

1 JACK W. LONDEN (CA SBN 85776)  
JLonden@mofocom  
2 MORRISON & FOERSTER LLP  
425 Market Street  
3 San Francisco, California 94105-2482  
Telephone: 415.268.7000  
4 Facsimile: 415.268.7522

5 HECTOR G. GALLEGOS (CA SBN 175137)  
HGallegos@mofocom  
6 ROSE S. LEE (CA SBN 294658)  
RoseLee@mofocom  
7 MORRISON & FOERSTER LLP  
707 Wilshire Boulevard  
8 Los Angeles, California 90017-3543  
Telephone: 213.892.5200  
9 Facsimile: 213.892.5454

10 YUKA TERAGUCHI (CA SBN 260541)  
YTeraguchi@mofocom  
11 MORRISON & FOERSTER LLP  
Shin-Marunouchi Building, 29th Floor  
12 1-5-1 Marunouchi  
Tokyo, Chiyoda-ku 100-6529, Japan  
13 Telephone: +81 3.3214.6522  
Facsimile: +81 3.3214.6512

14 Attorneys for Defendants  
15 NIKON CORPORATION and NIKON INC.

16  
17 UNITED STATES DISTRICT COURT  
18 CENTRAL DISTRICT OF CALIFORNIA

19  
20 RED.COM, LLC, a Nevada limited liability  
company,

21 Plaintiff,

22 v.

23 NIKON CORPORATION, a Japanese  
24 corporation and NIKON INC., a New York  
corporation,

25 Defendants.  
26

Case No. 8:22-cv-01048-FWS-  
JDE

**NIKON CORPORATION  
AND NIKON INC.'S  
ANSWER TO RED.COM,  
LLC'S COMPLAINT FOR  
PATENT INFRINGEMENT**

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**ANSWER**

Defendants Nikon Corporation and Nikon Inc. (collectively, “Nikon”) hereby respond to RED.com, LLC’s (“RED”) Complaint for Patent Infringement (ECF No. 1). Except as expressly admitted below, Nikon denies each and every allegation of the Complaint. Nikon adopts the headings used in the Complaint for ease of reference. To the extent the headings contain factual and legal characterizations, Nikon denies such characterizations.

**PARTIES**

1. Nikon lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 1, and on that basis denies them.

2. Nikon admits that Nikon Corporation is a corporation organized and existing under the laws of Japan, with its principal place of business at 2-15-3, Konan, Minato-ku, Tokyo 108-6290, Japan. Nikon admits that Nikon Inc. is a corporation organized and existing under the laws of New York, with its principal place of business at 1300 Walt Whitman Rd, Melville, NY 11747. Nikon admits that Nikon Inc. is wholly-owned by a non-party Nikon entity, which in turn is wholly-owned by Nikon Corporation. Nikon denies the remaining allegations of Paragraph 2.

3. Nikon admits that Nikon Inc. has transacted and continues to transact business in this judicial district, including advertising, marketing, selling, distributing, and servicing cameras in this judicial district by itself or through affiliates or entities based in California. Nikon denies the remaining allegations of Paragraph 3.

**JURISDICTION AND VENUE**

4. Nikon admits that this Court has subject matter jurisdiction over this patent infringement action under 28 U.S.C. §§1331 and 1338.

5. Nikon admits that venue is proper for the purpose of this lawsuit only. Nikon further admits that Nikon Inc. has a service and repair center located at 1907

1 East 29th Street, Signal Hill, CA 90755. Nikon further admits that, in *Carl Zeiss*  
2 *AG et al. v. Nikon Corporation et al.*, No. 2:17-cv-7083-RGK (ECF No. 35), Nikon  
3 stated that “Nikon Corporation sells cameras to Nikon Inc. in Japan, which Nikon  
4 Inc. then imports into the United States”; “Nikon Inc. has conducted and continues  
5 to conduct business in the Central District of California”; and “Nikon Inc. imports,  
6 services and sells digital camera products in the Central District of California.”  
7 Nikon denies the remaining allegations in Paragraph 5.

### 8 GENERAL ALLEGATIONS

9 6. Nikon lacks knowledge or information sufficient to form a belief about  
10 the truth of the allegations in Paragraph 6, and on that basis denies them.

11 7. Nikon lacks knowledge or information sufficient to form a belief about  
12 the truth of the remaining allegations in Paragraph 7, and on that basis denies them.

#### 13 **RED’s Inventions Disclosed in U.S. Patent No. 7,830,967**

14 8. Nikon admits that on its face, U.S. Patent No. 7,830,967 (the “’967  
15 patent”) is entitled “Video Camera” and issued on November 9, 2010. Nikon lacks  
16 knowledge or information sufficient to form a belief about the truth of the  
17 remaining allegations in Paragraph 8, and on that basis denies them.

18 9. Nikon admits that Exhibit RED-PAT-1 purports to be a copy of the  
19 ’967 patent.

20 10. The allegations in Paragraph 10 selectively characterize contents of the  
21 ’967 patent, which speaks for itself. To the extent this paragraph otherwise requires  
22 a response, Nikon denies the allegations of Paragraph 10.

#### 23 **RED’s Inventions Disclosed in U.S. Patent No. 8,174,560**

24 11. Nikon admits that on its face, U.S. Patent No. 8,174,560 (the “’560  
25 Patent”) is entitled “Video Camera” and issued on May 8, 2012. Nikon further  
26 admits that on its face, Ex Parte Reexamination Certification U.S. 8,174,560 C1  
27 issued on May 16, 2014. Nikon lacks knowledge or information sufficient to form  
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1 a belief about the truth of the remaining allegations in Paragraph 11, and on that  
2 basis denies them.

3 12. Nikon admits that Exhibit RED-PAT-2 purports to be a copy of the  
4 '560 patent and the Ex Parte Reexamination Certificate.

5 13. The allegations in Paragraph 13 selectively characterize contents of the  
6 '560 patent, which speaks for itself. To the extent this paragraph otherwise requires  
7 a response, Nikon denies the allegations of Paragraph 13.

8 **RED's Inventions Disclosed in U.S. Patent No. 9,245,314**

9 14. Nikon admits that on its face, U.S. Patent No. 9,245,314 (the "'314  
10 patent") is entitled "Video Camera" and issued on January 26, 2016. Nikon lacks  
11 knowledge or information sufficient to form a belief about the truth of the  
12 remaining allegations in Paragraph 14, and on that basis denies them.

13 15. Nikon admits that Exhibit RED-PAT-3 purports to be a copy of the  
14 '314 patent.

15 16. The allegations in Paragraph 16 selectively characterize contents of the  
16 '314 patent, which speaks for itself. To the extent this paragraph otherwise requires  
17 a response, Nikon denies the allegations of Paragraph 16.

18 **RED's Inventions Disclosed in U.S. Patent No. 9,436,976**

19 17. Nikon admits that on its face, U.S. Patent No. 9,436,976 (the "'976  
20 Patent") is entitled "Video Camera" and issued on September 16, 2016. Nikon  
21 lacks knowledge or information sufficient to form a belief about the truth of the  
22 remaining allegations in Paragraph 17, and on that basis denies them.

23 18. Nikon admits that Exhibit RED-PAT-4 purports to be a copy of the  
24 '976 patent.

25 19. The allegations in Paragraph 19 selectively characterize contents of the  
26 '976 patent, which speaks for itself. To the extent this paragraph otherwise requires  
27 a response, Nikon denies the allegations of Paragraph 19.

28 **RED's Inventions Disclosed in U.S. Patent No. 9,521,384**

1           20. Nikon admits that on its face, U.S. Patent No. 9,521,384 (the “’384  
2 Patent”) is entitled “Green Average Subtraction in Image Data” and issued on  
3 December 13, 2016. Nikon lacks knowledge or information sufficient to form a  
4 belief about the truth of the remaining allegations in Paragraph 20, and on that basis  
5 denies them.

6           21. Nikon admits that Exhibit RED-PAT-5 purports to be a copy of the  
7 ’384 patent.

8           22. The allegations in Paragraph 22 selectively characterize contents of the  
9 ’384 patent, which speaks for itself. To the extent this paragraph otherwise requires  
10 a response, Nikon denies the allegations of Paragraph 22.

11                           **RED’s Inventions Disclosed in U.S. Patent No. 9,716,866**

12           23. Nikon admits that on its face, U.S. Patent No. 9,716,866 (the “’866  
13 Patent”) is entitled “Green Image Data Processing” and issued on July 25, 2017.  
14 Nikon lacks knowledge or information sufficient to form a belief about the truth of  
15 the remaining allegations in Paragraph 23, and on that basis denies them.

16           24. Nikon admits that Exhibit RED-PAT-6 purports to be a copy of the  
17 ’866 patent.

18           25. The allegations in Paragraph 25 selectively characterize contents of the  
19 ’866 Patent, which speaks for itself. To the extent this paragraph otherwise requires  
20 a response, Nikon denies the allegations of Paragraph 25.

21                           **RED’s Inventions Disclosed in U.S. Patent No. 10,582,168**

22           26. Nikon admits that on its face, U.S. Patent No. 10,582,168 (the “’168  
23 Patent”) is entitled “Green Image Data Processing” and issued on March 3, 2020.  
24 Nikon lacks knowledge or information sufficient to form a belief about the truth of  
25 the remaining allegations in Paragraph 26, and on that basis denies them.

26           27. Nikon admits that Exhibit RED-PAT-7 purports to be a copy of the  
27 ’168 patent.

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1           28. The allegations in Paragraph 28 selectively characterize contents of the  
2 '168 Patent, which speaks for itself. To the extent this paragraph otherwise requires  
3 a response, Nikon denies the allegations of Paragraph 28.

4           **Nikon's Products That Practice and/or Embody Those Inventions**

5           29. Nikon denies the allegations of Paragraph 29.

6           30. Nikon denies the allegations of Paragraph 30.

7           **Nikon Knew About RED's Inventions**

8           31. Nikon denies the allegations of Paragraph 31.

9           32. Nikon admits that it knew about RED's prior lawsuits involving one or  
10 more of the Asserted Patents, including: *Red.com, LLC v. Kinfinity, Inc.*, 8-21-cv-  
11 00041 (C.D. Cal.); *Red.com, Inc. v. Sony Corporation of America et al.*, 2-16-cv-  
12 00937 (E.D. Tex.); *Red.com, Inc. v. Nokia USA Inc. et al.*, 8-16-cv-00594 (C.D.  
13 Cal.); and *Red.com, Inc. v. Sony Corporation of America et al.*, 3-13-cv-00334  
14 (S.D. Cal.). Nikon further admits that it has known of the Asserted Patents at least  
15 as of the date of the service of the Complaint. Nikon denies the remaining  
16 allegations of Paragraph 32.

17           33. Nikon admits that it provides manuals and reference guides for the Z9  
18 cameras in its Download Center and that these manuals and reference guides  
19 contain information on the features of the Z9 cameras including the N-RAW  
20 recording mode. Nikon denies the remaining allegations of this paragraph.

21           **COUNT 1: PATENT INFRINGEMENT UNDER 35 U.S.C. § 271**

22           **Nikon Infringes Claims of the '967 Patent**

23           34. Nikon incorporates its responses to paragraphs 1-33.

24           35. Nikon denies the allegations of Paragraph 35.

25           36. Nikon admits that Nikon Inc. offers to sell and sells the Z9 cameras  
26 within the United States and imports these cameras into the United States. Nikon  
27 denies the remaining allegations of Paragraph 36.

28           37. Nikon denies the allegations of Paragraph 37.

1 38. Nikon denies the allegations of Paragraph 38.

2 39. Nikon denies the allegations of Paragraph 39.

3 40. Nikon denies the allegations of Paragraph 40.

4 **COUNT 2: PATENT INFRINGEMENT UNDER 35 U.S.C. § 271**

5 **Nikon Infringes Claims of the '560 Patent**

6 41. Nikon incorporates its responses to Paragraphs 1-32.

7 42. Nikon denies the allegations of Paragraph 42.

8 43. Nikon admits that Nikon Inc. offers to sell and sells the Z9 cameras  
9 within the United States and imports these cameras into the United States. Nikon  
10 denies the remaining allegations of Paragraph 43.

11 44. Nikon denies the allegations of Paragraph 44.

12 45. Nikon denies the allegations of Paragraph 45.

13 46. Nikon denies the allegations of Paragraph 46.

14 47. Nikon denies the allegations of Paragraph 47.

15 **COUNT 3: PATENT INFRINGEMENT UNDER 35 U.S.C. § 271**

16 **Nikon Infringes Claims of the '314 Patent**

17 48. Nikon incorporates its responses to Paragraphs 1-32.

18 49. Nikon denies the allegations of Paragraph 49.

19 50. Nikon admits that Nikon Inc. offers to sell and sells the Z9 cameras  
20 within the United States and imports these cameras into the United States. Nikon  
21 denies the remaining allegations of Paragraph 50.

22 51. Nikon denies the allegations of Paragraph 51.

23 52. Nikon denies the allegations of Paragraph 52.

24 53. Nikon denies the allegations of Paragraph 53.

25 54. Nikon denies the allegations of Paragraph 54.

26 **COUNT 4: PATENT INFRINGEMENT UNDER 35 U.S.C. § 271**

27 **Nikon Infringes Claims of the '976 Patent**

28 55. Nikon incorporates its responses to Paragraphs 1-32.



1           56. Nikon denies the allegations of Paragraph 56.

2           57. Nikon admits that Nikon Inc. offers to sell and sells the Z9 cameras  
3 within the United States and imports these cameras into the United States. Nikon  
4 denies the remaining allegations of Paragraph 57.

5           58. Nikon denies the allegations of Paragraph 58.

6           59. Nikon denies the allegations of Paragraph 59.

7           60. Nikon denies the allegations of Paragraph 60.

8           61. Nikon denies the allegations of Paragraph 61.

9           **COUNT 5: PATENT INFRINGEMENT UNDER 35 U.S.C. § 271**

10           **Nikon Infringes Claims of the '384 Patent**

11           62. Nikon incorporates its responses to Paragraphs 1-32.

12           63. Nikon denies the allegations of Paragraph 63.

13           64. Nikon admits that Nikon Inc. offers to sell and sells the Z9 cameras  
14 within the United States and imports these cameras into the United States. Nikon  
15 denies the remaining allegations of Paragraph 64.

16           65. Nikon denies the allegations of Paragraph 65.

17           66. Nikon denies the allegations of Paragraph 66.

18           67. Nikon denies the allegations of Paragraph 67.

19           68. Nikon denies the allegations of Paragraph 68.

20           **COUNT 6: PATENT INFRINGEMENT UNDER 35 U.S.C. § 271**

21           **Nikon Infringes Claims of the '866 Patent**

22           69. Nikon incorporates its responses to Paragraphs 1-32.

23           70. Nikon denies the allegations of Paragraph 70.

24           71. Nikon admits that Nikon Inc. offers to sell and sells the Z9 cameras  
25 within the United States and imports these cameras into the United States. Nikon  
26 denies the remaining allegations of Paragraph 71.

27           72. Nikon denies the allegations of Paragraph 72.

28           73. Nikon denies the allegations of Paragraph 73.



1 74. Nikon denies the allegations of Paragraph 74.

2 75. Nikon denies the allegations of Paragraph 75.

3 **COUNT 7: PATENT INFRINGEMENT UNDER 35 U.S.C. § 271**

4 **Nikon Infringes Claims of the '168 Patent**

5 76. Nikon incorporates its responses to Paragraphs 1-32.

6 77. Nikon denies the allegations of Paragraph 77.

7 78. Nikon admits that Nikon Inc. offers to sell and sells the Z9 cameras  
8 within the United States and imports these cameras into the United States. Nikon  
9 denies the remaining allegations of Paragraph 78.

10 79. Nikon denies the allegations of Paragraph 79.

11 80. Nikon denies the allegations of Paragraph 80.

12 81. Nikon denies the allegations of Paragraph 81.

13 82. Nikon denies the allegations of Paragraph 82.

14 **RESPONSE TO RED'S PRAYER FOR RELIEF**

15 Nikon denies that RED is entitled to any relief in this action and asks the  
16 Court to deny any and all of the relief requested by RED in its Complaint.

17 **ADDITIONAL DEFENSES**

18 Nikon asserts the following additional defenses without admitting that it  
19 bears the burden of proof as to any of them.

20 **First Additional Defense – Failure to State a Claim**

21 RED's claims for alleged patent infringement fail to state a claim upon which  
22 relief can be granted.

23 **Second Additional Defense – Noninfringement**

24 Nikon does not infringe and has not infringed any valid and enforceable  
25 claim of the '967 patent, '560 patent, '314 patent, '976 patent, 384 patent, '866  
26 patent, or '168 patent (collectively, the "Patents-in-Suit")), whether directly or  
27 indirectly, literally or under the doctrine of equivalents.

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**Third Additional Defense – Invalidity**

One or more claims of each of the Patents-in-Suit are invalid for failure to satisfy the conditions for patentability set forth in 35 U.S.C., including without limitation §§ 101, 102, 103 and/or 112.

**Fourth Additional Defense – Estoppel**

RED’s requested relief is barred, in whole or in part, by the doctrine of estoppel, including, but not limited to, the doctrine of prosecution history estoppel arising from the patentee’s actions, representations, and/or conduct before the United States Patent and Trademark Office (“PTO”) during prosecution of the Patents-in-Suit.

**Fifth Additional Defense – Inequitable Conduct**

The ’967 patent, ’560 patent, ’314 patent, and ’976 patent are unenforceable under the doctrine of inequitable conduct.

On information and belief, RED offered for sale and publicly used a RED camera that incorporates the claimed invention of at least independent claims 1, 6, and 12 of the ’560 patent more than a year before the effective filing date of the ’560 patent. RED’s failure to disclose the offer for sale and public use of the RED camera to the PTO during prosecution of the ’560 patent bars enforcement of the ’560 patent and its related patents, including the ’967 patent, ’314 patent, and ’976 patent.

The ’560 patent issued from U.S. Patent Application No. 12/101,882 (“the ’882 application”). The ’882 application claims priority to Provisional Application No. 60/911,196 (“the ’196 application”) filed on April 11, 2007, and Provisional Application No. 61/017,406 (“the ’406 application”) filed on December 28, 2007.

The ’196 application does not provide written description support as required pursuant to 35 U.S.C. section 112 for at least independent claims 1, 6, and 12 of the ’560 patent. For example, the ’196 application lacks written description support for at least the limitations “convert the focused light into raw mosaiced image data with

1 a resolution of at least 2 k at a frame rate of at least about twenty-three frames per  
2 second” (claim 1); “converting the light received by the light sensitive device into  
3 raw digital mosaiced image data having a horizontal resolution of at least 2 k at a  
4 rate of at least greater than twenty three frames per second” (claim 6); and “convert  
5 the focused light into raw mosaiced image data with a horizontal resolution of at  
6 least 2 k and at a frame rate of at least about twenty three frames per second” (claim  
7 12). In addition, the ’196 application lacks written description support for at least  
8 the limitation “compress[ing] . . . the raw mosaiced image data at a compression  
9 ratio of at least six to one” (claims 1 and 12). Therefore, the ’560 patent is not  
10 entitled to receive the benefit of the ’196 application’s April 11, 2007 filing date.  
11 The earliest effective filing date for the ’560 patent would be no earlier than the  
12 ’406 application’s December 28, 2007 filing date.

13 On information and belief, in April 2006, RED offered a RED camera  
14 incorporating the claimed invention of the ’560 patent for sale at the National  
15 Association of Broadcasters show in Las Vegas, Nevada. On information and  
16 belief, many attendees paid a \$1,000 deposit to reserve the RED camera, which was  
17 scheduled to be delivered by the end of 2006 at the time of the show.

18 Moreover, on information and belief, in November 2006, RED participated  
19 in a public demonstration of the RED camera at the Nuart Theatre in Los Angeles,  
20 California. On information and belief, RED exhibited the RED camera and videos  
21 taken by the RED camera at this demonstration. The public use of the RED camera  
22 showed that RED sufficiently reduced the claimed invention to practice at least by  
23 November 2006.

24 Both RED’s offer for sale and public use of the RED camera occurred more  
25 than a year before December 28, 2007, the earliest possible effective filing date of  
26 the ’560 patent.

27 However, RED, James Jannard and Thomas Graeme Nattress (the named  
28 inventors of the ’560 patent), and their representatives did not disclose the RED

1 camera's April 2006 offer for sale or November 2006 public use during the  
2 prosecution of the '560 patent. The offer for sale and public use of the RED camera  
3 are material, because the PTO would not have allowed the '560 patent had it been  
4 aware of these undisclosed events. Also, on information and belief, RED, the  
5 named inventors of the '560 patent, and their representatives acted with a specific  
6 intent to deceive the PTO by withholding information about these events, because  
7 they knew that disclosure of either of these events to the PTO would prevent the  
8 issuance of the '560 patent.

9 Accordingly, the '560 patent and its related patents are unenforceable under  
10 the doctrine of inequitable conduct.

11 **Sixth Additional Defense – Unclean Hands**

12 RED's claims for relief are barred, in whole or in part, by the doctrine of  
13 unclean hands.

14 **Seventh Additional Defense – Dedication to the Public**

15 RED's claims for alleged infringement of the Patents-in-Suit are barred to the  
16 extent that the patentee has dedicated to the public the systems, methods, and  
17 products disclosed in the Patents-in-Suit but not claimed therein.

18 **Eighth Additional Defense – Ensnarement of Prior Art**

19 To the extent that RED alleges that Nikon infringes the Patents-in-Suit by  
20 equivalents, RED's claims for relief are barred, in whole or in part, by ensnaring the  
21 prior art.

22 **Ninth Additional Defense – Limitation on Recovery**

23 Any recovery of damages by RED is limited by 35 U.S.C. § 286.

24 **Tenth Additional Defense – Marking**

25 Upon information and belief, RED's claims for relief and prayer for damages  
26 are limited or barred under 35 U.S.C. § 287.

27 **Eleventh Additional Defense – Limitation on Recovery of Costs**

28 RED is precluded from seeking recovery of costs by 35 U.S.C. § 288.

1                    **Twelfth Additional Defense – No Entitlement to Injunctive Relief**

2                    RED is not entitled to injunctive relief because it has, at a minimum, no  
3 irreparable injury and an adequate remedy at law for Nikon’s alleged infringement  
4 of the Patents-in-Suit. RED will be unable to establish that (1) it has suffered any  
5 injury, let alone an irreparable injury; (2) remedies available at law, such as  
6 monetary damages, would be inadequate to compensate for any injury; (3)  
7 considering the balance of hardships between RED and Nikon, a remedy in equity  
8 is warranted; and (4) the public interest would be served by an injunction.

9                    **Thirteenth Additional Defense – No Enhanced Damages**

10                  RED has not shown that it is entitled to enhanced damages under 35 U.S.C.  
11 § 284 at least because it has not shown that any alleged infringement is willful.  
12 RED has also failed to show this is an exceptional case in favor of RED under 35  
13 U.S.C. § 285.

14                    **Reservation of Defenses**

15                  Nikon reserves the right to seek leave to amend its Answer to plead  
16 additional defenses and/or to plead counterclaims and/or to supplement its existing  
17 defenses if information developed through discovery, trial, or otherwise merits such  
18 additional defenses, counterclaims, or supplementation.

19                    **PRAYER FOR RELIEF**

20                  WHEREFORE, Nikon prays that the Court enter judgment in its favor and  
21 against RED as follows:

- 22                  1.        That RED takes nothing and is denied any relief whatsoever;
- 23                  2.        That RED’s claims against Nikon be dismissed in their entirety and  
24 with prejudice;
- 25                  3.        That Nikon be awarded the costs incurred in connection with this  
26 action;
- 27                  4.        That this action be deemed exceptional under 35 U.S.C. § 285, such  
28 that Nikon is awarded its fees in this action, including attorneys’ fees; and

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5. That Nikon be awarded such further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Nikon hereby demands a trial by jury.

Dated: September 6, 2022

By: Jack Londen  
Jack W. Londen

Attorneys for Defendants  
NIKON CORPORATION and  
NIKON INC.