 and 11-13 were rejected under 35 USC 103(a) as being unpatentable over Hatanaka (US Patent No. 7,605,849, hereinafter

"Hatanaka") in view of Ohmori (US patent No. 7,330,207, hereinafter "Ohmori"). 2/10/12 '351 Office Action. As noted by the Patentee, the most pertinent portion of the rejection stated that Ohmori discloses "providing a prompt when the digital camera memory has reached a certain capacity level (step 704)." 4/5/12 '351 Office Action Response. Step 704 states to "indicate that the remaining capacity of memory card is insufficient." *Id*. In response, claim 1 was amended to include "deleting at least one image based on whether (1) the stored image has been indicated as previously transferred to another device…". *Id.* In other words, as noted by the Patentee, the parent '351 claimed invention had "intelligent selection" of candidate images for deletion, while the prior art, represented by Ohmori, had "dumb deletion," which is not user friendly. *Id*.

108. The '064 claimed inventions provide specific technological solutions, including that the camera generates and stores data, for example a flag, indicating which stored images have been transferred to remote storage (i.e., "data indicating which of the stored images have been transferred to the remote storage device"). *See e.g.*, '064, claim 8. This allows the further technical solution of mass transfer of all previously downloaded images (i.e., "delete, from the memory, all captured images that have been stored and previously transferred to the remote storage device in response to the receipt of the indication that all captured images that have been stored and previously transferred to the remote storage device are to be deleted." *Id.*

109. The '064 claimed inventions provide specific inventive technological improvements, including that the camera accurately tracks and stores data indicating which images have been downloaded to remote storage, thus enabling the user to know which images have may be deleted from the camera, and further enabling the user to mass delete all images previously downloaded to remote storage. The improved methods and systems have significantly improved ease of use and accuracy to help ensure that camera memory is freed for more images, that images are not transferred to

storage multiple times, that images not already stored remotely are not deleted from the camera, and enabling mass deletion of previously off-loaded images.

110. The '064 claimed inventions achieve their inventive improvements in unconventional ways. Without limitation, (1) The camera keeping track of which stored images have been transferred to remote storage; and (2) Mass deletion of only images not previously transferred.

111. The '064 claimed inventions do not automate any human process. Although humans could compare what is in a remote storage device with what is a camera, the '064 claimed inventions obviate the need for any such comparison, by human or by a computer. The tagging of the images as being offloaded from the camera obviates the need for checking back to compare what is stored remotely with what is on the camera.

112. Claim 8 of the '064 patent covers "system comprising: an image capture device including a memory, a user interface, and a processing system, wherein the processing system is configured to: store captured images in the memory of the image capture device; allow for the transfer of at least some of the stored images to a remote storage device; store, in the image capture device, data indicating which of the stored images have been transferred to the remote storage device; receive, from the user interface, an indication that all captured images that have been stored and previously transferred to the remote storage device are to be deleted; delete, from the memory, all captured images that have been stored and previously transferred to the remote storage device in response to the receipt of the indication that all captured images that have been stored and previously transferred to the remote storage device are to be deleted."

113. At least claim 8 of the '064 patent is infringed by TABS and/or Toshiba Corp., including under 35 U.S.C. §271(a)-(b), by systems comprising at least multifunctioning printers comprising TABS's 5008A multifunctioning printers (the "'064 Infringing Instrumentalities"). Without limitation, sale, importation and/or use

of the '064 Infringing Instrumentalities comprises and/or induces the elements noted below. Without limitation, *see, e.g.*: http://brochure.copiercatalog.com/toshiba/Toshiba-Full-Line-Brochure-1.pdf.

114. The '064 Infringing Instrumentalities comprise an image capture device including a memory, a user interface, and a processing system. Without limitation, the '064 Infringing Instrumentalities comprise a scanner (*i.e.*, "an image capture device") and include a memory for storing image acquisition data, a user interface for receiving operator commands, and a processing system for controlling image capture and post processing operations. Without limitation, *see, e.g.* http://brochure.copiercatalog.com/toshiba/Toshiba-Full-Line-Brochure-1.pdf:

115. The '064 Infringing Instrumentalities store image files (*i.e.*, "captured images") in their internal storage device (*i.e.*, "memory of the image capture device"). Without limitation, *see, e.g.* MFP Management Guide at http://business.toshiba.com/downloads/KB/f1Ulds/15805/eS5008A_UFG_EN_0004.pdf?_ga=2.177606117.1986403532.155551 4124-1864312562.1555092700:

File

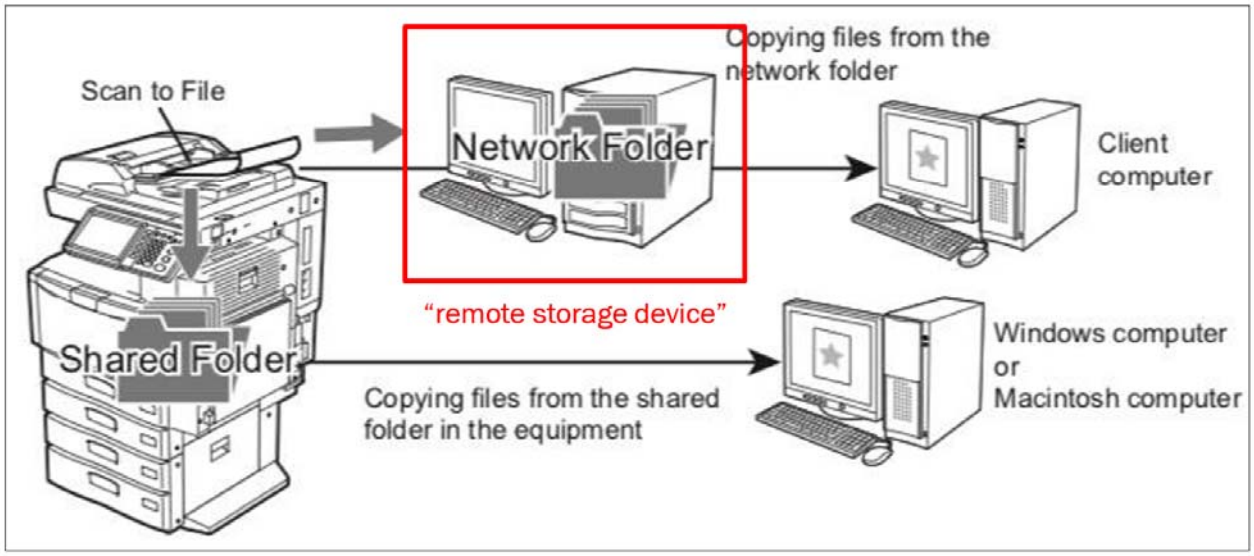
You can automatically delete files stored by the Scan to File operation. Use this menu to set the maintenance function and periodically delete files stored in the internal storage device to secure its available space.

116. The '064 Infringing Instrumentalities comprise a processing system (see

above), wherein the processing system is configured to allow for sending (*i.e.*, "allow for transfer") of at least some stored image files to a network folder (*i.e.*, "remote storage device"). Without limitation, *see, e.g.* https://business.toshiba.com/downloads/KB/f1Ulds/9364/FC-2050C_SCG_EN_0008.pdf and http://business.toshiba.com/downloads/KB/f1Ulds/15805/eS5008A_UFG_EN_0004.pdf?_ga=2.177606117.1986403532.155551 4124-1864312562.1555092700:

❑ Scan to File

Scan to File allows you to store scans as PDF, XPS, TIFF or JPEG files in the shared folder in the equipment or in a network folder. From these folders, you can copy the saved data and use it on your computer.
If you choose to store your scans in the network folder, the type of operating system, such as Windows or Macintosh, does not matter; you can save the data in any network folder accessible by FTP, SMB, NetWare IPX, NetWare IP, or FTPS.



and

File

You can automatically delete files stored by the Scan to File operation. Use this menu to set the maintenance function and periodically delete files stored in the internal storage device to secure its available space.

117. The '064 Infringing Instrumentalities comprise a processing system (see above), wherein the processing system is configured to store, in the image capture device, data indicating which of the stored images have been transferred to the remote storage device. Without limitation, to enable periodic automatic deletion of image files stored internally and transferred to the network folder, for example, by the Scan to File

operation, the '064 Infringing Instrumentalities store data indicating which of the image files have been stored and previously transferred to the network folder. Without limitation, *see*, *e.g.* http://business.toshiba.com/downloads/KB/f1Ulds/14144/Scanning_EN_(EBN)_Ver01F.pdf:

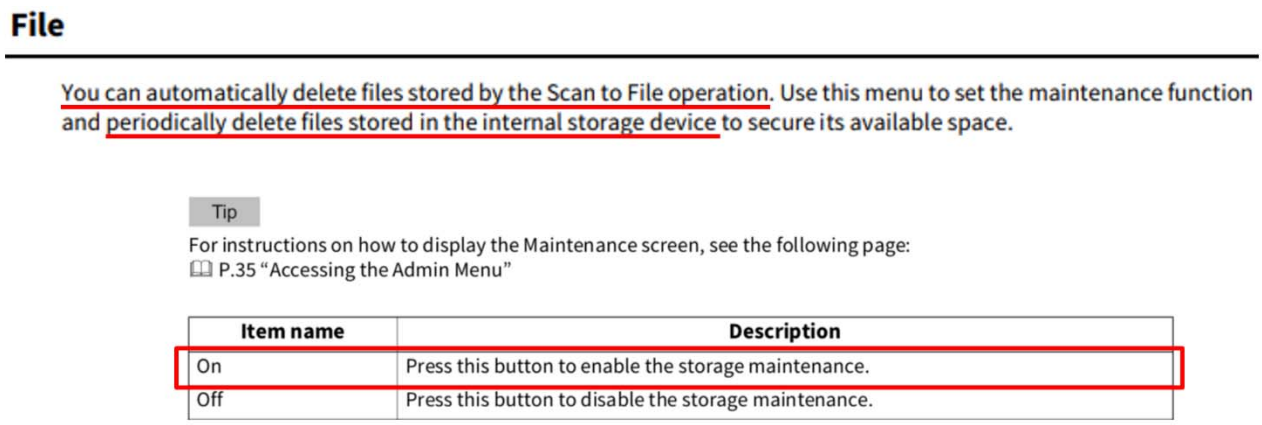
File

You can automatically delete files stored by the Scan to File operation. Use this menu to set the maintenance function and periodically delete files stored in the internal storage device to secure its available space.

2 Select a file destination.

- **[MFP Local]** — Press this button to store files in a shared folder of this equipment.
- **[Remote 1]**, **[Remote 2]** — Press this button to store files in a network folder, which is the shared folder of a computer connected with this equipment by network.

118. The '064 Infringing Instrumentalities comprise a processing system (see above), wherein the processing system is configured to receive, from the user interface, an indication that all captured images that have been stored and previously transferred to the remote storage device are to be deleted; and to delete, from the memory, all captured images that have been stored and previously transferred to the remote storage device in response to the receipt of the indication that all captured images that have been stored and previously transferred to the remote storage device are to be deleted. Without limitation, *see*, *e.g.* MFP Management Guide at http://business.toshiba.com/downloads/KB/f1Ulds/15805/eS5008A_UFG_EN_0004.pdf?_ga=2.177606117.1986403532.155551 4124-1864312562.1555092700:



File

You can automatically delete files stored by the Scan to File operation. Use this menu to set the maintenance function and periodically delete files stored in the internal storage device to secure its available space.

Tip

For instructions on how to display the Maintenance screen, see the following page:
P.35 "Accessing the Admin Menu"

Item name	Description
On	Press this button to enable the storage maintenance.
Off	Press this button to disable the storage maintenance.

119. Defendants' acts of infringement of the '064 patent have been willful and intentional under the standard of *Halo*. Since at least April 2019, Defendants' acts of infringement of the '064 patent have been willful and intentional under the standard of Halo. Defendants were made aware of their infringement of the '064 patent, including via an infringement chart, at least in April 2019. Defendants' were further made aware of their infringement of the '064 patent by and through the infringement allegations set forth in Plaintiff's Original Complaint, of which Defendants were aware at least by the time they filed for an extension of time to respond to said Complaint on January 3, 2020. Defendants' infringement has been and remains clear, unmistakable and inexcusable. On information and belief, Defendants' knew or should have known of their clear, unmistakable and inexcusable infringing conduct at least as early as April 2019.

120. Including based upon the facts set forth above, MPV believes and contends that Defendants' knowing and intentional pre-suit and post-suit continuance of its unjustified, clear, and inexcusable infringement of the '064 Patent since receiving notice (see above) of its infringement of the '064 Patent, is willful, wanton, malicious, in bad-faith, deliberate, consciously wrongful and flagrant, and that it constitutes egregious misconduct worthy of a finding of willful infringement.

121. Accordingly, since at least April 2019, Defendants have willfully infringed the '064 patent.

122. Further, since at least April 2019 Defendants have actively induced the direct infringement of customers and/or end users, including by providing the '064

Infringing Instrumentalities and instructions/specifications for their use, and including with the intent that such direct infringement occur.

123. The '064 Infringing Instrumentalities clearly meet the asserted claim limitations. On information and belief, usage of the '064 Infringing Instrumentalities by customers and/or end users satisfies the claim limitations for direct infringement. Further, at minimum, the provision of products that infringe and/or provision of instructions/specifications for infringing usage constitutes inducement of directly infringing usage.

124. Further, as noted above, Defendants were made aware of infringement of the '064 patent through use of the '064 Infringing Instrumentalities, including via an infringement chart, at least in April 2019. Defendants' were further made aware of infringement of the '064 patent by and through use of the '064 Infringing Instrumentalities via the infringement allegations set forth in Plaintiff's Original Complaint, of which Defendants were aware at least by the time they filed for an extension of time to respond to said Complaint on January 3, 2020. Such direct and induced infringement has been and remains clear, unmistakable and inexcusable. On information and belief, Defendants' knew or should have known of the clear, unmistakable and inexcusable direct and induced infringing conduct at least as early as April 2019. Thus, on information and belief, Defendants have, since at least April 2019, specifically intended to induce direct infringement by customers and/or end users.

125. Defendants' acts of direct, indirect and willful infringement of the '064 patent have caused damage to MPV, and MPV is entitled to recover damages sustained as a result of Defendants' wrongful acts in an amount subject to proof at trial.

Count 7 – Infringement of U.S. Patent No. 9,549,095

126. The application for U.S. Patent No. 9,549,095 (the "'095 patent) was filed on January 8, 2015, and the patent issued on January 17, 2017. The '095 patent also

has priority as a continuation of U.S. Patent Application No. 14/250,689, filed on Apr. 11, 2014, which is a continuation of U.S. Patent Application No. 12/642,275, filed on December 18, 2009; and from Provisional U.S. Patent Application No. 61/138,729, filed on December 18, 2008.

127. At the time of the '095 invention, users of digital image capture devices were likely to be unaware whether particular images have already been transferred from the camera to remote storage. This made it difficult to know whether images could be deleted, including to free up space for more images, and made it more difficult to use the image capture device. Further, users faced difficulty when a camera's internal memory filled up. The inventive features of '064 claimed inventions helped solve these and other problems and shortcomings with conventional art at the time.

128. The '095 claimed inventions address technical problems, including that with prior art digital cameras, because the user does not need to perform a physical action in order to wirelessly transfer images captured with a wireless digital camera, the user may not understand whether images captured by their camera have been transferred to other devices. 095/2:5-9. Users would be forced to cross-check against offloaded storage, which is cumbersome, prone to error, and may be impractical depending on users' ability to access offloaded storage. Thus, users may not know whether images on the camera may be deleted, including when camera memory is full and they wish to free up space for new images. 095/2:23-33. This also makes mass deletion of all previously downloaded images very difficult.

129. The '095 patent is a continuation of the '064 patent, which is a continuation of U.S. Patent Application No. No. 12/642,275, now issued U.S. Patent No. 8,730,351 (the "'351 patent). During prosecution of the '351 patent, claims 1, 2, 6-9 and 11-13 were rejected under 35 USC 103(a) as being unpatentable over Hatanaka (US Patent No. 7,605,849, hereinafter "Hatanaka") in view of Ohmori (US patent No. 7,330,207, hereinafter "Ohmori"). 2/10/12 '351 Office Action. As noted by the Patentee, the most

pertinent portion of the rejection stated that Ohmori discloses "providing a prompt when the digital camera memory has reached a certain capacity level (step 704)." 4/5/12 '351 Office Action Response. Step 704 states to "indicate that the remaining capacity of memory card is insufficient." *Id*. In response, claim 1 was amended to include "deleting at least one image based on whether (1) the stored image has been indicated as previously transferred to another device…". *Id.* In other words, as noted by the Patentee, the parent '351 claimed invention had "intelligent selection" of candidate images for deletion, while the prior art, represented by Ohmori, had "dumb deletion," which is not user friendly. *Id*.

130. The '095 claimed inventions provide specific technological solutions, including that the camera generates and stores data, for example a flag, indicating which stored images have been transferred to remote storage (i.e., "data indicating which of the stored images have been transferred to the remote storage device"). *See e.g.*, '095, claim 9. This allows the further technical solution of mass transfer of all previously downloaded images (i.e., "delete, from the memory, all captured images that have been stored and previously transferred to the remote storage device in response to the receipt of the indication that all captured images that have been stored and previously transferred to the remote storage device are to be deleted." *Id.*

131. The '095 claimed inventions provide specific inventive technological improvements, including that The camera accurately tracks and stores data indicating which images have been downloaded to remote storage, thus enabling the user to know which images have may be deleted from the camera, and further enabling the user to mass delete all images previously downloaded to remote storage. The improved methods and systems significantly improve ease of use and accuracy to help ensure that camera memory is freed for more images, that images are not transferred to storage multiple times, that images not already stored remotely are not deleted from the camera, and enabling mass deletion of previously off-loaded images.

132. The '095 claimed inventions achieve their inventive improvements in unconventional ways. Without limitation, (1) The camera keeping track of which stored images have been transferred to remote storage; and (2) Mass deletion of only images not previously transferred.

133. Claim 9 of the '095 patent covers a "system comprising: an image capture device including a memory, a user interface, and a processing system, wherein the processing system is configured to: communicate at least one of a plurality of captured images in the memory of the image capture device to a remote storage device; store, in the image capture device, data indicating which of the plurality of captured images have been communicated to the remote storage device; and delete, from the memory, captured images that have been stored and previously transferred to the remote storage device in response to receiving an indication that captured images that have been stored and previously communicated to the remote storage device are to be deleted."

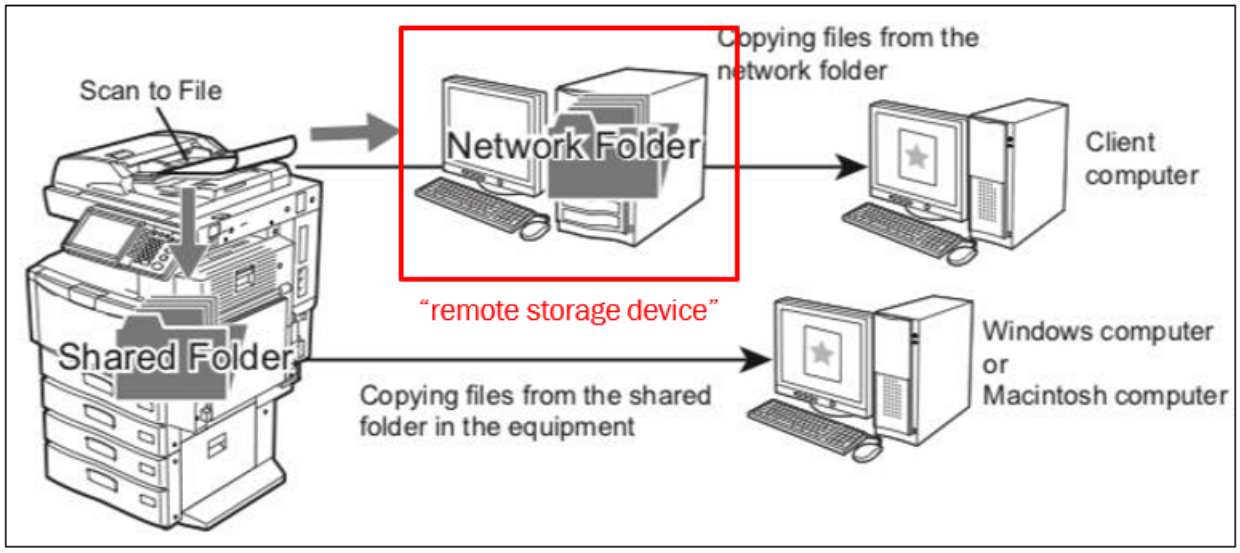
134. At least claim 9 of the '095 patent is infringed by TABS and/or Toshiba Corp., including under 35 U.S.C. §271(a)-(b), by systems comprising at least multifunctioning printers comprising TABS's 5008A multifunctioning printers (the "'095 Infringing Instrumentalities"). Without limitation, sale, importation and/or use of the '095 Infringing Instrumentalities comprises and/or induces the elements noted below. Without limitation, use of the '095 Infringing Instrumentalities comprises the steps noted below.

135. The '095 Infringing Instrumentalities comprise an image capture device including a memory, a user interface, and a processing system. Without limitation, the '064 Infringing Instrumentalities comprise a scanner (*i.e.*, "an image capture device") and include a memory for storing image acquisition data, a user interface for receiving operator commands, and a processing system for controlling image capture and post processing operations. Without limitation, *see, e.g.* http://brochure.copiercatalog.com/toshiba/Toshiba-Full-Line-Brochure-1.pdf:

136. The '095 Infringing Instrumentalities comprise an image capture device including a processing system (see above), wherein the processing system is configured to communicate at least one of a plurality of captured images in the memory of the image capture device to a remote storage device. Without limitation, the '095 Infringing Instrumentalities send (*i.e.*, "communicate") at least some stored image files (*i.e.*, "captured images") to a network folder (*i.e.*, "remote storage device"). Without limitation, *see, e.g.* https://business.toshiba.com/downloads/KB/f1Ulds/9364/FC-2050C_SCG_EN_0008.pdf:

❑ **Scan to File**

Scan to File allows you to store scans as PDF, XPS, TIFF or JPEG files in the shared folder in the equipment or in a network folder. From these folders, you can copy the saved data and use it on your computer.
If you choose to store your scans in the network folder, the type of operating system, such as Windows or Macintosh, does not matter; you can save the data in any network folder accessible by FTP, SMB, NetWare IPX, NetWare IP, or FTPS.

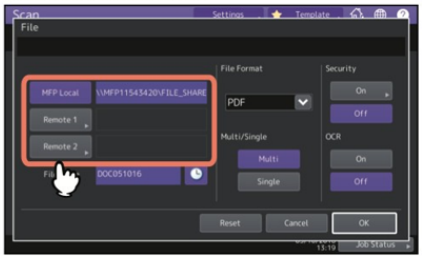


137. The '095 Infringing Instrumentalities comprise an image capture device including a processing system (see above), wherein the processing system is configured to store, in the image capture device, data indicating which of the plurality of captured images have been communicated to the remote storage device. Without limitation, to enable periodic automatic deletion of image files stored internally and transferred to the network folder, for example, by the Scan to File operation, the '095 Infringing Instrumentalities store data indicating which of the image files have been stored and previously transferred to the network folder. Without limitation, *see, e.g.* http://business.toshiba.com/downloads/KB/f1Ulds/14144/Scanning_EN_(EBN)_Ver01F.pdf:

File

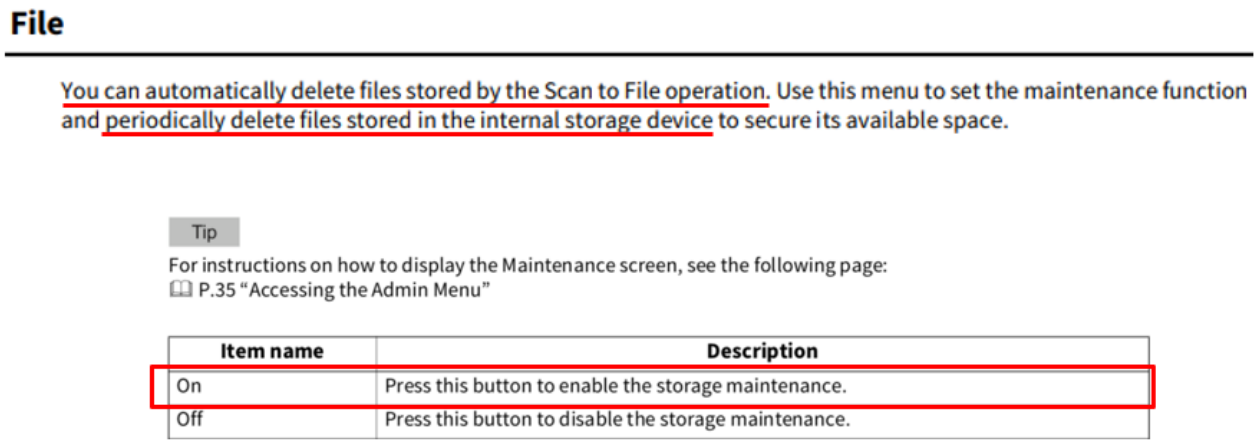
You can automatically delete files stored by the Scan to File operation. Use this menu to set the maintenance function and periodically delete files stored in the internal storage device to secure its available space.

2 **Select a file destination.**



- **[MFP Local]** — Press this button to store files in a shared folder of this equipment.
- **[Remote 1]**, **[Remote 2]** — Press this button to store files in a network folder, which is the shared folder of a computer connected with this equipment by network.

138. The '095 Infringing Instrumentalities comprise an image capture device including a processing system (see above), wherein the processing system is configured to delete, from the memory, captured images that have been stored and previously transferred to the remote storage device in response to receiving an indication that captured images that have been stored and previously communicated to the remote storage device are to be deleted. Without limitation, the '095 Infringing Instrumentalities periodically delete from memory the image files that have been stored and previously transferred to the network folder in response to receiving a button input (*i.e.*, "an indication") that image files known to have been communicated to the network folder are to be deleted. Without limitation, *see, e.g.* http://business.toshiba.com/downloads/KB/f1Ulds/15805/eS5008A_UFG_EN_0004.pdf?_ga=2.177606117.1986403532.155551 4124-1864312562.1555092700:



File

You can automatically delete files stored by the Scan to File operation. Use this menu to set the maintenance function and periodically delete files stored in the internal storage device to secure its available space.

Tip

For instructions on how to display the Maintenance screen, see the following page:
P.35 "Accessing the Admin Menu"

Item name	Description
On	Press this button to enable the storage maintenance.
Off	Press this button to disable the storage maintenance.

139. Defendants' acts of infringement of the '095 patent have been willful and intentional under the standard of *Halo*. Since at least April 2019, Defendants' acts of infringement of the '095 patent have been willful and intentional under the standard of Halo. Defendants were made aware of their infringement of the '095 patent, including via an infringement chart, at least in April 2019. Defendants' were further made aware of their infringement of the '095 patent by and through the infringement allegations set forth in Plaintiff's Original Complaint, of which Defendants were aware at least by the time they filed for an extension of time to respond to said Complaint on January 3, 2020. Defendants' infringement has been and remains clear, unmistakable and inexcusable. On information and belief, Defendants' knew or should have known of their clear, unmistakable and inexcusable infringing conduct at least as early as April 2019.

140. Including based upon the facts set forth above, MPV believes and contends that Defendants' knowing and intentional pre-suit and post-suit continuance of its unjustified, clear, and inexcusable infringement of the '095 Patent since receiving notice (see above) of its infringement of the '095 Patent, is willful, wanton, malicious, in bad-faith, deliberate, consciously wrongful and flagrant, and that it constitutes egregious misconduct worthy of a finding of willful infringement.

141. Accordingly, since at least April 2019, Defendants have willfully infringed

the '095 patent.

142. Further, since at least April 2019 Defendants have actively induced the direct infringement of customers and/or end users, including by providing the '095 Infringing Instrumentalities and instructions/specifications for their use, and including with the intent that such direct infringement occur.

143. The '095 Infringing Instrumentalities clearly meet the asserted claim limitations. On information and belief, usage of the '095 Infringing Instrumentalities by customers and/or end users satisfies the claim limitations for direct infringement. Further, at minimum, the provision of products that infringe and/or provision of instructions/specifications for infringing usage constitutes inducement of directly infringing usage.

144. Further, as noted above, Defendants were made aware of infringement of the ‘095 patent through use of the ‘095 Infringing Instrumentalities, including via an infringement chart, at least in April 2019. Defendants’ were further made aware of infringement of the ‘095 patent by and through use of the ‘095 Infringing Instrumentalities via the infringement allegations set forth in Plaintiff’s Original Complaint, of which Defendants were aware at least by the time they filed for an extension of time to respond to said Complaint on January 3, 2020. Such direct and induced infringement has been and remains clear, unmistakable and inexcusable. On information and belief, Defendants’ knew or should have known of the clear, unmistakable and inexcusable direct and induced infringing conduct at least as early as April 2019. Thus, on information and belief, Defendants have, since at least April 2019, specifically intended to induce direct infringement by customers and/or end users.

145. Defendants’ acts of direct, indirect and willful infringement of the ‘095 patent have caused damage to MPV, and MPV is entitled to recover damages sustained as a result of Defendants’ wrongful acts in an amount subject to proof at trial.

PRAYER FOR RELIEF

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

A. An adjudication that one or more claims of the Patents-in-Suit has been directly and/or indirectly infringed by Toshiba;

B. An award to Plaintiff of damages adequate to compensate Plaintiff for Toshiba'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 Toshiba 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 Patents-in-Suit, or any methods, systems, or computer readable media that are colorably different;

D. That this Court declare that Toshiba's infringement has been, and continues to be, willful, including that Toshiba acted to infringe the Patents-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 Toshiba to pay Plaintiff its damages, costs,

expenses, fees, and prejudgment and post-judgment interest for Toshiba's infringement of the Patents-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: April 6, 2020

Respectfully submitted,

EDMONDS & SCHLATHER PLLC

/s/ John J. Edmonds
John J. Edmonds
State Bar No. 274200

Attorneys for Plaintiff,
MONUMENT PEAK VENTURES, LLC

CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2020, I electronically filed the foregoing document with the Clerk of the Court for the United States District Court for the Central District of California by using the CM/ECF system, which constitutes service on all counsel of record to this action.

Dated: April 6, 2020

/s/ John J. Edmonds
John J. Edmonds