

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

In the Matter of

**CERTAIN CAMERAS, CAMERA SYSTEMS,
AND ACCESSORIES USED THEREWITH**

Investigation No. 337-TA-____

DECLARATION OF BRIAN TRATT

1. I, Brian Tratt, hereby declare as follows:
2. I am employed by GoPro, Inc. ("GoPro") as Senior Director, FP&A and am based in San Mateo, California. I have held this position for nearly four (4) years and have been employed by GoPro for eleven (11) years. One of my responsibilities as Senior Director, FP&A is to track actual and forecasted investments for GoPro. I have personal knowledge of the facts stated herein or have been informed of such by knowledgeable personnel.
3. GoPro offers cameras and related accessories to consumers around the world and sold roughly 24.5 million cameras globally from January 2017 through December 2023. The innovative technology used by GoPro's products gives our customers the ability to capture, manage, edit, and share immersive content of themselves and others engaging in interests, hobbies, and favorite activities.
4. GoPro's innovation is deeply rooted in the United States. As of December 2023, GoPro employed [REDACTED] people in the United States, approximately [REDACTED] of whom engage in product development and sustainment-related work such as engineering, design, and product management.
5. I understand that GoPro's domestic workforce includes the following departments:
(1) Analytics/Consumer Insights, which is responsible for analyzing GoPro products against

consumer and market input and feedback; (2) Design, which is responsible for the industrial design of GoPro's products; (3) Hardware, which is responsible for researching, designing, and executing initiatives on the hardware aspects of GoPro's products; (4) Operations, which is responsible for sourcing and product manufacturing; (5) Product Management, which is responsible for defining GoPro's products based on which product features will be most valuable; (6) Program Management, which is responsible for driving projects and engineering teams based on the vision from Product Management; (7) Software, which is responsible for researching, designing, and executing initiatives on the software aspects of GoPro's products; and (8) Customer Support, which is responsible for after-sale support such as warranty services, managing the support community on GoPro's website, and general customer support.¹ These groups work cohesively to continuously identify, develop, and implement valuable features into GoPro's products, all in an effort to provide consumers with the best possible product and user experience. As of December 2023, the work undertaken by these groups in the United States represents roughly [REDACTED] of the work undertaken by these groups globally, based on headcount. Thus, a significant portion of the work discussed in paragraph 5 occurs domestically.

6. GoPro maintains facilities and equipment in the United States to facilitate domestic work related to its products, including the activities mentioned above. GoPro is headquartered in San Mateo, California, where it has multiple facilities used for engineering, development, and sustainment-related work. Prior to July 2020, GoPro maintained two buildings at 3000 Clearview Way in San Mateo, California, totaling approximately 82,657 square feet. Much of that space was dedicated to engineering and development work. In July 2020, GoPro moved most of the

¹ This is not an exhaustive list of domestic GoPro employees who undertake valuable work related to GoPro's products. For example, GoPro also has employees who engage in sales and marketing.

engineering and development space located at 3000 Clearview Way to a building located at 3025 Clearview Way, which mostly housed non-technical personnel such as GoPro executives and sales and marketing employees prior to July 2020.² The building at 3025 Clearview Way is approximately 110,867 square feet, approximately 25% of which is dedicated engineering and development space.

7. GoPro also maintains facilities in Carlsbad, California dedicated to software engineering and marketing. Prior to August 2023, GoPro maintained a facility at 5600 Avenida Encinas, Carlsbad, California, which totaled approximately 45,282 square feet. Approximately half of that space was dedicated to software engineering, and the other half to marketing. From August 2023 to present, GoPro has maintained a facility at 5225 Avenida Encinas, Carlsbad, California, totaling approximately 11,742 square feet. Approximately half of that space is dedicated to software engineering, and the other half to marketing.

8. I understand that GoPro directs a considerable portion of its domestic activities to the design, development, and advancement of its camera technology. As part of those efforts, GoPro has made significant investments in the United States in labor, capital, facilities, and equipment directed to numerous products that I am informed are protected by the Asserted Patents,³ including at least the products listed in the chart in paragraph 9 below (collectively, “the domestic industry” or “the DI products”).

² GoPro still maintains a small portion of engineering lab space at one of the buildings located at 3000 Clearview Way.

³ I am informed that the asserted patents are U.S. Patent No. 10,015,413 (“the ’413 patent”), U.S. Patent No. 10,529,052 (“the ’052 patent”), U.S. Patent No. 10,574,894 (“the ’894 patent”), U.S. Patent No. 10,958,840 (“the ’840 patent”), U.S. Patent No. 11,336,832 (“the ’832 patent”), and U.S. Design Patent No. D789,435 (“the D’435 patent”).

9. I understand that the claim charts attached to GoPro's Complaint show how one or more of the DI products practice one or more claims of the Asserted Patents. I also understand that the chart below identifies which of the respective DI products practice each of the Asserted Patents:

Patent No.	GoPro Product
'413 patent	HERO5 Black; HERO6 Black; HERO7 (Black, Silver, White); MAX; HERO8 Black; HERO9 Black; HERO10 Black; HERO11 Black; HERO11 Black Mini; HERO12 Black.
'052 patent	HERO7 Black; MAX; HERO8 Black; HERO9 Black; HERO10 Black; HERO11 Black; HERO11 Black Mini; HERO12 Black. Additionally, in connection with each of GoPro Studio version 2.5.6 and later ("GoPro Studio") and GoPro FX Reframe Adobe Plugin ("GoPro Adobe Plugin"), the following GoPro devices: HERO5 Black; HERO6 Black; HERO7 (Black, Silver, White); MAX; HERO8 Black; HERO9 Black; HERO10 Black; HERO11 Black; HERO11 Black Mini; HERO12 Black.
'894 patent	HERO7 Black; MAX; HERO8 Black; HERO9 Black; HERO10 Black; HERO11 Black; HERO11 Black Mini; HERO12 Black.
'840 patent	HERO7 Black; MAX; HERO8 Black; HERO9 Black; HERO10 Black; HERO11 Black; HERO11 Black Mini; HERO12 Black.
'832 patent	HERO9 Black; HERO10 Black; HERO11 Black; HERO11 Black Mini; HERO12 Black.
D'435 patent	HERO5 Black; HERO6 Black; HERO7 (Black, Silver, White); HERO8 Black; HERO9 Black; HERO10 Black; HERO11 Black; HERO12 Black.

10. GoPro tracks, in the ordinary course of business, investments and expenditures related to the labor, facilities, and equipment discussed above and which is used in relation to the DI products. GoPro generally does not track investments and expenditures at the product-level, however.

11. From, January 2017 through December 2023, GoPro spent approximately [REDACTED] on rent, utilities, maintenance, property taxes, and leasehold improvements for the

domestic facilities discussed above in paragraphs 6 and 7.⁴ These investments are set forth on an annual basis below:

	2017	2018	2019	2020	2021	2022	2023	Total
Carlsbad								
San Mateo								
Total								

12. From January 2017 through December 2023, GoPro invested approximately [REDACTED] in domestic wages and benefits for the product development and sustainment-related departments discussed in paragraph 5.⁵ This includes approximately [REDACTED] directed to the Analytics/Consumer Insights group ("Analytics"); approximately [REDACTED] directed to the Design group; approximately [REDACTED] directed to the Hardware, Software, and Product and Program Management groups ("HSPPM"); approximately [REDACTED] directed to the Operations group; and approximately [REDACTED] directed to the Customer Support group. These investments are set forth on an annual basis below:

	2017	2018	2019	2020	2021	2022	2023	Total
Analytics								
Design								
HSPPM								
Operations								
Cust. Supp.								
Total								

13. Because GoPro generally does not track investments at the product-level, one way to reasonably allocate the investments discussed above to the specific DI products is to use a sales-based allocation that compares U.S. DI product sales to GoPro's total U.S. sales, including sales of camera accessories.

⁴ These investments do not include investments in 3025 Clearview Way prior to July 2020 or investments in 3000 Clearview Way after July 2020. See ¶ 6.

⁵ The figures set forth in paragraph 12 are understated because they exclude stock-based compensation as well as GoPro's spend on domestic consulting and contractor labor.

14. GoPro generally releases its commercial products in the fall (generally September or October) of any given calendar year. However, given the extensive research and development associated with implementing relevant technology into any given GoPro commercial product, GoPro's domestic investment into such commercial products begins at least one year prior to the commercial release of that product (and in many cases, even earlier). Additionally, given GoPro's continued support and sustainment of commercial products released to the public, GoPro's domestic investment into any given commercial product continues even after that product is available for sale, and throughout the period of time the product is in use by the public.

15. For purposes of the investments discussed below, I understand that GoPro's domestic investments in the DI products began at least as early as January 1 of the calendar year in which that product became commercially available. Additionally, I understand that GoPro's domestic investments in the DI products continues today, and that GoPro is [REDACTED]
[REDACTED]

'413 Patent and '052 Patent with Supporting Applications

16. I understand that the following DI products practice the '413 patent: HERO5 Black; HERO6 Black; HERO7 (Black, Silver, White); MAX; HERO8 Black; HERO9 Black; HERO10 Black; HERO11 Black; HERO11 Black Mini; HERO12 Black. I further understand that the same DI products practice the '052 patent in connection with use of GoPro Studio (version 2.5.6 or later) and/or the FX Reframe feature for the GoPro Adobe Plugin.⁶

⁶ I understand that the following products practice the '052 patent irrespective of the GoPro Studio (version 2.5.6 or later) and/or the FX Reframe feature for the GoPro Adobe Plugin: HERO7 Black; MAX; HERO8 Black; HERO9 Black; HERO10 Black; HERO11 Black; HERO11 Black Mini; HERO12 Black.

17. The earliest-released DI product for the '413 and '052 patent is the HERO5 Black, which was released in October 2016. As I noted above, domestic investments in the HERO5 Black conservatively would have begun no later than January 1, 2016. The investment and sales data used for purposes of this Declaration runs from January 2017 through December 2023. The investments discussed below related to DI products practicing the '413 and '052 patent are therefore understated.

18. From January 2017 through December 2023, DI products practicing the '413 and '052 patent constituted approximately [REDACTED] of GoPro's total domestic sales over that same timeframe.

19. Applying the percentage in paragraph 18 to GoPro's domestic facility investments discussed in paragraph 11, GoPro invested approximately [REDACTED] in domestic facilities for DI products practicing the '413 and '052 patent from January 2017 through December 2023.

20. Applying the percentage in paragraph 18 to GoPro's domestic product development and sustainment-related labor investments discussed in paragraph 12, GoPro invested approximately [REDACTED] in domestic labor for DI products practicing the '413 and '052 patent from January 2017 through December 2023.

'894 and '840 Patents

21. I understand that the following DI products practice the '894 and '840 patent: HERO7 Black; MAX; HERO8 Black; HERO9 Black; HERO10 Black; HERO11 Black; HERO11 Black Mini; HERO12 Black.

22. The earliest-released DI product for the '894 and '840 patent is the HERO7 Black, which was released in September 2017. As I noted above, domestic investments in the HERO7 Black conservatively would have begun at least as early as January 1, 2017. The investment and

sales data used for purposes of this Declaration runs from January 2017 through December 2023. The investments discussed below related to DI products practicing the '894 and '840 patent therefore do not represent the totality of GoPro's investments related to those products.

23. From January 2017 through December 2023, DI products practicing the '894 and '840 patent constituted approximately [REDACTED] of GoPro's total domestic sales over that same timeframe.

24. Applying the percentage in paragraph 23 to GoPro's domestic facility investments discussed in paragraph 11, GoPro invested approximately [REDACTED] in domestic facilities for DI products practicing the '894 and '840 patent from January 2017 through December 2023.

25. Applying the percentage in paragraph 23 to GoPro's domestic product development and sustainment-related labor discussed in paragraph 12, GoPro invested approximately [REDACTED] in domestic labor for DI products practicing the '894 and '840 patent from January 2017 through December 2023.

'832 Patent

26. I understand that the following DI products practice the '832 patent: HERO9 Black; HERO10 Black; HERO11 Black; HERO11 Black Mini; HERO12 Black.

27. The earliest-released DI product for the '832 patent is the HERO9 Black, which was released in September 2020. As I noted above, domestic investments in the HERO9 Black conservatively would have begun at least as early as January 1, 2020. The investment and sales data used for purposes of this Declaration runs from January 2017 through December 2023. To be conservative, the investments discussed below related to DI products practicing the '832 patent exclude investments from 2017 through 2019.

28. From January 2020 through December 2023, DI products practicing the '832 patent constituted approximately [REDACTED] of GoPro's total domestic sales over that same timeframe.

29. Applying the percentage in paragraph 28 to GoPro's domestic facility investments discussed in paragraph 11, GoPro invested approximately [REDACTED] in domestic facilities for DI products practicing the '832 patent from January 2020 through December 2023.

30. Applying the percentage in paragraph 28 to GoPro's domestic product development and sustainment-related labor investments discussed in paragraph 12, GoPro invested approximately [REDACTED] in domestic labor for DI products practicing the '832 patent from January 2020 through December 2023.

D'435 Patent

31. I understand that the following DI products practice the D'435 patent: HERO5 Black; HERO6 Black; HERO7 (Black, Silver, White); HERO8 Black; HERO9 Black; HERO10 Black; HERO11 Black; HERO12 Black.

32. The earliest-released DI product for the D'435 patent is the HERO5 Black, which was released in October 2016. As I noted above, domestic investments in the HERO5 Black conservatively would have begun no later than January 1, 2016. The investment and sales data used for purposes of this Declaration runs from January 2017 through December 2023. The investments discussed below related to DI products practicing the D'435 patent are therefore understated.

33. From January 2017 through December 2023, DI products practicing the D'435 patent constituted approximately [REDACTED] of GoPro's total domestic sales over that same timeframe.

34. Applying the percentage in paragraph 33 to GoPro's domestic facility investments discussed in paragraph 11, GoPro invested approximately [REDACTED] in domestic facilities for DI products practicing the D'435 patent from January 2017 through December 2023.

35. Applying the percentage in paragraph 33 to GoPro's domestic product development and sustainment-related labor investments discussed in paragraph 12, GoPro invested approximately [REDACTED] in domestic labor for DI products practicing the D'435 patent from January 2017 through December 2023.

36. In sum, GoPro's approximate domestic investments related to the DI products on a patent-by-patent basis are:

	Domestic Facilities	Domestic Labor	Total
'413 & '052 DI products (2017-23)	[REDACTED]		
'894 & '840 DI products (2017-23)			
'832 DI products (2020-23)			
D'435 DI products (2017-23)			

I, Brian Tratt, declare under penalty of perjury that the foregoing is true and correct.

Dated: March 27, 2024


Brian Tratt
Senior Director, FP&A
GoPro, Inc.