

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

OPTRASCAN, INC., )  
 )  
 Plaintiff, )  
 )  
 v. ) C.A. No. \_\_\_\_\_  
 )  
 MORPHLE LABS, INC., ) **JURY TRIAL DEMANDED**  
 )  
 Defendant. )  
 \_\_\_\_\_ )

**COMPLAINT**

Plaintiff Optrascan, Inc. (“Optrascan”) files this Complaint for Patent Infringement against Defendant Morphle Labs Inc. (“Morphle” or “Defendant”) and alleges as follows:

**NATURE OF LAWSUIT**

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

**THE PARTIES**

2. Plaintiff Optrascan is a corporation having a principal place of business located in San Jose, California. Optrascan is the owner, by assignment, of U.S. Patent Number 10,338,365 (the ‘365 Patent) issued July 2, 2019, and entitled “Slide Storage, Retrieval, Transfer, and Scanning System for a Slide Scanner” (copy attached as Exhibit A) and U.S. Patent Number 10,586,376 (the ‘376 Patent) issued March 10, 2020, and entitled “Automated Method of Predicting Efficacy of Immunotherapy Approaches” (copy attached as Exhibit B). Optrascan owns all rights, title, and interest in, and has standing to sue for infringement of the ‘365 Patent and ‘376 Patent.

3. On information and belief, Defendant Morphle is in the business of providing microscope slide scanners. Morphle is incorporated in Delaware and has its principal place of

business is in Bangalore, India, with a permanent address of 7<sup>th</sup> Main, 13<sup>th</sup> Cross, Indirangar 2<sup>nd</sup> Stage First Floor, No. 19, Bangalore, Karnataka, India 560038.

### **JURISDICTION AND VENUE**

4. This is an action for patent infringement arising under the patent laws of the United States of America, Title 35 U.S.C. This Court has jurisdiction over the subject matter of the Complaint under 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this Court under 28 U.S.C. §§ 1391(b), (c) and 1400(b), including because Morphle resides in Delaware as its state of incorporation.

6. The Court has personal jurisdiction over Morphle because it is incorporated within this District and has committed acts of direct and indirect infringement in this District, including through selling infringing products and services in this District.

### **THE SUBJECT PATENTS**

7. The '365 Patent and '376 Patent are directed to techniques to retrieve, transfer and scan slides for analysis. Such a method of treatment finds particular value in analyzing slides, for example, pathology slides of sections of a tissue in an automated and in a time efficient manner with fidelity of the results maintained. The patented technology thus makes it simpler and quicker, with more consistent results than prior methods.

8. The '365 Patent is entitled, "Slide Storage, Retrieval, Transfer, and Scanning System for a Slide Scanner" and contains multiple claims directed to the automated scanning of slides, including those with pathology tissue sections. The '365 Patent was properly and duly issued by the United States Patent and Trademark Office and the '365 Patent is presumed to be valid.

9. The '376 Patent is entitled, "Automated Method of Predicting Efficacy of Immunotherapy Approaches" and contains multiple claims directed to the automated scanning of slides, including those with pathology tissue sections. The '376 Patent was properly and duly issued by the United States Patent and Trademark Office and the '376 Patent is presumed to be valid.

**FIRST CAUSE OF ACTION: INFRINGEMENT OF THE '365 PATENT**

10. Optrascan restates and incorporates by reference paragraphs 1 through 9 above as if fully re-stated herein.

11. The inventors of the '365 Patent, Abhijeet Gholap, Anagha Jadhav, Isha Doshi and Somwanshi were the first to identify and put into practice the use of an automated slide storage, retrieval, transfer and scanning system of the type and form of the claimed invention. Abhijeet Gholap, Anagha Jadhav, Isha Doshi and Somwanshi have assigned their rights in the '365 Patent to Optrascan.

12. The inventors of the '365 Patent recognized inefficiencies in the systems and methods for the microscopic analysis of slides containing body fluids and tissue for determining the cause of disease. Conventionally, a pathologist performed microscopic examination of body fluid samples or biopsy tissue mounted on glass slides using an optical microscope for diagnosis in which the microscope slide would be loaded by hand. This conventional process was slow and time consuming, leading to the development of automated loading of slides as well as digital pathology, which converts microscope slides into high resolution, whole-slide digital images that can be viewed, managed, analyzed and interpreted with a computer instead of a microscope. The automated loading and digital pathology correspondingly led to the development of digital whole slide scanners, which convert analog data on glass slides to digital images on computers for analysis.

13. While the market developed multiple options for digital whole slide scanners, they also have had their share of problems. For example, the scanners typically have small capacities and cannot be scaled to meet increased demands in efficiency and testing volumes. Having identified these drawbacks, the inventors of the '365 Patent created an inventive system for slide storage, retrieval, and transfer for slide scanning that is robust automated, accurate, simple to use, and low cost. The inventive system can also pick up slides of various thicknesses, hold them securely during the scanning process, and deposit them back into slide storage once the scanning is complete.

14. The Defendant, despite being advised by Optrascan of the '365 Patent and its infringing activities, has nevertheless continued to make, use, and sell slide readers that infringe the inventive system of the '365 Patent. In particular, Defendant was informed of their infringing activity in writing no later than November 17, 2022, by Optrascan. Despite the written notice, Defendant has continued to undertake activities, including offering for sale and selling slide readers that infringe the two patents-in-suit. These offers for sale and sales have been made throughout the United States and include offer for sale and sales of the infringing slide readers in Delaware. Defendant has continued to infringe the '365 Patent (Exhibit C – Infringement Claim Chart '365 Patent) as Defendant is well aware of the significant benefits provided by Optrascan's patented technology to Defendant's infringing slide readers.

15. For example, the Defendant's Morpholens 240 is a slide scanner meeting all of the limitations of at least claim 1 of the '365 Patent. As explained in Exhibit C, the Morpholens 240 includes carriers (i.e., "slide basket") for storing a plurality of slides and a rack (i.e., "slide storage assembly") for storing the carriers.



## ***MorphoLens 240***

**A high throughput workhorse with integrated image storage, LIMS integrations & AI workflows - all baked in.**

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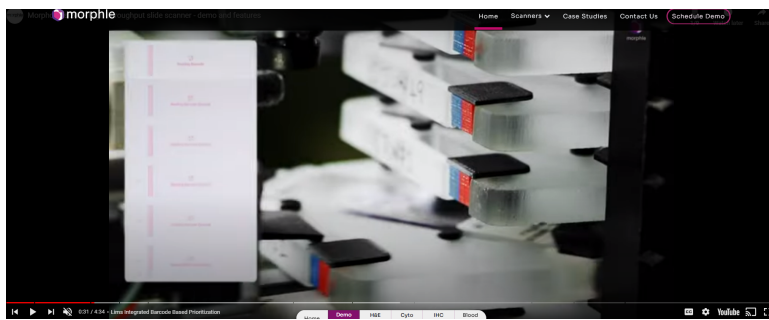
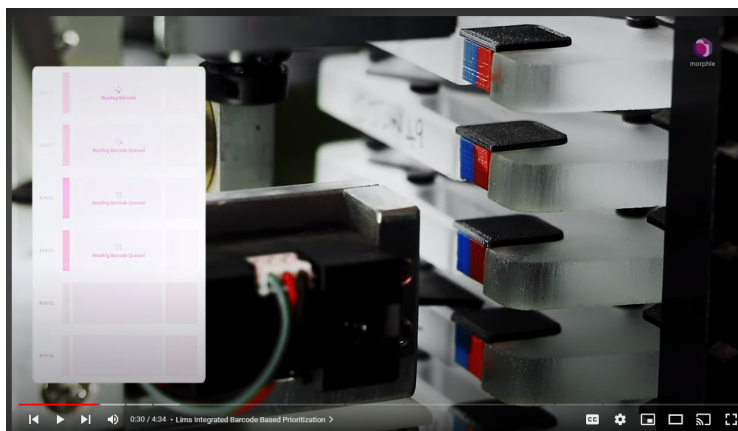
### **Scanner Specifications**

Slide Rack

- 240 slide batch at once
- 40 carriers with 6 slides per carrier
- Supports continuous loading

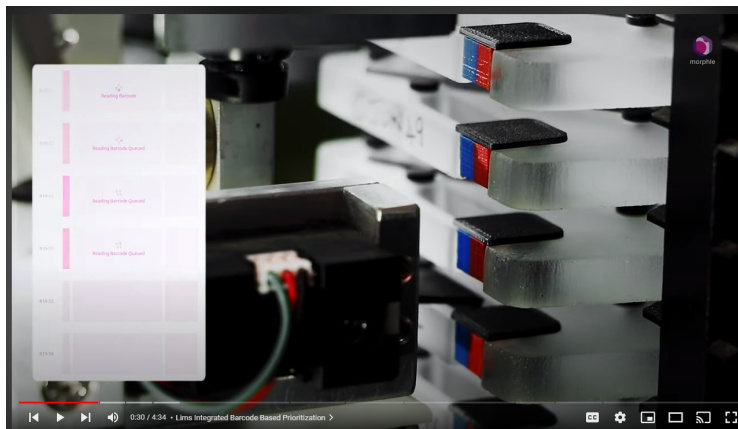
<https://www.morphlelabs.com/products/morpholens-240-scanner>. The demo video provided at <https://www.morphlelabs.com/products/morpholens-240-scanner> further displays and demonstrates a rack (i.e., “slide storage assembly”) configured to store at least one carrier (i.e., “slide basket”) in which each carrier is configured to store a plurality of slides. See demo video at 0:17-0:28 and 0:58-1:02.

16. The demo video provided at <https://www.morphlelabs.com/products/morpholens-240-scanner> also explains how each of the remaining components of claim 1 are present in the Morpholens 240. As shown in the demo video, the Morpholens 240 includes a slide basket transfer assembly configured to retrieve and store the at least one slide basket from and into the slide storage assembly. See, e.g., demo video at 0:30-0:35. The slide basket transfer assembly retrieves a carrier (i.e., “slide basket”) for scanning by a slide scanner as shown in the screen shots below taken from the demo video.



17. The demo video also shows that the Morpholens 240 includes a slide transfer assembly that retrieves a slide from the slide basket transfer assembly, delivers the slide to the slide scanning stage of the slide scanner, and returns the slide from the slide scanning stage to the slide basket transfer assembly. *See, e.g.*, demo video at 0:30-0:35. As the lead screw turns, an individual slide is translated beneath a slide scanner via the slide transfer assembly. *See id.*

18. In addition, as shown in the demo video, the Morpholens 240 includes a slide basket holder of the slide basket transfer assembly that moves vertically along a Z axis to transfer a carrier (i.e., “slide basket”) from the slide storage assembly to the slide transfer assembly. *See, e.g.*, demo video at 0:29-0:35. A support base of this slide transfer assembly moves horizontally in an X-Y plane in order to transfer a slide from the slide basket transfer assembly to the slide scanning stage of the slide scanner. *See id.* The slide basket holder is integral with the slide basket transfer assembly as shown in the screen shot below:



The Morpholens 240 thus meets all of the limitations of at least claim 1 of the ‘365 patent and is therefore infringing.

19. Despite knowing that the inventive patented technology provided significant benefits to Defendant’s slide reader, including the Morpholens 6, Morpholens 240 and Hemolens, Defendant has decided to proceed with using the inventive technology without obtaining the

consent of Optrascan. Instead, Defendant, with full knowledge of the '365 Patent's existence, has willfully infringed the '365 Patent to the great detriment and loss of Optrascan.

20. Defendant has been on notice of the '365 Patent and Optrascan's claims of infringement, and, for at least this reason, Defendant's actions are believed to be willful and undertaken with the intent to infringe the '365 Patent.

21. Defendant's direct infringement and inducement to infringe have been willful and have deliberately injured and will continue to injure Optrascan unless and until the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use, sale and/or offer for sale of the patented method that fall within the scope of the '365 Patent's claims.

**SECOND CAUSE OF ACTION: INFRINGEMENT OF THE '376 PATENT**

22. Optrascan restates and incorporates by reference paragraphs 1 through 21 above as if fully re-stated herein.

23. The inventors of the '376 Patent, Abhijeet Gholap, Anagha Jadhav and Gurunath Kamble were the first to identify and put into practice the use of an automated method to predict the efficacy of an immunotherapy treatment of the type and form of the claimed invention. Abhijeet Gholap, Anagha Jadhav and Gurunath Kamble have assigned their rights in the '376 Patent to Optrascan.

24. The '376 Patent relates to an innovative consolidated system for whole slide scanning of biological specimens, image acquisition, image management, and image analysis to detect histological and immunohistochemical biomarkers. In contrast to conventional systems that require separate devices and processes to perform these functions, the inventive system of the '376 Patent provides a fully automated analytics application that is integrated into a slide scanner as the slide is being scanned without using third party software. The inventive system also works on a



whole slide image or with registered images stained with multiple biomarkers to facilitate 2D reconstruction and analytics. It can also work on serial sections yielding multiple whole slide images to facilitate 3D reconstruction and analytics. As a result, the '376 Patent provides a system that aids pathologists to draw improved and more accurate diagnoses of the applicable pathological condition.

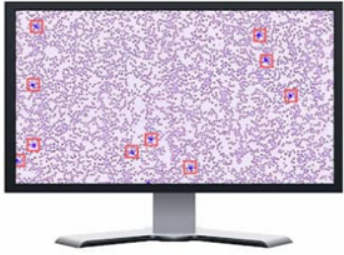
25. The Defendant, despite being advised by Optrascan of the '376 Patent and its infringing activities, has nevertheless continued to make, use, and sell slide readers that infringe the inventive system of the '376 Patent. In particular, Defendant was informed of their infringing activity in writing no later than November 17, 2022, by Optrascan. Despite the written notice, Defendant has continued to undertake activities, including offering for sale and selling slide readers that infringe the two patents-in-suit. These offers for sale and sales have been made throughout the United States and include offer for sale and sales of the infringing slide readers in Delaware. Defendant has continued to infringe the '376 Patent (Exhibit D – Infringement Claim Chart '376 Patent) as Defendant is well aware of the significant benefits provided by Optrascan's patented technology to Defendant's infringing slide readers.

26. For example, the Defendant's HemoLens product is a slide scanner meeting all of the limitations of at least claim 1 of the '376 Patent. As explained in Exhibit D, the HemoLens product is an automated slide scanning system having an image acquisition unit electronically connected to a processing device as shown in the screen shots below:




**1 Walk-away Scanning by the technician**

- Auto monolayer / feather-edge detection.
- Auto Oil dispensing.
- Auto-cell detection + Multi-objective scanning.



**2 AI-enabled Cell Differentiation**

- 120 WBCs are classified, sorted & flagged.
- No cloud upload needed. AI runs on the local GPU.



**3 Tele-reported by Specialists**

- Secure remote review by the Pathologist.
- Abnormal cells are pre-flagged and sorted.
- Resulting in 10x faster reporting.

<https://www.morphlelabs.com/products/hemolens>. As shown in the screen shots, the automated slide scanning system of the HemoLens product provides AI-enabled cell differentiation of slide images obtained by an image acquisition unit and analyzed via a processing device. *See id.*

27. The HemoLens product also receives a sample slide through the automated slide scanning system in which a tissue sample is mounted to the sample slide. This functionality is

shown in the “The All-Digital Workflow” and “Technical Specifications” sections of the product website and in the screen shot reproduced immediately below:

### Technical Specifications

Slide Capacity

Single slide batch with soft sideways clamping supporting  
a. Slides with / without coverslips  
b. Slide thickness from 0.8 to 2mm

<https://www.morphlelabs.com/products/hemolens>.

28. The HemoLens product also acquires at least one slide image of the tissue sample through the image acquisition unit as shown in at least the “The All-Digital Workflow” and “Technical Specifications” sections of the product website. *Id.* In addition, the HemoLens product website executes at least one cell segmentation process on the slide image through the processing device in order to identify a plurality of cells from the slide image as shown in at least the “The All-Digital Workflow” section. *Id.* (“120 WBCs are classified, sorted & flagged” under subsection 2 “AI-enabled Cell Differentiation .... Abnormal cells are pre-flagged and sorted” under subsection 3: “Tele-reported by Specialists.”

29. As also explained on the website, the HemoLens product analyzes the plurality of cells with at least one cell classification algorithm to identify a tumor cell percent positivity value and an immune cell percent positivity value, as shown in subsections 2 and 3 of the “The All-Digital Workflow” section. *Id.* Specifically, as indicated in subsection 3, “[a]bnormal cells are pre-flagged and sorted.” *Id.* In addition to AI-enabled cell differentiation, the product website makes clear that at least one cell classification algorithm identifies a tumor cell percent positivity value and an immune cell percent positivity value.

30. Despite knowing that the inventive patented technology provided significant benefits to Defendant’s slide reader products, including the Morpholens 6, Morpholens 240 and Hemolens, Defendant has decided to proceed with using the inventive technology without

obtaining the consent of Optrascan. Instead, Defendant, with full knowledge of the '376 Patent's existence, has willfully infringed the '376 Patent to the great detriment and loss of Optrascan.

31. Defendant has been on notice of the '376 Patent and Optrascan's claims of infringement, and, for at least this reason, Defendant's actions are believed to be willful and undertaken with the intent to infringe the '376 Patent.

32. Defendant's direct infringement and inducement to infringe have been willful and have deliberately injured and will continue to injure Optrascan unless and until the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use, sale and/or offer for sale of the patented method that fall within the scope of the '376 Patent's claims.

#### **PRAYER FOR RELIEF**

WHEREFORE, Optrascan asks this Court to enter judgment against Defendant and against its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

A. An award of damages adequate to compensate Optrascan for the infringement that has occurred, together with prejudgment interest from the date infringement of the '365 Patent and '376 Patent began;

B. Increased damages as permitted under 35 U.S.C. § 284;

C. A finding that this case is exceptional and an award to Optrascan of its attorneys' fees and costs as may be appropriate and as provided by 35 U.S.C. § 285;

D. A permanent injunction prohibiting further infringement, inducement and contributory infringement of the '365 Patent and '376 Patent.

E. Pre-judgment interest calculated from the time of the first occurrence of any infringing activity through and until entry of judgment; and

F. Such other and further relief as this Court or a jury may deem proper and just.

**JURY DEMAND**

Optrascan demands a trial by jury on all issues presented in this Complaint.

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Dated: May 31, 2024  
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