IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

OPTIMUM IMAGING TECHNOLOGIES LLC,	§	
	§	
Plaintiff,	§	
	§	**JURY TRIAL DEMANDED**
v.	§	
	§	
OLYMPUS CORPORATION and OM DIGITAL SOLUTIONS,	§	**CIVIL ACTION NO. _____**
	§	
Defendants.	§	
	§	
	§	

PLAINTIFF'S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Optimum Imaging Technologies LLC ("OIT" or "Plaintiff") files this Complaint in the Eastern District of Texas (the "District") against Defendants Olympus Corporation and OM Digital Solutions Corporation ("Defendant(s)," "Olympus," "OM") for infringement of U.S. Patent Nos. 7,612,805 (the "'805 patent"), 8,451,339 (the "'339 patent"), 10,873,685 (the "'685 Patent"), and 10,877,266 (the "'266 patent"), which are collectively referred to as the "Asserted Patents."

THE PARTIES

1. Plaintiff OIT is a Texas limited liability company founded in 2009 and with an address at 8701 Shoal Creek Blvd. #401, Austin, Texas 78757.

2. On information and belief, Defendant Olympus Corporation is a corporation organized under the laws of Japan, with its principal place of business located at Shinjuku Monolith, 3-1 Nishi-Shinjuku 2-chome, Shinjuku-ku, Tokyo 163-0914, Japan. Olympus Corporation may be served with process via its registered agents and via its corporate officers.

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3. On information and belief, Defendant OM Digital Solutions Corporation is a corporation organized under the laws of Japan with its principal place of business located at Takakuramachi 49-3, Hachioji-City, Tokyo 192-0033, Japan. OM Digital Solutions Corporation may be served with process via its registered agents and via its corporate officers.

4. On information and belief, effective January 2021, the products accused herein ceased being manufactured, offered for sale, sold and/or imported into the United States by Defendant Olympus Corporation and began to be offered for manufactured, offered for sale, sold and/or imported into the United States by Defendant OM Digital Solutions Corporation. References to the activities of "Defendant" or "Olympus" shall be to the activities of Olympus Corporation prior to January 2021 and to the activities of OM Digital Solutions Corporation beginning in January 2021 and running to the present date.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others.

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this State and this District, including: (A) at least part of its infringing activities alleged herein which purposefully avail the Defendant of the privilege of conducting those activities in this state and this District and, thus, submits itself to the jurisdiction of this court; and (B) regularly doing or soliciting business, engaging in other persistent conduct targeting residents of Texas and this District, and/or deriving substantial revenue from infringing goods offered for

sale, sold, and imported and services provided to and targeting Texas residents and residents of this District vicariously through and/or in concert with its alter egos, intermediaries, agents, distributors, partners, subsidiaries, clients, customers, affiliates, and/or consumers.

8. Furthermore, upon information and belief, Defendant has purposefully and voluntarily placed one or more infringing products into the stream of commerce with the expectation that they will be purchased and/or used by residents of this judicial District, including by directly and indirectly working with distributors, and other entities located in the State of Texas, to ensure the accused products reach the State of Texas and this judicial District, including in this Division. For example, Olympus sells its cameras online via websites such as Amazon.com as well as in brick-and-mortar stores including Best Buy stores located in Beaumont, Sherman, Texarkana, and Tyler.

9. Defendant also maintains commercial websites accessible to residents of the State of Texas and this judicial District, through which Defendant promotes and facilitates sales of the infringing products. For example, Olympus' websites omsystem.com and om-digitalsolutions.com are accessible to consumers in the United States, including those in the State of Texas and this judicial District. Olympus not only supplies information about the Infringing Products at these sites, but also allows consumers to directly purchase the Infringing Products. Olympus also sells the Infringing Products through online stores such as Amazon.com, as well as brick-and-mortar stores located in this judicial District, including but not limited to Best Buy stores located in Beaumont, Sherman, Texarkana, and Tyler.

10. Thus, Defendant has established minimum contacts with the State of Texas and the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

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11. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b), (c) and 1400(b) because (i) Defendant has done and continues to do business in this district; (ii) Defendant has committed and continues to commit acts of patent infringement in this district, including making, using, offering to sell, and/or selling accused products in this district, and/or importing accused products into this district, including by internet sales and sales via retail and wholesale stores, and/or inducing others to commit acts of patent infringement in this district; and (iii) Defendant is foreign entity. 28 U.S.C. § 1391(c)(3) provides that "a defendant not resident in the United States may be sued in any judicial district." *See also Brunette Machine Works v. Kockum Industries, Inc.*, 406 U.S. 706 (1972), holding that venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b) when Defendant is a foreign entity.

FACTUAL ALLEGATIONS

12. Neal Solomon is the sole inventor of the Asserted Patents: the '805 Patent, titled "Digital imaging system and methods for selective image filtration"; the '339 Patent, titled "Digital imaging system for correcting image aberrations"; the '685 Patent, titled "Digital imaging system for correcting video image aberrations"; and the '266 Patent, titled "Digital camera with wireless image transfer." The Asserted Patents share a specification and a priority date at least as early as July 11, 2006.

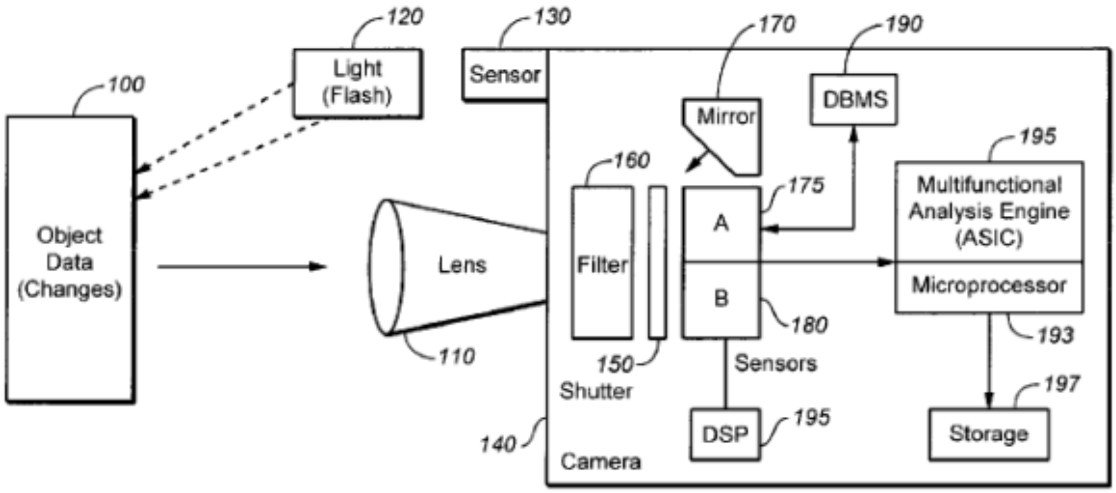
13. OIT, a Texas limited liability company formed by Mr. Solomon in 2009, owns the Asserted Patents.

14. The Asserted Patents are directed toward digital imaging systems and methods, namely in-camera systems for filtering and correcting image aberrations or distortions. The systems as claimed relate to a combination of hardware and software throughout the cameras. The Abstract for the '339 patent, for example, states as follows:

> A system is disclosed for the automated correction of optical and digital aberrations in a digital imaging system. The system includes (a) digital filters, (b) hardware modifications and (c) digital system corrections. The system solves numerous problems in still and video photography that are presented in the digital imaging environment.

15. The Asserted Patents describe aberration correction systems and methods particular to various types of lenses, a database system for useful access to those systems and methods, and specially designed processors which operate those systems and methods to correct specifically enumerated aberrations. The Asserted Patents describe a claimed combination of dedicated elements and processes that were not, at the time of invention, well-understood, routine, or conventional.

16. An exemplary embodiment is shown in Figure 1 of each of the Asserted Patents:



17. Defendant imports, has imported, sells, has sold for sale and/or offers for sale in the United States cameras and lenses (and components of the same) that are not made or licensed by OIT and that infringe the Asserted Patents ("Infringing Products"). [Importation Evidence]

18. Olympus markets its Infringing Products specifically extolling the functionality of the Asserted Patents. As one example, Olympus touts its "shading compensation" (i.e., vignetting correction) in its 2022 OM System OM-5 Instruction Manual (at p. 289). Upon information and

belief, firmware facilitating the infringements can be downloaded. See https:// explore-omsystem.com/us/en/firmware (last visited on Aug. 31, 2023.)

19. On information and belief, all Olympus digital cameras that include digital lens aberration correction imported, sold, offered for sale or used in the United States within the statutory period are Infringing Products, including but not limited to the following: OM-1; OM-5; OM-D E-M1; OM-D E-M1 Mark 11; OM-D E-M1 Mark 111; OM-D E-M10 Mark 11; OM-D E-M1X; OM-D E-M5 Mark 11; OM-D E-M5 Mark 111; PEN E-PL7; PEN E-PL8; and PEN-F. The model numbers listed in this complaint are exemplary and not exhaustive. These cameras use both zoom and fixed focal lenses, and also have video capabilities.

COUNT I

(Infringement of the ’805 Patent)

20. Plaintiff incorporates and re-alleges the allegations contained in paragraphs 1 through 19 herein by reference.

21. The ’805 Patent entitled “Digital imaging system and methods for selective image filtration” was duly and legally issued by the U.S. Patent and Trademark Office on November 3, 2009, from Application No. 11/825/521, published at US2008/0174678 on Jul. 24, 2008, claiming priority to provisional application 60/807,065 filed on Jul. 11, 2006. A true and accurate copy of the ’805 Patent is attached hereto as Exhibit A.

22. Each and every claim of the ’805 Patent is valid and enforceable, and each enjoys a statutory presumption of validity under 35 U.S.C. § 282.

23. OIT exclusively owns all rights, title, and interest in and to the ’805 Patent and possesses the exclusive right of recovery, including the exclusive right to recover for past, present and future infringement.

24. Representative claims 1 and 9 are as follows:

25. Claim 1 of the ’805 Patent recites:

A digital imaging system for image filtration comprising:
a digital camera mechanism, an optical lens mechanism, a digital sensor, a microprocessor, a digital signal processor, an application specific integrated circuit, system software, a database management system and a memory storage sub-system;
wherein the optical lens mechanism is a fixed focal length;
wherein the aberrations from the optical lens mechanism are corrected by applying digital filtration by using the application specific integrated circuit and the digital signal processor,
wherein the microprocessor is used to provide digital and optical data to the digital signal processor,
wherein the system software is organized to identify specific optical aberrations and to access the database to identify specific corrections to the aberrations;
wherein the system software forwards the data from the digital sensor to the digital processor;
wherein the digital signal processor selects a specific procedure to optimize the image and corrects the aberrations;
wherein the data are forwarded from the digital sensor to the digital signal processor by an application specific integrated circuit;
wherein the digital signal processor applies a fast Fourier transform to a data file in order to satisfy a user specified special effects function;
wherein the digital signal processor modifies the data file by applying the special effects function; and
wherein the modified data file consisting of the digital data optimized from the aberrations that are corrected from the original optical image is stored in memory.

26. Claim 9 of the ’805 Patent recites:

A digital imaging system for image filtration comprising:
a digital camera mechanism, an optical lens mechanism, a digital sensor, a microprocessor, a digital signal processor, an application specific integrated circuit, system software, a database management system and a memory storage sub-system;
wherein the aberrations from the optical lens mechanism are corrected by applying digital filtration by using the application specific integrated circuit and the digital signal processor;
wherein the microprocessor is used to provide digital and optical data to the digital signal processor;
wherein the system software is organized to identify specific optical aberrations and to access the database to identify specific corrections to the aberrations;

wherein the system software forwards the data from the digital sensor to the digital processor;
wherein the digital signal processor selects a specific procedure to optimize the image and corrects the aberrations;
wherein the lens type is a zoom lens;
wherein the lens focal length alternates from specific fixed focal length lens settings in a succession of steps;
wherein optical aberrations are corrected with digital filtration to modify multiple images from different focal lengths in a succession of data files; and
wherein the modified data file consisting of the digital data optimized from the aberrations that are corrected from the original optical image is stored in memory.

27. Each Infringing Product is a digital camera that constitutes a digital imaging system for image filtration comprising, upon information and belief, a digital camera mechanism, an optical lens mechanism, a digital sensor, a microprocessor, a digital signal processor, an application specific integrated circuit, system software, a database management system, and a memory storage sub-system. The cameras require optical lens mechanisms to operate, as seen, for example, with the OM-5:

Specifications

Camera

Product type	
Product type	Digital camera with interchangeable Micro Four Thirds Standard lens system
Lens	M.ZUIKO DIGITAL, Micro Four Thirds System Lens
Lens mount	Micro Four Thirds mount
Equivalent focal length on a 35 mm film camera	Approx. twice the focal length of the lens

Source: 2022 OM System OM-5 Instruction Manual (at p. 452).

28. On information and belief, each of the Infringing Products is further configured wherein the aberrations from the optical lens mechanism are corrected by applying digital filtration by using the application specific integrated circuit and the digital signal processor; wherein the microprocessor is used to provide digital and optical data to the digital signal processor; wherein the system software is organized to identify specific optical aberrations and to access the database to identify specific corrections to the aberrations; wherein the system software forwards the data from the digital sensor to the digital processor; wherein the digital signal processor selects a specific procedure to optimize the image and corrects the aberrations; wherein the lens type is a zoom lens; wherein the lens focal length alternates from specific fixed focal length lens settings in a succession of steps; wherein optical aberrations are corrected with digital filtration to modify multiple images from different focal lengths in a succession of data files; and wherein the modified data file consisting of the digital data optimized from the aberrations that are corrected from the original optical image is stored in memory.

29. Each of the Infringing Products comprises an optical lens mechanism that can be a fixed focal length lens, such as the Olympus M.Zuiko Digital 17mm f/1.8 lens, or a zoom lens, such

as the OM System M.Zuiko Digital ED 14-150mm f/4-5.6 II Lens, seen below, which can be affixed to Infringing Products like the OM-5:

Source: *OM SYSTEM M.Zuiko Digital ED 14-150mm f/4-5.6 II Lens*, B&H, https://www.bhphotovideo.com/c/product/1744200-REG/om_system_v335170bw000_m_zuiko_digital_ed_14_150mm.html (last visited Oct. 11, 2023).

30. The Infringing Products also comprise a digital sensor. For example, the OM-5 uses a "Live MOS" sensor. 2022 OM System OM-5 Instruction Manual (at p. 452).

31. On information and belief, the Infringing Products also store and use database data for lens aberration correction. For example, as discussed further below, the OM-5 contains photo shooting functionality that automatically corrects optical aberrations (e.g., Shading Comp.) based on the lens being used, which necessarily requires the use of database data stored on the OM-5. Further, the camera system software that supports shooting functions like Shading Comp. can, upon information and belief, be updated via download from Olympus. *See OM System Firmware Updates*, OM SYSTEM, https://explore-omsystem.com/us/en/firmware (last visited Aug. 31, 2023.) Further, on information and belief, the OM-5 is configured to correct image distortion due to the lens being used. For example, Olympus states that the OM-5 "[r]educes distortion up to the edges of the shot for high resolution." *Interchangeable lens camera – OM-5 – Features – Compact,*

Lightweight, and High Image Quality, OM SYSTEM, https://asia.omsystem.com/product/dslr/om5/feature.html (last visited Sept. 1, 2023).

32. Olympus Infringing Products, upon information and belief, use at least one application specific integrated circuit (ASIC) and a digital signal processor as well as a microprocessor. For example, the OM-5 contains a TruePic IX image processing engine, which implements this functionality. *See Home / OM-5 - Tech Specs*, OM System, https://explore.omsystem.com/us/en/om-5?olycmp=sem--cpc-google-om%205%20camera-e#tech-specs (last visited Sept. 1, 2023). According to Olympus, the "high-performance M.Zuiko lenses, 5-axis image stabilization, the 20M Live MOS sensor, and the TruePic IX image processor all combine" to process image data into digital photographs. *Interchangeable lens camera – OM-5 – Features – Compact, Lightweight, and High Image Quality*, OM SYSTEM.

33. On information and belief, the Infringing Products include onboard software that directs the digital signal processor to select a specific procedure to optimize the image and correct aberrations wherein the lens focal length alternates from specific fixed focal length lens settings in a succession of steps; wherein optical aberrations are corrected with digital filtration to modify multiple images from different focal lengths in a succession of data files. For example, the OM-5 includes a Shading Comp. (i.e., vignetting correction) function that corrects multiple types of optical aberrations:

Shading Comp.	Choose **[On]** to correct peripheral illumination according to the type of lens. ⓘ Compensation is not available for teleconverters or extension tubes. ⓘ Noise may be visible at the edges of photographs taken at high ISO sensitivities.

Source: 2022 OM System OM-5 Instruction Manual (at 452).

Because the Lens Shading Comp. (i.e., vignetting correction) functionality automatically corrects aberrations, it necessarily corrects and modifies aberrations at different focal lengths based on the focal length chosen when using the zoom lens.

34. On information and belief, the system software in the Infringing Products forwards data from the digital sensor to the digital processor. For example, according to Olympus, the "high-performance M.Zuiko lenses, 5-axis image stabilization, the 20M Live MOS sensor, and the TruePic IX image processor all combine" to process image data into digital photographs. *Interchangeable lens camera – OM-5 – Features – Compact, Lightweight, and High Image Quality*, OM SYSTEM. The data collected by the sensor must necessarily be forwarded to the image processor in order to process the image.

35. On information and belief, the Infringing Products store in memory the modified data file consisting of the digital data optimized from the original optical image that has had its optical aberrations corrected. For example, third party memory cards can be used with the OM-5 to store images. 2022 OM System OM-5 Instruction Manual (at p. 422).

36. Defendant has been and is now directly infringing, literally and/or under the doctrine of equivalents because without authority it makes, uses, offers to sell, sells, and/or imports within the United States the patented invention of one or more claims, including at least claims 1 and 9 of the '805 Patent. Defendant is therefore liable to OIT for patent infringement under 35 U.S.C. § 271(a).

37. Further, Defendant's customers and end users who offer for sale, sell, and/or use the Infringing Products directly infringe at least claims 1 and 9 of the '805 Patent.

38. Furthermore, Defendant has been and is now liable under 35 U.S.C. § 271(b) for actively inducing infringement of one or more claims including at least claims 1 and 9 of the '805

Patent. On information and belief, as set forth below, Olympus has or should have had actual notice of the ’805 Patent since at least 2016. Additionally, Olympus has had actual notice of the ’805 Patent since at least its receipt of OIT’s complaint. Despite such knowledge, Olympus has intended that its customers and end users infringe the ’805 Patent by selling, offering for sale, importing, and/or using the Infringing Products in the United States, and has actively induced such infringement by instructing users in the United States to practice ’805 Patent claims in their user manuals, posted videos and/or other materials with knowledge of the ’805 Patent as set forth in this complaint and with knowledge of the ’805 Patent since at least the time Olympus became aware of the ’805 Patent.

39. Further, Defendant has been and is now liable under 35 U.S.C. § 271(c) because it offers to sell or sells within the United States or imports into the United States a component of a machine patented by one or more claims including at least claims 1 and 9 of the ’805 Patent that constitutes a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

40. As a result of Defendant’s infringement of the ’805 Patent, OIT has suffered and continues to suffer damages. Thus, OIT is entitled to recover from Defendant the damages OIT sustained as a result of Defendant’s wrongful and infringing acts in an amount no less than a reasonable royalty, together with interest and costs fixed by this Court under 35 U.S.C. § 284.

41. OIT has suffered damage because of the infringing activities of Defendant, its officers, agents, servants, employees, associates, partners, and other persons who are in active concert or participation therewith, and OIT will continue to suffer irreparable harm for which there

is no adequate remedy at law unless Defendant's infringing activities are preliminarily and permanently enjoined by this Court.

42. Defendant's infringement of the '805 Patent was, is, and continues to be deliberate and willful. The '805 Patent application was published on July 24, 2008, and the '805 Patent issued on November 3, 2009. On information and belief, the '805 Patent was cited by a Japanese patent examiner during the prosecution of Olympus' Japanese patent, JP5948121B2. Thus, Olympus has had actual notice of the '805 Patent at least as early as July 6, 2016, the issue date of JP5948121B2. Further, on information and belief, the '805 Patent was also cited by examiners during the prosecution of two other Olympus patents: JP6061619B2, issued on January 18, 2017; and JP6284408B2, issued on February 28, 2018. Thus, Olympus was informed of the disclosures of the '805 Patent, but continued to infringe, nonetheless. Moreover, Olympus was and is on notice of the '805 Patent at least as early as the filing of the Complaint in this lawsuit, yet continued and continues to infringe the '805 Patent.

COUNT II
(Infringement of the '339 Patent)

43. Plaintiff incorporates and re-alleges the allegations contained in paragraphs 1 through 42 herein by reference.

44. The '339 Patent entitled "Digital imaging system for correcting image aberrations" was duly and legally issued by the U.S. Patent and Trademark Office on May 28, 2013, from Application No. 12/586,221, claiming priority to the '805 Patent application as well as the provisional application 60/807,065 filed on Jul. 11, 2006. A true and accurate copy of the '339 Patent is attached hereto as Exhibit B.

45. Each and every claim of the '339 Patent is valid and enforceable, and each enjoys a statutory presumption of validity under 35 U.S.C. § 282.

46. OIT exclusively owns all rights, title, and interest in and to the ’339 Patent and possesses the exclusive right of recovery, including the exclusive right to recover for past, present and future infringement.

47. Representative claims 1 and 14 are as follows:

48. Claim 1 of the ’339 Patent recites:

A digital imaging system for correcting image aberrations comprising:
a digital camera mechanism, an optical lens mechanism, a digital sensor, a microprocessor, a digital signal processor, system software, a database management system and a memory storage sub-system;
wherein the optical lens mechanism is a fixed focal length lens;
wherein a microprocessor uses system software to identify at least one optical aberration by accessing the database;
wherein the microprocessor uses the database to identify at least one algorithm to use to correct the at least one optical aberration;
wherein when the image file is captured by the digital sensor the digital file is forwarded to the digital signal processor;
wherein the image file with at least one optical aberration is corrected by applying digital filtration by using at least one algorithm in the digital signal processor; and
wherein the modified digital file consisting of the digital data optimized from the at least one optical aberration that are corrected from the original optical image is stored in memory.

49. Claim 14 of the ’339 Patent recites:

A digital imaging system for correcting image aberrations comprising:
a digital camera mechanism, an optical lens mechanism, a digital sensor, a microprocessor, a digital signal processor, system software, a database management system and a memory storage sub-system;
wherein the optical lens mechanism is a zoom lens;
wherein the zoom lens changes focal length positions;
wherein when the image file is captured by the digital sensor the file is forwarded to the digital signal processor and to memory;
wherein the microprocessor uses system software to access the database to identify at least one optical aberration in the image file at any focal length of a zoom lens configuration;
wherein the microprocessor accesses the database to obtain at least one filtration correction algorithm to the optical aberrations and forwards the at least one filtration algorithms to the digital signal processor;
wherein the image file is forwarded to the digital signal processor which applies at

least one filtration algorithm to optimize the image and corrects the at least one optical aberration at the specific focal length in the zoom lens configuration; and

wherein the modified image file consisting of the digital data optimized from the at least one optical aberration of a specific focal length of the zoom lens that are corrected from the original optical image is stored in memory.

50. Each Infringing Product is a digital camera that constitutes a digital imaging system for image filtration comprising, upon information and belief, a digital camera mechanism, an optical lens mechanism, a digital sensor, a microprocessor, a digital signal processor, an application specific integrated circuit, system software, a database management system, and a memory storage sub-system. The cameras require optical lens mechanisms to operate, as seen, for example, with the OM-5:

Specifications

Camera

Product type	
Product type	Digital camera with interchangeable Micro Four Thirds Standard lens system
Lens	M.ZUIKO DIGITAL, Micro Four Thirds System Lens
Lens mount	Micro Four Thirds mount
Equivalent focal length on a 35 mm film camera	Approx. twice the focal length of the lens

Source: 2022 OM System OM-5 Instruction Manual (at p. 452).

51. On information and belief, each of the Infringing Products is further configured wherein the aberrations from the optical lens mechanism are corrected by applying digital filtration by using the application specific integrated circuit and the digital signal processor; wherein the microprocessor is used to provide digital and optical data to the digital signal processor; wherein the system software is organized to identify specific optical aberrations and to access the database to identify specific corrections to the aberrations; wherein the system software forwards the data from the digital sensor to the digital processor; wherein the digital signal processor selects a specific procedure to optimize the image and corrects the aberrations; wherein the lens type is a zoom lens; wherein the lens focal length alternates from specific fixed focal length lens settings in a succession of steps; wherein optical aberrations are corrected with digital filtration to modify multiple images from different focal lengths in a succession of data files; and wherein the modified data file consisting of the digital data optimized from the aberrations that are corrected from the original optical image is stored in memory.

52. Each of the Infringing Products comprises an optical lens mechanism that can be a fixed focal length lens, such as the Olympus M.Zuiko Digital 17mm f/1.8 lens, or a zoom lens, such as the OM System M.Zuiko Digital ED 14-150mm f/4-5.6 II Lens, seen below, which can be affixed to Infringing Products like the OM-5:

Source: *OM SYSTEM M.Zuiko Digital ED 14-150mm f/4-5.6 II Lens*, B&H.

53. The Infringing Products also comprise a digital sensor. For example, the OM-5 uses a "Live MOS" sensor. 2022 OM System OM-5 Instruction Manual (at p. 452).

54. On information and belief, the Infringing Products also store and use database data for lens aberration correction. For example, as discussed further below, the OM-5 contains photo shooting functionality that automatically corrects optical aberrations (e.g., Shading Comp.) based on the lens being used, which necessarily requires the use of database data stored on the OM-5. Further, the camera system software that supports shooting functions like Shading Comp. can, upon information and belief, be updated via download from Olympus. *See OM System Firmware Updates*, OM SYSTEM, https://explore-omsystem.com/us/en/firmware (last visited Aug. 31, 2023.) Further, on information and belief, the OM-5 is configured to correct image distortion due to the lens being used. For example, Olympus states that the OM-5 "[r]educes distortion up to the edges of the shot for high resolution." *Interchangeable lens camera – OM-5 – Features – Compact, Lightweight, and High Image Quality*, OM SYSTEM, https://asia.omsystem.com/product/dslr/om5/feature.html (last visited Sept. 1, 2023).

55. Olympus Infringing Products, upon information and belief, use at least one application specific integrated circuit (ASIC) and a digital signal processor as well as a microprocessor. For example, the OM-5 contains a TruePic IX image processing engine, which implements this functionality. *See Home / OM-5 - Tech Specs*, OM System, https://explore.omsystem.com/us/en/om-5?olycmp=sem--cpc-google-om%205%20camera-e#tech-specs (last visited Sept. 1, 2023). According to Olympus, the "high-performance M.Zuiko lenses, 5-axis image stabilization, the 20M Live MOS sensor, and the TruePic IX image processor

all combine" to process image data into digital photographs. *Interchangeable lens camera – OM-5 – Features – Compact, Lightweight, and High Image Quality*, OM SYSTEM.

56. On information and belief, the Infringing Products include onboard software that directs the digital signal processor to select a specific procedure to optimize the image and correct aberrations wherein the lens focal length alternates from specific fixed focal length lens settings in a succession of steps; wherein optical aberrations are corrected with digital filtration to modify multiple images from different focal lengths in a succession of data files. For example, the OM-5 includes a Shading Comp. (i.e., vignetting correction) function that corrects multiple types of optical aberrations:

Shading Comp.	Choose **[On]** to correct peripheral illumination according to the type of lens. ⓘ Compensation is not available for teleconverters or extension tubes. ⓘ Noise may be visible at the edges of photographs taken at high ISO sensitivities.

Source: 2022 OM System OM-5 Instruction Manual (at 452).

Because the Lens Shading Comp. (i.e., vignetting correction) functionality automatically corrects aberrations, it necessarily corrects and modifies aberrations at different focal lengths based on the focal length chosen when using the zoom lens.

57. On information and belief, the system software in the Infringing Products forwards data from the digital sensor to the digital processor. For example, according to Olympus, the "high-performance M.Zuiko lenses, 5-axis image stabilization, the 20M Live MOS sensor, and the TruePic IX image processor all combine" to process image data into digital photographs. *Interchangeable lens camera – OM-5 – Features – Compact, Lightweight, and High Image Quality*, OM SYSTEM. The data collected by the sensor must necessarily be forwarded to the image processor in order to process the image.

58. On information and belief, the Infringing Products store in memory the modified data file consisting of the digital data optimized from the original optical image that has had its optical aberrations corrected. For example, third party memory cards can be used with the OM-5 to store images. 2022 OM System OM-5 Instruction Manual (at p. 422).

59. Defendant has been and is now directly infringing, literally and/or under the doctrine of equivalents because without authority it makes, uses, offers to sell, sells, and/or imports within the United States the patented invention of one or more claims, including at least claims 1 and 14 of the ’339 Patent. Defendant is therefore liable to OIT for patent infringement under 35 U.S.C. § 271(a).

60. Further, Defendant’s customers and end users who offer for sale, sell, and/or use the Infringing Products directly infringe at least claims 1 and 14 of the ’339 Patent.

61. Furthermore, Defendant has been and is now liable under 35 U.S.C. § 271(b) for actively inducing infringement of one or more claims including at least claims 1 and 14 of the ’339 patent. On information and belief, as set forth below, Olympus has or should have had actual notice of the disclosures of the ’339 Patent since at least 2016. Additionally, Olympus has had actual notice of the ’339 Patent since at least its receipt of OIT’s complaint. Despite such knowledge, Olympus has intended that its customers and end users infringe the ’339 Patent by selling, offering for sale, importing, and/or using the Infringing Products in the United States, and has actively induced such infringement by instructing users in the United States to practice ’339 Patent claims in their user manuals, posted videos and/or other materials with knowledge of the ’339 Patent as set forth in this complaint and with knowledge of the ‘339 patent since at least the time Olympus became aware of the ’339 Patent.

62. Further, Defendant has been and is now liable under 35 U.S.C. § 271(c) because it offers to sell or sells within the United States or imports into the United States a component of a machine patented by one or more claims including at least claims 1 and 14 of the '339 patent that constitutes a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

63. As a result of Defendant's infringement of the '339 Patent, OIT has suffered and continues to suffer damages. Thus, OIT is entitled to recover from Defendant the damages OIT sustained as a result of Defendant's wrongful and infringing acts in an amount no less than a reasonable royalty, together with interest and costs fixed by this Court under 35 U.S.C. § 284.

64. OIT has suffered damage because of the infringing activities of Defendant, its officers, agents, servants, employees, associates, partners, and other persons who are in active concert or participation therewith, and OIT will continue to suffer irreparable harm for which there is no adequate remedy at law unless Defendant's infringing activities are preliminarily and permanently enjoined by this Court.

65. Defendant's infringement of the '339 Patent was, is, and continues to be deliberate and willful. The '805 Patent application with the same specification as the '339 Patent was published on July 24, 2008, and the '805 Patent issued on November 3, 2009. On information and belief, the '805 Patent was cited by a Japanese patent examiner during the prosecution of Olympus' Japanese patent, JP5948121B2. Thus, Olympus has had actual notice of the disclosures of the '339 Patent at least as early as July 6, 2016, the issue date of JP5948121B2. Further, on information and belief, the '805 Patent was also cited by examiners during the prosecution of two other Olympus patents: JP6061619B2, issued on January 18, 2017; and JP6284408B2, issued on February 28,

2018. Thus, Olympus was informed of the disclosures of the ’339 Patent, but continued to infringe, nonetheless. Moreover, Olympus was and is on notice of the ’339 Patent at least as early as the filing of the Complaint in this lawsuit, yet continued and continues to infringe the ’339 Patent.

COUNT III
(Infringement of the ‘685 Patent)

66. Plaintiff incorporates and re-alleges the allegations contained in paragraphs 1 through 65 herein by reference.

67. The ’685 Patent entitled “Digital imaging system for correcting video image aberrations” was duly and legally issued by the U.S. Patent and Trademark Office on December 22, 2020, from Application No. 13/691,805, claiming priority to the ’805 Patent application as well as the provisional application 60/807,065 filed on Jul. 11, 2006. A true and accurate copy of the ’685 Patent is attached hereto as Exhibit C.

68. Each and every claim of the ’685 Patent is valid and enforceable, and each enjoys a statutory presumption of validity under 35 U.S.C. § 282.

69. OIT exclusively owns all rights, title, and interest in and to the ’685 Patent and possesses the exclusive right of recovery, including the exclusive right to recover for past, present and future infringement.

70. Representative claim 1 of the ’685 Patent recites:

> A digital imaging system for correcting optical image aberrations in a digital video, comprising:
> a digital video camera including in-camera software, an optical lens mechanism, at least one digital sensor for capturing the digital video, an integrated circuit including; a digital signal processor configured to access a database management system including a plurality of optical image aberration corrections, and a memory storage sub-system;
> wherein the optical lens mechanism is a zoom lens or a fixed focal length lens;
> wherein the integrated circuit uses the in-camera software to identify at least one

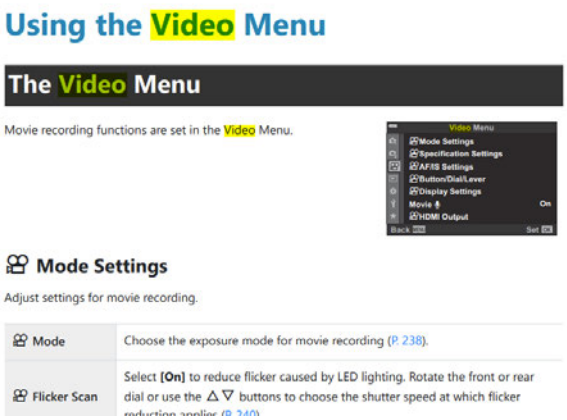
optical image aberration and to correct the at least one optical image aberration in at least one frame of the digital video using at least one of the plurality of optical image aberration corrections in the database;

wherein the video is captured by the at least one digital sensor and is forwarded to the digital signal processor;

wherein the video image file with the at least one optical image aberration is corrected by applying digital filtration using the digital signal processor; and

wherein the corrected video consisting of the digital data optimized from the at least one optical image aberration that are corrected from the original video image is stored in the memory storage sub-system.

71. One or more of the Infringing Product can function as a digital video camera. For instance, the 2022 OM System OM-5 Instruction Manual (at p. 233) shows the following digital video menu in part as follows:



72. Each Infringing Product is a digital camera that constitutes a digital imaging system for image filtration comprising, upon information and belief, a digital camera mechanism, an optical lens mechanism, a digital sensor, a microprocessor, a digital signal processor, an application specific integrated circuit, system software, a database management system, and a memory storage sub-system. The cameras require optical lens mechanisms to operate, as seen, for example, with the OM-5:

Specifications

Camera

Product type	
Product type	Digital camera with interchangeable Micro Four Thirds Standard lens system
Lens	M.ZUIKO DIGITAL, Micro Four Thirds System Lens
Lens mount	Micro Four Thirds mount
Equivalent focal length on a 35 mm film camera	Approx. twice the focal length of the lens

Source: 2022 OM System OM-5 Instruction Manual (at p. 452).

73. On information and belief, each of the Infringing Products is further configured wherein the aberrations from the optical lens mechanism are corrected by applying digital filtration by using the application specific integrated circuit and the digital signal processor; wherein the microprocessor is used to provide digital and optical data to the digital signal processor; wherein the system software is organized to identify specific optical aberrations and to access the database to identify specific corrections to the aberrations; wherein the system software forwards the data from the digital sensor to the digital processor; wherein the digital signal processor selects a specific procedure to optimize the image and corrects the aberrations; wherein the lens type is a zoom lens; wherein the lens focal length alternates from specific fixed focal length lens settings in a succession of steps; wherein optical aberrations are corrected with digital filtration to modify multiple images

from different focal lengths in a succession of data files; and wherein the modified data file consisting of the digital data optimized from the aberrations that are corrected from the original optical image is stored in memory.

74. Each of the Infringing Products comprises an optical lens mechanism that can be a fixed focal length lens, such as the Olympus M.Zuiko Digital 17mm f/1.8 lens, or a zoom lens, such as the OM System M.Zuiko Digital ED 14-150mm f/4-5.6 II Lens, seen below, which can be affixed to Infringing Products like the OM-5:

Source: *OM SYSTEM M.Zuiko Digital ED 14-150mm f/4-5.6 II Lens*, B&H.

75. The Infringing Products also comprise a digital sensor. For example, the OM-5 uses a "Live MOS" sensor. 2022 OM System OM-5 Instruction Manual (at p. 452).

76. On information and belief, the Infringing Products also store and use database data for lens aberration correction. For example, as discussed further below, the OM-5 contains photo shooting functionality that automatically corrects optical aberrations (e.g., Shading Comp.) based on the lens being used, which necessarily requires the use of database data stored on the OM-5. Further, the camera system software that supports shooting functions like Shading Comp. can, upon information and belief, be updated via download from Olympus. *See OM System Firmware Updates*, OM SYSTEM, https://explore-omsystem.com/us/en/firmware (last visited Aug. 31, 2023.)

Further, on information and belief, the OM-5 is configured to correct image distortion due to the lens being used. For example, Olympus states that the OM-5 "[r]educes distortion up to the edges of the shot for high resolution." *Interchangeable lens camera – OM-5 – Features – Compact, Lightweight, and High Image Quality*, OM SYSTEM, https://asia.omsystem.com/product/dslr/om5/feature.html (last visited Sept. 1, 2023).

77. Olympus Infringing Products, upon information and belief, use at least one application specific integrated circuit (ASIC) and a digital signal processor as well as a microprocessor. For example, the OM-5 contains a TruePic IX image processing engine, which implements this functionality. *See Home / OM-5 - Tech Specs*, OM System, https://explore.omsystem.com/us/en/om-5?olycmp=sem--cpc-google-om%205%20camera-e#tech-specs (last visited Sept. 1, 2023). According to Olympus, the "high-performance M.Zuiko lenses, 5-axis image stabilization, the 20M Live MOS sensor, and the TruePic IX image processor all combine" to process image data into digital photographs. *Interchangeable lens camera – OM-5 – Features – Compact, Lightweight, and High Image Quality*, OM SYSTEM.

78. On information and belief, the Infringing Products include onboard software that directs the digital signal processor to select a specific procedure to optimize the image and correct aberrations wherein the lens focal length alternates from specific fixed focal length lens settings in a succession of steps; wherein optical aberrations are corrected with digital filtration to modify multiple images from different focal lengths in a succession of data files. For example, the OM-5 includes a Shading Comp. (i.e., vignetting correction) function that corrects multiple types of optical aberrations:

Shading Comp.	Choose **[On]** to correct peripheral illumination according to the type of lens. ⓘ Compensation is not available for teleconverters or extension tubes. ⓘ Noise may be visible at the edges of photographs taken at high ISO sensitivities.

Source: 2022 OM System OM-5 Instruction Manual (at 452).

Because the Lens Shading Comp. (i.e., vignetting correction) functionality automatically corrects aberrations, it necessarily corrects and modifies aberrations at different focal lengths based on the focal length chosen when using the zoom lens.

79. On information and belief, the system software in the Infringing Products forwards data from the digital sensor to the digital processor. For example, according to Olympus, the "high-performance M.Zuiko lenses, 5-axis image stabilization, the 20M Live MOS sensor, and the TruePic IX image processor all combine" to process image data into digital photographs. *Interchangeable lens camera – OM-5 – Features – Compact, Lightweight, and High Image Quality*, OM SYSTEM. The data collected by the sensor must necessarily be forwarded to the image processor in order to process the image.

80. On information and belief, the Infringing Products store in memory the modified data file consisting of the digital data optimized from the original optical image that has had its optical aberrations corrected. For example, third party memory cards can be used with the OM-5 to store images. 2022 OM System OM-5 Instruction Manual (at p. 422).

81. Defendant has been and is now directly infringing, literally and/or under the doctrine of equivalents because without authority it makes, uses, offers to sell, sells, and/or imports within the United States the patented invention of one or more claims, including at least claim 1 of the '685 Patent. Defendant is therefore liable to OIT for patent infringement under 35 U.S.C. § 271(a).

82. Further, Defendant's customers and end users who offer for sale, sell, and/or use the Infringing Products directly infringe at least claim 1 of the '685 Patent.

83. Furthermore, Defendant has been and is now liable under 35 U.S.C. § 271(b) for actively inducing infringement of one or more claims including at least claim 1 of the '685 Patent. On information and belief, as set forth below, Olympus has or should have had actual notice of the disclosures of the '685 Patent since at least 2016. Additionally, Olympus has had actual notice of the '685 Patent since at least its receipt of OIT's complaint. Despite such knowledge, Olympus has intended that its customers and end users infringe the '685 Patent by selling, offering for sale, importing, and/or using the Infringing Products in the United States, and has actively induced such infringement by instructing users in the United States to practice '685 Patent claims in their user manuals, posted videos and/or other materials with knowledge of the '685 Patent as set forth in this complaint and with knowledge of the '685 Patent since at least the time Olympus became aware of the '685 Patent.

84. Further, Defendant has been and is now liable under 35 U.S.C. § 271(c) because it offers to sell or sells within the United States or imports into the United States a component of a machine patented by one or more claims including at least claim 1 of the '685 Patent that constitutes a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

85. As a result of Defendant's infringement of the '685 Patent, OIT has suffered and continues to suffer damages. Thus, OIT is entitled to recover from Defendant the damages OIT sustained as a result of Defendant's wrongful and infringing acts in an amount no less than a reasonable royalty, together with interest and costs fixed by this Court under 35 U.S.C. § 284.

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86. OIT has suffered damage because of the infringing activities of Defendant, its officers, agents, servants, employees, associates, partners, and other persons who are in active concert or participation therewith, and OIT will continue to suffer irreparable harm for which there is no adequate remedy at law unless Defendant's infringing activities are preliminarily and permanently enjoined by this Court.

87. Defendant's infringement of the '685 Patent was, is, and continues to be deliberate and willful. The '805 Patent application with the same specification as the '685 patent was published on July 24, 2008, and the related '805 Patent issued on November 3, 2009. On information and belief, the '805 Patent was cited by a Japanese patent examiner during the prosecution of Olympus' Japanese patent, JP5948121B2. Thus, Olympus has had actual notice of the disclosures of the '339 Patent at least as early as July 6, 2016, the issue date of JP5948121B2. Further, on information and belief, the '805 Patent was also cited by examiners during the prosecution of two other Olympus patents: JP6061619B2, issued on January 18, 2017; and JP6284408B2, issued on February 28, 2018. Thus, Olympus was informed of the disclosures of the '685 Patent, but continued to infringe, nonetheless. Moreover, Olympus was and is on notice of the '685 Patent at least as early as the filing of the Complaint in this lawsuit, yet continued and continues to infringe the '685 Patent.

COUNT IV
(Infringement of the '266 Patent)

88. Plaintiff incorporates and re-alleges the allegations contained in paragraphs 1 through 87 herein by reference.

89. The '266 Patent entitled "Digital camera with wireless image transfer" was duly and legally issued by the U.S. Patent and Trademark Office on December 29, 2020, from Application No. 16/692,972, claiming priority to the '805 Patent application as well as the provisional

application 60/807,065 filed on Jul. 11, 2006. A true and accurate copy of the ’266 Patent is attached hereto as Exhibit D.

90. Each and every claim of the ’266 Patent is valid and enforceable, and each enjoys a statutory presumption of validity under 35 U.S.C. § 282.

91. OIT exclusively owns all rights, title, and interest in and to the ’266 Patent and possesses the exclusive right of recovery, including the exclusive right to recover for past, present and future infringement.

92. Representative claim 1 of the ’266 Patent recites:

> A method of processing one or more images with a digital camera, comprising:
> digitally processing at least one captured image, the processing using in-camera hardware and software that is configured to:
> perform a plurality of image correction algorithms,
> process image correction data stored in a database system,
> receive updated software and image correction data, and
> upgrade the digital camera with the updated software and image correction data;
> storing in memory one or more corrected images resulting from digitally processing the at least one captured image; and
> wirelessly transmitting at least one of the one or more corrected images,
> wherein the in-camera software and database system are upgradable to provide improved algorithms and correction data for correction of images.

93. One or more of the Infringing Product has wireless image transfer capabilities. For instance, the 2022 OM System OM-5 Instruction Manual (at 361) shows in part the following:

Wireless Connection Standby Setting for When the Camera Is On

You can choose whether the camera will be on standby for wireless connection with a smartphone or optional remote control when the power is on.

1. Highlight **[Wi-Fi/Bluetooth Settings]** in the Setup Menu and press ▷.

2. Highlight **[Bluetooth]** and press ▷.

   ⓘ Pair the camera with the smartphone or optional remote control before proceeding. **[Bluetooth]** cannot be selected unless the pairing has been completed.

3. Highlight the desired option and press the **OK** button.

94. Each Infringing Product is a digital camera that constitutes a digital imaging system for image filtration comprising, upon information and belief, a digital camera mechanism, an optical lens mechanism, a digital sensor, a microprocessor, a digital signal processor, an application specific integrated circuit, system software, a database management system, and a memory storage sub-system. The cameras require optical lens mechanisms to operate, as seen, for example, with the OM-5:

Specifications

Camera

Product type	
Product type	Digital camera with interchangeable Micro Four Thirds Standard lens system
Lens	M.ZUIKO DIGITAL, Micro Four Thirds System Lens
Lens mount	Micro Four Thirds mount
Equivalent focal length on a 35 mm film camera	Approx. twice the focal length of the lens

Source: 2022 OM System OM-5 Instruction Manual (at p. 452).

95. On information and belief, each of the Infringing Products is further configured wherein the aberrations from the optical lens mechanism are corrected by applying digital filtration by using the application specific integrated circuit and the digital signal processor; wherein the microprocessor is used to provide digital and optical data to the digital signal processor; wherein the system software is organized to identify specific optical aberrations and to access the database to identify specific corrections to the aberrations; wherein the system software forwards the data from the digital sensor to the digital processor; wherein the digital signal processor selects a specific procedure to optimize the image and corrects the aberrations; wherein the lens type is a zoom lens; wherein the lens focal length alternates from specific fixed focal length lens settings in a succession of steps; wherein optical aberrations are corrected with digital filtration to modify multiple images from different focal lengths in a succession of data files; and wherein the modified data file consisting of the digital data optimized from the aberrations that are corrected from the original optical image is stored in memory.

96. Each of the Infringing Products comprises an optical lens mechanism that can be a fixed focal length lens, sch as the Olympus M.Zuiko Digital 17mm f/1.8 lens, or a zoom lens, such

as the OM System M.Zuiko Digital ED 14-150mm f/4-5.6 II Lens, seen below, which can be affixed to Infringing Products like the OM-5:

Source: *OM SYSTEM M.Zuiko Digital ED 14-150mm f/4-5.6 II Lens*, B&H.

97. The Infringing Products also comprise a digital sensor. For example, the OM-5 uses a "Live MOS" sensor. 2022 OM System OM-5 Instruction Manual (at p. 452).

98. On information and belief, the Infringing Products also store and use database data for lens aberration correction. For example, as discussed further below, the OM-5 contains photo shooting functionality that automatically corrects optical aberrations (e.g., Shading Comp.) based on the lens being used, which necessarily requires the use of database data stored on the OM-5. Further, the camera system software that supports shooting functions like Shading Comp. can, upon information and belief, be updated via download from Olympus. *See OM System Firmware Updates*, OM SYSTEM, https://explore-omsystem.com/us/en/firmware (last visited Aug. 31, 2023.) Further, on information and belief, the OM-5 is configured to correct image distortion due to the lens being used. For example, Olympus states that the OM-5 "[r]educes distortion up to the edges of the shot for high resolution." *Interchangeable lens camera – OM-5 – Features – Compact, Lightweight, and High Image Quality*, OM SYSTEM, https://asia.omsystem.com/product/dslr/om5/feature.html (last visited Sept. 1, 2023).

99. Olympus Infringing Products, upon information and belief, use at least one application specific integrated circuit (ASIC) and a digital signal processor as well as a microprocessor. For example, the OM-5 contains a TruePic IX image processing engine, which implements this functionality. *See Home / OM-5 - Tech Specs*, OM System, https://explore.omsystem.com/us/en/om-5?olycmp=sem--cpc-google-om%205%20camera-e#tech-specs (last visited Sept. 1, 2023). According to Olympus, the "high-performance M.Zuiko lenses, 5-axis image stabilization, the 20M Live MOS sensor, and the TruePic IX image processor all combine" to process image data into digital photographs. *Interchangeable lens camera – OM-5 – Features – Compact, Lightweight, and High Image Quality*, OM SYSTEM.

100. On information and belief, the Infringing Products include onboard software that directs the digital signal processor to select a specific procedure to optimize the image and correct aberrations wherein the lens focal length alternates from specific fixed focal length lens settings in a succession of steps; wherein optical aberrations are corrected with digital filtration to modify multiple images from different focal lengths in a succession of data files. For example, the OM-5 includes a Shading Comp. (i.e., vignetting correction) function that corrects multiple types of optical aberrations:

Shading Comp.	Choose **[On]** to correct peripheral illumination according to the type of lens. ⓘ Compensation is not available for teleconverters or extension tubes. ⓘ Noise may be visible at the edges of photographs taken at high ISO sensitivities.

Source: 2022 OM System OM-5 Instruction Manual (at 452).

Because the Lens Shading Comp. (i.e., vignetting correction) functionality automatically corrects aberrations, it necessarily corrects and modifies aberrations at different focal lengths based on the focal length chosen when using the zoom lens.

101. On information and belief, the system software in the Infringing Products forwards data from the digital sensor to the digital processor. For example, according to Olympus, the "high-performance M.Zuiko lenses, 5-axis image stabilization, the 20M Live MOS sensor, and the TruePic IX image processor all combine" to process image data into digital photographs. *Interchangeable lens camera – OM-5 – Features – Compact, Lightweight, and High Image Quality*, OM SYSTEM. The data collected by the sensor must necessarily be forwarded to the image processor in order to process the image.

102. On information and belief, the Infringing Products store in memory the modified data file consisting of the digital data optimized from the original optical image that has had its optical aberrations corrected. For example, third party memory cards can be used with the OM-5 to store images. 2022 OM System OM-5 Instruction Manual (at p. 422).

103. Defendant has been and is now directly infringing, literally and/or under the doctrine of equivalents because without authority it makes, uses, offers to sell, sells, and/or imports within the United States the patented invention of one or more claims, including at least claim 1 of the '266 Patent. Defendant is therefore liable to OIT for patent infringement under 35 U.S.C. § 271(a).

104. Further, Defendant's customers and end users who offer for sale, sell, and/or use the Infringing Products directly infringe at least claim 1 of the '266 Patent.

105. Furthermore, Defendant has been and is now liable under 35 U.S.C. § 271(b) for actively inducing infringement of one or more claims including at least claim 1 of the '266 Patent. On information and belief, as set forth below, Olympus has or should have had actual notice of the

disclosures of the ’266 Patent since at least 2016. Additionally, Olympus has had actual notice of the ’266 Patent since at least its receipt of OIT’s complaint. Despite such knowledge, Olympus has intended that its customers and end users infringe the ’266 Patent by selling, offering for sale, importing, and/or using the Infringing Products in the United States, and has actively induced such infringement by instructing users in the United States to practice ’266 Patent claims in their user manuals, posted videos and/or other materials with knowledge of the ’266 Patent as set forth in this complaint and with knowledge of the ’805 patent since at least the time Olympus became aware of the ’266 Patent.

106. Further, Defendant has been and is now liable under 35 U.S.C. § 271(c) because it offers to sell or sells within the United States or imports into the United States a component of a machine patented by one or more claims including at least claim 1 of the ’266 Patent that constitutes a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

107. As a result of Defendant’s infringement of the ’266 Patent, OIT has suffered and continues to suffer damages. Thus, OIT is entitled to recover from Defendant the damages OIT sustained as a result of Defendant’s wrongful and infringing acts in an amount no less than a reasonable royalty, together with interest and costs fixed by this Court under 35 U.S.C. § 284.

108. OIT has suffered damage because of the infringing activities of Defendant, its officers, agents, servants, employees, associates, partners, and other persons who are in active concert or participation therewith, and OIT will continue to suffer irreparable harm for which there is no adequate remedy at law unless Defendant’s infringing activities are preliminarily and permanently enjoined by this Court.

109. Defendant's infringement of the '266 Patent was, is, and continues to be deliberate and willful. The '805 Patent application with the same specification as the '266 Patent was published on July 24, 2008, and the '805 Patent issued on November 3, 2009. On information and belief, the '805 Patent was cited by a Japanese patent examiner during the prosecution of Olympus' Japanese patent, JP5948121B2. Thus, Olympus has had actual notice of the disclosures of the '266 Patent at least as early as July 6, 2016, the issue date of JP5948121B2. Further, on information and belief, the '805 Patent was also cited by examiners during the prosecution of two other Olympus patents: JP6061619B2, issued on January 18, 2017; and JP6284408B2, issued on February 28, 2018. Thus, Olympus was informed of the disclosures of the '266 Patent, but continued to infringe, nonetheless. Moreover, Olympus was and is on notice of the '266 Patent at least as early as the filing of the Complaint in this lawsuit, yet continued and continues to infringe the '266 Patent.

CONCLUSION

110. Defendant has directly, indirectly, and/or contributorily infringed on Plaintiff's rights as owner of the Asserted Patents. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court.

111. Plaintiff has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute may give rise to an exceptional case within the meaning of 35 U.S.C. § 285, and Plaintiff is entitled to recover its reasonable and necessary attorneys' fees, costs, and expenses.

JURY DEMAND

112. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

113. Plaintiff requests that the Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

1. A judgment that Defendant has infringed the Asserted Patents as alleged herein, directly, indirectly, and/or contributorily;
2. A judgment that Defendant's infringement of the Asserted Patents was deliberate and willful;
3. A judgment for an accounting of damages sustained by Plaintiff as a result of the acts of infringement by Defendant;
4. A judgment and order requiring Defendant to pay Plaintiff damages under 35 U.S.C. § 284, including up to treble damages as provided by 35 U.S.C. § 284, and any royalties determined to be appropriate;
5. A judgment and order requiring Defendant to pay Plaintiff pre-judgment and post-judgment interest on the damages awarded;
6. A judgment and order finding this to be an exceptional case and requiring Defendant to pay the costs of this action (including all disbursements) and attorneys' fees as provided by 35 U.S.C. § 285; and
7. Such other and further relief as the Court deems just and equitable.

Dated: October 18, 2023

Respectfully submitted,

/s/ E. Leon Carter

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