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9 VDPP, LLC,

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13 VDPP, LLC,
14 Plaintiff,
15 v.

16 OPTOMA TECHNOLOGY, INC.,
17 Defendant.

Case No.: 3:24-cv-01118

**PLAINTIFF’S ORIGINAL
COMPLAINT FOR PATENT
INFRINGEMENT**

(35 U.S.C. § 271)

JURY TRIAL DEMANDED

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20 **PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

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22 VDPP LLC (“Plaintiff” or “VDPP”) files this Original Complaint and demand for
23 jury trial seeking relief from patent infringement of the claims of 10,021,380 (“the
24 ‘380 patent”), 10,951,881 (“the ‘881 patent”), 9,699,444 (“the ‘444 patent”) (referred
25 to as the “Patents-in-Suit”) by Optoma Technology, Inc. (“Defendant” or “Optoma”).
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I. THE PARTIES

1. Plaintiff VDPP is a company organized under the laws of Oregon with a principal place of business located in Corvallis, Oregon.

2. On information and belief, Defendant is a corporation organized and existing under the laws of the State of California, with a regular and established place of business located at 47697 Westinghouse Drive, Fremont, CA, 94539. On information and belief, Defendant sells and offers to sell products and services throughout California, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in California and this judicial district. Defendant can be served with process through their registered agent, Julie Wolf, 47697 Westinghouse Drive, Fremont, CA, 94539, at its place of business, or anywhere else it may be found.

II. JURISDICTION AND VENUE

3. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff’s claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

4. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of California and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of California and in this judicial district; and (iii) Plaintiff’s cause

1 of action arises directly from Defendant’s business contacts and other activities in the
2 State of California and in this judicial district.
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4 5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b).
5 Defendant has committed acts of infringement and has a regular and established place
6 of business in this District. Further, venue is proper because Defendant conducts
7 substantial business in this forum, directly or through intermediaries, including: (i) at
8 least a portion of the infringements alleged herein; and (ii) regularly doing or
9 soliciting business, engaging in other persistent courses of conduct and/or deriving
10 substantial revenue from goods and services provided to individuals in California and
11 this District.
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14 **III. Infringement of the ‘380 Patent**
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16 6. On July 10, 2018, U.S. Patent No. 10,021,380 (“the ‘380 patent”, included as
17 Exhibit A and part of this complaint) entitled “Faster State Transitioning for
18 Continuous Adjustable 3Deeps Filter Spectacles Using Multi-Layered Variable Tint
19 Materials” was duly and legally issued by the U.S. Patent and Trademark Office.
20 Plaintiff owns the ‘380 patent by assignment.
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22 7. The ‘380 patent relates to methods and systems for modifying an image.
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24 8. Defendant maintains, operates, and administers systems, products, and services
25 in the field of automotive manufacture that infringes one or more of claims of the ‘380
26 patent, including one or more of claims 1-30, literally or under the doctrine of
27 equivalents. Defendant put the inventions claimed by the ‘380 Patent into service (i.e.,
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1 used them); but for Defendant's actions, the claimed-inventions embodiments
2 involving Defendant's products and services would never have been put into service.
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4 Defendant's acts complained of herein caused those claimed-invention embodiments
5 as a whole to perform, and Defendant's procurement of monetary and commercial
6 benefit from it.
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8 9. Support for the allegations of infringement may be found in the preliminary
9 exemplary table attached as Exhibit B. These allegations of infringement are
10 preliminary and are therefore subject to change.
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12 10. Defendant has and continues to induce infringement. Defendant has actively
13 encouraged or instructed others (e.g., its customers and/or the customers of its related
14 companies), and continues to do so, on how to use its products and services (e.g.,
15 systems and methods related to modifying an image) such as to cause infringement of
16 one or more of claims 1-30 of the '380 patent, literally or under the doctrine of
17 equivalents. Moreover, Defendant has known of the '380 patent and the technology
18 underlying it from at least the filing date of the lawsuit.¹ For clarity, direct
19 infringement is previously alleged in this complaint.
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22 11. Defendant has and continues to contributorily infringe. Defendant has actively
23 encouraged or instructed others (e.g., its customers and/or the customers of its related
24 companies), and continues to do so, on how to use its products and services (e.g.,
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28 ¹ Plaintiff reserves the right to amend if discovery reveals an earlier date of
knowledge.

1 systems and methods related to modifying an image) such as to cause infringement of
2 one or more of claims 1-30 of the '380 patent, literally or under the doctrine of
3 equivalents. Moreover, Defendant has known of the '380 patent and the technology
4 underlying it from at least the filing date of the lawsuit.² For clarity, direct
5 infringement is previously alleged in this complaint.
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8 12. Defendant has caused and will continue to cause Plaintiff damage by direct and
9 indirect infringement of (including inducing infringement of) the claims of the '380
10 patent.
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12 **IV. Infringement of the '444 Patent**

13 13. On July 4, 2017, U.S. Patent No. 9,699,444 ("the '444 patent", included as
14 Exhibit C and part of this complaint) entitled "Faster state transitioning for continuous
15 adjustable 3deeps filter spectacles using multi-layered variable tint materials" was
16 duly and legally issued by the U.S. Patent and Trademark Office. Plaintiff owns the
17 '444 patent by assignment.
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20 14. The '444 patent relates to the field of motion pictures and to a system called
21 3Deeps that allows almost any motion picture filmed in 2D (single image) to be
22 viewed with the visual effect of 3-dimensions when viewed through 3Deeps Filter
23 Spectacles.
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28 ² Plaintiff reserves the right to amend if discovery reveals an earlier date of knowledge.

1 15. Defendant maintains, operates, and administers systems, products, and
2 services in the field of motion pictures that infringes one or more of claims 1-27 of
3 the '444 patent, literally or under the doctrine of equivalents. Defendant put the
4 inventions claimed by the '444 Patent into service (i.e., used them); but for
5 Defendant's actions, the claimed-inventions embodiments involving Defendant's
6 products and services would never have been put into service. Defendant's acts
7 complained of herein caused those claimed-invention embodiments as a whole to
8 perform, and Defendant's procurement of monetary and commercial benefit from it.

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12 16. Support for the allegations of infringement may be found in the chart attached
13 as Exhibit D. These allegations of infringement are preliminary and are therefore
14 subject to change.

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16 17. Defendant has and continues to induce infringement. Defendant has actively
17 encouraged or instructed others (e.g., its customers and/or the customers of its related
18 companies), and continues to do so, on how to use its products and services (e.g., in
19 the field of motion pictures) such as to cause infringement of the claims 1-27 of the
20 '444 patent, literally or under the doctrine of equivalents. Moreover, Defendant has
21 known of the '444 patent and the technology underlying it from at least the filing date
22 of the lawsuit.³ For clarity, direct infringement is previously alleged in this complaint.

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26 ³ Plaintiff reserves the right to amend and add inducement pre-suit if discovery
27 reveals an earlier date of knowledge.
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1 18. Defendant has and continues to contributorily infringe. Defendant has actively
2 encouraged or instructed others (e.g., its customers and/or the customers of its related
3 companies), and continues to do so, on how to use its products and services (e.g., in
4 the field of motion pictures) and related services such as to cause infringement of
5 claims 1-27 of the '444 patent, literally or under the doctrine of equivalents. Further,
6 there are no substantial noninfringing uses for Defendant's products and services.
7 Moreover, Defendant has known of the '444 patent and the technology underlying it
8 from at least the filing date of the lawsuit.⁴ For clarity, direct infringement is
9 previously alleged in this complaint.
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13 19. Defendant has caused and will continue to cause Plaintiff damage by direct and
14 indirect infringement of (including inducing infringement of) the claims of the '444
15 patent.
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19 **V. Infringement of the '881 Patent**

20 20. On March 16, 2021, U.S. Patent No. 10,951,881 ("the '881 patent", included
21 as Exhibit E and part of this complaint) entitled "Faster State Transitioning for
22 Continuous Adjustable 3D Deeps Filter Spectacles Using Multi-Layered Variable Tint
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26 ⁴ Plaintiff reserves the right to amend and add inducement pre-suit if discovery
27 reveals an earlier date of knowledge.
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1 Materials” was duly and legally issued by the U.S. Patent and Trademark Office.
2 Plaintiff owns the ‘881 patent by assignment.
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4 21.The ‘881 patent relates to an electrically controlled spectacle frame and
5 optoelectronmic lenses housed in the frame.
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7 22.Defendant maintains, operates, and administers systems, products, and services
8 in the field of automotive manufacture thatn infringes one or more of claims of the
9 ‘881 patent, including one or more of claims 1-2, literally or under the doctrine of
10 equivalents. Defendant put the inventions claimed by the ‘881 Patent into service (i.e.,
11 used them); but for Defendant’s actions, the claimed-inventions embodiments
12 involving Defendant’s products and services would never have been put into service.
13 Defendant’s acts complained of herein caused those claimed-invention embodiments
14 as a whole to perform, and Defendant’s procurement of monetary and commercial
15 benefit from it.
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19 23.Support for the allegations of infringement may be found in the preliminary
20 exemplary table attached as Exhibit F. These allegations of infringement are
21 preliminary and are therefore subject to change.
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23 24.Defendant has and continues to induce infringement. Defendant has actively
24 encouraged or instructed others ((e.g., its customers and/or the customers of its related
25 companies), and continues to do so, on how to use its products and services (e.g., a
26 system related to an electrically controlled spectacle frame and optoelectronmic
27 lenses housed in the frame) such as to cause infringement of one or more of claims 1-
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1 2 of the '881 patent, literally or under the doctrine of equivalents. Moreover,
2 Defendant has known of the '881 patent and the technology underlying it from at least
3 the filing date of the lawsuit.⁵ For clarity, direct infringement is previously alleged in
4 this complaint.
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6 25. Defendant has and continues to contributorily infringe. Defendant has actively
7 encouraged or instructed others (e.g., its customers and/or the customers of its related
8 companies), and continues to do so, on how to use its products and services (e.g., a
9 system related to an electrically controlled spectacle frame and optoelectronic
10 lenses housed in the frame) such as to cause infringement of one or more of claims 1-
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12 2 of the '881 patent, literally or under the doctrine of equivalents. Moreover,
13 Defendant has known of the '881 patent and the technology underlying it from at least
14 the filing date of the lawsuit.⁶ For clarity, direct infringement is previously alleged in
15 this complaint.
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17 26. Defendant has caused and will continue to cause Plaintiff damage by direct and
18 indirect infringement of (including inducing infringement of) the claims of the '881
19 patent.
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27 ⁵ Plaintiff reserves the right to amend if discovery reveals an earlier date of
knowledge.

28 ⁶ Plaintiff reserves the right to amend if discovery reveals an earlier date of
knowledge.

1 **VI. CONDITIONS PRECEDENT**

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3 27. Plaintiff is a non-practicing entity, with no products to mark. Plaintiff has pled
4 all statutory requirements to obtain pre-suit damages. Further, all conditions
5 precedent to recovery are met.
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8 **VII. PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays for relief as follows:

- 10 a. enter judgment that Defendant has infringed the claims of the '359 patent;
- 11 b. award Plaintiff damages in an amount sufficient to compensate it for
12 Defendant's infringement of the Patent-in-Suit in an amount no less than a
13 reasonable royalty or lost profits, together with pre-judgment and post-
14 judgment interest and costs under 35 U.S.C. § 284;
- 15 c. award Plaintiff an accounting for acts of infringement not presented at trial and
16 an award by the Court of additional damage for any such acts of infringement;
- 17 d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award Plaintiff
18 its attorneys' fees, expenses, and costs incurred in this action;
- 19 e. declare Defendant's infringement to be willful and treble the damages,
20 including attorneys' fees, expenses, and costs incurred in this action and an
21 increase in the damage award pursuant to 35 U.S.C. § 284;
- 22 f. a decree addressing future infringement that either (if) awards a permanent
23 injunction enjoining Defendant and its agents, servants, employees, affiliates,
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divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and

g. award Plaintiff such other and further relief as this Court deems just and proper.

Dated: February 23, 2024

Respectfully submitted,

RAMEY LLP

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DEMAND FOR JURY TRIAL

Plaintiff hereby requests a trial by jury on issues so triable by right.

Dated: February 23, 2024

Respectfully submitted,

RAMEY LLP

/s/ Susan S.Q. Kalra

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