John J. Edmonds (State Bar No. 274200)
jedmonds@ip-lit.com
COLLINS EDMONDS
Collins Edmonds Schlather & Tower, PLLC
355 South Grand Avenue, Suite 2450
Los Angeles, California 90071
Telephone: (213) 973-7846
Facsimile: (213) 835-6996

Attorneys for Plaintiff,
CELLSPIN SOFT INC.

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

OAKLAND

CELLSPIN SOFT, INC., Plaintiff, v. PANASONIC CORPORATION OF NORTH AMERICA, Defendant.	Case No. 4:17-cv-05941 **AMENDED COMPLAINT FOR INFRINGEMENT OF U.S. PATENT NO. 9,258,698**[1] **DEMAND FOR JURY TRIAL** Original Complaint Filed: October 16, 2017 Judge: Honorable Yvonne G. Rogers

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendant's infringement of United States Patent No. 9,258,698 entitled "Automatic Multimedia Upload for Publishing Data and Multimedia Content" (the "'698 patent" or "Patent-in-Suit").

THE PARTIES

2. Plaintiff, Cellspin Soft, Inc. ("Cellspin"), is a California corporation with an office and

[1] Cellspin files this Amended Complaint pursuant to the Court's very recent February 27th Order approving the parties' stipulation that pleadings in this case may be "amended, without the need for leave of Court, up to, and including June 5, 2018," and pursuant to very recent decisions from the Court of Appeals for the Federal Circuit -- *see, e.g., Automated Tracking Solutions, LLC v. The Coca-Cola Co.*, 2018 WL 935455 (Fed. Cir. Feb. 16, 2018) – concerning the significance of pled facts in connection with the evaluation of motions brought under 35 U.S.C. § 101. Cellspin is mindful of the fact that § 101 motions (briefed prior to these recent decisions from the Court of Appeals for the Federal Circuit) are currently pending and set for hearing. Cellspin hereby stipulates and agrees that Defendants need not re-file their § 101 motions and that the filing of this Amended Complaint does not render moot such pending motions, and Cellspin is fully prepared to have all relevant matters heard at the Court's upcoming hearing § 101 motions.

place business at 1410 Mercy Street, Mountain View, California 94041.

3. Upon information and belief, Defendant, Panasonic Corporation of North America ("Panasonic"), is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at One Panasonic Way, Secaucus, New Jersey 07094. Panasonic has already been served with process and is being served with this Amended Complaint via ECF.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, 35 U.S.C. § 1 et seq., including 35 U.S.C. §§ 271, 281, 283, and 284. This Court has subject matter jurisdiction over this case for patent infringement, including pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Plaintiff is the assignee of the Patent-in-Suit with all right, title and interest to bring the claims herein comprising those for past and present infringement, including to recover damages therefor.

6. The Court has personal jurisdiction over Panasonic, including because Panasonic has minimum contacts within the State of California; Panasonic has purposefully availed itself of the privileges of conducting business in the State of California; Panasonic regularly conducts business within the State of California; and Plaintiff's cause of action arises directly from Panasonic's business contacts and other activities in the State of California, including at least by virtue of Panasonic's infringing methods and products, which are at least practiced, made, used, offered for sale, and sold in the State of California. Panasonic is subject to this Court's specific and general personal jurisdiction, pursuant to due process and the California Long Arm Statute, due at least to its continuous and systematic business contacts in California. Further, on information and belief, Panasonic is subject to the Court's specific jurisdiction, including because Panasonic has committed patent infringement in the State of California, including as detailed herein. In addition, Panasonic induces infringement of the Patent-in-Suit by customers and/or infringing users located in California. Further, on information and belief, Panasonic regularly conducts and/or solicits business, engages in other persistent courses of conduct, and/or derives substantial revenue from goods and services provided to persons

and/or entities in California.

7. Upon information and belief, Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b), including in view of Panasonic has at least one regular and established place of business, including Panasonic Kiosks, in this District and in California, and at least some of its infringement of the patent-in-suit occurs in this District and in California.

THE PATENT-IN-SUIT

8. Plaintiff refers to and incorporates herein the allegations in the above paragraphs.

9. The claims of the Patent-in-Suit, including the asserted claims, when viewed as a whole, including as an ordered combination, are not merely the recitation of well-understood, routine, or conventional technologies or components. The claimed inventions were not well-known, routine, or conventional at the time of the invention, over ten years ago, and represent specific improvements over the prior art and prior existing systems and methods.

10. At the time of the patented inventions, publishing captured data from a data capture device to a web service was cumbersome and inefficient.

11. At the time of the priority date of the Patent-in-Suit (December 2007), the same year the world's first prominent mobile "smartphone" was released, and 6 months before the world's first prominent mobile "app store" (*see* History of the iPhone on Wikipedia at https://en.wikipedia.org/wiki/History_of_iPhone & App Store (iOS) on Wikipedia at https://en.wikipedia.org/wiki/App_Store_(iOS)), it was a cumbersome and time consuming process to use a data capture device to acquire data, send that data to a mobile device with an internet connection, and the mobile device to upload that wirelessly received data to a website, especially for large data such as pictures or video data.

12. The most common and practical way to transfer large data was to physically plug a data capture device into, or transfer a memory card from a data capture device to, a computer, upload the data on the capture device or memory card to the computer, and further upload the data from the computer to a web service. *See, e.g.*, '698 at 1:37-54. In the case of using a 2007 mobile phone, the software on both the data capture device and mobile phone that established a paired connection and potentially transferred large data was extremely under developed and

not the intended or foreseeable use of the mobile phone. Further, HTTP transfers of data received over the paired wireless connection to web services was non-existent. Mobile phones of that time exclusively used SMS,[2] MMS,[3] or email-based communication methods (such as POP3 or IMAP[4] to transfer data that was acquired by the mobile phone. It was not until 2009 or later when the leading tech companies, such as Facebook and Google, started releasing HTTP APIs for developers to utilize a HTTP transfer protocol for mobile devices. *See* https://developers.facebook.com/docs/graph-api/changelog/archive; http://mashable.com/2009/05/19/twitter-share-images/#K9kEHwxammq0. Even in 2009 when Facebook and Google HTTP APIs were released, the released HTTP APIs were only used for data that was acquired by the mobile phone, and not for the data that was received wirelessly over the secure paired connection from a physically separate data capture device. Applying HTTP to a data in transit and on intermediary mobile device was not developed until the inventions of the Patent-in-Suit.

13. Including as of the priority date of the Patent-in-Suit, there have been many, albeit vastly inferior, means outside of the claimed invention for achieving the ends of acquiring and transferring data for publication, including on the Internet. For example, as noted in the specification,

> Typically, the user would capture an image using a digital camera or a video camera, store the image on a memory device of the digital camera, and transfer the image to a computing device such as a personal computer (PC). In order to transfer the image to the PC, the user would transfer the image off-line to the PC, use a cable such as a universal serial bus (USB) or a memory stick and plug the cable into the PC. The user would then manually upload the image onto a website which takes time and may be inconvenient for the user.

See, e.g., '698/1:38-47. Another inferior method would be to have the capture device simply forward data to a mobile device as captured. This example is inferior including because, without a paired connection, there is no assurance that the mobile device is capable (*e.g.*, on

---

[2] Short Message Service (SMS) is a text messaging service component of most telephone, World Wide Web, and mobile device systems. It uses standardized communication protocols to enable mobile devices to exchange short text messages. *See* https://en.wikipedia.org/wiki/SMS.

[3] Multimedia Messaging Service (MMS) is a standard way to send messages that include multimedia content to and from a mobile phone over a cellular network. *See* https://en.wikipedia.org/wiki/Multimedia_Messaging_Service.

[4] See https://en.wikipedia.org/wiki/Email#Types

and sufficiently near) of receiving the data. Such constant and inefficient broadcasting would quickly drain the battery of the capture device. Another inferior method for posting data from a capture device onto the Internet is to have a capture device with built in mobile wireless Internet, for example cellular, capability. As noted in the specification, "[t]he digital data capture device is physically separated from the BT enabled mobile device." *See, e.g.*, '698/2:2-3. This example is inferior including because, especially at the time of the patent priority date in 2007 but also today, it makes the combined apparatus bulky, expensive in terms of hardware, and expensive in terms of requiring a user to purchase an extra and/or separate cellular service for the data capture device.

14. Prior art methods for posting data from a data capture device onto the Internet were inferior. Back at the time of invention, capture devices such as cameras had only rudimentary wireless capabilities as exemplified by the U.S. Patent Application No. 2003/015,796 to Kennedy ("Kennedy") and ancillary prior art addressed extensively during prosecution of certain Patent-in-Suit and related patents. As noted by the inventors during prosecution of the '698 patent, in every day scenarios, the computer attaches a hypertext transfer protocol (HTTP)_header and user ID to the data generated by the computer ("native data"), and the existing home wireless routers did not apply website user information or apply HTTP to the data sent over the wireless network from the computer to the home wireless router. However, the claimed invention improves and builds on this, including because the claimed mobile device is configured to send a HTTP request comprising the website user information and the non-native data, such that the mobile device is acting as more than just a normal home wireless router. According to the inventors, the wireless pairing established is therefore very important for the transfer of non-native data that is acquired by a physically separate device and then transferred to the mobile device over the trusted paired wireless connection.

15. Including at the time of the invention, data capture devices posed a number of specific challenges associated with publishing data to a web service from a capture device using a mobile device. The process to transfer new data from a data capture device to a web service was cumbersome and time consuming for the user. Further, data capture devices typically

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.