

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

TLI COMMUNICATIONS LLC,)

Plaintiff,)

v.)

AV AUTOMOTIVE, L.L.C.)
FOR A SONG, INC.)
HALL AUTOMOTIVE, LLC,)
MAX MEDIA LLC,)
FACEBOOK, INC. and)
INSTAGRAM, LLC)

Defendants.)

Civil Action No. 1:14-cv-142
TSE/IDD

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff TLI Communications LLC (“TLI”) files this Complaint for Patent Infringement against AV Automotive, L.L.C. (“AV Automotive”), For a Song, Inc. (“For a Song”), Hall Automotive, LLC (“Hall Automotive”), Max Media LLC (“Max Media”), Facebook, Inc. (“Facebook”) and Instagram, LLC (“Instagram”), wherein, pursuant to 35 U.S.C. §§ 271 and 281, Plaintiff seeks a judgment of infringement by Defendants of U.S. Patent Nos. 6,038,295 (the “295 Patent”), damages resulting therefrom pursuant to 35 U.S.C. § 284, as well as a preliminary and permanent injunction of the infringing activity pursuant to 35 U.S.C. § 283, and such other relief as the Court deems just and proper, and in support thereof alleges as follows:

The Parties

1. Plaintiff TLI is a Delaware limited liability company with its principal place of business at 3422 Old Capitol Trail, Suite 72, Wilmington, Delaware 19808.

2. Defendant AV Automotive, L.L.C. is a limited liability company organized under the laws of the State of Virginia, with its principal place of business at 1902 Association Drive,

Reston, Virginia 20191. AV Automotive operates several car dealerships in the Northern Virginia region, including BMW of Alexandria, 499 South Pickett Street Alexandria, Virginia 22304.

3. Defendant For a Song, Inc. is a corporation organized under the laws of the State of Virginia, with its principal place of business at 3701 Mount Vernon Avenue, Alexandria, Virginia 22305. For a Song owns and operates The Music Hall at the Birchmere.

4. Defendant Hall Automotive, LLC is a limited liability company organized under the laws of the State of Virginia, with its principal place of business at 441 Viking Drive, Virginia Beach, Virginia 23452.

5. Defendant Max Media LLC is a limited liability company organized under the laws of the State of Virginia, with its principal place of business at 900 Laskin Road, Virginia Beach, Virginia 23451. Max Media operates several radio stations in Virginia, including FM 92.9 WVBW, FM 97.3 and FM 100.5 in Norfolk, Virginia; FM 94.1 WVSP in Yorktown, Virginia; and AM 1310 WGH in Newport News, Virginia.

6. Defendant Facebook is a corporation organized under the laws of the State of Delaware, with its principal place of business at 1601 Willow Road, Menlo Park, California 94025.

7. Defendant Instagram, LLC is a limited liability company organized under the laws of the State of Delaware, with its principal place of business at 1601 Willow Road, Menlo Park, California 94025. Facebook acquired Instagram in August 2012 and Instagram is now a wholly owned subsidiary of Facebook.

Jurisdiction and Venue

8. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

9. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action concerns infringement of a United States patent.

10. This Court has personal jurisdiction over AV Automotive because AV Automotive is located in this district and it conducts substantial business in this district, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business in this district, engaging in other persistent courses of conduct in this district and/or deriving substantial revenue from goods and services provided to individuals in this district. Further, this Court has personal jurisdiction over AV Automotive because it is a Virginia limited liability company and it has purposely availed itself of the privileges and benefits of the laws of the State of Virginia.

11. Venue is proper in this judicial district as to AV Automotive pursuant to 28 U.S.C. §§ 1391 and 1400(b) because, among other reasons, AV Automotive is subject to personal jurisdiction in this district, AV Automotive is located in this district, AV Automotive has facilities and employees in this district, and AV Automotive has committed and continues to commit acts of patent infringement in this district. For example, AV Automotive uses infringing products and services in this district. Moreover, to the extent any patent claim is construed to require a system, AV Automotive places that system into use in this district.

12. This Court has personal jurisdiction over For a Song because For a Song is located in this district and it conducts substantial business in this district, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii)

regularly doing or soliciting business in this district, engaging in other persistent courses of conduct in this district and/or deriving substantial revenue from goods and services provided to individuals in this district. Further, this Court has personal jurisdiction over For a Song because it is a Virginia corporation and it has purposely availed itself of the privileges and benefits of the laws of the State of Virginia.

13. Venue is proper in this judicial district as to For a Song pursuant to 28 U.S.C. §§ 1391 and 1400(b) because, among other reasons, For a Song is subject to personal jurisdiction in this district, For a Song is located in this district, For a Song has facilities and employees in this district, and For a Song has committed and continues to commit acts of patent infringement in this district. For example, For a Song uses infringing products and services in this district. Moreover, to the extent any patent claim is construed to require a system, For a Song places that system into use in this district.

14. This Court has personal jurisdiction over Hall Automotive because Hall Automotive is located in this district and it conducts substantial business in this district, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business in this district, engaging in other persistent courses of conduct in this district and/or deriving substantial revenue from goods and services provided to individuals in this district. Further, this Court has personal jurisdiction over Hall Automotive because it is a Virginia limited liability company and it has purposely availed itself of the privileges and benefits of the laws of the State of Virginia.

15. Venue is proper in this judicial district as to Hall Automotive pursuant to 28 U.S.C. §§ 1391 and 1400(b) because, among other reasons, Hall Automotive is subject to personal jurisdiction in this district, Hall Automotive is located in this district, Hall Automotive

has facilities and employees in this district, and Hall Automotive has committed and continues to commit acts of patent infringement in this district. For example, Hall Automotive uses infringing products and services in this district. Moreover, to the extent any patent claim is construed to require a system, Hall Automotive places that system into use in this district.

16. This Court has personal jurisdiction over Max Media because Max Media is located in this district and it conducts substantial business in this district, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business in this district, engaging in other persistent courses of conduct in this district and/or deriving substantial revenue from goods and services provided to individuals in this district. Further, this Court has personal jurisdiction over Max Media because it is a Virginia limited liability company and it has purposely availed itself of the privileges and benefits of the laws of the State of Virginia.

17. Venue is proper in this judicial district as to Max Media pursuant to 28 U.S.C. §§ 1391 and 1400(b) because, among other reasons, Max Media is subject to personal jurisdiction in this district, Max Media is located in this district, Max Media has facilities and employees in this district, and Max Media has committed and continues to commit acts of patent infringement in this district. For example, Max Media uses infringing products and services in this district. Moreover, to the extent any patent claim is construed to require a system, Max Media places that system into use in this district.

18. This Court has personal jurisdiction over Facebook because Facebook conducts substantial business in this district, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business in this district, engaging in other persistent courses of conduct in this district, deriving substantial

revenue from goods and services provided to individuals in this district, maintaining continuous and systematic contacts with this district, and/or purposely availing itself of the privileges of doing business in Virginia.

19. Venue is proper in this judicial district as to Facebook pursuant to 28 U.S.C. §§ 1391 and 1400(b) because, among other reasons, Facebook is subject to personal jurisdiction in this district and Facebook has committed and continues to commit acts of patent infringement in this district. For example, Facebook has used, sold, offered for sale, and/or imported infringing products and services in this district. Facebook, for example, provides infringing web pages and software in this district, and thus directly infringes the '295 Patent in this district, and, to the extent any claim is construed to require a system, (i) Facebook puts that system into use in this district by providing infringing web pages and software in this district, and thus directly infringes the '295 Patent in this district and elsewhere, (ii) Facebook provides key components of the system to its users, including to Hall Automotive, For a Song, Max Media and AV Automotive, in this district and thus contributorily infringes the '295 Patent in this district and elsewhere, and/or (iii) Facebook induces its users, including Hall Automotive, For a Song, Max Media and AV Automotive, to use the system and to put the system into use, and thus induces infringement of the '295 Patent in this district and elsewhere.

20. This Court has personal jurisdiction over Instagram because Instagram conducts substantial business in this district, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business in this district, engaging in other persistent courses of conduct in this district, deriving substantial revenue from goods and services provided to individuals in this district, maintaining continuous

and systematic contacts with this district, and/or purposely availing itself of the privileges of doing business in Virginia.

21. Venue is proper in this judicial district as to Instagram pursuant to 28 U.S.C. §§ 1391 and 1400(b) because, among other reasons, Instagram is subject to personal jurisdiction in this district and Instagram has committed and continues to commit acts of patent infringement in this district. For example, Instagram has used, sold, offered for sale, and/or imported infringing products and services in this district. Instagram, for example, provides infringing web pages and software in this district, and thus directly infringes the '295 Patent in this district, and, to the extent any claim is construed to require a system, (i) Instagram puts that system into use in this district by providing infringing web pages and software in this district, and thus directly infringes the '295 Patent in this district and elsewhere, (ii) Instagram provides key components of the system to its users, including to Hall Automotive, For a Song, Max Media and AV Automotive, and thus contributorily infringes the '295 Patent in this district and elsewhere, and/or (iii) Facebook induces its users, including Hall Automotive, For a Song, Max Media and AV Automotive, to use the system and to put the system into use, and thus induces infringement of the '295 Patent in this district and elsewhere.

22. Joinder is proper under 35 U.S.C. § 299 because, and as explained further below, Facebook and Instagram provide the same infringing platform to AV Automotive, For a Song, Hall Automotive and Max Media, and Facebook and Instagram instruct them how to use the platform and how to put the platform into use. As a result, AV Automotive, Facebook and Instagram are jointly and severally liable for infringement arising out of the same series of transaction or occurrences related to the use of the same infringing platform. Similarly, For a Song, Facebook and Instagram are jointly and severally liable for infringement arising out of the

same series of transactions or occurrences related to the use of the same infringing platform. Hall Automotive, Facebook and Instagram are jointly and severally liable for infringement arising out of the same series of transactions or occurrences related to the use of the same infringing platform. And Max Media, Facebook and Instagram are jointly and severally liable for infringement arising out of the same series of transactions or occurrences related to the use of the same infringing platform. Questions and facts common to all defendants will arise in the action.

The Patent-in-Suit

23. TLI is the owner of the '295 Patent entitled "Apparatus and Method for Recording, Communicating and Administering Digital Images," which the United States Patent & Trademark Office lawfully and duly issued on March 14, 2000. A true and correct copy of the '295 Patent is attached hereto as Exhibit A.

Factual Background

24. Dr. Heinz Mattes is the named inventor of the '295 patent.

25. The '295 patent has a priority date of June 17, 1996. The '295 patent was originally assigned to Siemens Aktiengesellschaft of Munich, Germany. TLI is the current owner of the '295 patent via assignment.

26. In the mid 1990's, Dr. Mattes, while working as a scientist for Siemens, recognized that mobile telephony and digital photography, each then in their infancy, would likely become more and more popular. Dr. Mattes recognized that mobile telephones could be integrated with digital cameras, resulting in a proliferation of the quantity of digital images that could and would be taken.

27. Dr. Mattes invented a revolutionary way of communicating and recording such digital images, which allowed numerous images to be simply and quickly recorded, tracked, accessed and transmitted.

28. In 1996, Dr. Mattes' invention was among the winners of a Siemens idea competition, leading to Siemens initiating a project to develop a cellular telephone with an integrated camera.

29. The '295's patented inventions are applicable to the uploading and organization of digital images from a telephone. Over the past few years, smart cellular telephones that incorporate sophisticated digital cameras have exploded in popularity, as has social media. Today, hundreds of millions of digital images are uploaded onto computer servers and social media websites every day, including onto Facebook and Facebook's Instagram. Facebook's products use the '295's patented technology, without license or authority, to classify those images so that they can be easily uploaded, stored, organized, retrieved and shared.

Facebook's Infringing Products

30. Facebook owns and operates the widely used social networking service accessible for example on the World Wide Web at the web address of www.facebook.com and through specialized mobile applications. Facebook also owns Instagram, which is a social networking service accessible for example on the World Wide Web at the web address of www.instagram.com and through specialized mobile applications. Facebook provides web based products and services, including its Facebook and Instagram products. Facebook's revenues are attributed to, among other things, advertising and fee-based services.

31. Facebook purports to be the “most popular photo uploading service on the web.”¹ “People can upload an unlimited number of high resolution photos, create photo albums, and share them with their friends or any audience they choose.”² Facebook purports that it has over 550 million daily active users that access Facebook from mobile devices.³ In the fourth quarter of 2012, Facebook purported that, on average, it uploaded more than 350 million images per day.⁴

32. Facebook offers websites, software and downloadable applications, especially designed for mobile devices having telephones, including iPhone and Android mobile telephones, and other mobile telephone platforms, which allow telephone users to easily characterize and upload digital images to Facebook and/or Instagram servers. Facebook image-uploading software is preloaded on many mobile telephones, and its website can be directly accessed from many mobile telephones, which also uploads digital images characterized with user-information. Facebook also provides downloadable applications, which also provide for uploading digital images to Facebook servers. Facebook entices its users to upload digital images by providing easy-to-use platforms and instructions, and Facebook stores and archives the digital images uploaded to its servers using the characterization information provided by its users.⁵ As a result, visitors are attracted to Facebook where they can easily view, retrieve and share those images, resulting in more visitors to Facebook, and increased Facebook revenues.

¹ Facebook Form 10k (Annual Report) for the fiscal year ending December 31, 2012 at 6.

² *Id.*

³ Facebook Form 10k (Annual Report) for the fiscal year ending December 31, 2013 at 5.

⁴ Facebook Form 10k (Annual Report) for the fiscal year ending December 31, 2012 at 5.

⁵ See <http://files.shareholder.com/downloads/AMDA-NJ5DZ/2930224485x0x721811/f028299e-a5b9-4ed5-9a2d-e3f0923ef261/FacebookReportsFourthQuarterAndFullYear2013Results.pdf> (Facebook’s Fourth Quarter 2013 Results, reporting that 945 million of its 1.2 billion monthly active users were mobile active users).

33. So that these digital images could be captured, uploaded, stored and organized, Facebook fashioned products and processes that, on information and belief, employ TLI's patented technology. The infringing products include, but are not limited to, the products and processes that Facebook uses to capture, upload, store and organize the digital images it receives from mobile devices having telephones, including via Facebook and Instagram.

Instagram's Infringing Products

34. Instagram provides web based products and services, including its instagram.com products. Facebook purports that "Instagram is a mobile app and website that enable people to take photos or videos, customize them with filter effects, and share them with friends and followers in a photo feed or send them directly to friends."⁶

35. Instagram recently released software and platforms, especially designed for mobile devices having telephones, including iPhone and Android mobile telephones, and other mobile telephone platforms, which allow telephone users to easily characterize and upload digital images to Instagram and/or Facebook servers. So that these digital images could be captured, uploaded, stored and organized, Instagram fashioned products and processes that employ TLI's patented technology. The infringing products include, but are not limited to, the products and processes that Instagram uses to capture, upload, store and organize the digital images it receives from mobile devices having telephones, including via Facebook and Instagram.

⁶ Facebook Form 10k (Annual Report) for the fiscal year ending December 31, 2013 at 7.

AV Automotive's Infringing Products

36. AV Automotive uses Facebook and Instagram to market its services and products.⁷ AV Automotive's customers can access Facebook and Instagram directly, for example, at www.facebook.com and m.facebook.com, including access to the digital images that Facebook and Instagram uploaded, archived and characterized on AV Automotive's behalf. In addition, AV Automotive provides direct links to Facebook and Instagram on its website.⁸

37. AV Automotive captures digital images on mobile devices having telephones and it uploads those images to databases where those images are archive and stored, including to Facebook's databases and Instagram's databases.⁹ Those images are uniquely identified and characterized by AV Automotive, or persons acting on AV Automotive's behalf, and can be easily accessed on the databases using those identifiers and characterizations.¹⁰ Such actions of uploading digital images from mobile devices having telephones infringe one or more claims of the '295 Patent.

For a Song's Infringing Products

38. For a Song uses Facebook and Instagram to market its services and products.¹¹ For a Song's customers can access Facebook and Instagram directly, for example, at www.facebook.com, m.facebook.com and instagram.com, including access to the digital images

⁷ See, e.g., <https://www.facebook.com/BMWofAlexandriaArlington>; <http://instagram.com/bmwofalexandria#>.

⁸ See, e.g., <http://www.bmwofalexandria.com/>.

⁹ See, e.g., https://www.facebook.com/BMWofAlexandriaArlington/photos_albums; <http://instagram.com/bmwofalexandria#>.

¹⁰ See *id.*

¹¹ See, e.g., <https://www.facebook.com/birchmere>; <http://instagram.com/thebirchmere>.

that Facebook and/or Instagram uploaded, archived and characterized on For a Song's behalf. In addition, For a Song provides direct links to Facebook and Instagram on its website.¹²

39. For a Song captures digital images on mobile devices having telephones and it uploads those images to databases where those images are archive and stored, including to Facebook's databases.¹³ Those images are uniquely identified and characterized by For a Song, or persons acting on For a Song's behalf, and can be easily accessed on the databases using those identifiers and characterizations.¹⁴ Such actions of uploading digital images from mobile devices having telephones infringe one or more claims of the '295 Patent.

Hall Automotive's Infringing Products

40. Hall Automotive uses Facebook to market its services and products.¹⁵ Hall Automotive's customers can access Facebook directly, for example, at www.facebook.com and m.facebook.com, including access to the digital images that Facebook uploaded, archived and characterized on Hall Automotive's behalf. In addition, Hall Automotive provides direct links to Facebook on its website.¹⁶

41. Hall Automotive captures digital images on mobile devices having telephones and it uploads those images to databases where those images are archive and stored, including to Facebook's databases.¹⁷ Those images are uniquely identified and characterized by Hall Automotive, or persons acting on Hall Automotive's behalf, and can be easily accessed on the

¹² See <http://www.birchmere.com/>.

¹³ See, e.g., https://www.facebook.com/birchmere/photos_stream;
<http://instagram.com/thebirchmere>.

¹⁴ See *id.*

¹⁵ See, e.g., https://www.facebook.com/HallAutomotive/photos_stream.

¹⁶ See <http://www.hallauto.com/>.

¹⁷ See, e.g., https://www.facebook.com/HallAutomotive/photos_stream.

databases using those identifiers and characterizations. Such actions of uploading digital images from mobile devices having telephones infringe one or more claims of the '295 Patent.

Max Media's Infringing Products

42. Max Media uses Facebook and Instagram to market its services and products.¹⁸ Max Media's customers can access Facebook and Instagram directly, for example, at www.facebook.com and m.facebook.com, including access to the thousands of digital images that Facebook and Instagram uploaded, archived and characterized on Max Media's behalf. In addition, Max Media provides direct links to Facebook and/or Instagram on the websites of its radio stations.¹⁹

43. Max Media captures digital images on mobile devices having telephones and it uploads those images to databases where those images are archive and stored, including to Facebook's databases and Instagram's databases.²⁰ Those images are uniquely identified and characterized by Max Media, or persons acting on Max Media's behalf, and can be easily accessed on the databases using those identifiers and characterizations.²¹ Such actions of uploading digital images from mobile devices having telephones infringe one or more claims of the '295 Patent.

¹⁸ See, e.g., <https://www.facebook.com/929thewave?ref=ts&fref=ts>;
<https://www.facebook.com/973theeagle>; <https://www.facebook.com/Star1310>;
<https://www.facebook.com/ESPNRadio941?ref=ts&fref=ts>; www.facebook.com/hot1005;
<http://instagram.com/973theeagle>; <http://instagram.com/hot1005>.

¹⁹ See, e.g., <http://www.eagle97.com>; <http://www.929thewave.com>; <http://www.star1310.com>;
<http://www.espnradio941.com>; www.hot1005.com.

²⁰ See, e.g., https://www.facebook.com/929thewave/photos_albums;
https://www.facebook.com/973theeagle/photos_albums;
https://www.facebook.com/Star1310/photos_albums;
https://www.facebook.com/ESPNRadio941/photos_albums;
https://www.facebook.com/hot1005/photos_albums; <http://instagram.com/973theeagle>;
<http://instagram.com/hot1005>.

²¹ See *id.*

CLAIM FOR RELIEF

COUNT I

(Facebook's Infringement of the '295 Patent)

44. TLI incorporates by reference paragraphs 1 through 43 of the Complaint as if set forth here in full.

Direct Infringement

45. Facebook has been and is currently directly infringing one or more claims of the '295 Patent by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, without authority, the aforementioned platforms that upload and store digital images from mobile devices having telephones. For example, and without limitation, Facebook has directly infringed and continues to directly infringe the '295 Patent in this judicial district and elsewhere in the United States. Facebook's infringement includes, without limitation, (i) making and using the apparatus of claim 1 and claims dependent thereon, and (ii) practicing the method of claim 17 and claims dependent thereon.

46. Specifically, Facebook's direct infringement includes, without limitation (i) its uploading of digital images from mobile devices having telephones onto Facebook servers and/or Instagram servers (or onto servers operated on or for Facebook's behalf ("Facebook servers")), (ii) its testing of its Facebook and Instagram products by uploading images from mobile devices having telephones onto Facebook servers within the United States, and (iii) its maintaining Facebook servers that categorize and store images that were uploaded via mobile devices having telephones. Facebook also directs and/or controls its employees, executives, agents, customers and agents to use the aforementioned digital image uploading platforms to upload images from mobile devices having telephones onto Facebook servers within the United States.

47. To the extent that claim 1 of the '295 Patent is construed to require a system with a claim element not practiced by Facebook, Facebook would also directly infringe claim 1 at least because it directs and/or controls the practicing of all claim elements or because it places the invention into service. For example, Facebook provides websites, platforms and pre-loaded software to mobile telephone users that provide and enable image uploading, thereby putting the invention into service.²² Moreover, Facebook directs and/or controls the practicing of all claim elements, as shown for example, by Facebook entering into contracts with its users, Facebook instructing its users how to upload digital images from mobile devices having telephones, Facebook automatically syncing digital images from mobile devices having telephones onto its servers, Facebook automatically uploading digital images from mobile devices having telephones onto its servers, Facebook automatically tagging digital images that it uploads onto its servers from mobile devices having telephones with characterization information of the users, and Facebook automatically archiving the digital images that it uploads onto its servers with characterization information of the users.

48. To the extent that claim 17 of the '295 Patent is construed to require a method with a step not practiced by Facebook, Facebook would also directly infringe claim 17 at least because it directs and/or controls the practicing of all claimed steps. Facebook directs and/or controls the practicing of all claim elements, as shown for example, by Facebook entering into contracts with its users, Facebook instructing its users how to upload digital images from mobile devices having telephones, Facebook providing pre-loaded image-uploading platforms on mobile devices having telephones, Facebook providing websites that upload images and that are directly accessible by mobile devices having telephones, Facebook automatically syncing digital images

²² See, for example, <https://www.facebook.com/help/126929677447739> (“Use Facebook from any phone with internet access without downloading an app”).

from mobile devices having telephones onto its servers, Facebook automatically uploading digital images from mobile devices having telephones onto its servers, Facebook automatically tagging digital images that it uploads onto its servers from mobile devices having telephones with characterization information of the users, and Facebook automatically archiving the digital images that it uploads onto its servers with characterization information of the users.

49. At least as a result of the computer software and hardware that performs these activities, Facebook is liable for literal direct infringement of the '295 Patent pursuant to 35 U.S.C. § 271(a).

50. To the extent that any fact finder deems any of the elements of the '295 patent claims not literally satisfied by the structure or use of the Facebook platform, these elements are satisfied under the doctrine of equivalents.

Indirect Infringement

51. Alternatively, and in addition to its liability for direct infringement of the '295 Patent, Facebook is also liable for indirectly infringing the '295 Patent in this judicial district and elsewhere in the United States by inducing direct infringement in violation of 35 U.S.C. § 271(b) and contributing to direct infringement in violation of 35 U.S.C. § 271(c).

52. Facebook has been aware of the '295 Patent since at least November 20, 2013, when it was served with a complaint in an action filed on November 18, 2013. The November 18, 2013 complaint is incorporated herein by reference.

53. Upon Facebook's gaining knowledge of the '295 patent, it was, or became, apparent to Facebook that the operation of its digital image uploading platforms and software resulted in infringement of the '295 Patent. Facebook has continued to engage in the aforementioned activities constituting inducement of infringement, notwithstanding its

knowledge (or willful blindness thereto) that the activities it was inducing result in infringement of the '295 Patent.

54. The direct infringement induced and contributed to by Facebook includes at least the uploading of digital images from mobile devices having telephones to Facebook servers by end users acting alone or in combination with Facebook. For example, and without limitation, to the extent that claim 1 is construed to require a system with the system placed into service by a user who uploads digital images from a mobile device having a telephone (and it is determined that Facebook does not direct and/or control that user), the user would be considered to be a direct infringer of claim 1. Facebook knows that these users are infringing the '295 Patent and Facebook has specific intent to encourage the users to infringe the '295 Patent. As another example, to the extent that claim 17 is construed to require a method with steps performed by one or more entities other than Facebook, for example, a user (and it is determined that Facebook does not direct and/or control these entities), Facebook induces those entities to perform those infringing acts, knowing that the acts constitute infringement of the '295 Patent and with specific intent to encourage those acts and encourage infringement.

55. Facebook encourages direct infringement of the '295 Patent at least by widely publicizing its social network, by providing image-uploading tools via its website, by providing image-uploading software, by providing pre-loaded image uploading software on mobile devices having telephones, by automatically syncing images from mobile devices having telephones, by automatically tagging images uploaded from mobile devices having telephones, by automatically characterizing images with user information when uploaded from mobile devices having telephones, by providing image storage, by storing images uploaded from mobile devices having telephones according to user-characterization information, by providing image-uploading,

downloadable applications for mobile devices having telephones, and by providing instructions for conducting the directly infringing use of uploading digital images from mobile devices.²³

56. Facebook induces infringement at least by encouraging, facilitating and instructing users to use the '295 Patent's inventions by uploading digital images to Facebook servers from mobile devices having telephones. Facebook does this by providing image uploading software and platforms (including pre-loaded, downloadable and/or directly accessible via Facebook websites software and platforms) to its users, and by instructing its users how to upload images to Facebook servers, thereby inducing the use of the claimed inventions.

57. Facebook is inducing infringement of the '295 Patent by, among other things, knowingly and with specific intent, actively encouraging its customers, suppliers, agents and affiliates to make, use, sell and/or offer for sale the aforementioned Facebook image uploading platforms in a manner that constitutes infringement of one or more claims of the '295 Patent, knowing that such activities infringe at least one claim of the '295 Patent, and with the knowledge and specific intent to encourage, direct and facilitate those infringing activities, including through the creation and dissemination of promotional and marketing materials, instructional materials, product materials and technical materials.

58. By inducing its customers', suppliers', users', agents' and affiliates' use of the methods claimed in the '295 Patent and their making and/or using the aforementioned Facebook image uploading platforms, Facebook has been and is now indirectly infringing under 35 U.S.C.

²³ See, for example, <https://www.facebook.com/help/126929677447739> ("Use Facebook from any phone with internet access without downloading an app"); <https://www.facebook.com/help/383621145033422> ("To share one or more photos from your camera roll: Drag the feed down to see your photo thumbnails. Tap the checkmark in the top right corner of photos you want to share and tap the composer button"); <https://www.facebook.com/mobile> ("Facebook for iPhone;" "Facebook for Android;" "Facebook Camera").

§ 271(b) one or more claims of the '295 Patent, either literally or under the doctrine of equivalents.

59. Facebook contributes to the '295 Patent's direct infringement by, among other things, knowingly and with specific intent, actively encouraging its customers, suppliers, agents, users and affiliates to make, use, sell and/or offer for sale Facebook's aforementioned image uploading platforms and services that constitutes infringement of at least claims 1 and 17 of the '295 Patent. For example, to the extent that any claim is construed to require a system, Facebook provides components, including image-uploading, pre-loaded software, websites and/or downloadable applications, for use in systems, which facilitate the uploading of digital images from mobile devices having telephones. Facebook knows that such products constitute a material part of the inventions of the '295 Patent, knows those products to be especially made or adapted to infringe the '295 Patent, and knows that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use. Facebook knows that by providing such components to its customers, its customers will infringe at least one claim of the '295 Patent, and Facebook knows that its customers do infringe the '295 Patent. Facebook image uploading software has no substantial non-infringing uses.

60. By contributing to its customers', suppliers', agents', users' and affiliates' use of the methods claimed in the '295 Patent and their making and/or using the aforementioned Facebook image uploading platforms, Facebook has been and is now indirectly infringing under 35 U.S.C. § 271(c) one or more claims of the '295 Patent, either literally or under the doctrine of equivalents.

271(f) Infringement

61. Facebook is liable for infringement under 35 U.S.C. § 271(f) when the end user is outside the United States by supplying its software components for combination outside the United States.

Joint Infringement

62. Alternatively, the actions alleged above establish joint infringement of at least claims 1 and 17 by Facebook and its customers, users, suppliers, agents and affiliates for which they should be found jointly and severally liable.

Remedy for Facebook's Infringement

63. As a result of Facebook's unlawful infringement of the '295 Patent, TLI has suffered and will continue to suffer damage. TLI is entitled to recover from Facebook the damages adequate to compensate for such infringement, which have yet to be determined.

64. Facebook will continue to infringe the '295 Patent unless and until it is enjoined by this Court.

65. Facebook's acts of infringement have caused and will continue to cause irreparable harm to TLI unless and until Facebook is enjoined by this Court.

COUNT II

(Instagram's Infringement of the '295 Patent)

66. TLI incorporates by reference paragraphs 1 through 43 of the Complaint as if set forth here in full.

Direct Infringement

67. Instagram has been and is currently directly infringing one or more claims of the '295 Patent by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, without authority, the aforementioned platforms that upload and store digital images from mobile devices having telephones. For example, and without limitation, Instagram has directly infringed and continues to directly infringe the '295 Patent in this judicial district and elsewhere in the United States. Instagram's infringement includes, without limitation, (i) making and using the apparatus of claim 1 and claims dependent thereon, and (ii) practicing the method of claim 17 and claims dependent thereon.

68. Specifically, Instagram's direct infringement includes, without limitation (i) its uploading of digital images from mobile devices having telephones onto Facebook servers and/or Instagram servers (or onto servers operated on or for Instagram's behalf ("Instagram servers")), (ii) its testing of its Facebook and Instagram products by uploading images from mobile devices having telephones onto Instagram servers within the United States, and (iii) its maintaining Instagram servers that categorize and store images that were uploaded via mobile devices having telephones. Instagram also directs and/or controls its employees, executives, agents, customers and agents to use the aforementioned digital image uploading platforms to upload images from mobile devices having telephones onto Instagram servers within the United States.

69. To the extent that claim 1 of the '295 Patent is construed to require a system with a claim element not practiced by Instagram, Instagram would also directly infringe claim 1 at least because it directs and/or controls the practicing of all claim elements or because it places the invention into service. For example, Instagram provides websites, platforms and pre-loaded software to mobile telephone users that provide and enable image uploading, thereby putting the

invention into service.²⁴ Moreover, Instagram directs and/or controls the practicing of all claim elements, as shown for example, by Instagram entering into contracts with its users, Instagram instructing its users how to upload digital images from mobile devices having telephones, Instagram automatically syncing digital images from mobile devices having telephones onto its servers, Instagram automatically uploading digital images from mobile devices having telephones onto its servers, Instagram automatically tagging digital images that it uploads onto its servers from mobile devices having telephones with characterization information of the users, and Instagram automatically archiving the digital images that it uploads onto its servers with characterization information of the users.

70. To the extent that claim 17 of the '295 Patent is construed to require a method with a step not practiced by Instagram, Instagram would also directly infringe claim 17 at least because it directs and/or controls the practicing of all claimed steps. Instagram directs and/or controls the practicing of all claim elements, as shown for example, by Instagram entering into contracts with its users, Instagram instructing its users how to upload digital images from mobile devices having telephones, Instagram automatically syncing digital images from mobile devices having telephones onto its servers, Instagram automatically uploading digital images from mobile devices having telephones onto its servers, Instagram automatically tagging digital images that it uploads onto its servers from mobile devices having telephones with characterization information of the users, and Instagram automatically archiving the digital images that it uploads onto its servers with characterization information of the users.

²⁴ See, for example, <http://instagram.com> (“Take a picture or video, choose a filter to transform its look and feel, then post to Instagram — it’s that easy.”); <http://help.instagram.com/365080703569355>.

71. At least as a result of the computer software and hardware that performs these activities, Instagram is liable for literal direct infringement of the '295 Patent pursuant to 35 U.S.C. § 271(a).

72. To the extent that any fact finder deems any of the elements of the '295 patent claims not literally satisfied by the structure or use of the Instagram platform, these elements are satisfied under the doctrine of equivalents.

Indirect Infringement

73. Alternatively, and in addition to its liability for direct infringement of the '295 Patent, Instagram is also liable for indirectly infringing the '295 Patent in this judicial district and elsewhere in the United States by inducing direct infringement in violation of 35 U.S.C. § 271(b) and contributing to direct infringement in violation of 35 U.S.C. § 271(c).

74. Instagram has been aware of the '295 Patent since at least November 20, 2013, when it was served with a complaint in an action filed on November 18, 2013. The November 18, 2013 complaint is incorporated herein by reference.

75. Upon Instagram's gaining knowledge of the '295 patent, it was, or became, apparent to Instagram that the operation of its digital image uploading platforms and software resulted in infringement of the '295 Patent. Instagram has continued to engage in the aforementioned activities constituting inducement of infringement, notwithstanding its knowledge (or willful blindness thereto) that the activities it was inducing result in infringement of the '295 Patent.

76. The direct infringement induced and contributed to by Instagram includes at least the uploading of digital images from mobile devices having telephones to Instagram servers by end users acting alone or in combination with Instagram. For example, and without limitation, to

the extent that claim 1 is construed to require a system with the system placed into service by a user who uploads digital images from a mobile device having a telephone (and it is determined that Instagram does not direct and/or control that user), the user would be considered to be a direct infringer of claim 1. Instagram knows that these users are infringing the '295 Patent and Instagram has specific intent to encourage the users to infringe the '295 Patent. As another example, to the extent that claim 17 is construed to require a method with steps performed by one or more entities other than Instagram, for example, a user (and it is determined that Instagram does not direct and/or control these entities), Instagram induces those entities to perform those infringing acts, knowing that the acts constitute infringement of the '295 Patent and with specific intent to encourage those acts and encourage infringement.

77. Instagram encourages direct infringement of the '295 Patent at least by widely publicizing its social network, by providing image-uploading tools via its website, by providing image-uploading software, by providing pre-loaded image uploading software on mobile devices having telephones, by automatically syncing images from mobile devices having telephones, by automatically tagging images uploaded from mobile devices having telephones, by automatically characterizing images with user information when uploaded from mobile devices having telephones, by providing image storage, by storing images uploaded from mobile devices having telephones according to user-characterization information, by providing image-uploading, downloadable applications for mobile devices having telephones, and by providing instructions for conducting the directly infringing use of uploading digital images from mobile devices.²⁵

²⁵ See, for example, <http://instagram.com> (“Take a picture or video, choose a filter to transform its look and feel, then post to Instagram — it’s that easy.”); <http://help.instagram.com/365080703569355>.

78. Instagram induces infringement at least by encouraging, facilitating and instructing users to use the '295 Patent's inventions by uploading digital images to Instagram servers from mobile devices having telephones. Instagram does this by providing image uploading software and platforms (including pre-loaded, downloadable and/or directly accessible via Instagram websites software and platforms) to its users, and by instructing its users how to upload images to Instagram servers, thereby inducing the use of the claimed inventions.

79. Instagram is inducing infringement of the '295 Patent by, among other things, knowingly and with specific intent, actively encouraging its customers, users, suppliers, agents and affiliates to make, use, sell and/or offer for sale the aforementioned Instagram image uploading platforms in a manner that constitutes infringement of one or more claims of the '295 Patent, knowing that such activities infringe at least one claim of the '295 Patent, and with the knowledge and specific intent to encourage, direct and facilitate those infringing activities, including through the creation and dissemination of promotional and marketing materials, instructional materials, product materials and technical materials.

80. By inducing its customers', suppliers', users', agents' and affiliates' use of the methods claimed in the '295 Patent and their making and/or using the aforementioned Instagram image uploading platforms, Instagram has been and is now indirectly infringing under 35 U.S.C. § 271(b) one or more claims of the '295 Patent, either literally or under the doctrine of equivalents.

81. Instagram contributes to the '295 Patent's direct infringement by, among other things, knowingly and with specific intent, actively encouraging its customers, suppliers, agents, users and affiliates to make, use, sell and/or offer for sale Instagram's aforementioned image uploading platforms and services that constitutes infringement of at least claims 1 and 17 of the

'295 Patent. For example, to the extent that any claim is construed to require a system, Instagram provides components, including image-uploading, pre-loaded software, websites and/or downloadable applications, for use in systems, which facilitate the uploading of digital images from mobile devices having telephones. Instagram knows that such products constitute a material part of the inventions of the '295 Patent, knows those products to be especially made or adapted to infringe the '295 Patent, and knows that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use. Instagram knows that by providing such components to its customers, its customers will infringe at least one claim of the '295 Patent, and Instagram knows that its customers do infringe the '295 Patent. Instagram image uploading software has no substantial non-infringing uses.

82. By contributing to its customers', suppliers', agents', users' and affiliates' use of the methods claimed in the '295 Patent and their making and/or using the aforementioned Instagram image uploading platforms, Instagram has been and is now indirectly infringing under 35 U.S.C. § 271(c) one or more claims of the '295 Patent, either literally or under the doctrine of equivalents.

271(f) Infringement

83. Instagram is liable for infringement under 35 U.S.C. § 271(f) when the end user is outside the United States by supplying its software components for combination outside the United States.

Joint Infringement

84. Alternatively, the actions alleged above establish joint infringement of at least claims 1 and 17 by Instagram and its customers, users, suppliers, agents and affiliates for which they should be found jointly and severally liable.

Remedy for Instagram's Infringement

85. As a result of Instagram's unlawful infringement of the '295 Patent, TLI has suffered and will continue to suffer damage. TLI is entitled to recover from Instagram the damages adequate to compensate for such infringement, which have yet to be determined.

86. Instagram will continue to infringe the '295 Patent unless and until it is enjoined by this Court.

87. Instagram's acts of infringement have caused and will continue to cause irreparable harm to TLI unless and until Instagram is enjoined by this Court.

COUNT III

(AV Automotive's Infringement of the '295 Patent and Facebook's and Instagram's Joint and Several Liability Based on Same Transaction or Occurrences)

88. TLI incorporates by reference paragraphs 1 through 87 of the Complaint as if set forth here in full.

Direct Infringement

89. AV Automotive has been and is currently directly infringing one or more claims of the '295 Patent at least by using within the United States, without authority, the aforementioned platforms that upload and store digital images from mobile devices having telephones. For example, and without limitation, AV Automotive has directly infringed and continues to directly infringe the '295 Patent in this judicial district and elsewhere in the United States. AV Automotive's infringement includes, without limitation, (i) using the apparatus of claim 1 and claims dependent thereon, and (ii) practicing the method of claim 17 and claims dependent thereon.

90. Specifically, AV Automotive's direct infringement includes, without limitation (i) its uploading of digital images from mobile devices having telephones onto Facebook servers

and/or Instagram servers within the United States. AV Automotive also directs and/or controls its employees, executives, agents, customers and agents to use the aforementioned digital image uploading platforms to upload images from mobile devices having telephones onto Facebook servers and Instagram servers within the United States.

91. For example, and without limitation, to the extent that claim 1 is construed to require a system with a user placing that system into use by uploading digital images from a mobile device having a telephone onto servers, AV Automotive also directly infringes claim 1 of the '295 Patent by putting the invention into use, for example by downloading software and/or downloadable applications on mobile devices having telephones, and uploading digital images from mobile devices having telephones to Facebook servers or Instagram servers within the United States. As explained above, Facebook and Instagram would also be jointly and severally liable for AV Automotive's direct infringement for inducing and contributing to this direct infringement.

92. At least as a result of uploading digital images from mobile devices onto Facebook servers or Instagram servers, which automatically archive those images using identification information and characterization information of the user, AV Automotive is liable for literal direct infringement of the '295 Patent pursuant to 35 U.S.C. § 271(a).

93. To the extent that any fact finder deems any of the elements of the '295 patent claims not literally satisfied by AV Automotive's uploading digital images from mobile devices onto Facebook servers or Instagram servers, these elements are satisfied under the doctrine of equivalents.

Joint Infringement

94. Alternatively, the actions alleged above establish joint infringement of at least claims 1 and 17 by Facebook and AV Automotive for which they should be found jointly and severally liable.

95. Alternatively, the actions alleged above establish joint infringement of at least claims 1 and 17 by Instagram and AV Automotive for which they should be found jointly and severally liable.

Remedy for AV Automotive's Infringement

96. As a result of AV Automotive's unlawful infringement of the '295 Patent, TLI has suffered and will continue to suffer damage. TLI is entitled to recover from AV Automotive the damages adequate to compensate for such infringement, which have yet to be determined.

97. AV Automotive will continue to infringe the '295 Patent unless and until it is enjoined by this Court.

98. AV Automotive's acts of infringement have caused and will continue to cause irreparable harm to TLI unless and until AV Automotive is enjoined by this Court.

COUNT IV

(For a Song's Infringement of the '295 Patent and Facebook's and Instagram's Joint and Several Liability Based on Same Transaction or Occurrences)

99. TLI incorporates by reference paragraphs 1 through 87 of the Complaint as if set forth here in full.

Direct Infringement

100. For a Song has been and is currently directly infringing one or more claims of the '295 Patent at least by using within the United States, without authority, the aforementioned platforms that upload and store digital images from mobile devices having telephones. For

example, and without limitation, For a Song has directly infringed and continues to directly infringe the '295 Patent in this judicial district and elsewhere in the United States. For a Song's infringement includes, without limitation, (i) using the apparatus of claim 1 and claims dependent thereon, and (ii) practicing the method of claim 17 and claims dependent thereon.

101. Specifically, For a Song's direct infringement includes, without limitation (i) its uploading of digital images from mobile devices having telephones onto Facebook servers and/or Instagram servers within the United States. For a Song also directs and/or controls its employees, executives, agents, customers and agents to use the aforementioned digital image uploading platforms to upload images from mobile devices having telephones onto Facebook servers and Instagram servers within the United States.

102. For example, and without limitation, to the extent that claim 1 is construed to require a system with a user placing that system into use by uploading digital images from a mobile device having a telephone onto servers, For a Song also directly infringes claim 1 of the '295 Patent by putting the invention into use, for example by downloading software and/or downloadable applications on mobile devices having telephones, and uploading digital images from mobile devices having telephones to Facebook servers or Instagram servers within the United States. As explained above, Facebook and Instagram would also be jointly and severally liable for For a Song's direct infringement for inducing and contributing to this direct infringement.

103. At least as a result of uploading digital images from mobile devices onto Facebook servers or Instagram servers, which automatically archive those images using identification information and characterization information of the user, For a Song is liable for literal direct infringement of the '295 Patent pursuant to 35 U.S.C. § 271(a).

104. To the extent that any fact finder deems any of the elements of the '295 patent claims not literally satisfied by For a Song's uploading digital images from mobile devices onto Facebook servers or Instagram servers, these elements are satisfied under the doctrine of equivalents.

Joint Infringement

105. Alternatively, the actions alleged above establish joint infringement of at least claims 1 and 17 by Facebook and For a Song for which they should be found jointly and severally liable.

Remedy for For a Song's Infringement

106. As a result of For a Song's unlawful infringement of the '295 Patent, TLI has suffered and will continue to suffer damage. TLI is entitled to recover from For a Song the damages adequate to compensate for such infringement, which have yet to be determined.

107. For a Song will continue to infringe the '295 Patent unless and until it is enjoined by this Court.

108. For a Song's acts of infringement have caused and will continue to cause irreparable harm to TLI unless and until For a Song is enjoined by this Court.

COUNT V

(Hall Automotive's Infringement of the '295 Patent and Facebook's and Instagram's Joint and Several Liability Based on Same Transaction or Occurrences)

109. TLI incorporates by reference paragraphs 1 through 87 of the Complaint as if set forth here in full.

Direct Infringement

110. Hall Automotive has been and is currently directly infringing one or more claims of the '295 Patent at least by using within the United States, without authority, the

aforementioned platforms that upload and store digital images from mobile devices having telephones. For example, and without limitation, Hall Automotive has directly infringed and continues to directly infringe the '295 Patent in this judicial district and elsewhere in the United States. Hall Automotive's infringement includes, without limitation, (i) using the apparatus of claim 1 and claims dependent thereon, and (ii) practicing the method of claim 17 and claims dependent thereon.

111. Specifically, Hall Automotive's direct infringement includes, without limitation (i) its uploading of digital images from mobile devices having telephones onto Facebook servers and/or Instagram servers within the United States. Hall Automotive also directs and/or controls its employees, executives, agents, customers and agents to use the aforementioned digital image uploading platforms to upload images from mobile devices having telephones onto Facebook servers and Instagram servers within the United States.

112. For example, and without limitation, to the extent that claim 1 is construed to require a system with a user placing that system into use by uploading digital images from a mobile device having a telephone onto servers, Hall Automotive also directly infringes claim 1 of the '295 Patent by putting the invention into use, for example by downloading software and/or downloadable applications on mobile devices having telephones, and uploading digital images from mobile devices having telephones to Facebook servers or Instagram servers within the United States. As explained above, Facebook and Instagram would also be jointly and severally liable for Hall Automotive's direct infringement for inducing and contributing to this direct infringement.

113. At least as a result of uploading digital images from mobile devices onto Facebook servers or Instagram servers, which automatically archive those images using

identification information and characterization information of the user, Hall Automotive is liable for literal direct infringement of the '295 Patent pursuant to 35 U.S.C. § 271(a).

114. To the extent that any fact finder deems any of the elements of the '295 patent claims not literally satisfied by Hall Automotive's uploading digital images from mobile devices onto Facebook servers or Instagram servers, these elements are satisfied under the doctrine of equivalents.

Joint Infringement

115. Alternatively, the actions alleged above establish joint infringement of at least claims 1 and 17 by Facebook and Hall Automotive for which they should be found jointly and severally liable.

Remedy for Hall Automotive's Infringement

116. As a result of Hall Automotive's unlawful infringement of the '295 Patent, TLI has suffered and will continue to suffer damage. TLI is entitled to recover from Hall Automotive the damages adequate to compensate for such infringement, which have yet to be determined.

117. Hall Automotive will continue to infringe the '295 Patent unless and until it is enjoined by this Court.

118. Hall Automotive's acts of infringement have caused and will continue to cause irreparable harm to TLI unless and until Hall Automotive is enjoined by this Court.

COUNT VI

(Max Media's Infringement of the '295 Patent and Facebook's and Instagram's Joint and Several Liability Based on Same Transaction or Occurrences)

119. TLI incorporates by reference paragraphs 1 through 87 of the Complaint as if set forth here in full.

Direct Infringement

120. Max Media has been and is currently directly infringing one or more claims of the '295 Patent at least by using within the United States, without authority, the aforementioned platforms that upload and store digital images from mobile devices having telephones. For example, and without limitation, Max Media has directly infringed and continues to directly infringe the '295 Patent in this judicial district and elsewhere in the United States. Max Media's infringement includes, without limitation, (i) using the apparatus of claim 1 and claims dependent thereon, and (ii) practicing the method of claim 17 and claims dependent thereon.

121. Specifically, Max Media's direct infringement includes, without limitation (i) its uploading of digital images from mobile devices having telephones onto Facebook servers and/or Instagram servers within the United States. Max Media also directs and/or controls its employees, executives, agents, customers and agents to use the aforementioned digital image uploading platforms to upload images from mobile devices having telephones onto Facebook servers and Instagram servers within the United States.

122. For example, and without limitation, to the extent that claim 1 is construed to require a system with a user placing that system into use by uploading digital images from a mobile device having a telephone onto servers, Max Media also directly infringes claim 1 of the '295 Patent by putting the invention into use, for example by downloading software and/or downloadable applications on mobile devices having telephones, and uploading digital images from mobile devices having telephones to Facebook servers or Instagram servers within the United States. As explained above, Facebook and Instagram would also be jointly and severally liable for Max Media's direct infringement for inducing and contributing to this direct infringement.

123. At least as a result of uploading digital images from mobile devices onto Facebook servers or Instagram servers, which automatically archive those images using identification information and characterization information of the user, Max Media is liable for literal direct infringement of the '295 Patent pursuant to 35 U.S.C. § 271(a).

124. To the extent that any fact finder deems any of the elements of the '295 patent claims not literally satisfied by Max Media's uploading digital images from mobile devices onto Facebook servers or Instagram servers, these elements are satisfied under the doctrine of equivalents.

Joint Infringement

125. Alternatively, the actions alleged above establish joint infringement of at least claims 1 and 17 by Facebook and Max Media for which they should be found jointly and severally liable.

126. Alternatively, the actions alleged above establish joint infringement of at least claims 1 and 17 by Instagram and Max Media for which they should be found jointly and severally liable.

Remedy for Max Media's Infringement

127. As a result of Max Media's unlawful infringement of the '295 Patent, TLI has suffered and will continue to suffer damage. TLI is entitled to recover from Max Media the damages adequate to compensate for such infringement, which have yet to be determined.

128. Max Media will continue to infringe the '295 Patent unless and until it is enjoined by this Court.

129. Max Media's acts of infringement have caused and will continue to cause irreparable harm to TLI unless and until Max Media is enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, TLI prays for a Judgment in favor of TLI and against Defendants as follows:

- A. That Defendants have directly infringed the '295 Patent;
- B. That Facebook and Instagram have indirectly infringed the '295 Patent;
- C. That Facebook and its customers, users, suppliers, agents and affiliates have jointly infringed the '295 Patent;
- D. That Instagram and its customers, users, suppliers, agents and affiliates have jointly infringed the '295 Patent;
- E. That Facebook and For a Song have jointly infringed the '295 Patent;
- F. That Facebook and Hall Automotive have jointly infringed the '295 Patent;
- G. That Facebook and Max Media have jointly infringed the '295 Patent;
- H. That Facebook and AV Automotive have jointly infringed the '295 Patent;
- I. That Instagram and For a Song have jointly infringed the '295 Patent;
- J. That Instagram and Max Media have jointly infringed the '295 Patent;
- K. That Instagram and AV Automotive have jointly infringed the '295 Patent;
- L. Preliminarily and permanently enjoining Defendants and their affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns, and all those acting for them and on their behalf, or acting in concert with them directly or indirectly, from further acts of infringement of the '295 Patent;
- M. A full accounting for and an award of damages to TLI for Defendants' infringement of the '295 Patent; including enhanced damages pursuant to 35 U.S.C. § 284, together with pre- and post-judgment interest;

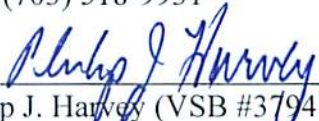
- N. That this case is “exceptional” within the meaning of 35 U.S.C. § 285;
- O. An award of TLI’s reasonable attorneys’ fees, expenses, and costs; and
- P. A grant of such other and further equitable or legal relief as this Court deems proper.

DEMAND FOR JURY TRIAL

TLI hereby demands trial by jury on all issues so triable.

Dated: February 10, 2014

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