

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

SP TECHNOLOGIES LLC,)	
)	
Plaintiff,)	PLAINTIFF'S NOTICE OF FILING
)	AMENDED COMPLAINT BY
v.)	CONSENT OF THE PARTIES
)	
CANON USA, INC.,)	C.A. No. CV 05 1972 (DRH) (ETB)
CANON, INC.,)	
NIKON CORPORATION and)	
NIKON, INC.,)	
)	
Defendants.)	

Plaintiff, SP Technologies LLC, pursuant to Federal Rules of Civil Procedure 15(a) and the written consent of the defendants Nikon Corporation and Nikon, Inc. (attached as Exhibit 1), gives this Court notice of the filing of plaintiff's Amended Complaint (attached as Exhibit 2). This notice is supported by the authorities and information set forth below.

This is an action for patent infringement in which plaintiff SP Technologies has accused the defendants of infringing U.S. Pat. No. Re. 35,409 ("the '409 patent") through actions related to the sale of various Nikon brand digital cameras.

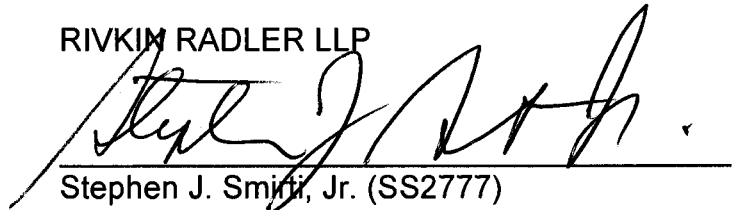
This action was initially filed on April 21, 2005 against the Nikon defendants and Canon USA, Inc. and Canon, Inc. Defendants, Nikon Corporation and Nikon, Inc. ("the Nikon Defendants") filed their Answers on September 20, 2005. Discovery was initiated on October 4, 2005.

Having reached agreement with defendants Canon USA, Inc. and Canon, Inc. to settle the claims and counterclaims asserted in this case, plaintiff and Canon filed on Thursday, December 15, 2005 *Stipulated Dismissal of Claims Between Canon USA, Inc. and Canon Inc. and Order*. Therefore, plaintiff's claims in this case will proceed only against the Nikon defendants.

Pursuant to the discovery schedule set in this case, the deadline for amending the pleadings or joining parties is December 16, 2005. Through an initial exchange of interrogatories and responses with the Nikon defendants, plaintiff became aware of the need to amend its original complaint. Consent to the filing of this amended complaint was sought and granted by the Nikon defendants on December 9, 2005 (see Ex. 1).

Fed.R.Civ.P. 15(a) provides in part that "a party may amend the party's pleading only by leave of court or by written consent of the adverse party." With the stipulated dismissal of claims between plaintiff and the Canon defendants and with the written consent granted by the Nikon defendants in Ex. 1, plaintiff now files its amended complaint as attached in Ex. 2.

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EXHIBIT 1

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-----Original Message-----

From: emaurer@morganlewis.com [mailto:emaurer@morganlewis.com]
Sent: Monday, December 05, 2005 9:32 AM
To: Lee, Christopher J
Subject: SPT v. Nikon Case - Amended Answer

Chris,

Nikon Corp. and Nikon Inc. wish to amend the answer to the complaint to include inequitable conduct allegations identical to those added by the Canon defendants in the Canon defendants' amended answer. (See the Canon Defendants' Fourth Affirmative Defense).

Please let me know whether SP Technologies consents to the filing of this amended answer, or whether they will oppose such a filing.

Thanks. Hope you had a good Thanksgiving holiday.

Regards,

Eric

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EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

SP TECHNOLOGIES LLC,)	
)	
Plaintiff,)	AMENDED COMPLAINT FOR PATENT
)	INFRINGEMENT AND DEMAND FOR
v.)	JURY TRIAL
)	
NIKON CORPORATION and)	C.A. No. CV 05 1972 (DRH) (ETB)
NIKON, INC.,)	
)	
Defendants.)	
)	
)	

Plaintiff SP Technologies LLC ("SPT"), complains of defendants, Nikon Corporation and Nikon, Inc. (collectively "defendants"), as follows:

PARTIES

1. SP Technologies LLC is a Delaware limited liability corporation and is the exclusive licensee of US Patent No. Re. 35,409 ("the '409 patent"); it has the entire and exclusive right to sue and collect damages for any past infringement.
2. Nikon Corporation ("Nikon") is a Japanese Corporation having a principal place of business at Fuji Building, 2-3, Marunouchi 3-chome, Chiyoda-ku, Tokyo 100-8331, Japan.
3. Nikon develops, manufactures and sells digital cameras, camera lenses and photographic accessories under the Nikon brand name.
4. Nikon sells its camera products in the United States and in this judicial district through its subsidiary, Nikon, Inc.

5. Nikon operates a highly interactive web site which is accessible via the URL www.nikon.com.

6. The Nikon website is accessible to Internet users throughout the United States including this judicial district.

7. Through interaction with the Nikon website, potential users can locate nearby retail stores where Nikon camera products are sold.

8. Nikon camera products can also be purchased over the Internet, through websites such as www.compusa.com, by Internet users located throughout the United States including this judicial district.

9. Nikon Inc. ("Nikon US"), a wholly owned subsidiary of Nikon, is a New York corporation having a principal place of business in Suffolk County at 1300 Walt Whitman Road, Melville, NY 11747.

10. Nikon US imports, uses, offers for sale and sells digital cameras with digitally formed indicia for selecting a subject image, including at least the Coolpix 8700 and Coolpix 8800, throughout the United States including this judicial district.

11. Nikon US operates a highly interactive web site at www.nikonusa.com that offers a "Where to Buy" search feature for digital cameras.

12. Entering the Nikon Coolpix 8700 digital camera and the first three numbers of the zip code for Melville, NY in the Where to Buy search function returns a list of stores located in this judicial district that sell the Coolpix 8700 and Coolpix 8800 including BJ's Wholesale Club, Ritz Camera and The Camera Shop stores.

13. Nikon US sells Nikon brand digital cameras with electronic viewfinders, such as the Nikon Coolpix 8700, at retail stores in this judicial district including CompUSA and Best Buy stores.

VENUE AND JURISDICTION

14. This is a complaint for patent infringement, brought against all defendants named above, and arising under Title 35 of the United States Code.

15. This Court has original jurisdiction over the subject matter of this complaint under 28 U.S.C. §1338(a).

16. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b) arising from substantial acts of infringement committed directly by the defendants and/or induced by the defendants in Nassau County and Suffolk County in this judicial district.

17. As the exclusive licensee of the '409 patent, SPT has standing to sue for infringement and is entitled to damages adequate to compensate it for defendants' acts of patent infringement.

PATENT INFRINGEMENT

18. U.S. Patent Number 4,720,804 ("the '804 patent") was issued by the United States Patent and Trademark Office ("PTO") on January 19, 1988.

19. On December 6, 1993, the '804 patent was submitted to the PTO on a petition for reissue application which was subsequently merged with a petition for reexamination filed on April 6, 1994.

20. On December 24, 1996, the '804 patent was reissued as Re. 35,409 without amendment or cancellation of any claims after the citation and consideration of 98 additional items of prior art.

21. The owner of the '804 patent and the '409 patent (collectively, the "Moore patents") is Sidney D. Moore of Claremont, California.

22. Mr. Moore has complied with the provisions of 35 U.S.C. 287(a) since at least April 21, 1999.

23. Licensees of the Moore patents who have made, offered for sale or sold patented articles that, by agreement of the licensor and licensee, practice any invention claimed by the Moore patents, have complied with the provisions of 35 U.S.C. 287(a) by consistently marking such products since at least April, 21, 1999.

24. By its activities importing, using, offering for sale and selling digital cameras with electronic viewfinder technology such as the Coolpix 8700 and Coolpix 8800, Nikon US has infringed at least claims 3, 4 and 5 of the '409 patent.

25. Nikon US' actions have also actively induced others, including purchasers of Nikon digital cameras with electronic viewfinder technology such as the Coolpix 8700 and Coolpix 8800, to infringe at least claims 3, 4 and 5 of the '409 patent.

26. Nikon US' direct infringement and inducement of others to infringe the '409 patent has injured SPT, entitling SPT to recover damages adequate to compensate it for the infringement including at least a reasonable royalty.

27. Nikon develops, manufactures, offers to sell and sells digital cameras with digitally formed indicia for selecting a subject image, including at least the Coolpix 8700 and Coolpix 8800.

28. Nikon digital cameras, including at least the Coolpix 8700 and Coolpix 8800, are sold with a user manual created by Nikon that instructs the purchaser on the use of various camera features including the auto focus functions.

29. Nikon has infringed at least claims 3, 4 and 5 of the '409 patent by, among other activities, offering for sale digital cameras, including at least the Coolpix 8700 and Coolpix 8800, in the United States.

30. Nikon's actions have also induced others, including Nikon US and purchasers of Nikon digital cameras, including at least the Coolpix 8700 and Coolpix 8800, to infringe at least claims 3, 4 and 5 of the '409 patent.

31. Nikon's direct infringement and inducement of others to infringe the '409 patent has injured SPT, entitling SPT to recover damages adequate to compensate it for the infringement including at least a reasonable royalty.

WHEREFORE, SPT respectfully requests the following relief:

A. The entry of judgment in favor of SPT, and against defendants, finding defendants jointly and severally liable in connection with the claims set forth herein;

B. An award of damages adequate to compensate SPT for the infringement that has occurred, together with prejudgment interest from the date infringement of the '409 patent began, but in no event less than a reasonable royalty as provided by 35 U.S.C. § 284;

C. Increased damages as permitted under 35 U.S.C. § 284;

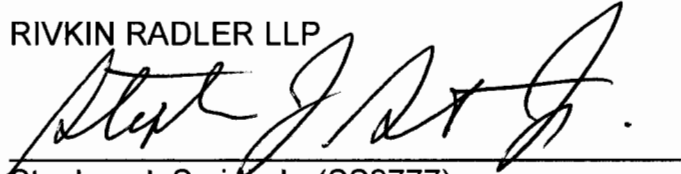
D. Relief as permitted by 35 U.S.C. §285

E. Such other and further relief as this Court or a jury may deem proper and just.

JURY DEMAND

A trial by jury is respectfully requested on all issues so triable.

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CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2005, the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Eastern District's Local Rules, and/or the Eastern District's Rules on Electronic Service upon the following parties and participants:

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