

1 HOLLAND & KNIGHT LLP
 2 Kristopher L. Reed, Esq. (SBN 235518)
kris.reed@hklaw.com
 3 Elissa M. McClure, Esq. (SBN 269477)
 4 *elissa.mcclure@hklaw.com*
 One Arts Plaza, 1722 Routh Street,
 5 Suite 1500
 6 Dallas, Texas 75201
 Telephone: 949.833.8550
 7 Facsimile: 949.833.8540

8 Attorneys for Plaintiff TP-LINK
 9 SYSTEMS INC.

10
 11 **UNITED STATES DISTRICT COURT**
 12 **CENTRAL DISTRICT OF CALIFORNIA**

Holland & Knight LLP
 4675 MacArthur Court, Suite 900
 Newport Beach, CA 92660
 Tel: 949.833.8550
 Fax: 949.833.8540

13
 14 TP-LINK SYSTEMS INC.,

15 Plaintiff,

16 v.

17 VDPP, LLC,

18 Defendant.

Case No.: 8:24-cv-2456

**COMPLAINT FOR DECLARATORY
 JUDGMENT OF
 NON-INFRINGEMENT OF
 U.S. PATENT NO. 10,021,380**

JURY TRIAL DEMANDED

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1 Plaintiff TP-Link Systems Inc. (“TP-Link” or “Plaintiff”) by and through its
2 attorneys, alleges against Defendant VDPP, LLC (“VDPP” or “Defendant”) as
3 follows:

4 **PARTIES AND BACKGROUND**

- 5 1. Plaintiff TP-Link is a global distributor of networking devices and smart home
6 products, and is consistently ranked as the world’s top provider of Wi-Fi devices.
7 With a commitment to excellence, TP-Link serves customers in over 170 countries
8 and continues to grow its global footprint.
- 9 2. On information and belief, Defendant VDPP is the owner by assignment of U.S.
10 Patent No. 10,021,380 (“the ’380 Patent”). A true and correct copy of the ’380
11 Patent is attached hereto as Exhibit 1 and is incorporated herein by reference.
- 12 3. On information and belief, the ’380 Patent expired in early 2022.
- 13 4. As reflected in Exhibit 3 (Order Granting Motion to Dismiss With Prejudice
14 (3.27.2024)) hereto, VDPP has a history of failing to comply with the patent
15 marking statute, 35 U.S.C. § 287(a).
- 16 5. On July 31, 2024, VDPP filed a lawsuit against TP-Link, alleging that TP-Link
17 infringed the ’380 Patent in connection with TP-Link’s distribution of security
18 camera products. VDPP’s complaint failed to state any allegations of actual or
19 constructive notice to TP-Link of alleged infringement before the ’380 Patent
20 expired. VDPP’s complaint against TP-Link is attached hereto as Exhibit 2.
- 21 6. On November 8, 2024, VDPP dismissed without prejudice its lawsuit against TP-
22 Link.
- 23 7. On information and belief, VDPP does not provide any product or service or have
24 any non-litigation-based income or revenue.
- 25 8. On information and belief, VDPP is exclusively in the business of monetizing
26 patents acquired from third parties.
- 27 9. As alleged above, the ’380 Patent expired in early 2022.
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1 10. All independent claims of the '380 Patent require the combination of two specific
2 modified image frames to generate a modified combined image frame which is
3 subsequently displayed.

4 11. TP-Link had no actual or constructive knowledge of the '380 Patent prior to its 2022
5 expiration. TP-Link was unaware of the '380 Patent until after VDPP filed its
6 lawsuit on July 31, 2024.

7 12. At no time did TP-Link specifically intend to infringe or encourage infringement
8 of the '380 Patent before expiration, nor could it have given it had no knowledge of
9 the '380 Patent.

10 13. The '380 Patent, issued July 10, 2018, and titled "Faster State Transitioning For
11 Continuous Adjustable 3Deeps Filter Spectacles Using Multi-Layered Variable
12 Tint Materials," claimed an electronically controlled spectacle which includes a
13 spectacle frame and optoelectronic lenses housed therein. This invention purports
14 to relate to a "3Deeps" system via which the spectacles could be used to view
15 movies in three dimensions. TP-Link does not make such spectacles or anything
16 related thereto. Nonetheless, VDPP accused TP-Link's security camera product of
17 somehow infringing the method claims of the '380 patent.

18 14. TP-Link does not "use" the camera products it distributes; it distributes them to
19 retailers who subsequently sell them to end customers.

20 **NATURE OF THE ACTION**

21 15. This is an action brought pursuant to the Declaratory Judgment Act, 28 U.S.C. §
22 2201, for a declaratory judgment that TP-Link does not infringe, and is not liable
23 for infringement of, the '380 Patent.

24 16. TP-Link seeks a declaratory judgment that it nor any of its products infringe any
25 claim of the '380 Patent under the Patent Laws of the United States, 35 U.S.C. §§
26 101, *et seq.*

27 **PARTIES, JURISDICTION, AND VENUE**

28 17. The parties to this lawsuit are Plaintiff TP-Link and Defendant VDPP.

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- 1 18. Plaintiff TP-Link is a California corporation with its principal place of business in
2 this District at 10 Mauchly, Irvine, California 92618.
- 3 19. Defendant VDPP, upon information and belief, is an Oregon limited liability
4 company.
- 5 20. This action arises under the laws of the United States (“U.S.”), including the U.S.
6 patent laws as codified in Title 35 of the United States Code (“U.S.C.”) §§ 1 *et seq.*;
7 and with specific remedies sought under the Federal Declaratory Judgment Act, 28
8 U.S.C. §§ 2201 and 2202. An actual, substantial, and continuing justiciable
9 controversy as to TP-Link’s non-infringement of the ’380 Patent exists between TP-
10 Link and VDPP that requires a declaration of rights by this Court.
- 11 21. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§
12 1331 and 1338(a).
- 13 22. This Court has personal jurisdiction over Defendant VDPP by virtue of its
14 continuous and systematic contacts with the State of California and this District,
15 including but not limited to regularly availing itself of California courts, including
16 filing suit in this District against TP-Link alleging infringement of the ’380 Patent
17 (*see* Exhibit 2).
- 18 23. Venue is proper in this jurisdiction under 28 U.S.C. §§ 1391 and 1400(b), at least
19 because a substantial part of the events or omissions giving rise to the claims
20 occurred in this district, as TP-Link distributes the products accused of infringement
21 by VDPP exclusively out of this District, and VDPP purposefully directed activities
22 in this district by, *inter alia*, filing a lawsuit alleging that TP-Link infringes the ’380
23 Patent in this District (Exhibit 2).
- 24 24. An actual controversy exists between TP-Link and VDPP as to whether TP-Link
25 infringes the ’380 Patent. Indeed, VDPP has already sued TP-Link alleging
26 infringement of the ’380 Patent, and such allegations have not been resolved due to
27 VDPP’s voluntary dismissal of that lawsuit without prejudice. TP-Link denies that
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1 any of its activities or products infringe any claim of the '380 Patent purportedly
2 owned by VDPP.

3 25. On information and belief, VDPP engages in no business activity other than
4 seeking to enforce patents. As a result of VDPP's actions (including the prior
5 lawsuit which VDPP voluntarily dismissed without prejudice), TP-Link has a
6 reasonable apprehension that VDPP will re-file its lawsuit and again accuse TP-
7 Link of infringing the '380 Patent.

8 26. There is an immediate, real, and substantial justiciable controversy between TP-
9 Link and VDPP as to VDPP's purported right to threaten or maintain suit for
10 infringement of the '380 Patent; as to the scope and enforceability thereof; and as
11 to whether TP-Link or any of its products or operations infringes any enforceable
12 claim of the '380 Patent. This controversy is of such immediacy and reality as to
13 warrant declaratory relief so that the parties may ascertain their rights and duties
14 with respect to the '380 Patent. Therefore, without waiver of any rights, including
15 the right to challenge prudential standing, TP-Link brings this declaratory
16 judgement action seeking a declaration that TP-Link does not infringe, and is not
17 liable for infringement of, the '380 Patent.

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19 **CAUSES OF ACTION**

20 **FIRST CAUSE OF ACTION**

21 (Declaratory Judgment of Non-Infringement of the '380 Patent)

22 27. TP-Link incorporates herein by reference and re-alleges all preceding paragraphs
23 as though fully set forth herein.

24 28. VDPP has alleged and continues to assert that Plaintiff and its products infringe the
25 '380 Patent.

26 29. TP-Link does not infringe any claims of the '380 Patent, at least because, by way
27 of non-limiting example, the products VDPP previously accused of infringement
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1 do not meet the claim limitations of any independent claim of the '380 patent, at
2 least because, by way of non-limiting example, such products do not employ the
3 combination of two specific modified image frames to generate a modified
4 combined image frame which is subsequently displayed.

5 30. In addition, TP-Link does not infringe any method claims of the '380 Patent, at least
6 because, by way of non-limiting example, TP-Link as a distributor of the accused
7 products does not perform any of the steps required by the method claims of the
8 '380 Patent in the United States.

9 31. TP-Link's activities, products, and services have not and do not infringe, willfully
10 or otherwise, any enforceable claims of the '380 Patent.

11 32. Plaintiff's activities, products, and services have not and do not infringe, literally or
12 under the doctrine of equivalents, any enforceable claims of the '380 Patent.

13 33. TP-Link does not indirectly infringe because, at least, TP-Link had no actual or
14 constructive knowledge of the '380 Patent prior to its 2022 expiration. TP-Link
15 was unaware of the '380 Patent until after VDPP filed its lawsuit on July 31, 2024.
16 Further, at no time did TP-Link specifically intend to infringe or encourage
17 infringement of the '380 Patent before expiration, nor could it have given it had no
18 knowledge of the '380 Patent.

19 34. VDPP has not complied with the requirements of 35 U.S.C. § 287(a). As held by
20 Judge Rosenthal in case 4:23-cv-02961 (SDTX), "past damages [] were clearly
21 unrecoverable because VDPP could not plausibly allege marking compliance under
22 35 U.S.C. § 287." Upon information and belief, those same settlement agreements
23 that foreclosed damages in that case cover the '380 patent as well, and VDPP is
24 collaterally estopped from claiming pre-suit damages for any apparatus claims of
25 the '380 patent.

26 35. An actual controversy thus exists between Plaintiff and Defendant as to whether
27 TP-Link or its products infringe the '380 Patent.

28 36. Plaintiff seeks a declaratory judgment from this Court under Rule 57 of the Federal

1 Rules of Civil Procedure and 28 U.S.C. § 2201 declaring that Plaintiff and each of
2 its products is not infringing and has not infringed the '380 Patent and granting
3 Plaintiff all other declaratory relief to which it may be entitled.

4
5 **REQUEST FOR RELIEF**

6 WHEREFORE, Plaintiff TP-Link respectfully prays for relief against
7 Defendant as follows:

8 1. For a declaratory judgment that:

9 a. Plaintiff has not and does not infringe, willfully or otherwise, any
10 enforceable claim of the '380 Patent; and

11 b. Defendant, and those acting in concert with it or acting with knowledge of
12 the judgment herein, are without right or authority to threaten or maintain suit against
13 Plaintiff, or users of Plaintiff's products or services, for alleged infringement of the
14 '380 Patent.

15 2. Enjoining Defendant, its officers, agents, servants, employees, and all
16 persons acting in concert or participation with Defendant from initiating infringement
17 litigation against, and from threatening, Plaintiff or purchasers or users of Plaintiff's
18 products or services with infringement litigation or charging any of them verbally or
19 in writing with infringement of the '380 Patent, or representing to any of them that
20 infringement has occurred, because of any activities of Plaintiff;

21 3. Determining that this is an exceptional case under 35 U.S.C. § 285;

22 4. For Plaintiff's costs and reasonable attorneys' fees incurred herein; and

23 5. For such other and further relief as the Court may deem appropriate.

24 Dated: November 9, 2024

HOLLAND & KNIGHT LLP

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26 By: //s// Kristopher L. Reed

Kristopher L. Reed
Elissa M. McClure
Attorneys for Plaintiff TP-LINK
SYSTEMS INC.

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