

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

<b>VDPP, LLC,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>Civil Action No. 1:23-cv-23159-JEM</b>
<b>v.</b>	)	
	)	
<b>HMD AMERICA, INC.</b>	)	<b>JURY TRIAL DEMANDED</b>
	)	
<b>Defendant.</b>	)	
	/	

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**PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff VDPP, LLC (“VDPP”) files this First Amended Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 10,021,380 (“the ‘380 patent”) and U.S. Patent No. 9,948,922 (“the ‘922 patent”), (collectively referred to as the “Patents-in-Suit”) by HMD America, Inc. (“Defendant” or “HMD”).

**I. THE PARTIES**

1. Plaintiff VDPP is a company organized under the laws of Oregon with a principal place of business located in Corvallis, Oregon.

2. On information and belief, Defendant is a corporation organized and existing under the laws of the Florida, having a regular and established place of business at HMD America, Inc., 1200 Brickell Ave., Suite 510, Miami, FL 33131. Defendant may be served at its registered agent.

3. On information and belief, Defendant sells and offers to sell products and services throughout Florida, including in this judicial district, and introduces products and services that

perform infringing methods or processes into the stream of commerce knowing that they would be sold in Florida and this judicial district.

## **II. JURISDICTION AND VENUE**

4. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

5. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Florida and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Florida and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Florida and in this judicial district.

6. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Florida and this District.

## **III. INFRINGEMENT**

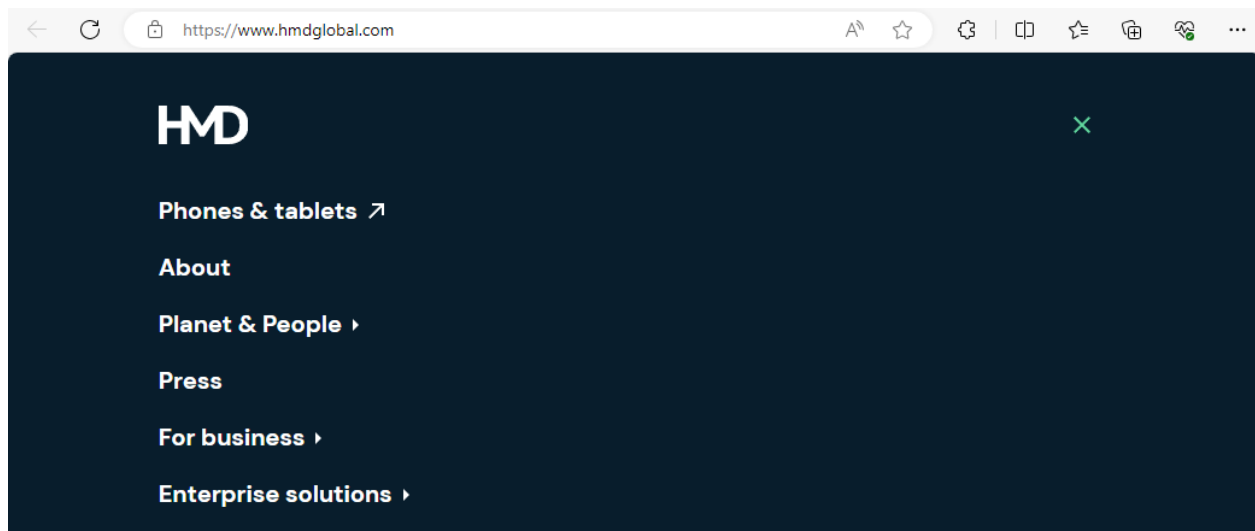
### **A. Infringement of the '380 Patent**

7. On July 10, 2018, U.S. Patent No. 10,021,380 ("the '380 patent", included as Exhibit A and part of this complaint) entitled "Faster State Transitioning for Continuous Adjustable 3Deeps

Filter Spectacles Using Multi-Layered Variable Tint Materials” was duly and legally issued by the U.S. Patent and Trademark Office. Plaintiff owns the ‘380 patent by assignment.

8. The ‘380 patent relates to methods and systems for modifying an image.

9. On information and belief, Defendant makes, uses, offers to sell, or sells within or imports into the U.S. mobile technology including the Nokia 7.2 smartphone and other devices (for example, see <https://www.hmdglobal.com/en-US> and <https://www.linkedin.com/company/hmdamerica/about/>). Defendant’s website (<https://www.hmdglobal.com/en-US>) includes a link entitled “Phones & tablets.”



The “Phones & tablets” link leads directly to a Nokia webpage ([https://www.nokia.com/phones/en\\_us](https://www.nokia.com/phones/en_us)) that advertises Nokia smartphones and other mobile devices for sale. On information and belief, Nokia 7.2 smartphones, and other devices, were manufactured, used, offered for sale, sold, and/or imported into the United States before the Patents-in-Suit expired. These devices infringe one or more of claims of the ‘380 patent, including one or more of claims 1-30, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the ‘830 Patent into service (i.e., used them); but for Defendant’s

actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

10. Support for the allegations of infringement may be found in the preliminary exemplary table attached as Exhibit B (incorporated herein in its entirety). These allegations of infringement are preliminary and are therefore subject to change.

11. If discovery reveals pre-suit knowledge of the Patents-in-Suit, Plaintiff reserves the right to add indirect infringement claims.

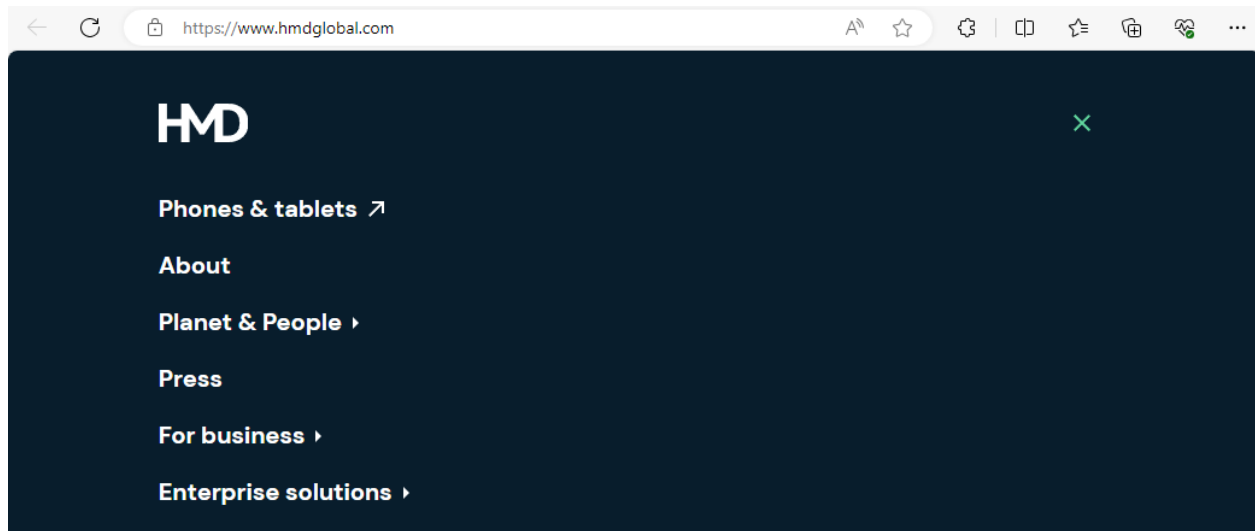
12. Defendant has caused and will continue to cause Plaintiff damage by infringement of the claims of the '380 patent.

#### **B. Infringement of the '922 Patent**

13. On April 17, 2018, U.S. Patent No. 9,948,922 ("the '922 patent", included as Exhibit C and part of this complaint) entitled "Faster State Transitioning for Continuous Adjustable 3Deeps Filter Spectacles Using Multi-Layered Variable Tint Materials" was duly and legally issued by the U.S. Patent and Trademark Office. Plaintiff owns the '922 patent by assignment.

14. The '922 patent relates to methods and systems for modifying an image.

15. On information and belief, Defendant makes, uses, offers to sell, or sells within or imports into the U.S. mobile technology including the Nokia 7.2 smartphone and other devices (for example, see <https://www.hmdglobal.com/en-US> and <https://www.linkedin.com/company/hmdamerica/about/>). Defendant's website (<https://www.hmdglobal.com/en-US>) includes a link entitled "Phones & tablets."



The "Phones & tablets" link leads directly to a Nokia webpage ([https://www.nokia.com/phones/en\\_us](https://www.nokia.com/phones/en_us)) that advertises Nokia smartphones and other mobile devices for sale. On information and belief, Nokia 7.2 smartphones, and other devices, were manufactured, used, offered for sale, sold, and/or imported into the United States before the Patents-in-Suit expired. These devices infringe one or more of claims of the '922 patent, including one or more of claims 1-12, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the '922 Patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

16. Support for the allegations of infringement may be found in the preliminary exemplary table attached as Exhibit D (incorporated herein in its entirety). These allegations of infringement are preliminary and are therefore subject to change.

17. If discovery reveals pre-suit knowledge of the Patents-in-Suit, Plaintiff reserves the right to add indirect infringement claims.

18. Defendant has caused and will continue to cause Plaintiff damage by infringement of the claims of the '922 patent.

#### **IV. JURY DEMAND**

Plaintiff hereby requests a trial by jury on issues so triable by right.

#### **V. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the Patents-in-Suit;
- b. award Plaintiff damages in an amount sufficient to compensate it for Defendant's infringement of the Patents-in-Suit in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award Plaintiff an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award Plaintiff its attorneys' fees, expenses, and costs incurred in this action;
- e. declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (if) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the

Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and

g. award Plaintiff such other and further relief as this Court deems just and proper.

DATED: October 10, 2023.

Respectfully submitted,

By: /s/ Victoria E. Brieant  
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Attorney For Plaintiff  
VDPP, LLC

#### CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2023, I electronically filed the above Amended Complaint for Patent Infringement with the Clerk of the Court for the United States District Court of the Southern District of Florida by using the CM/ECF system and that service will be accomplished by the CM/ECF system on all counsel of record.

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