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9 Attorneys for Plaintiff,
10 CELLSPIN SOFT INC.

11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 OAKLAND

14 CELLSPIN SOFT, INC.,

15 Plaintiff,

16 v.

17 PANASONIC CORPORATION OF
18 NORTH AMERICA,

19 Defendant.

Case No. 4:17-cv-05941

**AMENDED COMPLAINT FOR
INFRINGEMENT OF U.S. PATENT NO.
9,258,698¹**

DEMAND FOR JURY TRIAL

Original Complaint Filed: October 16, 2017
Judge: Honorable Yvonne G. Rogers

20 **NATURE OF THE ACTION**

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

24 **THE PARTIES**

25 2. Plaintiff, Cellspin Soft, Inc. ("Cellspin"), is a California corporation with an office and
26

27 ¹ Cellspin files this Amended Complaint pursuant to the Court's very recent February 27th
28 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.

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

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

7 **JURISDICTION AND VENUE**

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

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

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

1 and/or entities in California.

2 7. Upon information and belief, Venue is proper in this District pursuant to 28 U.S.C. §§
3 1391 and 1400(b), including in view of Panasonic has at least one regular and established place
4 of business, including Panasonic Kiosks, in this District and in California, and at least some
5 of its infringement of the patent-in-suit occurs in this District and in California.

6 **THE PATENT-IN-SUIT**

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

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

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

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

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

1 not the intended or foreseeable use of the mobile phone. Further, HTTP transfers of data
2 received over the paired wireless connection to web services was non-existent. Mobile phones
3 of that time exclusively used SMS,² MMS,³ or email-based communication methods (such as
4 POP3 or IMAP⁴ to transfer data that was acquired by the mobile phone. It was not until 2009
5 or later when the leading tech companies, such as Facebook and Google, started releasing
6 HTTP APIs for developers to utilize a HTTP transfer protocol for mobile devices. *See*
7 <https://developers.facebook.com/docs/graph-api/changelog/archive>; [http://mashable.com/](http://mashable.com/2009/05/19/twitter-share-images/#K9kEHwxammq0)
8 [2009/05/19/twitter-share-images/#K9kEHwxammq0](http://mashable.com/2009/05/19/twitter-share-images/#K9kEHwxammq0). Even in 2009 when Facebook and
9 Google HTTP APIs were released, the released HTTP APIs were only used for data that was
10 acquired by the mobile phone, and not for the data that was received wirelessly over the secure
11 paired connection from a physically separate data capture device. Applying HTTP to a data in
12 transit and on intermediary mobile device was not developed until the inventions of the Patent-
13 in-Suit.

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

18 Typically, the user would capture an image using a digital camera or a video
19 camera, store the image on a memory device of the digital camera, and transfer
20 the image to a computing device such as a personal computer (PC). In order to
21 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.

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

25 _____
26 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>.

27 ³ Multimedia Messaging Service (MMS) is a standard way to send messages that include multimedia content
28 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>.

1 and sufficiently near) of receiving the data. Such constant and inefficient broadcasting would
2 quickly drain the battery of the capture device. Another inferior method for posting data from
3 a capture device onto the Internet is to have a capture device with built in mobile wireless
4 Internet, for example cellular, capability. As noted in the specification, “[t]he digital data
5 capture device is physically separated from the BT enabled mobile device.” *See, e.g.*, ‘698/2:2-
6 3. This example is inferior including because, especially at the time of the patent priority date
7 in 2007 but also today, it makes the combined apparatus bulky, expensive in terms of hardware,
8 and expensive in terms of requiring a user to purchase an extra and/or separate cellular service
9 for the data capture device.

10 14. Prior art methods for posting data from a data capture device onto the Internet were
11 inferior. Back at the time of invention, capture devices such as cameras had only rudimentary
12 wireless capabilities as exemplified by the U.S. Patent Application No. 2003/015,796 to
13 Kennedy (“Kennedy”) and ancillary prior art addressed extensively during prosecution of
14 certain Patent-in-Suit and related patents. As noted by the inventors during prosecution of the
15 ‘698 patent, in every day scenarios, the computer attaches a hypertext transfer protocol
16 (HTTP)_header and user ID to the data generated by the computer (“native data”), and the
17 existing home wireless routers did not apply website user information or apply HTTP to the
18 data sent over the wireless network from the computer to the home wireless router. However,
19 the claimed invention improves and builds on this, including because the claimed mobile
20 device is configured to send a HTTP request comprising the website user information and the
21 non-native data, such that the mobile device is acting as more than just a normal home wireless
22 router. According to the inventors, the wireless pairing established is therefore very important
23 for the transfer of non-native data that is acquired by a physically separate device and then
24 transferred to the mobile device over the trusted paired wireless connection.

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

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