

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

APPENDIX H

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS Olympus Corporation, Olympus Medical Systems Corp. and Olympus American, Inc.</p> <p>(b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) E. McCord Clayton, Esquire Bazelon Less & Feldman, P.C. Suite 700 1515 Market Street Philadelphia, PA 19102 (215.568.1155)</p>	<p>DEFENDANTS Given Imaging LTD, and Given Imaging Inc.</p> <p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th>PTF</th> <th>DEF</th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input checked="" type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input checked="" type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6
PTF	DEF	PTF	DEF														
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IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <p>PERSONAL INJURY</p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <p>Habes Corpus:</p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
35USC 271, 281, 283-285
 Brief description of cause: PATENT INFRINGEMENT

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** _____ CHECK YES only if demanded in complaint: **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 5/19/06 SIGNATURE OF ATTORNEY OF RECORD E. McCord Clayton

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFF _____ JUDGE _____ MAG. JUDGE _____

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 43-2 Hatagaya, Shibuya-ku, Tokyo 150-0072, Japan

Address of Defendant: 13 Hayetzira St., Upper Yoqneam, Isreal 20692

Place of Accident, Incident or Transaction: (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes No

Does this case involve multidistrict litigation possibilities? RELATED CASE, IF ANY: Yes No

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases
11. All other Federal Question Cases (Please specify)

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify)
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, E. McCord Clayton, Esquire, counsel of record do hereby certify:

- Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
Relief other than monetary damages is sought.

DATE: May 19, 2006

Signature of E. McCord Clayton, Esquire, Attorney-at-Law

76572 Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 5/19/06

Signature of E. McCord Clayton, Esquire, Attorney-at-Law

76572 Attorney I.D.#

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

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Place of Accident, Incident or Transaction: (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes No

Does this case involve multidistrict litigation possibilities? Yes No

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
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- 1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify)
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8. Products Liability — Asbestos
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[Signature] Attorney-at-Law

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DATE: 5/19/06

[Signature] Attorney-at-Law

76572 Attorney I.D.#

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Olympus Corporation, Olympus Medical Systems Corp. and Olympus America, Inc. v. Given Imaging, Ltd. and Given Imaging, Inc. CIVIL ACTION NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus - Cases brought under 28 U.S.C. §2241 through §2255. ()
(b) Social Security - Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
(c) Arbitration - Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
(d) Asbestos - Cases involving claims for personal injury or property damage from exposure to asbestos. ()
(e) Special Management - Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
(f) Standard Management - Cases that do not fall into any one of the other tracks. (x)

May 19, 2006 Date E. McCord Clayton Attorney-at-law Olympus Attorney for
215-568-1155 Telephone 215-568-9319 FAX Number cclayton@bazless.com E-Mail Address

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*Attorneys for Plaintiffs Olympus
Corporation, Olympus Medical
Systems Corp. and Olympus America Inc.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

-----	X	
	:	
OLYMPUS CORPORATION, OLYMPUS	:	
MEDICAL SYSTEMS CORP. and OLYMPUS	:	
AMERICA INC.	:	Civil Action No.
	:	
Plaintiff,	:	COMPLAINT FOR PATENT
v.	:	INFRINGEMENT AND
	:	DECLARATORY JUDGMENT
	:	
GIVEN IMAGING LTD. and GIVEN IMAGING	:	JURY TRIAL DEMANDED
INC.,	:	
	:	
Defendants.	:	
-----	X	

Plaintiffs, Olympus Corporation (“Olympus Corp.”), Olympus Medical Systems Corp. (“Olympus Medical”) and Olympus America Inc. (“Olympus America”) (collectively, “Olympus”), for their Complaint of patent infringement and declaratory judgment of

noninfringement and invalidity against defendants Given Imaging Ltd. (“GIL”) and Given Imaging Inc. (“GII”) (collectively “Given Imaging”), allege, upon knowledge as to their own acts and upon information and belief as to the acts of others, as follows:

THE PARTIES

1. Olympus Corp. is a Japanese corporation with a principal place of business at 2-43-2 Hatagaya, Shibuya-ku, Tokyo 150-0072, Japan.

2. Olympus Medical is a Japanese corporation with a principal place of business at 2-43-2 Hatagaya, Shibuya-ku, Tokyo 150-0072, Japan. Olympus Medical is a wholly-owned subsidiary of Olympus Corp.

3. Olympus America is a New York corporation having a place of business at 3500 Corporate Parkway, Center Valley, Pennsylvania 18034-0610. Olympus America is a wholly-owned subsidiary of Olympus USA Incorporated, which, in turn, is a wholly-owned subsidiary of Olympus Corp.

4. On information and belief, GIL is an Israeli corporation with a principal place of business at 13 Hayetzira St. Upper Yoqneam, Israel 20692.

5. On information and belief, GII is a Delaware corporation with a principal place of business at 3950 Shackleford Rd., Suite 5, Duluth, GA 30096-1858 and is a wholly-owned subsidiary of GIL.

JURISDICTION AND VENUE

6. This action arises under the patent laws of the United States, Title 35 of the United States Code, in particular 35 U.S.C. §§ 271, 281, 283-285 and the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a), 1367, and 2201-02, as Olympus’s request for a declaratory

judgment of invalidity and noninfringement arises under the patent laws of the United States and the Declaratory Judgment Act.

7. This Court has personal jurisdiction over Given Imaging because, among other things, upon information and belief, Given Imaging has directly infringed, contributed to the infringement of, and/or actively induced infringement of Olympus Medical's patent within this judicial district, as set forth herein.

8. Venue is proper under 28 U.S.C. §§ 1391(b), 1391(c), 1391(d), and/or 1400(b).

COUNT 1 - CLAIM FOR PATENT INFRINGEMENT OF U.S. PATENT NO. 5,010,412

9. Olympus Medical repeats and re-alleges the allegations of paragraphs 1 through 8 of the Complaint as if fully set forth herein.

10. On April 23, 1991, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,010,412 ("the '412 patent") for an invention entitled "High Frequency, Low Power Light Source for Video Camera" to Gregory M. Garriss. A copy of the '412 patent is attached as Exhibit "A".

11. The entire right and title to, and interest in, the '412 patent was assigned from Gregory M. Garriss to The Boeing Company.

12. Upon information and belief, The Boeing Company provided to GII notice of the '412 patent.

13. In July 2005, Olympus Medical acquired the entire right, title and interest of The Boeing Company in, to and under the '412 patent (but with The Boeing Company reserving rights in the aerospace and defense industries and certain other limited rights), including the right to all causes of action for past, present, and future infringement thereof and all rights to pursue

damages (including past damages); the assignment was recorded in the United States Patent and Trademark Office on August 5, 2005.

14. Upon information and belief, GIL has (or has caused to be) manufactured, imported into the stream of commerce of the United States and/or exported to the United States, capsule endoscopes with a light source that infringes, or the use of which infringes, one or more claims of the '412 patent. And, GIL continues to do so. This manufacture and sale, along with any attendant advertising and provision of instructions, are without permission of Olympus Medical, and constitute acts of direct infringement, inducement of infringement, and/or contributory infringement of the '412 patent.

15. Upon information and belief, GII has (or has caused to be) sold into the stream of commerce of the United States, capsule endoscopes with a light source that infringes, or the use of which infringes, one or more claims of the '412 patent. And, GII continues to do so. These sales, and any attendant offers to sell, advertisements and provision of instructions, are without permission of Olympus Medical, and constitute acts of direct infringement, inducement of infringement, and/or contributory infringement of the '412 patent.

16. Upon information and belief, Given Imaging will continue to infringe the '412 patent unless enjoined by this Court. As a result of the infringing conduct of GIL and GII, Olympus Medical has suffered, and will continue to suffer, irreparable harm for which there is no adequate remedy at law. Accordingly, Olympus Medical is entitled to temporary, preliminary, and/or permanent injunctive relief against such infringement pursuant to 35 U.S.C. § 283.

17. As a result of the infringement of the '412 patent by Given Imaging, Olympus Medical has been damaged, and will be further damaged, and is entitled to be compensated for such damages pursuant to 35 U.S.C. § 284 in an amount that will be determined at trial.

18. Upon information and belief, Given Imaging's past infringement and/or continuing infringement has been deliberate and willful, and this case is therefore an exceptional case, which warrants an award of treble damages and attorneys' fees to Olympus Medical in accordance with 35 U.S.C. §§ 284, 285.

**COUNT 2 - CLAIM FOR DECLARATORY JUDGMENT OF NONINFRINGEMENT
AND INVALIDITY**

19. Olympus repeats and re-alleges the allegations of paragraphs 1 through 18 of the Complaint as if fully set forth herein.

20. On information and belief, United States Patent No. 5,604,531 (the "'531 patent"), entitled In Vivo Video Camera System, issued on February 18, 1997, to Gavriel J. Iddan et al. The '531 patent is attached as Exhibit "B".

21. On December 30, 2003, Olympus caused to be filed a request for reexamination of the '531 patent in the United States Patent and Trademark Office ("USPTO"). This reexamination is currently in progress, and the PTO Examiner has recently entered an action confirming that certain claims of the '531 patent are patentable.

22. Olympus has developed a capsule endoscope product that it intends to import into and sell in the United States within six months or less.

23. Olympus has finalized the design of its capsule endoscope product and is nearing completion of clinical trials in order to secure clearance from the Food and Drug Administration, which Olympus expects to obtain.

24. Upon information and belief, employees of and/or agents representing Given Imaging have been making statements to current and potential customers of Olympus to the effect that Given Imaging has patents which cover any capsule endoscope technology and products being developed by Olympus, and which will prevent Olympus from selling any capsule endoscope product. Upon information and belief, these statements are intended to intimidate and discourage, and have the effect of intimidating and discouraging, current and potential customers of Olympus from considering and planning purchases of Olympus' new capsule endoscope products and have already caused severe and irreparable damage to Olympus and the marketing prospects for its new capsule endoscope product.

25. Upon information and belief, Given Imaging has written letters to numerous doctors and/or hospitals to the effect that Given Imaging has patents which cover any capsule endoscope technology and products being developed by Olympus and which will be infringed by any Olympus capsule endoscope product. Upon information and belief, these letters are intended to intimidate and discourage, and have the effect of intimidating and discouraging, current and potential customers of Olympus from considering and planning purchases of Olympus' new capsule endoscope products and have already caused severe and irreparable damage to Olympus and the marketing prospects for its new capsule endoscope product.

26. Given Imaging has made public statements, including statements to the USPTO relating to the '531 patent, that Given Imaging's products are covered by its patents, that Olympus intends to market a "me-too" capsule endoscope product, and that the "me-too" product could not have been developed without Given Imaging's inventions. These statements, coupled with the statements and letters to potential customers alleged in paragraphs 24-25 and the quasi-adversarial nature of the reexamination of the '531 patent, have created a reasonable

apprehension in Olympus that Given Imaging will institute litigation against Olympus for alleged infringement of at least the '531 patent and possibly other Given Imaging patents.

27. Based on the foregoing, an actual and justiciable controversy exists between Given Imaging and Olympus with respect to Given Imaging's '531 patent.

28. Olympus alleges that the claims of the '531 patent are invalid for failure to comply with the requirements of Title 35 U.S.C., including at least §§ 101, 102, 103 and/or 112.

29. Olympus alleges that it has not, and is not, infringing any claim of the '531 patent and will not infringe any claim of that patent, by making, using, offering to sell or selling in the United States or importing into the U.S. its capsule endoscope product.

30. Olympus alleges that it has not induced or contributed to, and is not inducing or contributing to, the infringement of any claim of the '531 patent and Olympus will not induce or contribute to the infringement of any claim of that patent, by making, using, offering to sell or selling in the United States or importing into the U.S. its capsule endoscope product.

31. Given Imaging is barred by prosecution history estoppel from asserting that Olympus's capsule endoscope product infringes one or more claims of the '531 patent.

PRAYER FOR RELIEF

WHEREFORE, Olympus respectfully requests an entry of judgment from this Court with respect to Count 1:

- A. Declaring that Given Imaging has directly infringed, contributorily infringed, and/or induced the infringement of one or more claims of the '412 patent;
- B. Preliminarily and permanently enjoining Given Imaging and its respective officers, agents, servants, employees, and attorneys, and those persons in active

concert or participation with them who receive actual notice of the order by personal service or otherwise, from committing further acts of infringement;

- C. Awarding Olympus Medical damages, including treble damages for willful infringement, in accordance with 35 U.S.C. § 284;
- D. Declaring this to be an exceptional case and awarding Olympus Medical attorneys fees in accordance with 35 U.S.C. § 285;

with respect to Count 2:

- E. Declaring the '531 patent to be invalid;
- F. Declaring that Olympus has not infringed, is not infringing, and that its capsule endoscope product will not infringe the '531 patent;

with respect to both Counts:

- G. Awarding Olympus its costs in connection with this action; and
- H. Awarding Olympus such other and further relief as this Court may deem to be just and proper.


DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Olympus hereby demands a jury trial for all issues in this case that properly are subject to a jury trial.

Dated: May 19, 2006

Respectfully submitted,

BAZELON LESS & FELDMAN, P.C.

By: 
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*Attorneys for Plaintiffs Olympus
Corporation, Olympus Medical Systems
Corp., and Olympus America Inc*