John J. Edmonds (State Bar No. 274200) jedmonds@cepiplaw.com
COLLINS EDMONDS POGORZELSKI SCHLATHER & TOWER, PLLC
1851 East First Street, Suite 900
Santa Ana, California 92705
Telephone: (951) 708-1237
Facsimile: (951) 824-7901

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Attorney for Plaintiff,

DIGITECH IMAGE TECHNOLOGIES, LLC

# UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

DIGITECH IMAGE TECHNOLOGIES, LLC,

Plaintiff.

V.

ASUS COMPUTER INTERNATIONAL and ASUSTEK COMPUTER INC.

Defendants.

CASE NO. BACVA

**SACV12-02122 AG (RNBx)** 

ORIGINAL COMPLAINT FOR INFRINGEMENT OF U.S. PATENT NO. 6,128,415

DEMAND FOR JURY TRIAL

Complaint Filed: December 7, 2012

#### ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which DIGITECH IMAGE TECHNOLOGIES, LLC submits this Original Complaint against the Defendants named herein, namely ASUS COMPUTER INTERNATIONAL and ASUSTEK COMPUTER INC. (collectively "Defendants" or "ASUS"), as follows:

#### THE PARTIES

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1. DIGITECH IMAGE TECHNOLOGIES, LLC ("DIGITECH" or "Plaintiff") is a California limited liability company with a place of business at 500 Newport Center Drive, Suite 700, Newport Beach, CA 92660.

2. On information and belief, ASUS COMPUTER INTERNATIONAL is a California corporation with a place of business at Fremont, CA. On information and belief, ASUSTEK COMPUTER INC. is a foreign corporation with a place of business at Taipei, Taiwan.

#### **JURISDICTION AND VENUE**

- 3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).
- 4. On information and belief, ASUS is subject to this Court's specific and/or general personal jurisdiction, pursuant to due process and/or the California Long Arm Statute, due at least to its substantial business in California, including related to the infringements alleged herein. Further, on information and belief, ASUS has, within this forum, engaged in at least the selling of the accused products listed herein. In addition, ASUS induces infringement of the patent-in-suit by sellers and/or infringing users located in this forum. Further, on information and belief, ASUS has interactive websites which are used in and/or accessible in this forum. Further, on information and belief, ASUS regularly conducts and/or solicits business, engages in

other persistent courses of conduct, and/or derives substantial revenue from goods and services provided to persons and/or entities in California.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). Without limitation, on information and belief, ASUS is subject to personal jurisdiction in this district. On information and belief, ASUS is subject to this Court's specific and/or general personal jurisdiction, pursuant to due process and/or the California Long Arm Statute, due at least to their substantial business in this district, including related to the infringements alleged herein. Further, on information and belief, ASUS is, within this forum, engaged in at least the selling of the accused products listed herein. In addition, ASUS induces infringement of the patent-in-suit by sellers and/or infringing users located in this forum. Further, on information and belief, ASUS has interactive websites which are used in and/or accessible in this forum. Further, on information and belief, ASUS regularly conducts and/or solicits business, engages in other persistent courses of conduct, and/or derives substantial revenue from goods and services provided to persons and/or entities in California.

#### <u>COUNT I</u>

#### INFRINGEMENT OF U.S. PATENT NO. 6,128,415

6. United States Patent No. 6,128,415 ("the '415 patent"), entitled "DEVICE PROFILES FOR USE IN A DIGITAL IMAGE PROCESSING SYSTEM," issued on October 3, 2000.

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7. DIGITECH is the present assignee of the entire right, title and interest in and to the '415 patent, including all rights to sue for past and present infringement. Accordingly, DIGITECH has standing to bring this lawsuit for infringement of the '415 patent.

- 8. The various claims of the '415 patent cover, *inter alia*, a device profile for describing properties of a device in a digital image reproduction system to capture, transform or render an image, said device profile comprising: first data for describing a device dependent transformation of color information content of the image to a device independent color space; and second data for describing a device dependent transformation of spatial information content of the image in said device independent color space.
- 9. On information and belief, ASUS has been and now is infringing the '415 patent by actions comprising making, using, importing, selling and/or offering to sell products comprising a device profile for describing properties of a device in a digital image reproduction system to capture, transform or render an image, said device profile comprising; first data for describing a device dependent transformation of color information content of the image to a device independent color space; and second data for describing a device dependent transformation of spatial information content of the image in said device independent color space.

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- 10. Moreover, on information and belief, ASUS has been and now is indirectly infringing by way of intentionally inducing infringement of the '415 patent in this judicial district, and elsewhere in the United States, including by aiding or abetting re-sellers to sell and/or offer for sale infringing products and/or customers and/or users to use infringing products. Upon information and belief, such induced infringement has occurred at least since ASUS became aware of the '415 patent, at least through becoming aware of this Complaint.
- 11. Upon present information and belief, ASUS' infringing products comprise at least the following accused products: Transformer Pad Infinity 700, Eee Pad Transformer Prime, Transformer Pad TF300, Padfone and Padfone 2.
- 12. ASUS is thus liable for infringement of the 415 patent pursuant to 35 U.S.C. § 271.
- 13. As a result of ASUS' infringing conduct, ASUS has damaged DIGITECH ASUS is liable to DIGITECH in an amount that adequately compensates DIGITECH for their infringement, which, by law, can be no less than a reasonable royalty.
- 14. DIGITECH will take discovery relative to ASUS' pre-suit knowledge of the '415 patent at the appropriate time. Upon information and belief, ASUS' infringement of the '415 patent since receiving notice of the patent, at a minimum by virtue of this lawsuit, would necessarily be willful and objectively reckless at least

due to the fact that ASUS' infringement is clear and there is no known good faith basis to assert invalidity.

#### PRAYER FOR RELIEF

WHEREFORE, DIGITECH respectfully requests that this Court enter:

- 1. A judgment in favor of DIGITECH that ASUS has infringed, directly and/or indirectly, the '415 patent;
- 2. A judgment that ASUS' infringement is and/or has been willful and objectively reckless;
- 3. A permanent injunction enjoining ASUS, and its officers, directors, employees, agents, affiliates and all others acting in active concert therewith from infringing the '415 patent;
- 4. A judgment and order requiring ASUS to pay DIGITECH its damages, costs, expenses, and prejudgment and post-judgment interest for ASUS' infringement of the '415 patent as provided under 28 U.S.C. § 284;
- 5. An award to DIGITECH for enhanced damages as provided under 35 U.S.C. § 284;
- 6. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to DIGITECH its reasonable attorneys' fees;

7. Any and all other relief to which DIGITECH may show itself to be entitled.

#### DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: December 7, 2012

Respectfully submitted,

COLLINS, EDMONDS, POGORZELSKI, SCHLATHER & TOWER, PLLC

John J. Edmonds – LEAD COUNSEL State Bar No. 274200

Attorney for Plaintiff DIGITECH IMAGE TECHNOLOGIES, LLC

### UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL COVER SHEET

1(a) PLAINTIFFS (Check box if you are representing yourself of DIGITECH IMAGE TECHNOLOGIES, LLC	J)	DEFENDANTS ASUS COMPUTER INTE				
(b) Attorneys (Firm Name, Address and Telephone Number If y yourself, provide same.)  JOHN J. EDMONDS, COLLINS, EDMONDS, POGORZEI FIRST STREET, SUITE 900 SANTA ANA, CA 92705	Attorneys (If Known)		s			
II. BASIS OF JURISDICTION (Place an X in one box only )		NSHIP OF PRINCIPAL PART  O X in one box for plainfill and o		i Only		
☐ 1 U.S. Government Plaintiff 53 Federal Question (U.S. Government Not a Party)	Citizen of Th	is State [7]				
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citize of Parties in Item III)	enship Citizen of Ar	other State CJ2	C) 2 Incorporated and of Business in A	i Principal Place C 5 D 5 nother State		
· · · · · · · · · · · · · · · · · · ·	Citizen or Su	oject of a Foreign Country [] 3	☐ 3 Foreign Nation	9G 9D		
TV. ORIGIN (Place an X in one box only.)  10 Original						
V. REQUESTED IN COMPLAINT: JURY DEMAND: WYes In No (Check 'Yes' only if demanded in complaint.)  CLASS ACTION under F.R.C.P. 23: In Yes In In MONEY DEMANDED IN COMPLAINT: S  VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filling and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  Patent Infringement 35 U.S.C § 271						
VII. NATURE OF SUIT (Place as X in one box only.)	<u> </u>		* <del>                                      </del>			
□ 850 Securities/Commodities/	PERSONAL INJUICATION PERSONAL	PERSONAL PROPERTY  370 Other Fraud  371 Truth in Lending  371 Truth in Lending  372 Truth in Lending Property Darnage Property Darnage Product Liability  BANKRUFTCY  422 Appeal 28 USC 158  423 Withdrawal 28 USC 157 CIVIL RIGHTS  441 Voting 442 Employment 443 Housing/Accommodations  444 Welfard  445 American with Disabilities Employment  446 American with Disabilities Employment  447 Other Civil  448 Other Civil Rights	PESSITONS  I 510 Motions to Vacate Sentence Habeas Corpus  I 530 General I 535 Death Penahy I 540 Mandamus/	LABOR   710 Fair Labor Standards Act		
FOR OFFICE USE ONLY: Case Number: SACV12-02122 AG (RNBx)  AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.						
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CV-71 (05/08)

### UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Ha If yes, list case number(s):	s this notion been pre	eviously filed in this court an	d dismissed, remanded or closed? [] No [WYes		
VIII(b). RELATED CASES: Have If yes, list case number(s):	any oases been pre	viously filed in this court that	are related to the present case? Li No Ves		
**************************************	Arise from the same Call for determination For other reasons we	or closely related transaction on of the same or substantiall ould entail substantial duplice	ns, happenings, or events; or y related or similar questions of law and fact; or ation of labor if heard by different judges, or and one of the factors identified above in a, b or class is present.		
IX. VENUE: (When completing the	following informati	on, use an additional sheet if	necessary)		
			Other than California; or Foreign Country, in which EACH named plaintiff resides, this box is checked, go to item (b).		
County in this District.			California County outside of this District; State, if other than California; or Foreign Country		
Plaintiff (Orange County)					
(b) List the County in this District, ☐ Check here if the government, it	California County of	utside of this District; State fi	Fother than California; or Foreign Country, in which EACH named defendant resides.		
County in this District.*			California County outside of this District; State, if other than California; or Foreign Country		
		·	ASUS COMPUTER INTERNATIONAL (YOLO COUNTY) ASUSTEK COMPUTER INC. (TAIWAN)		
(c) List the County in this District; Note: In land condemnation of			other than California; or Foreign Country, In which EACH claim arose. ed.		
County in this District.*			California County outside of this District; State, if other than California, or Foreign Country		
* Los Angeles, Orange, San Bernas Note: In land condemnation cases, us					
X. SIGNATURE OF ATTORNEY (	OR PRO PER):		Date 12/7/17		
Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filling and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)					
Key to Statistical codes relating to So	a gray, a construction of the second				
Nature of Suit Code	Abbreviation	Substantive Statement of	Cause of Action		
.861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for cartification as providers of services under the program. (42 U.S.C. 1935FF(b))			
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)			
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))			
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as arrended. (42 U.S.C. 405(g))			
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended			
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))			

CV-71 (03/08)

## UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL COVER SHEET

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case?

- 1. DIGITECH IMAGE TECHNOLOGIES, LLC v. AGFAPHOTO GMBH et al. (Civil Action No. SACV 12-01153-MLG)
- 2. DIGITECH IMAGE TECHNOLOGIES, LLC v. ELECTRONICS FOR IMAGING, INC. (Civil Action No. SACV 12-01324-JVS-RNB)
- 3. DIGITECH IMAGE TECHNOLOGIES, LLC v. KONICA MINOLTA HOLDINGS, INC., ET AL (Civil Action No. SACV12-01694-DOC-MLG)
- 4. DIGITECH IMAGE TECHNOLOGIES, LLC v. XEROX CORPORATION (Civil Action No. SACV12-01693-CJC-RNB)
- 5. DIGITECH IMAGE TECHNOLOGIES, LLC v. BEST BUY CO., INC.; BEST BUY STORES, LP; BESTBUY.COM, LLC (Civil Action No. SACV12-01669-JVS-MLG)
- 6. DIGITECH IMAGE TECHNOLOGIES, LLC v. BUY.COM INC. (Civil Action No. SACV12-01668-CJC-MLG)
- 7. DIGITECH IMAGE TECHNOLOGIES, LLC v. CANON INC.; CANON U.S.A., INC. (Civil Action No. SACV12-01670-CJC-MLG)
- 8. DIGITECH IMAGE TECHNOLOGIES, LLC v. CASIO COMPUTER CO., LTD.; CASIO AMERICA, INC. (Civil Action No. SACV12-01697-CJC-JPR)
- 9. DIGITECH IMAGE TECHNOLOGIES, LLC v. CDW LLC (Civil Action No. SACV12-01695-JST-AN)
- 10.DIGITECH IMAGE TECHNOLOGIES, LLC v. FUJIFILM CORPORATION; FUJIFILM HOLDINGS CORPORATION: FUJIFILM HOLDINGS AMERICA CORPORATION (Civil Action No. SACV12-01679-AG-JPR)
- 11.DIGITECH IMAGE TECHNOLOGIES, LLC v. GENERAL IMAGING COMPANY (Civil Action No. SACV12-01680-AG-RNB)
- 12.DIGITECH IMAGE TECHNOLOGIES, LLC v. VICTOR
  HASSELBLAD AB; HASSELBLAD USA INC. (Civil Action No.
  SACV12-01696-AG-RNB)
- 13.DIGITECH IMAGE TECHNOLOGIES, LLC v. LEICA CAMERA AG; LEICA CAMERA INC. (Civil Action No. SACV12-01677-AG-RNB)

- 14.DIGITECH IMAGE TECHNOLOGIES, LLC v. MAMIYA DIGITAL IMAGING CO., LTD.; LEAF IMAGING LTD. D/B/A MAMIYALEAF; MAMIYA AMERICA CORPORATION (Civil Action No. SACV12-01675-JVS-JPR)
- 15.DIGITECH IMAGE TECHNOLOGIES, LLC v. MICRO ELECTRONICS, INC. D/B/A MICRO CENTER (Civil Action No. SACV12-01686-JST-AN)
- 16.DIGITECH IMAGE TECHNOLOGIES, LLC v. NEWEGG, INC.; NEWEGG.COM, INC. (Civil Action No. SACV12-01688-JVS-MLG)
- 17.DIGITECH IMAGE TECHNOLOGIES, LLC v. NIKON CORPORATION; NIKON INC.; NIKON AMERICAS, INC. (Civil Action No. SACV12-01685-CJC-JPR)
- 18.DIGITECH IMAGE TECHNOLOGIES, LLC v. OLYMPUS CORPORATION; OLYMPUS IMAGING AMERICA INC. (Civil Action No. SACV12-01676-JVS-RNB)
- 19.DIGITECH IMAGE TECHNOLOGIES, LLC v. OVERSTOCK.COM, INC. (Civil Action No. SACV12-01687-AG-RNB)
- 20. DIGITECH IMAGE TECHNOLOGIES, LLC v. PANASONIC CORPORATION; PANASONIC CORPORATION OF NORTH AMERICA (Civil Action No. SACV12- 01667-AG-JPR)
- 21. DIGITECH IMAGE TECHNOLOGIES, LLC v. PENTAX RICOH IMAGING CO., LTD.; PENTAX RICOH IMAGING AMERICAS CORPORATION; RICOH COMPANY, LTD.; RICOH AMERICAS CORPORATION (Civil Action No. SACV12-01689-AG-RNB)
- 22.DIGITECH IMAGE TECHNOLOGIES, LLC v. SAKAR INTERNATIONAL, INC. D/B/A VIVITAR (Civil Action No. SACV12-01673-JVS-AN)
- 23. DIGITECH IMAGE TECHNOLOGIES, LLC v. SIGMA CORPORATION; SIGMA CORPORATION OF AMERICA (Civil Action No. \$ACV12-01681-JST-AN)
- 24.DIGITECH IMAGE TECHNOLOGIES, LLC v. SONY CORPORATION; SONY CORPORATION OF AMERICA; SONY ELECTRONICS INC. (Civil Action No. SACV12-01678-AG-AN)
- 25.DIGITECH IMAGE TECHNOLOGIES, LLC v. TARGET CORPORATION (Civil Action No. SACV12-01683-JST-RNB)
- 26.DIGITECH IMAGE TECHNOLOGIES, LLC v. ACER AMERICA CORPORATION, and ACER INC. (Civil Action No. TBD)
- 27.DIGITECH IMAGE TECHNOLOGIES, LLC v. APPLE INC. (Civil Action No. TBD)

- 28. DIGITECH IMAGE TECHNOLOGIES, LLC v. HTC AMERICA, INC., HTC CORP. a/k/a HIGH TECH COMPUTER CORP. and HTC (B.V.I) CORP. (Civil Action No. TBD)
- 29.DIGITECH IMAGE TECHNOLOGIES, LLC v. LG ELECTRONICS USA, INC., LG ELECTRONICS, INC. and LG ELECTRONICS MOBILECOMM U.S.A., INC. (Civil Action No. TBD)
- 30.DIGITECH IMAGE TECHNOLOGIES, LLC v. MOTOROLA MOBILITY, INC., MOTOROLA MOBILITY HOLDINGS, LLC and MOTOROLA, INC. (Civil Action No. TBD)
- 31 DIGITECH IMAGE TECHNOLOGIES, LLC v. TOSHIBA CORPORTATION, TOSHIBA AMERICA, INC.; TOSHIBA AMERICA BUSINESS SOLUTIONS, INC., TOSHIBA AMERICA INFORMATION SYSTEMS, INC. (Civil Action No. TBD)

## UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

#### NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Andrew Guilford and the assigned discovery Magistrate Judge is Robert N. Block.

The case number on all documents filed with the Court should read as follows:

SACV12- 2122 AG (RNBx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

#### NOTICE TO COUNSEL A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs). Subsequent documents must be filed at the following location: [ ] Western Division Southern Division Eastern Division 312 N. Spring St., Rm. G-8 411 West Fourth St., Rm. 1-053 3470 Twelfth St., Rm. 134 Los Angeles, CA 90012 Santa Ana, CA 92701-4516 Riverside, CA 92501 Failure to file at the proper location will result in your documents being returned to you. CV-18 (03/06) NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

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Name & Address:					
JOHN J. EDMONDS (STATE BAR NO. 274200)					
COLLINS, EDMONDS, POGORZELSKI,					
SCHLATHER & TOWER, PLLC					
1851 EAST FIRST STREET, SUITE 900					
SANTA ANA, CA 92705					
UNITED STATES	DISTRICT COURT				
CENTRAL DISTRICT OF CALIFORNIA					
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DIGITECHTMA OF TECHNOLOGIES, LLC					
A Comment of the Comm	SACV12-02122 AG (RNBx)				
PLAINTIFF(S) V.					
<b>V.</b>					
ASUS COMPUTER INTERNATIONAL and					
ASUSTEK COMPUTER INC.	SUMMONS				
DEFENDANT(S).					
2222.0.1.11(6).					
TO: DEFENDANT(S):					
A lawsuit has been filed against you.					
Within 21 days after service of this symmen	scon you (not counting the day you received it), you				
must serve on the plaintiff an answer to the attached $\square$	omplaint $\square$ amended complaint				
□ counterclaim □ cross-claim or a motion under Rule 1	2 of the Federal Rules of Civil Procedure The answer				
or motion must be served on the plaintiff's attorney Joh	in J. Edmonds , whose address is				
1851 East First Street, Suite 900, Santa Afa, California 92705 . If you fail to do so					
judgment by default will be entered against you for the r	elief demanded in the complaint. You also must file				
your answer or motion with the court.					
	Clerk, U.S. District Court				
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Dated: DEC - 7 2012	Ву:				
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[Use 60 days if the defendant is the United States or a United States 60 days by Rule 12(a)(3)].	agency, or is an officer or employee of the United States. Allowed				
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SUMMONS

CV-01A (10/11