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17 Attorneys for Plaintiff-Counterclaim Defendant Symantec Corporation.

18 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

19  
20 SYMANTEC CORPORATION,  
21 Plaintiff-Counterclaim Defendant,  
22 vs.  
23 ACRONIS, INC. ACRONIS  
INTERNATIONAL GMBH, and OOO  
24 Acronis  
25 Defendants-Counterclaimants.

Case No. 3:11-cv-05310 EMC (consolidated for all purposes with Case No. CV12-01062 PSG)

**THIRD AMENDED COMPLAINT FOR PATENT INFRINGEMENT OF U.S. PATENT NOS. 7,565,517 AND 7,266,655 AND SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT OF U.S. PATENT NOS. 7,093,086, 7,322,010, AND 6,615,365**

DEMAND FOR JURY TRIAL

26  
27 AND RELATED COUNTERCLAIMS

28

1 This is a patent infringement action brought before this Court pursuant to 28 U.S.C. §§  
2 1331 and 1338(a). On March 2, 2012 Symantec filed an Amended Complaint for patent  
3 infringement regarding U.S. Patent Nos. 7,565,517 (“the ’517 patent”) and 7,266,655 (“the ’655  
4 patent”) (Dkt 54) and a Complaint for patent infringement regarding U.S. Patent Nos. 7,093,086  
5 (“the ’086 patent”), 7,322,010 (“the ’010 patent”), and 6,615,365 (“the ’365 patent”) in Case No.  
6 CV12-01062 PSG. Those cases are related and consolidated under the above captioned case. (See  
7 Dkt 58). In this amended complaint against Defendants, Acronis, Inc., Acronis International  
8 GmbH, and OOO Acronis (collectively “Acronis”), Plaintiff, Symantec Corporation  
9 (“Symantec”), alleges as follows:

#### 11 INTRODUCTION

12 1. This is an action brought by Symantec against Acronis for Acronis’ infringement of  
13 Symantec’s patents. In particular, Symantec seeks remedies for Acronis’ infringement of the ’517  
14 patent, the ’655 patent, the ’086 patent, the ’010 patent, and the ’365 patent (collectively, “the  
15 Asserted Patents”).

#### 16 PARTIES

17 2. Symantec Corporation is a corporation organized and existing under the laws of the  
18 State of Delaware, having a principal place of business at 350 Ellis Street, Mountain View,  
19 California 94043.

20 3. Upon information and belief, Acronis, Inc. is a corporation organized and existing  
21 under the laws of the State of Delaware, having a principal place of business at 300 Trade Center,  
22 Suite 6700, Elm Street, Woburn, Massachusetts 01801. Upon information and belief, Acronis  
23 sells backup, recovery and security software both directly and indirectly through partners, resellers  
24 and retailers.

25 4. Upon information and belief, Acronis International GmbH is a corporation  
26 organized and existing under the laws of Switzerland, having a principal place of business at  
27 Rheinweg 9 Schaffhausen, CH-8200, Switzerland.

1 5. Upon information and belief, OOO Acronis is a limited liability company  
2 organized and existing under the laws of Russia, having a principal place of business at  
3 Altufievskoye highway 44, Moscow, Russia. Upon information and belief, OOO Acronis  
4 researches, develops and offers to sell backup, recovery and security software

5 **JURISDICTION AND VENUE**

6 6. This lawsuit is a civil action for patent infringement arising under the patent laws  
7 of the United States, 35 U.S.C. § 101, *et seq.* Accordingly, this Court has subject matter  
8 jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9 7. This Court has personal jurisdiction over Acronis, Inc. for at least the following  
10 reasons: (i) Acronis has designated an agent for service of process in the State of California; (ii)  
11 Acronis has committed acts of patent infringement and/or contributed to or induced acts of patent  
12 infringement by others in this District and elsewhere in California and the United States; (iii)  
13 Acronis regularly does business or solicits business, engages in other persistent courses of  
14 conduct, and/or derives substantial revenue from products and/or services provided to individuals  
15 in this District and in this State; and (iv) Acronis has purposefully established substantial,  
16 systematic and continuous contacts with this District and expects or should reasonably expect to  
17 be haled into court here. Thus, this Court's exercise of jurisdiction over Acronis will not offend  
18 traditional notions of fair play and substantial justice.

19 8. Based on Acronis International GmbH's counsel's representations, this Court has  
20 personal jurisdiction over Acronis International GmbH for at least the following reasons: (i)  
21 Acronis International GmbH has committed acts of patent infringement and/or contributed to or  
22 induced acts of patent infringement by others in this District or elsewhere in California and the  
23 United States, (ii) Acronis International GmbH regularly does business or solicits business,  
24 engages in other persistent courses of conduct, and/or derives substantial revenue from products  
25 and/or services provided to individuals in this District and in this State and (iii) Acronis  
26 International GmbH has purposefully established substantial, systematic and continuous contacts  
27 with this District and expects or should reasonably expect to be haled into court here. Thus, this  
28 Court's exercise of jurisdiction over Acronis International GmbH will not offend traditional

1 notions of fair play and substantial justice. Further, Acronis International GmbH has asserted  
2 counterclaims against Symantec in the above captioned case and has thus consented to jurisdiction  
3 in this district.

4 9. This Court has personal jurisdiction over OOO Acronis for at least the following  
5 reasons: (i) OOO Acronis has committed acts of patent infringement and/or contributed to or  
6 induced acts of patent infringement by others in this District or elsewhere in California and the  
7 United States, (ii) OOO Acronis regularly solicits business, engages in other persistent courses of  
8 conduct, and/or derives substantial revenue from products and/or services provided to individuals  
9 in this District and in this State and (iii) OOO Acronis has purposefully established substantial,  
10 systematic and continuous contacts with this District and expects or should reasonably expect to  
11 be haled into court here. Thus, this Court's exercise of jurisdiction over OOO Acronis will not  
12 offend traditional notions of fair play and substantial justice.

13 10. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)-(c) and  
14 1400(b) because Acronis, Inc. does business in the State of California, has committed acts of  
15 infringement in this State and in this District, a substantial part of the events or omissions giving  
16 rise to this claim occurred in this District, and Acronis is subject to personal jurisdiction in this  
17 District.

18 11. Based on Acronis International GmbH's representations, through its counsel, that  
19 Acronis International GmbH sells the accused Acronis products in the U.S., venue is proper in this  
20 judicial district pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b) because Acronis International  
21 GmbH does business in the State of California, has committed acts of infringement in this State  
22 and in this District, a substantial part of the events or omissions giving rise to this claim occurred  
23 in this District, and Acronis International GmbH is subject to personal jurisdiction in this District.

24 12. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)-(c) and  
25 1400(b) because OOO Acronis does business in the State of California, has committed acts of  
26 infringement in this State and in this District, a substantial part of the events or omissions giving  
27 rise to this claim occurred in this District, and OOO Acronis is subject to personal jurisdiction in  
28 this District.

**INTRADISTRICT ASSIGNMENT**

1  
2 13. Pursuant to Civil L.R. 3-2(c), this case is appropriate for assignment on a district-  
3 wide basis because this is an Intellectual Property Action.

**FACTUAL BACKGROUND****Symantec's History**

4  
5  
6 14. Since its inception, Symantec has been providing software products to enhance its  
7 customers' computing productivity, security and reliability. Symantec was founded in 1982 by  
8 computer scientist Gary Hendrix with a grant from the National Science Foundation. Originally  
9 focused on natural language processing and artificial intelligence-related products, Symantec grew  
10 throughout the 1980s through organic growth and strategic acquisitions in the computer software  
11 field. In 1990, Symantec merged with Peter Norton Computing, a developer of various consumer  
12 antivirus and data management utilities. At the time, Symantec was already a market leader for  
13 Macintosh antivirus and utilities software and had already begun development of a DOS-based  
14 antivirus program, making the merger with Norton strategically advantageous. "Norton  
15 Antivirus" was launched in 1991. By 1993, the Norton product group accounted for 82% of  
16 Symantec's total revenues.

17 15. Among other areas of expansion, Symantec sought to develop and acquire more  
18 products for corporate customers. Specifically, Symantec sought to offer products that would  
19 serve enterprise environments in which desktop computers were connected with local and other  
20 networks. Symantec was determined to achieve its goal of providing integrated, platform-  
21 independent and centralized network administration solutions. Symantec's investment and  
22 innovation led to the launching the Norton Enterprise Framework in 1996.

23 16. By the late 1990s, Symantec was marketing three major product lines. The first  
24 covered security and assistance products, consisting mainly of Norton AntiVirus and Norton  
25 Utilities products to keep personal computers protected and reliable. The second line included  
26 remote productivity solutions, which enabled telecommuters, mobile professionals and workers in  
27 remote offices to access information, applications and data on-demand from any location. The  
28 third line included internet tools, primarily for Java programmers. Symantec expended

1 tremendous resources in research and development to create the intellectual property upon which  
2 these products are based.

3 17. In 2005, Symantec merged with Veritas Software Corporation (“Veritas”), a  
4 pioneer and market leader specialized in storage management software. With the addition of  
5 Veritas, Symantec doubled its size to more than 15,000 employees. More importantly, the merger  
6 of Veritas and Symantec brought with it a vast amount of additional expertise and talent upon  
7 which the new joint venture could build. Indeed, with the merger, Symantec also acquired the  
8 know-how and intellectual property developed by Veritas through Veritas’ own extensive research  
9 and development investments. As a result of the merger, Symantec established itself as a leader in  
10 the enterprise software market, enabling Symantec to address and solve an expansive spectrum of  
11 security and data management challenges.

12 18. Since 2005, Symantec has continued its innovation in the enterprise field helping  
13 customers from consumers and small businesses to the largest global organizations secure and  
14 manage their information. Today, Symantec offers state-of-the-art products such as Enterprise  
15 Vault 7.0 which provides companies a comprehensive system to store, manage, backup and  
16 archive critical business information. In addition, Symantec provides other leading end-to-end  
17 enterprise solutions such as Backup Exec, Symantec Endpoint Protection, NetBackup, and Storage  
18 Foundation.

19 19. One of the major keys to Symantec’s success has been its substantial investment in  
20 research and development which has enabled Symantec to offer its users the most innovative  
21 technologies on the market. Symantec has invested more than \$5 billion in research and  
22 development since 2005. Indeed, Symantec’s patent portfolio includes over 1,900 issued patents  
23 and more than 1,900 pending patent applications, including over 1,700 patent applications filed  
24 since 2005.

25 20. As a result of Symantec’s investments, Symantec has become one of the largest and  
26 most successful computer software companies in the United States. This success, in turn, has  
27 helped thousands of Symantec customers increase their own productivity through more secure and  
28 reliable computer systems and networks.

**Symantec's Patents-in-Suit**

1           **Symantec's Patents-in-Suit**  
2           21.     The Patents-in-Suit are a reflection of Symantec's research and development  
3 achievements. To enable an enterprise to securely and reliably backup and recover its critical  
4 business data, certain functionality relating to the saving and recovery of data is essential. Among  
5 the features necessary to perform state-of-the art backups and recoveries include (i) imaging of  
6 physical and virtual machines, (ii) restoring imaged data to various computer hardware  
7 configurations, and (iii) use of an effective user interface to manage system backups. These  
8 features involve use of Symantec's innovations.

9           22.     In many circumstances, a user will find it necessary or desirable to modify the  
10 backed-up data or software. For example, to fully recover from a disaster, often backed-up data  
11 must be restored to hardware different than its original source. This process presents unique  
12 challenges as sometimes the backed-up data and backed-up software require modifications to be  
13 usable in a different hardware configuration or environment. Symantec's '517 patent is directed to  
14 effective methods of enabling such data recovery.

15           23.     Users of virtual machines need effective backups just as much as users of physical  
16 machines. Symantec innovators recognized the need to back up a virtual machine to a destination  
17 separate from a storage device used by the virtual machine itself. Symantec's '086 patent is  
18 directed to methods that address this need.

19           24.     When backing up data from a computer system, a user must choose the location for  
20 storing the backup. In some instances, such as when a computer has only a single partition for  
21 storing data, a user may want to store their data to the same partition that they are backing up. the  
22 '365 patent is directed to methods and media storing computer instructions for creating a backup  
23 image on the same partition that is being backed-up and to restoring data from such an image.

24           25.     It is important to catalogue backed-up data in order to locate the relevant data  
25 during a restore. As data is continually backed up, there is a need to keep track of which backups  
26 store which portions of the data. Symantec's '655 patent is directed to methods and a computer  
27 readable medium storing instructions for maintaining an accurate catalogue of backed-up data.  
28

1           26. Symantec also invented a graphical user interface that enables a user to  
2 simultaneously view the contents of a computer that had been backed up and the destination  
3 computer on which the backed-up information would be restored. This interface facilitates  
4 restoration operations. The '010 patent is directed to methods and media for providing this  
5 interface.

#### 6           **Acronis' History**

7           27. Acronis, Inc. was not incorporated until 2000. It was incorporated in Delaware by  
8 Serguei Belousov, Max Tsypliaev, and Ilya Zubarev with headquarters in Woburn,  
9 Massachusetts. Today, Acronis focuses mainly on software products for backup and disaster  
10 recovery. Upon information and belief, Acronis' software development primarily takes place in  
11 Moscow, Russia.

12           28. Acronis' core product line is its Backup and Recovery line, which provides disk-  
13 imaging backup and disaster recovery software in variations for private users, branch offices and  
14 large server installations for enterprise clients. More recently, Acronis has been aiming its  
15 products at protecting data in messaging and database systems within corporate environments,  
16 seeking to expand into the large enterprise market, in many cases supporting virtualized  
17 environments.

18           29. Upon information and belief and based on Acronis International GmbH's counsel's  
19 representations, Acronis International GmbH has offered for sale and sold Acronis' Backup and  
20 Recovery and True Image product lines in the United States since at least 2009.

21           30. OOO Acronis is a Russian limited liability company. Its headquarters is located in  
22 Moscow, Russia. Upon information and belief, OOO Acronis has made, used, offered for sale and  
23 instructed customers to use Acronis' various product lines, including the Backup and Recovery  
24 and True Image product lines, in the United States.

25           31. Symantec is harmed by Acronis' use of Symantec's patented technologies in a way  
26 that cannot be compensated for by payment of a royalty alone. Acronis has received millions of  
27 dollars in revenue and increased its market share by selling products that incorporate Symantec's  
28



1 technology without having to incur the costs of developing this technology. Symantec, on the  
2 other hand, has borne and continues to bear these costs.

3 32. Even if Acronis were to subsequently pay past due royalties, it would still enjoy a  
4 market share it has developed during its period of “free riding” on Symantec’s intellectual  
5 property. Due to the difficulty in predicting whether, if at all, Symantec can recover this market  
6 share, Symantec’s harm cannot be compensated by payment of past due royalties alone.

7 **Acronis Infringes Symantec’s Patents**

8 33. Symantec’s Asserted Patents claim methods and systems for creating backups and  
9 recovery for physical, virtual and cloud environments. Acronis has infringed and continues to  
10 infringe Symantec’s Asserted patents through at least its Backup and Recovery and True Image  
11 product lines.

12 34. Upon information and belief and based on Acronis International GmbH’s counsel’s  
13 representations, Acronis International GmbH offers for sale and sells the Acronis Backup and  
14 Recovery and True Image product lines in the United States.

15 35. Also upon information and belief, OOO Acronis makes, uses, and offers to sell the  
16 Backup and Recovery and True Image product lines in the United States.

17 36. On November 2, 2011, Symantec served on Acronis, Inc its originally filed  
18 complaint with copies of the Asserted Patents affixed thereto. Thus, as of November 2, 2011,  
19 Acronis, Inc, and Acronis International GmbH have had knowledge of the Asserted Patents and, on  
20 information and belief, actively and knowingly induce their customers to infringe the patents in  
21 suit by providing instructions, including without limitation user guides, as to how to use the  
22 backup and recovery features of its Backup and Recovery and True Image product lines.

23 37. On information and belief, OOO Acronis became aware of these claims and patents  
24 on or about November 2, 2011 because executives of Acronis, Inc. and Acronis GmbH also have  
25 executive responsibility over OOO Acronis; the lawsuit was relevant to products that OOO  
26 Acronis developed for use and sale by Acronis, Inc. and Acronis GmbH; and OOO Acronis and/or  
27 employees of OOO Acronis communicated with and are represented by Acronis, Inc. and Acronis  
28 GmbH’s counsel.

1           38.     In addition, OOO Acronis makes publicly available marketing, sales, and customer  
2 support materials that describe and direct users to use infringing features of the Backup &  
3 Recovery and True Image product lines in an infringing manner. On information and belief, OOO  
4 Acronis also provides verbal and written instructions, including technical know-how, to their  
5 distributors and customers that intentionally aid, assist, and encourage infringement.

6           39.     OOO Acronis also indirectly infringes the Asserted Patents by offering to sell the  
7 Backup & Recovery and True Image product lines, which are designed to be used (and are used by  
8 distributors, consumers, and end-users) in a manner that infringes Symantec's Asserted Patents.  
9 OOO Acronis knew that the Backup & Recovery and True Image product lines are especially  
10 made or especially adapted for use in an infringement of Symantec's Asserted Patents since at  
11 least November 2, 2011. The Backup & Recovery and True Image product lines, on information  
12 and belief, have no substantial non-infringing uses and are material to the claimed inventions.

13                   **COUNT I: INFRINGEMENT OF U.S. PATENT NO. 7,565,517**

14           40.     Symantec incorporates by reference the preceding averments set forth in paragraphs  
15 1-39.

16           41.     The '517 patent, entitled "Retargeting a Captured Image to New Hardware While  
17 in a Pre-Boot Environment," was duly and lawfully issued on July 21, 2009. A true and correct  
18 copy of the '517 patent is attached to this Complaint as Exhibit 1.

19           42.     Symantec is the owner of all rights, title, and interest in the '517 patent, including  
20 the right to bring this suit for injunctive relief and damages.

21           On information and belief, Acronis has infringed and continues to infringe, has contributed  
22 to and continues to contribute to acts of infringement, and/or has actively and knowingly induced  
23 and continues to actively and knowingly induce the infringement of the '517 patent by making,  
24 using, offering for sale and selling in the United States, and by importing into the United States  
25 without authority, and/or by causing others to make, use, offer for sale and sell in the United  
26 States, and import into the United States without authority, products and services, including but  
27 not limited to the Acronis Backup & Recovery line of products and related services, for example,  
28 The Acronis Backup & Recovery line of products and related services including, for example,

1 Backup & Recovery 11.5 Workstation, Backup & Recovery 11.5 Server for Windows, Backup &  
2 Recovery 11.5 Advanced Server SBS Edition, Backup & Recovery 11.5 Server for Linux, Backup  
3 & Recovery 11.5 for Microsoft Exchange Server Backup & Recovery 11.5 Online, Backup &  
4 Recovery 11.5 Virtual Edition for Hyper-V, Backup & Recovery 11.5 Virtual Edition for RHEV,  
5 Backup & Recovery 11.5 Virtual Edition for Parallels, Backup & Recovery 11.5 Virtual Edition  
6 for Citrix XenServer, Backup & Recovery 11.5 Virtual Edition for VMware vSphere, Backup &  
7 Recovery 11.5 Advanced Server for Windows, Backup & Recovery 11.5 Advanced Server for  
8 Linux, Backup & Recovery 11.5 Advanced Workstation, Backup & Recovery 11 Workstation,  
9 Backup & Recovery 11 Server for Windows, Backup & Recovery 11 Advanced Server SBS  
10 Edition, Backup & Recovery 11 Server for Linux, Backup & Recovery 11 Online, Backup &  
11 Recovery 11 Advanced Server, Backup & Recovery 11 Virtual Edition, and Backup & Recovery  
12 11 Advanced Workstation.

13 43. On information and belief, Acronis' infringement, contributory infringement and/or  
14 inducement of infringement is literal infringement or, in the alternative, infringement under the  
15 doctrine of equivalents.

16 44. Acronis' infringing activities have caused and will continue to cause Symantec  
17 irreparable harm, for which it has no adequate remedy at law, unless Acronis' infringing activities  
18 are enjoined by this Court in accordance with 35 U.S.C. § 283.

19 45. Symantec has been and continues to be damaged by Acronis' infringement of the  
20 '517 patent in an amount to be determined at trial.

21 **COUNT II: INFRINGEMENT OF U.S. PATENT NO. 7,266,655**

22 46. Symantec incorporates by reference the preceding averments set forth in paragraphs  
23 1-45.

24 47. The '655 patent, entitled "Synthesized Backup Set Catalog," was duly and lawfully  
25 issued on September 4, 2007. A true and correct copy of the '655 patent is attached to this  
26 Complaint as Exhibit 2.

27 48. Symantec is the owner of all rights, title, and interest in the '655 patent, including  
28 the right to bring this suit for injunctive relief and damages.

1           49.     On information and belief, Acronis has infringed and continues to infringe, has  
2 contributed to and continues to contribute to acts of infringement, and/or has actively and  
3 knowingly induced and continues to actively and knowingly induce the infringement of the '655  
4 patent by making, using, offering for sale and selling in the United States, and by importing into  
5 the United States without authority, and/or by causing others to make, use, offer for sale and sell  
6 in the United States, and import into the United States without authority, products and services,  
7 including but not limited to the Acronis Backup & Recovery line of products and related services,  
8 for example, Backup & Recovery 11.5 Workstation, Backup & Recovery 11.5 Server for  
9 Windows, Backup & Recovery 11.5 Advanced Server SBS Edition, Backup & Recovery 11.5  
10 Server for Linux, Backup & Recovery 11.5 for Microsoft Exchange Server Backup & Recovery  
11 11.5 Online, Backup & Recovery 11.5 Virtual Edition for Hyper-V, Backup & Recovery 11.5  
12 Virtual Edition for RHEV, Backup & Recovery 11.5 Virtual Edition for Parallels, Backup &  
13 Recovery 11.5 Virtual Edition for Citrix XenServer, Backup & Recovery 11.5 Virtual Edition for  
14 VMware vSphere, Backup & Recovery 11.5 Advanced Server for Windows, Backup & Recovery  
15 11.5 Advanced Server for Linux, Backup & Recovery 11.5 Advanced Workstation, Backup &  
16 Recovery 11 Workstation, Backup & Recovery 11 Server for Windows, Backup & Recovery 11  
17 Advanced Server SBS Edition, Backup & Recovery 11 Server for Linux, Backup & Recovery 11  
18 Online, Backup & Recovery 11 Advanced Server, Backup & Recovery 11 Virtual Edition, and  
19 Backup & Recovery 11 Advanced Workstation

20           50.     On information and belief, Acronis' infringement, contributory infringement and/or  
21 inducement of infringement is literal infringement or, in the alternative, infringement under the  
22 doctrine of equivalents.

23           51.     Acronis' infringing activities have caused and will continue to cause Symantec  
24 irreparable harm, for which it has no adequate remedy at law, unless Acronis' infringing activities  
25 are enjoined by this Court in accordance with 35 U.S.C. § 283.

26           52.     Symantec has been and continues to be damaged by Acronis' infringement of the  
27 '655 patent in an amount to be determined at trial.

28

**COUNT III: INFRINGEMENT OF U.S. PATENT NO. 7,093,086**

1  
2 53. Symantec incorporates by reference the preceding averments set forth in paragraphs  
3 1-52.

4 54. The '086 patent, entitled "Disaster Recovery and Backup Using Virtual Machines,"  
5 was duly and lawfully issued on August 15, 2006. A true and correct copy of the '086 patent is  
6 attached to this Complaint as Exhibit 3.

7 55. Symantec is the owner of all rights, title, and interest in the '086 patent, including  
8 the right to bring this suit for injunctive relief and damages.

9 56. On information and belief, Acronis has infringed and continues to infringe, has  
10 contributed to and continues to contribute to acts of infringement, and/or has actively and  
11 knowingly induced and continues to actively and knowingly induce the infringement of the '086  
12 patent by making, using, offering for sale and selling in the United States, and by importing into  
13 the United States without authority, and/or by causing others to make, use, offer for sale and sell  
14 in the United States, and import into the United States without authority, products and services,  
15 including but not limited to the Acronis Backup & Recovery line of products and related services,  
16 for example, Backup & Recovery 11.5 Workstation, Backup & Recovery 11.5 Server for  
17 Windows, Backup & Recovery 11.5 Advanced Server SBS Edition, Backup & Recovery 11.5  
18 Server for Linux, Backup & Recovery 11.5 for Microsoft Exchange Server Backup & Recovery  
19 11.5 Online, Backup & Recovery 11.5 Virtual Edition for Hyper-V, Backup & Recovery 11.5  
20 Virtual Edition for RHEV, Backup & Recovery 11.5 Virtual Edition for Parallels, Backup &  
21 Recovery 11.5 Virtual Edition for Citrix XenServer, Backup & Recovery 11.5 Virtual Edition for  
22 VMware vSphere, Backup & Recovery 11.5 Advanced Server for Windows, Backup & Recovery  
23 11.5 Advanced Server for Linux, Backup & Recovery 11.5 Advanced Workstation, Backup &  
24 Recovery 11 Workstation, Backup & Recovery 11 Server for Windows, Backup & Recovery 11  
25 Advanced Server SBS Edition, Backup & Recovery 11 Server for Linux, Backup & Recovery 11  
26 Online, Backup & Recovery 11 Advanced Server, Backup & Recovery 11 Virtual Edition, and  
27 Backup & Recovery 11 Advanced Workstation.  
28

1           57.     On information and belief, Acronis' infringement, contributory infringement and/or  
2 inducement of infringement is literal infringement or, in the alternative, infringement under the  
3 doctrine of equivalents.

4           58.     Acronis' infringing activities have caused and will continue to cause Symantec  
5 irreparable harm, for which it has no adequate remedy at law, unless Acronis' infringing activities  
6 are enjoined by this Court in accordance with 35 U.S.C. § 283.

7           59.     Symantec has been and continues to be damaged by Acronis' infringement of the  
8 '086 patent in an amount to be determined at trial.

9                           **COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 7,322,010**

10          60.     Symantec incorporates by reference the preceding averments set forth in paragraphs  
11 1-59.

12          61.     The '010 patent, entitled "Graphical User Interface for Mapping Computer  
13 Resources," was duly and lawfully issued on January 22, 2008. A true and correct copy of the  
14 '086 patent is attached to this Complaint as Exhibit 4.

15          62.     Symantec is the owner of all rights, title, and interest in the '010 patent, including  
16 the right to bring this suit for injunctive relief and damages.

17          63.     On information and belief, Acronis has infringed and continues to infringe, has  
18 contributed to and continues to contribute to acts of infringement, and/or has actively and  
19 knowingly induced and continues to actively and knowingly induce the infringement of the '010  
20 patent by making, using, offering for sale and selling in the United States, and by importing into  
21 the United States without authority, and/or by causing others to make, use, offer for sale and sell  
22 in the United States, and import into the United States without authority, products and services,  
23 including but not limited to the Acronis Backup & Recovery line of products and related services,  
24 for example, Backup & Recovery 11.5 Workstation, Backup & Recovery 11.5 Server for  
25 Windows, Backup & Recovery 11.5 Advanced Server SBS Edition, Backup & Recovery 11.5  
26 Server for Linux, Backup & Recovery 11.5 for Microsoft Exchange Server Backup & Recovery  
27 11.5 Online, Backup & Recovery 11.5 Virtual Edition for Hyper-V, Backup & Recovery 11.5  
28 Virtual Edition for RHEV, Backup & Recovery 11.5 Virtual Edition for Parallels, Backup &

1 Recovery 11.5 Virtual Edition for Citrix XenServer, Backup & Recovery 11.5 Virtual Edition for  
2 VMware vSphere, Backup & Recovery 11.5 Advanced Server for Windows, Backup & Recovery  
3 11.5 Advanced Server for Linux, Backup & Recovery 11.5 Advanced Workstation; Backup &  
4 Recovery 11 Workstation, Backup & Recovery 11 Server for Windows, Backup & Recovery 11  
5 Advanced Server SBS Edition, Backup & Recovery 11 Server for Linux, Backup & Recovery 11  
6 Online, Backup & Recovery 11 Advanced Server, Backup & Recovery 11 Virtual Edition, and  
7 Backup & Recovery 11 Advanced Workstation.

8 64. On information and belief, Acronis' infringement, contributory infringement and/or  
9 inducement of infringement is literal infringement or, in the alternative, infringement under the  
10 doctrine of equivalents.

11 65. Acronis' infringing activities have caused and will continue to cause Symantec  
12 irreparable harm, for which it has no adequate remedy at law, unless Acronis' infringing activities  
13 are enjoined by this Court in accordance with 35 U.S.C. § 283.

14 66. Symantec has been and continues to be damaged by Acronis' infringement of the  
15 '010 patent in an amount to be determined at trial.

16 **COUNT V: INFRINGEMENT OF U.S. PATENT NO. 6,615,365**

17 67. Symantec incorporates by reference the preceding averments set forth in paragraphs  
18 1-66.

19 68. The '365 patent, entitled "Storing a Computer Disk Image Within an Imaged  
20 Partition," duly and lawfully issued on September 2, 2003. A true and correct copy of the '365  
21 patent is attached to this Complaint as Exhibit 5.

22 69. Symantec is the owner of all rights, title, and interest in the '365 patent, including  
23 the right to bring this suit for injunctive relief and damages.

24 70. On information and belief, Acronis has infringed and continues to infringe, has  
25 contributed to and continues to contribute to acts of infringement, and/or has actively and  
26 knowingly induced and continues to actively and knowingly induce the infringement of the '365  
27 patent by making, using, offering for sale and selling in the United States, and by importing into  
28 the United States without authority, and/or by causing others to make, use, offer for sale and sell

1 in the United States, and import into the United States without authority, products and services,  
2 including but not limited to the Acronis Backup & Recovery line of products and related services,  
3 for example, Backup & Recovery 11.5 Workstation, Backup & Recovery 11.5 Server for  
4 Windows, Backup & Recovery 11.5 Advanced Server SBS Edition, Backup & Recovery 11.5  
5 Server for Linux, Backup & Recovery 11.5 for Microsoft Exchange Server Backup & Recovery  
6 11.5 Online, Backup & Recovery 11.5 Virtual Edition for Hyper-V, Backup & Recovery 11.5  
7 Virtual Edition for RHEV, Backup & Recovery 11.5 Virtual Edition for Parallels, Backup &  
8 Recovery 11.5 Virtual Edition for Citrix XenServer, Backup & Recovery 11.5 Virtual Edition for  
9 VMware vSphere, Backup & Recovery 11.5 Advanced Server for Windows, Backup & Recovery  
10 11.5 Advanced Server for Linux, Backup & Recovery 11.5 Advanced Workstation, Backup &  
11 Recovery 11 Workstation, Backup & Recovery 11 Server for Windows, Backup & Recovery 11  
12 Advanced Server SBS Edition, Backup & Recovery 11 Server for Linux, Backup & Recovery 11  
13 Online, Backup & Recovery 11 Advanced Server, Backup & Recovery 11 Virtual Edition, Backup  
14 & Recovery 11 Advanced Workstation, and the Acronis True Image line of products and related  
15 services, for example, True Image 2012 and True Image 2013.

16 71. On information and belief, Acronis' infringement, contributory infringement and/or  
17 inducement of infringement is literal infringement or, in the alternative, infringement under the  
18 doctrine of equivalents.

19 72. Acronis' infringing activities have caused and will continue to cause Symantec  
20 irreparable harm, for which it has no adequate remedy at law, unless Acronis' infringing activities  
21 are enjoined by this Court in accordance with 35 U.S.C. § 283.

22 73. Symantec has been and continues to be damaged by Acronis' infringement of the  
23 '365 patent in an amount to be determined at trial.

#### 24 **REQUEST FOR RELIEF**

25 WHEREFORE, Symantec respectfully requests that:

26 (a) Judgment be entered that Acronis has infringed one or more claims of each of the  
27 Asserted Patents;

28



1 (b) Judgment be entered permanently enjoining Acronis, its directors, officers, agents,  
2 servants and employees, and those acting in privity or in concert with them, and their subsidiaries,  
3 divisions, successors and assigns, from further acts of infringement, contributory infringement, or  
4 inducement of infringement of the Asserted Patents;

5 (c) Judgment be entered awarding Symantec all damages adequate to compensate it for  
6 Acronis' infringement of the Asserted Patents including all pre-judgment and post-judgment  
7 interest at the maximum rate permitted by law; and

8 (d) Judgment be entered awarding Symantec such other and further relief as this Court  
9 may deem just and proper.

10 DATED: April 26, 2013

Respectfully submitted,

11 QUINN EMANUEL URQUHART & SULLIVAN

12 By:       /s/      

13 Jennifer A. Kash

14 Attorneys for Plaintiff and Counterclaim Defendant  
Symantec Corporation

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