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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SACV11-01862 JVS (RNBx)

PRESERVATION TECHNOLOGIES LLC, Plaintiff, vs. NETFLIX, INC.; AMAZON.COM, INC.; FACEBOOK, INC.; SONY CORPORATION OF AMERICA; DISH NETWORK CORPORATION, Defendants.	CASE NO. **PLAINTIFF'S ORIGINAL COMPLAINT** **Jury Trial Demanded**

Preservation Technologies LLC ("Preservation Technologies") by and through its attorneys, for its Original Complaint against Defendants Netflix, Inc. ("Netflix"), Amazon.com, Inc. ("Amazon"), Facebook, Inc. ("Facebook"), Sony Corporation of America ("Sony"), DISH Network Corporation ("DISH")hereby alleges as follows:

I. NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271, *et seq.*, to enjoin and obtain damages resulting from Defendants' unauthorized use, sale, and offer to sell in the United States of products, methods, processes, services and/or systems that infringe one or more claims of United States Patent No. 6,199,060, issued on March 6, 2001, for "Method and Apparatus Management of Multimedia Assets" naming Samuel Gustman as inventor (the "'060 Patent"), a true and correct copy of which is attached hereto as **Exhibit 1**; United States Patent No. 6,581,071, issued June 17, 2003, for "Surveying System and Method" naming Samuel Gustman and Barbara DeLury as inventors (the "'071 Patent"), a true and correct copy of which is attached hereto as **Exhibit 2**; United States Patent No. 5,813,014, issued on September 22, 1998, for "Method and Apparatus for Management of Multimedia Assets" naming Samuel Gustman as inventor (the "'014 Patent"), a true and correct copy of which is attached hereto as **Exhibit 3**; United States Patent No. 6,092,080, issued July 18, 2000, for "Digital Library System" naming Samuel Gustman as inventor (the "'080 Patent"), a true and correct copy of which is attached hereto as **Exhibit 4**; United States Patent No. 5,832,495, issued November 3, 1998, for "Method and Apparatus for Cataloguing Multimedia Data" naming Samuel Gustman as inventor (the "'495 Patent"), a true and correct copy of which is attached hereto as **Exhibit 5**; United States Patent No. 5,832,499, issued November 3, 1998, for "Digital Library System" naming Samuel Gustman as inventor (the "'499 Patent"), a true and correct copy of which is attached hereto as

Exhibit 6; United States Patent No. 6,212,527, issued April 3, 2001, for "Method and Apparatus for Cataloguing Multimedia Data" naming Samuel Gustman as inventor (the "'527 Patent"), a true and correct copy of which is attached hereto as **Exhibit 7**; United States Patent No. 6,574,638, issued June 3, 2003, for "Method and Apparatus for Cataloguing Multimedia Data Using Surveying Data" naming Samuel Gustman and Barbara DeLury as inventors (the "'638 Patent"), a true and correct copy of which is attached hereto as **Exhibit 8**; United States Patent No. 6,549,911, issued April 15, 2003, for "Method and Apparatus for Cataloguing Multimedia Data" naming Samuel Gustman as inventor (the "'911 Patent"), a true and correct copy of which is attached hereto as **Exhibit 9**; and United States Patent No. 6,353,831, issued March 5, 2002, for "Digital Library System" naming Samuel Gustman as inventor (the "'831 Patent"), a true and correct copy of which is attached hereto as **Exhibit 10**. Collectively, the '060 Patent, the '071 Patent, the '014 Patent, the '080 Patent, the '495 Patent, the '499 Patent, the'527 Patent, the '638 Patent, the '911 Patent and the '831 Patent are referenced herein as the "Patents-in-Suit."

2. Preservation Technologies is the exclusive licensee and holder of all substantial rights and interest in and to the Patents-in-Suit.

3. Each of the Defendants manufactures, provides, sells, offers for sale, imports and/or distributes infringing products and services; and/or induces others including its customers to use its products and services in an infringing manner; and/or contributes to the use of infringing products and services by others.

4. Plaintiff Preservation Technologies seeks injunctive relief to prevent Defendants from continuing infringement of Plaintiff's valuable patent rights. Plaintiff Preservation Technologies further seeks monetary damages and prejudgment interest for Defendants' past infringement of the Patents-in-Suit.

5. This is an exceptional case, and Preservation Technologies is entitled to damages, enhanced damages, attorneys' fees, costs and expenses.

II. THE PARTIES

6. Plaintiff Preservation Technologies LLC is a Delaware limited liability company, having its principal place of business at 874 Walker Road, Suite C, Dover, Delaware 19904.

7. On information and belief, Netflix is a corporation organized and existing under the laws of the State of Delaware, with a place of business located at 100 Winchester Circle, Los Gatos, California 95032. Netflix can be served with process by serving its registered agent for service of process in the State of California, National Registered Agents, Inc., 2875 Michelle Drive, Suite 100, Irvine, California 92606.

8. On information and belief, Amazon is a corporation organized and existing under the laws of the State of Delaware, with a place of business located at 410 Terry Avenue North, Seattle, Washington 98109. Amazon can be served with process by serving its registered agent for service of process in the State of Washington, Corporation Service Company, 300 Deschutes Way SW, Suite 304, Tumwater, Washington 98501.

9. On information and belief, Facebook is a corporation organized and existing under the laws of the State of Delaware, with a place of business located at 1601 S. California Avenue, Palo Alto, California 94304. Facebook can be served with process by serving its registered agent for service of process in the State of California, Corporation Service Company d/b/a CSC - Lawyers Incorporating Service, 2730 Gateway Oaks Drive, Suite 100, Sacramento, California 95833.

10. On information and belief, Sony is a corporation organized and existing under the laws of the State of New York, with a place of business located at 550 Madison Avenue 27th Floor, New York, New York 10022. Sony can be served with process by serving its registered agent for service of process in the State of California, Corporation Service Company, d/b/a CSC - Lawyers

Incorporating Service, 2730 Gateway Oaks Drive, Suite 100, Sacramento, California 95833.

11. On information and belief, DISH is a corporation organized and existing under the laws of the State of Nevada, with a place of business located at 9601 S. Meridian Boulevard, Englewood, Colorado 80112. DISH can be served with process by serving its registered agent for service of process in the State of Colorado, R. Stanton Dodge, 9601 S. Meridian Boulevard, Englewood, Colorado 80112.

III. JURISDICTION AND VENUE

12. This is an action for patent infringement which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§271, 281, 283, 284 and 285. This Court has exclusive jurisdiction over the subject matter of this action under 28 U.S.C. §§1331 and 1338(a).

13. On information and belief, venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b) because each Defendant has transacted business in this district, and has committed and/or caused acts of patent infringement in this district.

14. On information and belief, Defendant Netflix is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the California Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in California and in this Judicial District.

15. On information and belief, Defendant Amazon is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the California Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and

(ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in California and in this Judicial District.

16. On information and belief, Defendant Facebook is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the California Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in California and in this Judicial District.

17. On information and belief, Defendant Sony is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the California Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in California and in this Judicial District.

18. On information and belief, Defendant DISH is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the California Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in California and in this Judicial District.

IV. BACKGROUND

19. The technology represented by the corpus of the Patents-in-Suit was developed by the USC Shoah Foundation Institute ("Shoah") and its predecessors. Shoah's impetus was to gather, catalog and make available for access thousands of

video testimonies relative to the holocaust. The Shoah Visual History Foundation was established in 1994. The original aim of the foundation was to gather video testimonies from survivors and other witnesses of the Holocaust. Within several years, the Foundation's Visual History Archive held nearly 52,000 video testimonies in 32 languages, representing 56 countries; it is the largest archive of its kind in the world.

20. In January 2006, the Survivors of the Shoah Visual History Foundation became part of the Dana and David Dornsife College of Letters, Arts and Sciences at the University of Southern California in Los Angeles, where the testimonies in the Visual History Archive are preserved.

21. Preservation Technologies has all substantial rights and interest to the Patents-in-Suit, including all rights to recover for all past and future infringements thereof.

22. Defendants provide common infringing technology including systems supporting streaming video.

V. DEFENDANTS' ACTS

Netflix

23. Netflix manufactures, provides, sells, offers for sale and/or distributes infringing systems. The infringing Netflix systems and methods include, but are not limited to, systems and methods relating to the cataloguing, organizing searching, rating, and provisioning digital multimedia data including but not limited to Netflix's internet subscription service for streaming movies and television shows, and related products. Netflix provides related services, specifications and instructions for the installation and operation of such systems to its customers.

Amazon

24. Amazon manufactures, provides, sells, offers for sale and/or distributes infringing systems. The infringing Amazon systems and methods

include, but are not limited to, systems and methods relating to the cataloguing, organizing searching, rating, and provisioning digital multimedia data including but not limited to the foregoing functions for streaming movies, television shows and music, such as Amazon Instant Video and MP3 Downloads, along with related products and services. Amazon provides related services, specifications and instructions for the installation and operation of such systems to its customers.

Facebook

25. Facebook manufactures, provides, sells, offers for sale and/or distributes infringing systems. The infringing Facebook systems and methods include, but are not limited to, systems and methods relating to the cataloguing, organizing searching, rating, and provisioning digital multimedia data including but not limited to the foregoing services on Facebook.com, and related products. Facebook provides related services, specifications and instructions for the installation and operation of such systems to its customers.

Sony

26. Sony manufactures, provides, sells, offers for sale and/or distributes infringing systems. The infringing Sony systems and methods include, but are not limited to, systems and methods relating to the cataloguing, organizing searching, rating, and provisioning digital multimedia data including but not limited to the foregoing services marketed under the name Crackle (www.crackle.com), and related products. Sony makes, uses, sells and offers for sale devices including televisions, Blu-ray players and other multimedia devices that are designed to interoperate with services provided by other Defendants, including Netflix, Amazon, Facebook and DISH. Sony provides related services, specifications and instructions for the installation and operation of such systems to its customers.

DISH

27. DISH manufactures, provides, sells, offers for sale and/or distributes infringing systems. The infringing DISH systems and methods include, but are not

limited to systems and methods relating to the cataloguing, organizing searching, rating, and provisioning digital multimedia data including but not limited to the foregoing services found on Blockbuster On-Demand (www.blockbuster.com/download), and related products. DISH provides related services, specifications and instructions for the installation and operation of such systems to its customers.

VI. COUNT ONE

DIRECT AND INDIRECT INFRINGEMENT OF U.S. PATENT NO. 6,199,060

28. Preservation Technologies incorporates by reference its allegations in Paragraphs 1-27 as if fully restated in this paragraph.

29. Preservation Technologies has all substantial rights and interest to the '060 Patent, including all rights to recover for all past and future infringements thereof.

30. The '060 Patent is valid and enforceable.

31. On information and belief, Defendants Netflix, Amazon, Facebook and Sony, without permission of Preservation Technologies, have been and are presently infringing the '060 Patent, as infringement is defined by 35 U.S.C. § 271(a), including through making, using, selling, offering for sale and importing methods and articles infringing one or more claims of the '060 Patent. Defendants Netflix, Amazon, Facebook and Sony are thus liable for direct infringement of the '060 Patent pursuant to 35 U.S.C. § 271(a).

32. On information and belief, at least since the filing of this Complaint, Defendants Netflix, Amazon, Facebook and Sony, without permission of Preservation Technologies, have been and are presently indirectly infringing the '060 Patent, including actively inducing infringement of the '060 Patent under 35 U.S.C. § 271(b) and contributing to infringement of the '060 Patent under 35 U.S.C. § 271(c). Such inducements include without limitation, with specific

intent to encourage the infringement, knowingly inducing consumers to use infringing articles and methods that these Defendants knew or should have known infringe one or more claims of the '060 Patent.

33. On information and belief, Defendants, with knowledge of the '060 Patent, provide instructions to their customers to use the accused instrumentalities in an infringing manner, and their customers do so.

34. As a result of Defendants' infringement of the '060 Patent, Preservation Technologies has suffered monetary damages that are adequate to compensate them for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

VII. COUNT TWO

DIRECT AND INDIRECT INFRINGEMENT OF U.S. PATENT NO. 6,581,071

35. Preservation Technologies incorporates by reference its allegations in Paragraphs 1-34 as if fully restated in this paragraph.

36. Preservation Technologies has all substantial rights and interest to the '071 Patent, including all rights to recover for all past and future infringements thereof.

37. The '071 Patent is valid and enforceable.

38. On information and belief, Defendants Netflix, Amazon, Facebook, Sony, and DISH, without permission of Preservation Technologies, have been and are presently infringing the '071Patent, as infringement is defined by 35 U.S.C. § 271(a), including through making, using, selling, offering for sale and importing methods and articles infringing one or more claims of the '071Patent. Defendants Netflix, Amazon, Facebook, Sony, and DISH are thus liable for direct infringement of the '071 Patent pursuant to 35 U.S.C. § 271(a).

39. On information and belief, at least since the filing of this Complaint, Defendants Netflix, Amazon, Facebook, Sony, and DISH, without permission of

Preservation Technologies, have been and are presently indirectly infringing the '071 Patent, including actively inducing infringement of the '071 Patent under 35 U.S.C. § 271(b) and contributing to infringement of the '071 Patent under 35 U.S.C. § 271(c). Such inducements include without limitation, with specific intent to encourage the infringement, knowingly inducing consumers to use infringing articles and methods that these Defendants knew or should have known infringe one or more claims of the '071 Patent.

40. On information and belief, Defendants, with knowledge of the '071 Patent, provide instructions to their customers to use the accused instrumentalities in an infringing manner, and their customers do so.

41. As a result of Defendants' infringement of the '071 Patent, Preservation Technologies has suffered monetary damages that are adequate to compensate them for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

VIII. COUNT THREE
DIRECT AND INDIRECT INFRINGEMENT
OF U.S. PATENT NO. 5,813,014

42. Preservation Technologies incorporates by reference its allegations in Paragraphs 1-41 as if fully restated in this paragraph.

43. Preservation Technologies has all substantial rights and interest to the '014 Patent, including all rights to recover for all past and future infringements thereof.

44. The '014 Patent is valid and enforceable.

45. On information and belief, Defendants Netflix, Amazon, Facebook, Sony, and DISH, without permission of Preservation Technologies, have been and are presently infringing the '014 Patent, as infringement is defined by 35 U.S.C. § 271(a), including through making, using, selling, offering for sale and importing methods and articles infringing one or more claims of the '014 Patent. Defendants

Netflix, Amazon, Facebook, Sony, and DISH are thus liable for direct infringement of the '014 Patent pursuant to 35 U.S.C. § 271(a).

46. On information and belief, at least since the filing of this Complaint, Defendants Netflix, Amazon, Facebook, Sony, and DISH, without permission of Preservation Technologies, have been and are presently indirectly infringing the '014 Patent, including actively inducing infringement of the '014 Patent under 35 U.S.C. § 271(b) and contributing to infringement of the '014 Patent under 35 U.S.C. § 271(c). Such inducements include without limitation, with specific intent to encourage the infringement, knowingly inducing consumers to use infringing articles and methods that these Defendants knew or should have known infringe one or more claims of the '014 Patent.

47. On information and belief, Defendants, with knowledge of the '014 Patent, provide instructions to their customers to use the accused instrumentalities in an infringing manner, and their customers do so.

48. As a result of Defendants' infringement of the '014 Patent, Preservation Technologies has suffered monetary damages that are adequate to compensate them for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

IX. COUNT FOUR

DIRECT AND INDIRECT INFRINGEMENT OF U.S. PATENT NO. 6,092,080

49. Preservation Technologies incorporates by reference its allegations in Paragraphs 1-48 as if fully restated in this paragraph.

50. Preservation Technologies has all substantial rights and interest to the '080 Patent, including all rights to recover for all past and future infringements thereof.

51. The '080 Patent is valid and enforceable.

52. On information and belief, Defendants Netflix, Amazon, Facebook, Sony, and DISH, without permission of Preservation Technologies, have been and are presently infringing the '080 Patent, as infringement is defined by 35 U.S.C. § 271(a), including through making, using, selling, offering for sale and importing methods and articles infringing one or more claims of the '080 Patent. Defendants Netflix, Amazon, Facebook, Sony, and DISH are thus liable for direct infringement of the '080 Patent pursuant to 35 U.S.C. § 271(a).

53. On information and belief, at least since the filing of this Complaint, Defendants Netflix, Amazon, Facebook, Sony, and DISH, without permission of Preservation Technologies, have been and are presently indirectly infringing the '080 Patent, including actively inducing infringement of the '080 Patent under 35 U.S.C. § 271(b) and contributing to infringement of the '080 Patent under 35 U.S.C. § 271(c). Such inducements include without limitation, with specific intent to encourage the infringement, knowingly inducing consumers to use infringing articles and methods that these Defendants knew or should have known infringe one or more claims of the '080 Patent.

54. On information and belief, Defendants, with knowledge of the '080 Patent, provide instructions to their customers to use the accused instrumentalities in an infringing manner, and their customers do so.

55. As a result of Defendants' infringement of the '080 Patent, Preservation Technologies has suffered monetary damages that are adequate to compensate them for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

X. COUNT FIVE

DIRECT AND INDIRECT INFRINGEMENT OF U.S. PATENT NO. 5,832,495

56. Preservation Technologies incorporates by reference its allegations in Paragraphs 1-55 as if fully restated in this paragraph.

57. Preservation Technologies has all substantial rights and interest to the '495 Patent, including all rights to recover for all past and future infringements thereof.

58. The '495 Patent is valid and enforceable.

59. On information and belief, Defendants Netflix, Amazon, Sony, and DISH, without permission of Preservation Technologies, have been and are presently infringing the '495 Patent, as infringement is defined by 35 U.S.C. § 271(a), including through making, using, selling, offering for sale and importing methods and articles infringing one or more claims of the '495 Patent. Defendants Netflix, Amazon, Sony, and DISH are thus liable for direct infringement of the '495 Patent pursuant to 35 U.S.C. § 271(a).

60. On information and belief, at least since the filing of this Complaint, Defendants Netflix, Amazon, Sony, and DISH, without permission of Preservation Technologies, have been and are presently indirectly infringing the '495 Patent, including actively inducing infringement of the '495 Patent under 35 U.S.C. § 271(b) and contributing to infringement of the '495 Patent under 35 U.S.C. § 271(c). Such inducements include without limitation, with specific intent to encourage the infringement, knowingly inducing consumers to use infringing articles and methods that these Defendants knew or should have known infringe one or more claims of the '495 Patent.

61. On information and belief, Defendants, with knowledge of the '495 Patent, provide instructions to their customers to use the accused instrumentalities in an infringing manner, and their customers do so.

62. As a result of Defendants' infringement of the '495 Patent, Preservation Technologies has suffered monetary damages that are adequate to compensate them for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

XI. COUNT SIX

DIRECT AND INDIRECT INFRINGEMENT OF U.S. PATENT NO. 5,832,499

63. Preservation Technologies incorporates by reference its allegations in Paragraphs 1-63 as if fully restated in this paragraph.

64. Preservation Technologies has all substantial rights and interest to the '499 Patent, including all rights to recover for all past and future infringements thereof.

65. The '499 Patent is valid and enforceable.

66. On information and belief, Defendants Netflix, Amazon, Sony, and DISH, without permission of Preservation Technologies, have been and are presently infringing the '499 Patent, as infringement is defined by 35 U.S.C. § 271(a), including through making, using, selling, offering for sale and importing methods and articles infringing one or more claims of the '499 Patent. Defendants Netflix, Amazon, Sony, and DISH are thus liable for direct infringement of the '499 Patent pursuant to 35 U.S.C. § 271(a).

67. On information and belief, at least since the filing of this Complaint, Defendants Netflix, Amazon, Sony, and DISH, without permission of Preservation Technologies, have been and are presently indirectly infringing the '499 Patent, including actively inducing infringement of the '499 Patent under 35 U.S.C. § 271(b) and contributing to infringement of the '499 Patent under 35 U.S.C. § 271(c). Such inducements include without limitation, with specific intent to encourage the infringement, knowingly inducing consumers to use infringing articles and methods that these Defendants knew or should have known infringe one or more claims of the '499 Patent.

68. On information and belief, Defendants, with knowledge of the '499 Patent, provide instructions to their customers to use the accused instrumentalities in an infringing manner, and their customers do so.

69. As a result of Defendants' infringement of the '499 Patent, Preservation Technologies has suffered monetary damages that are adequate to compensate them for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

XII. COUNT SEVEN

DIRECT AND INDIRECT INFRINGEMENT OF U.S. PATENT NO. 6,212,527

70. Preservation Technologies incorporates by reference its allegations in Paragraphs 1-69 as if fully restated in this paragraph.

71. Preservation Technologies has all substantial rights and interest to the '527 Patent, including all rights to recover for all past and future infringements thereof.

72. The '527 Patent is valid and enforceable.

73. On information and belief, Defendants Netflix, Amazon, Facebook, Sony, and DISH, without permission of Preservation Technologies, have been and are presently infringing the '527 Patent, as infringement is defined by 35 U.S.C. § 271(a), including through making, using, selling, offering for sale and importing methods and articles infringing one or more claims of the '527 Patent. Defendants Netflix, Amazon, Facebook, Sony, and DISH are thus liable for direct infringement of the '527 Patent pursuant to 35 U.S.C. § 271(a).

74. On information and belief, at least since the filing of this Complaint, Defendants Netflix, Amazon, Facebook, Sony, and DISH, without permission of Preservation Technologies, have been and are presently indirectly infringing the '527 Patent, including actively inducing infringement of the '527 Patent under 35 U.S.C. § 271(b) and contributing to infringement of the '527 Patent under 35 U.S.C. § 271(c). Such inducements include without limitation, with specific intent to encourage the infringement, knowingly inducing consumers to use

infringing articles and methods that these Defendants knew or should have known infringe one or more claims of the '527 Patent.

75. On information and belief, Defendants, with knowledge of the '527 Patent, provide instructions to their customers to use the accused instrumentalities in an infringing manner, and their customers do so.

76. As a result of Defendants' infringement of the '527 Patent, Preservation Technologies has suffered monetary damages that are adequate to compensate them for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

XIII. COUNT EIGHT

DIRECT AND INDIRECT INFRINGEMENT OF U.S. PATENT NO. 6,574,638

77. Preservation Technologies incorporates by reference its allegations in Paragraphs 1-76 as if fully restated in this paragraph.

78. Preservation Technologies has all substantial rights and interest to the '638 Patent, including all rights to recover for all past and future infringements thereof.

79. The '638 Patent is valid and enforceable.

80. On information and belief, Defendants Netflix, Amazon, Facebook, Sony, and DISH, without permission of Preservation Technologies, have been and are presently infringing the '638 Patent, as infringement is defined by 35 U.S.C. § 271(a), including through making, using, selling, offering for sale and importing methods and articles infringing one or more claims of the '638 Patent. Defendants Netflix, Amazon, Facebook, Sony, and DISH are thus liable for direct infringement of the '638 Patent pursuant to 35 U.S.C. § 271(a).

81. On information and belief, at least since the filing of this Complaint, Defendants Netflix, Amazon, Facebook, Sony, and DISH, without permission of Preservation Technologies, have been and are presently indirectly infringing the

'638 Patent, including actively inducing infringement of the '638 Patent under 35 U.S.C. § 271(b) and contributing to infringement of the '638 Patent under 35 U.S.C. § 271(c). Such inducements include without limitation, with specific intent to encourage the infringement, knowingly inducing consumers to use infringing articles and methods that these Defendants knew or should have known infringe one or more claims of the '638 Patent.

82. On information and belief, Defendants, with knowledge of the '638 Patent, provide instructions to their customers to use the accused instrumentalities in an infringing manner, and their customers do so.

83. As a result of Defendants' infringement of the '638 Patent, Preservation Technologies has suffered monetary damages that are adequate to compensate them for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

XIV. COUNT NINE

DIRECT AND INDIRECT INFRINGEMENT OF U.S. PATENT NO. 6,549,911

84. Preservation Technologies incorporates by reference its allegations in Paragraphs 1-83 as if fully restated in this paragraph.

85. Preservation Technologies has all substantial rights and interest to the '911 Patent, including all rights to recover for all past and future infringements thereof.

86. The '911 Patent is valid and enforceable.

87. On information and belief, Defendants Netflix, Amazon, Facebook, Sony, and DISH, without permission of Preservation Technologies, have been and are presently infringing the '911 Patent, as infringement is defined by 35 U.S.C. § 271(a), including through making, using, selling, offering for sale and importing methods and articles infringing one or more claims of the '911 Patent. Defendants

Netflix, Amazon, Facebook, Sony, and DISH are thus liable for direct infringement of the '911 Patent pursuant to 35 U.S.C. § 271(a).

88. On information and belief, at least since the filing of this Complaint, Defendants Netflix, Amazon, Facebook, Sony, and DISH, without permission of Preservation Technologies, have been and are presently indirectly infringing the '911 Patent, including actively inducing infringement of the '911 Patent under 35 U.S.C. § 271(b) and contributing to infringement of the '911 Patent under 35 U.S.C. § 271(c). Such inducements include without limitation, with specific intent to encourage the infringement, knowingly inducing consumers to use infringing articles and methods that these Defendants knew or should have known infringe one or more claims of the '911 Patent.

89. On information and belief, Defendants, with knowledge of the '911 Patent, provide instructions to their customers to use the accused instrumentalities in an infringing manner, and their customers do so.

90. As a result of Defendants' infringement of the '911 Patent, Preservation Technologies has suffered monetary damages that are adequate to compensate them for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

XV. COUNT TEN

DIRECT AND INDIRECT INFRINGEMENT OF U.S. PATENT NO. 6,353,831

91. Preservation Technologies incorporates by reference its allegations in Paragraphs 1-90 as if fully restated in this paragraph.

92. Preservation Technologies has all substantial rights and interest to the '831 Patent, including all rights to recover for all past and future infringements thereof.

93. The '831 Patent is valid and enforceable.

94. On information and belief, Defendants Netflix, Amazon, Facebook, Sony, and DISH, without permission of Preservation Technologies, have been and are presently infringing the '831 Patent, as infringement is defined by 35 U.S.C. § 271(a), including through making, using, selling, offering for sale and importing methods and articles infringing one or more claims of the '831 Patent. Defendants Netflix, Amazon, Facebook, Sony, and DISH are thus liable for direct infringement of the '831 Patent pursuant to 35 U.S.C. § 271(a).

95. On information and belief, at least since the filing of this Complaint, Defendants Netflix, Amazon, Facebook, Sony, and DISH, without permission of Preservation Technologies, have been and are presently indirectly infringing the '831 Patent, including actively inducing infringement of the '831 Patent under 35 U.S.C. § 271(b) and contributing to infringement of the '831 Patent under 35 U.S.C. § 271(c). Such inducements include without limitation, with specific intent to encourage the infringement, knowingly inducing consumers to use infringing articles and methods that these Defendants knew or should have known infringe one or more claims of the '831 Patent.

96. On information and belief, Defendants, with knowledge of the '831 Patent, provide instructions to their customers to use the accused instrumentalities in an infringing manner, and their customers do so.

97. As a result of Defendants' infringement of the '831 Patent, Preservation Technologies has suffered monetary damages that are adequate to compensate them for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

XVI. JURY DEMAND

98. Plaintiff Preservation Technologies hereby demands a jury on all issues so triable.

XVII. REQUEST FOR RELIEF

WHEREFORE, Plaintiff Preservation Technologies respectfully requests that the Court:

A. Permanently enjoin each Defendant, its agents, servants and employees, and all those in privity with each Defendant or in active concert and participation with any of the Defendants, from engaging in acts of infringement of the Patents-in-Suit;

B. Award Plaintiff Preservation Technologies past and future damages together with prejudgment and post-judgment interest to compensate for the infringement by Defendants of the Patents-in-Suit in accordance with 35 U.S.C. § 284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. § 284;

C. Declare this case exceptional pursuant to 35 U.S.C. § 285; and

D. Award Plaintiff Preservation Technologies its costs, disbursements, attorneys' fees and such further and additional relief as is deemed appropriate by this Court.

Respectfully submitted,

DATED: December 2, 2011

STRADLING YOCCA CARLSON & RAUTH
A Professional Corporation

By: _____
Douglas Q. Hahn

Attorneys for Plaintiffs
Preservation Technologies LLC