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7 *Attorneys for Plaintiff*  
8 VDPP, LLC,

9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
11 **SOUTHERN DIVISION**

12 VDPP, LLC,  
13 Plaintiff,

14 v.

15 PIONEER ELECTRONICS (USA)  
16 INC.  
17 Defendant.

Case No.: 2:24-cv-06443-JWH-ADS

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

**(35 U.S.C. § 271)**

**JURY TRIAL DEMANDED**

18 VDPP LLC (“Plaintiff” or “VDPP”) files this First Amended Complaint and  
19 demand for jury trial seeking relief from patent infringement of the claims of U.S.  
20 Patent No. 10,021,380 (“the ’380 patent”) (referred to as the “Patent-in-Suit”) by  
21 PIONEER ELECTRONICS (USA) INC. (“Defendant” or “PIONEER  
22 ELECTRONICS”). Defendant has not filed an answer.  
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1 **I. THE PARTIES**

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

4  
5 2. On information and belief, Defendant is a Corporation organized and existing  
6 under the laws of the State of Delaware. On information and belief, Defendant has an  
7 established place of business in this District at 970 W 190<sup>th</sup> Street, Suite 360,  
8 Torrance, California 90502. Defendant can be served with process through their  
9 registered agent, CSC – Lawyers Incorporating Service, at 2710 Gateway Oaks Drive,  
10 Sacramento, California, 95833, at its place of business, or anywhere else it may be  
11 found.  
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14 **II. JURISDICTION AND VENUE**

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

19  
20 4. This Court has personal jurisdiction over Defendant because: (i) Defendant is  
21 present within or has minimum contacts within the State of California and this judicial  
22 district; (ii) Defendant has purposefully availed itself of the privileges of conducting  
23 business in the State of California and in this judicial district; and (iii) Plaintiff’s cause  
24 of action arises directly from Defendant’s business contacts and other activities in the  
25 State of California and in this judicial district.  
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1 5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b).  
2 Defendant has committed acts of infringement and has a regular and established place  
3 of business in this District. Further, venue is proper because Defendant conducts  
4 substantial business in this forum, directly or through intermediaries, including: (i) at  
5 least a portion of the infringements alleged herein; and (ii) regularly doing or  
6 soliciting business, engaging in other persistent courses of conduct and/or deriving  
7 substantial revenue from goods and services provided to individuals in California and  
8 this District.  
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### 11 **III. INFRINGEMENT OF THE '380 PATENT**

12 6. On July 10, 2018, U.S. Patent No. 10,021,380 (“the ’380 patent”, included as  
13 Exhibit A and part of this complaint) entitled “Faster State Transitioning for  
14 Continuous Adjustable 3Deeps Filter Spectacles Using Multi-Layered Variable Tint  
15 Materials” was duly and legally issued by the U.S. Patent and Trademark Office.  
16 Plaintiff owns the ’380 patent by assignment.  
17  
18

19 7. The ’380 patent relates to methods and systems for modifying an image.  
20

21 8. Defendant maintains, operates, and administers systems, products, and services  
22 in the field of video capture devices that infringe one or more of claims of the ’380  
23 patent, including one or more of claims 1-30, literally or under the doctrine of  
24 equivalents. Defendant put the inventions claimed by the ’380 Patent into service (i.e.,  
25 used them); but for Defendant’s actions, the claimed-inventions embodiments  
26 involving Defendant’s products and services would never have been put into service.  
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1 Defendant's acts complained of herein caused those claimed-invention embodiments  
2 as a whole to perform, and Defendant's procurement of monetary and commercial  
3 benefit from it.  
4

5 9. Support for the allegations of infringement may be found in the preliminary  
6 exemplary table attached as Exhibit B. These allegations of infringement are  
7 preliminary and are therefore subject to change.  
8

9 10. Defendant has caused and will continue to cause Plaintiff damage by direct  
10 infringement of the claims of the '380 patent.  
11

#### 12 **IV. CONDITIONS PRECEDENT**

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14 11. Plaintiff is a non-practicing entity, with no products to mark. Plaintiff has plead  
15 all statutory requirements to obtain pre-suit damages. Further, all conditions precedent  
16 for recovery are met. Under the rule of reason analysis, Plaintiff has taken reasonable  
17 steps to ensure marking by any licensee producing a patented article.  
18

19 12. Plaintiff and its predecessors-in-interest have entered into settlement licenses  
20 with several defendant entities, but none of the settlement licenses were to produce a  
21 patented article, for or under the Plaintiff's patents. Duties of confidentiality prevent  
22 disclosure of settlement licenses and their terms in this pleading but discovery will  
23 show that Plaintiff and its predecessors-in-interest have substantially complied with  
24 Section 287(a). Furthermore, each of the defendant entities in the settlement licenses  
25 did not agree that they were infringing any of Plaintiff's patents, including the Patent-  
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1 in-Suit, and thus were not entering into the settlement license to produce a patented  
2 article for Plaintiff or under its patents. Further, to the extent necessary, Plaintiff will  
3  
4 limit its claims of infringement to method claims and thereby remove any requirement  
5 for marking.

6 13.To the extent Defendant identifies an alleged unmarked product produced for  
7  
8 Plaintiff or under Plaintiff's patents, Plaintiff will develop evidence in discovery to  
9 either show that the alleged unmarked product does not practice the Patent-in-suit and  
10 that Plaintiff has substantially complied with the marking statute. Defendant has  
11  
12 failed to identify any alleged patented article for which Section 287(a) would apply.  
13 Further, Defendant has failed to allege any defendant entity produce a patented article.

14 14.The policy of § 287 serves three related purposes: (1) helping to avoid innocent  
15  
16 infringement; (2) encouraging patentees to give public notice that the article is  
17 patented; and (3) aiding the public to identify whether an article is patented.  
18 These policy considerations are advanced when parties are allowed to freely settle  
19  
20 cases without admitting infringement and thus not require marking. All settlement  
21 licenses were to end litigation and thus the policies of §287 are not violated. Such a  
22  
23 result is further warranted by 35 U.S.C. §286 which allows for the recovery of  
24 damages for six years prior to the filing of the complaint.

25 15.For each previous settlement license, Plaintiff understood that (1) the  
26  
27 settlement license was the end of litigation between the defendant entity and Plaintiff  
28 and was not a license where the defendant entity was looking to sell a product under

1 any of Plaintiff's patents; (2) the settlement license was entered into to terminate  
2 litigation and prevent future litigation between Plaintiff and defendant entity for  
3 patent infringement; (3) defendant entity did not believe it produced any product that  
4 could be considered a patentable article under 35 U.S.C. §287; and, (4) Plaintiff  
5 believes it has taken reasonable steps to ensure compliance with 35 U.S.C. §287 for  
6 each prior settlement license.  
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9 16. Each settlement license that was entered into between the defendant entity and  
10 Plaintiff was negotiated in the face of continued litigation and while Plaintiff believes  
11 there was infringement, no defendant entity agreed that it was infringing. Thus, each  
12 prior settlement license reflected a desire to end litigation and as such the policies of  
13 §287 are not violated.  
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16 **V. JURY DEMAND**

17 Plaintiff hereby requests a trial by jury on issues so triable by right.  
18

19 **VI. PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for relief as follows:  
21

- 22 a. enter judgment that Defendant has infringed the claims of the '380 patent;
- 23 b. award Plaintiff damages in an amount sufficient to compensate it for  
24 Defendant's infringement of the Patent-in-Suit in an amount no less than a  
25 reasonable royalty or lost profits, together with pre-judgment and post-  
26 judgment interest and costs under 35 U.S.C. § 284;  
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- 1 c. award Plaintiff an accounting for acts of infringement not presented at trial and
- 2 an award by the Court of additional damage for any such acts of infringement;
- 3
- 4 d. declare this case to be “exceptional” under 35 U.S.C. § 285 and award Plaintiff
- 5 its attorneys’ fees, expenses, and costs incurred in this action;
- 6 e. declare Defendant’s infringement to be willful and treble the damages,
- 7 including attorneys’ fees, expenses, and costs incurred in this action and an
- 8 increase in the damage award pursuant to 35 U.S.C. § 284; and
- 9
- 10 f. award Plaintiff such other and further relief as this Court deems just and proper.
- 11

12 Dated: October 3, 2024

Respectfully submitted,

13 **RAMEY LLP**

14 /s/ Susan S.Q. Kalra  
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19 *Attorneys for Plaintiff VDPP LLC*

20 **CERTIFICATE OF SERVICE**

21 Pursuant to the Federal Rules of Civil Procedure, I hereby certify that all

22

23 counsel of record who have appeared in this case are being served on this day of

24

25 October 3, 2024, with a copy of the foregoing via CM/ECF Filing.

26

27 /s/ Susan S.Q. Kalra  
 28 Susan S.Q. Kalra