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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

WAG ACQUISITION, L.L.C.,

Plaintiff,

v.

GATTYÁN GROUP S.à r.l.;

**DUODECAD IT SERVICES
LUXEMBOURG S.à r.l.;**

DUODECAD IT SERVICES USA, LLC;

DOES 1-20,

Defendants.

Case No.: **2:14-cv-2832-ES-JAD**

**FIRST AMENDED
COMPLAINT FOR PATENT
INFRINGEMENT**

and

DEMAND FOR JURY TRIAL

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff WAG ACQUISITION, L.L.C., for its first amended complaint against Defendants, alleges infringement of United States Patent Nos. 8,122,141, 8,327,011, 8,185,611, and 8,364,839 (the “patents-in-suit”). Defendants operate a worldwide network of live interactive webcam performers and Internet sites, including their flagship site, livejasmin.com, which is one of the most visited Internet sites in the world. Plaintiff alleges that Defendants’ Internet delivery of streaming video from

their servers, including servers in the United States, infringes the patents-in-suit, as more particularly specified herein.

THE PARTIES

1. Plaintiff WAG Acquisition, L.L.C. is a New Jersey limited liability company with its principal place of business at 3 Gold Mine Road, Suite 104, Flanders, New Jersey 07836. Plaintiff operates an Internet broadcasting business based in New Jersey, under the trade name SurferNETWORK.

2. On information and belief, Defendant GATTYÁN GROUP S.à r.l. (“GG”), also known as Docler, is a company organized under the laws of the Duchy of Luxembourg, with offices at 44, Avenue John F. Kennedy, L-1855 Luxembourg, Grand Duchy of Luxembourg.

3. On information and belief, Defendant DUODECAD IT SERVICES LUXEMBOURG S.à r.l. (“DD-Luxembourg”) is a company organized under the laws of the Grand Duchy of Luxembourg, with a registered address at 44, Avenue John F. Kennedy, L-1855 Luxembourg, Grand Duchy of Luxembourg, registered in the Luxembourg Trade and Companies Register under the number B 171.358. On information and belief, DD-Luxembourg also does business as Jasmin, LiveJasmin, and Adult Webmaster Empire or “AWE.”

4. On information and belief, Defendant DUODECAD IT SERVICES USA, LLC (“DD USA”) is a California, U.S.A. limited liability company with offices at 9701 Wilshire Boulevard, Suite 1000, Beverly Hills, California 90212.

5. As explained in more detail below, each of the above-named defendants is under common ownership and control.

6. On information and belief, Defendants Doe 1 – Doe 20 (collectively “Doe Defendants”) are entities whose precise identities are unknown to Plaintiff at this time. Plaintiff believes that information obtained in discovery will lead to identification of each such Defendant’s true identity and permit Plaintiff to amend this complaint to state the same.

JURISDICTION AND VENUE

7. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 et seq.

8. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

PLAINTIFF’S BUSINESS AND DEVELOPMENTS

9. Plaintiff, operating under the trade name SurferNETWORK, is in the business of providing Internet broadcasting services for live and on-demand audio and video program material. Plaintiff began this business in 1998 and has been one of the leading providers of such services to the terrestrial radio stations and other content providers that comprise its customer base.

10. Early in developing its business, two of Plaintiff’s principals, William A. Grywalski (“Grywalski”) and Harry Emerson (“Emerson”), recognized a need that existed in the field of Internet delivery of broadcast media due to the shortcomings in the then current Internet streaming technologies. They observed that long startup delays due to “buffering” and frequent program interruptions (sometimes

referred to as “jitter”) made the experience of trying to listen to or view streaming Internet content frustrating to the end user, and therefore impractical as a content delivery mechanism. They were interested in making the Internet streaming experience more like radio or television, including the immediacy of having the programming appear to start instantly on demand (*e.g.*, turning on a radio or flipping channels), and continue playing once started without random interruptions.

11. Plaintiff engaged the assistance of a software design engineer, Harold Price (“Price”), to develop solutions for the shortcomings that Grywalski and Emerson saw in the then current technology, with respect to streaming media playback performance, as well as other technological issues concerning Internet delivery of broadcast media. Price worked on several aspects of this matter for Plaintiff over the period 1999-2001.

12. Price was aware of the then current approach to streaming, which attempted to overcome streaming transmission delays and jitter by a variety of techniques, including, for example, establishing a content buffer of 20-seconds or so in duration, on the receiving (user or “client”) end of the communication, within the client’s media player or media player browser plugin. After the user selected (*e.g.*, clicked on) a stream, the player would start filling this buffer at the playback rate and then start playing when the buffer was full. While this method did provide some protection against interruptions for the duration of whatever content was initially buffered, it entailed an undesirable startup delay for “buffering,” and provided no means for graceful recovery once the 20 seconds worth of content in the buffer was consumed.

13. Price conceived of solutions to these problems. He built a prototype that implemented one embodiment of those solutions, and he demonstrated that a system according to his new design could overcome the problems put to him by Grywalski and Emerson.

14. Plaintiff and its predecessors in interest filed a number of U.S. patent applications on these solutions, as enumerated below. To date, this family of patent applications has resulted in seven issued U.S. patents, including the patents-in-suit. All of these patent applications were assigned to Plaintiff, or to a predecessor-in-interest of Plaintiff and reassigned to Plaintiff.

15. Plaintiff has been conducting an active, operating business ever since the developments described above, and has actively practiced technology taught in the patents-in-suit, from then to the present. Plaintiff has developed commercial arrangements under which it streams content for numerous terrestrial radio stations and content providers in New Jersey, regionally, nationally, and internationally. It also provides a One-Click Royalty Reporter™ for radio stations to report streaming media performance royalty information to SoundExchange (a performing rights organization that collects royalties on behalf of sound recording copyright owners), among other services.

DEFENDANTS' BUSINESS ACTIVITIES

16. On information and belief, Defendant GG, through a group of controlled, affiliated entities, owns and operates the web site livejasmin.com, which, according to a 2012 Forbes article, is widely considered “the largest porn site on the planet . . . by a huge margin.” LiveJasmin.com ranks well within the 100 top web sites in the

U.S., based on viewer traffic. Defendants also operate the site oranum.com, featuring live interactive video sessions with purported psychics.

17. Streaming media, particularly in the adult entertainment segment, is an extremely high volume business, which is well known as consuming a high percentage of the total bandwidth available on the Internet. Operating in this market requires sophisticated technology and complex infrastructure, paid for by the high revenues that this business generates, as described herein.

18. Success in Defendants' business is highly dependent on fast, smooth, uninterrupted delivery of streaming media content, such as that made possible by Plaintiff's patents. Defendants derive great value as a result of operating under Plaintiff's patented technology, for which they have not compensated Plaintiff.

A. Defendant GG's Worldwide Enterprise

19. GG heads a multinational corporate group that maintains a complex intercompany structure. The group administrative company, Docler Holding S.à r.l., publishes a list of 50 affiliated companies on its web site, with "Centers" in Luxembourg (a tax and bank secrecy haven), Budapest, Hungary (the founder's home country), and Los Angeles (an operational center). On information and belief there are many other such affiliated entities that GG does not publicize. One such significant affiliate not explicitly shown on the published Docler Holding corporate list is "Adult Webmaster Empire" (AWE), which describes itself as "the world's biggest adult webmaster affiliate partner program." On information and belief, GG is the ultimate owner of the GG-Docler-AWE affiliated group of companies, and controls their activities. GG exercises this control through high-level executives who

each have multiple, deeply overlapping positions as executives of the various GG affiliates.

20. At the highest level of this enterprise is GG's Chief Executive Officer, György Gattyán. Mr. Gattyán is also CEO of Adult Webmaster Empire and of numerous other GG affiliate companies. The Docler Holding website identifies Mr. Gattyán as the sole owner of GG, and further identifies GG as the sole owner of Docler Holding and several other legal entities. It identifies Docler Holding as the sole owner of defendant Duodecad IT Services USA, LLC.

21. The Docler Holding website identifies the owner of defendant Duodecad IT Services Luxembourg S.à r.l. as DuoDecad IT Services Hungary Ltd., which on information and belief is either directly or indirectly owned or controlled by Mr. Gattyán.

22. The Docler Holding website admits that Docler Holding "provides a complex administrative background for all the other companies" in the Group, including defendants here. Its scope of activities "covers a wide range of tasks needed to ensure the correct and seamless operations of the companies, such as: HR, PR, payroll services, book keeping, accounting, general finance, legal assistance, financial reporting and financial controlling, general assistance, SEO [search engine optimization], treasury and other tasks based on the day-to-day needs of the companies."

23. Mr. Gattyán is widely considered the third-richest man in Hungary. In an October 2013 interview by the prize-winning Hungarian journalist, Sándor Friderikusz, Mr. Gattyán claimed ownership of his "enterprise of websites,"

including “Livejasmin and all related projects,” as “parts of my life.” This and other remarks during the 45-minute interview of Mr. Gattyán unequivocally reflect his direction and control of the worldwide GG enterprise.

24. Although Defendants run a global enterprise, the U.S. market is of key importance to them, and Defendants go to great lengths to exploit and protect their business in the U.S. market. For example, Defendants’ livejasmin.com web site provides performers with the option to block viewers from their home countries, for privacy. Performers can block members and guests from up to three performer-selected countries from accessing the performer’s live feed. However, according to web sites that provide recruiting referrals to Defendants, this option is disabled for the United States. Defendants’ unwillingness to allow performers to block viewers from the U.S. reflects the extremely high importance of the U.S. market to Defendants. Defendants’ worldwide competitive position is critically dependent on their exploitation of the U.S. market.

B. Defendants’ Internet Operations

25. A web site that recruits performers for Defendants has summarized in very basic terms what Defendants offer through the livejasmin.com and related web sites: “[p]eople from all over the world willing to take off their clothes in front of web camera tender their own live erotic show for paying clients.” These “paying clients” are to a large extent in the U.S., but the enterprise activities to support the U.S. business is primarily furnished by the Defendants from abroad.

26. Published profiles on social networking and employment web sites such as LinkedIn show that Defendants’ executive and engineering personnel in Hungary

and Luxembourg have responsibility for designing and operating livejasmin.com and related web sites. The executives and engineers tasked with responsibility for LiveJasmin regularly hold themselves out as working for GG. Based on numerous such public representations by GG personnel and the comments of Mr. Gattyán in the aforementioned interview concerning his involvement in the development process, it is reasonable to infer that Defendant GG exercises effective control over the design and operation of the livejasmin.com and related web sites.

27. The subscriber agreement required of users of the livejasmin.com website expressly represents that “[i]n this agreement 'LiveJasmin.com' means Duodecad IT Services Luxembourg S.à r.l., with the registered address at 44, Avenue John F. Kennedy, L-1855 Luxembourg, Grand-Duchy of Luxembourg, as the operator of the website.”

28. On March 8, 2013, the Luxembourg French-language periodical Paperjam, reporting on the appearance of the offices of adult entertainment companies in high-end corporate neighborhoods in Luxembourg, stated that LiveJasmin is owned by Duodecad IT Services, a part of the Docler Group.

29. The Paperjam article includes a statement from Docler Holding that “[i]t is from Luxembourg that Docler Holding has chosen to focus on a strong diversification of its activities. For this, the company relies on four sectoral pillars: entertainment, technology (*live streaming platform*, electronic payment system), personal development and the luxury sector . . . Docler Holding’s two main areas of development are technology and innovation, as for example *the live streaming platform* In the near future, the company hopes to develop from Luxembourg

new projects such as a live music platform and an interactive television channel available 24/7.” (emphasis added).

30. On May 5, 2014, the Budapest Business Journal, called György Gattyán the “so-called ‘Sex Millionaire’” and described him as “heading up Docler Holding – the company running webcam site LiveJasmin.”

31. The website of Defendant DD USA, at www.duodecaditservicesusa.com, states that DD USA “was recently founded in Beverly Hills, CA to serve the growing demand for high quality and reliable Web IT Services.”

32. The website of DD USA describes itself as “[p]roviding a range of core services from Content Delivery & Hosting, Highly Trained Support Services, to Website Development DD USA is geared to solve your IT needs. Creating the industry leading standards for speed, scalability and reliability DD USA's extensively trained Website Developers are likely to exceed your expectations.”

33. The website of DD USA states that “DD USA is managing a global server farm with data points strategically located to flexibly serve our customers’ needs. With this server strategy Duodecad IT Services USA LLC manages one of the world's largest traffic networks composed of over 160 fully owned and more than 2000 co-managed sites and still growing; including a top 50 Alexa and many top 1000 Alexa Properties.” Alexa is an Amazon.com-owned company that tracks website traffic. On information and belief, the “top 50” Alexa site referred to by DD USA is livejasmin.com, and the “other top 1000 Alexa Properties” referred to are also developed, owned, and controlled by GG.

34. DD USA's website lists its sole US office address as 9701 Wilshire Boulevard, Suite #1000, Beverly Hills, California 90212. This street and suite address is the location of Premier Business Centers, a provider of "virtual office" and temporary office space.

35. On information and belief Defendant DD USA is thinly capitalized, has no corporate substance, and exists solely as an agent to carry out low-level activities "on the ground" to sustain the U.S. business of Defendants GG and DD-Luxembourg. On information and belief, the remainder of the necessary operations to support Defendants' U.S. business are conducted by Defendants GG and DD-Luxembourg and their numerous other affiliates.

36. Moreover, in addition to such control from afar, Defendants also reach into the U.S. physically, with their server operations, in order to provide the services alleged herein to infringe Plaintiff's patents.

C. Defendants' Servers, Domain Names and IP Addresses

37. Defendants' services on the Internet are provided by computers, referred to as "servers." Each such server is reachable over the Internet by its "address" on the Internet, referred to as its Internet Protocol (IP) address. Every device publicly accessible on the Internet has its own globally unique IP address.

38. IP addresses are represented as a four-part string of numbers, such as 123.45.678.9, resembling a telephone number. To make the Internet addressing system more user-friendly, the numeric IP addresses are often given names ("domain names"), such as google.com or ebay.com, so that users can reach the desired services by a memorable name, rather than a number (*e.g.*, www.google.com

as opposed to 74.125.228.80). An Internet mechanism called the Domain Name Service (DNS) maps the domain names to the numeric IP addresses of the machines that serve content for the domains, so that the requests directed to domain names will reach the proper numerical IP addresses (and thereby the proper servers). “Subdomains” may also be assigned within individual domains, for example, **www.google.com**, **mail.google.com**, **voice.google.com**, etc. Each subdomain represents a different server reachable through the main domain (google.com), but mapped to a separate IP address.

39. Since large operations often deploy many servers and other devices on their networks, IP addresses are generally given out by the responsible authorities in “blocks” of addresses of various sizes. Internet names and numbers are valuable commodities (akin to real estate), and their ownership is maintained through a group of governmental and private registrars.

40. A given IP address will be assigned to a registrant at a listed business address, but the use of the IP address is not tied to the location of the registrant’s business address. The registrant can locate its servers anywhere it wishes, geographically, and use the IP addresses it owns (or rents) to identify those servers on the Internet. The physical location of the server will bear upon the speed at which content can be delivered to users. Generally, the closer the server is to the user, the better the delivery will be. For this reason, major content providers often employ “content distribution networks” with servers distributed in strategic locations close to large user populations.

D. Defendants' Internet Infrastructure

41. Defendant DD-Luxembourg holds itself out as responsible for the ownership and operation of Defendants' web sites accused of infringement herein. The livejasmin.com web site and others of Defendants' accused infringing web sites each contain the express representation that "[t]his site is owned and operated by Duodecad IT Services Luxembourg S.à.r.l." Responsibility for such infringement is not, however, limited to Defendant DD-Luxembourg, in that Defendants GG, DD USA, and one or more Doe Defendants also have legal responsibility for infringement carried out through those web sites, by reason of their individual involvement in such activities, as alleged herein.

42. The Internet domain livejasmin.com is registered in the name of Defendant DD-Luxembourg. The domain livejasmin.com is associated (by the DNS service) with the IP address 109.71.160.200, also registered in the name of DD-Luxembourg.

43. Users requesting live performance streams on Defendants' LiveJasmin web site are automatically directed by Defendants' web sites to various machine hosts, each associated with its own IP address. Because different viewing platforms (*e.g.*, mobile phone, tablet, computer, etc.) will be optimized for different (and sometimes incompatible) protocols, the server responding to any given request for a live performance will vary, depending on Defendants' identification of the computer or mobile device used by the user to access the stream. In general, Defendants' servers will redirect the user to a server best adapted to serve content to the user's device.

44. Among the servers used to serve streaming content for livejasmin.com are servers with the IP addresses of 109.71.163.141 and 109.71.163.196. These IP addresses are also registered in the name of Defendant DD-Luxembourg. Defendants' streaming server at the IP address 109.71.163.141 infringes Plaintiff's patents in the manner described, *inter alia*, at Par. 62 below. Defendants' streaming server at the IP address 109.71.163.196 infringes Plaintiff's patents in the manner described, *inter alia*, at Pars. 104 and 109 below.

45. Notwithstanding the registration of the domain and IP addresses for livejasmin.com with an entity in Luxembourg, the servers that operate at these addresses are located in the United States. An Internet traceroute utility run from the University of Southern California ("USC") shows that the servers operating on the IP addresses identified above are located in Los Angeles, California. On information and belief, these facts reflect that GG's Luxembourg affiliate DD-Luxembourg is lending its IP address space to its affiliate DD USA. DD USA's offices are located in very close proximity to USC. Moreover, DD USA holds itself out as providing, *inter alia*, "core services" such as "Content Delivery & Hosting," consistent with the streams of livejasmin.com performance content observed to be originating from the Los Angeles area.

46. Plaintiff alleges that the Court may reasonably infer based on the foregoing that Defendants GG and DD-Luxembourg are responsible for the design and deployment in the U.S. of the servers that provide the streaming content for livejasmin.com and related web sites.

47. Based on the integrated network of ownership and control of the Defendants, knowledge and information available to one Defendant may be imputed to each and every other Defendant.

E. Defendants' Workforce Recruitment

48. In the words of László Czéró, DD-Luxembourg's CEO, Defendants aim to provide services that "satisfy[] every interest and fetish 24/7" with the "ultimate virtual girlfriend experience." On information and belief, to meet this objective and be competitive at the upper end of their market segment, Defendants maintain a database of approximately 700,000 individuals who have appeared on web cams for Defendants, of which about 72,000 are active performers. Developing and maintaining such a diverse and deep supply of labor requires high-volume, wholesale supply sources. On information and belief, based on statements of firms that recruit for Defendants, this requirement is satisfied by agencies that widely recruit in Eastern Europe, the former Soviet states, Latin America and the Far East. On information and belief, Defendants GG and DD-Luxembourg manage and control this recruitment activity, which is essential to achieve the market leadership position that Defendants' Internet offerings enjoy in the United States.

49. On information and belief, Defendants' worldwide collection of performers, though dominated by performers from Eastern Europe, the former Soviet states, Latin America and the Far East, also includes performers recruited directly over the livejasmin.com and oranum.com websites. Such performers include numerous New Jersey residents, who perform online over Defendants' infringing services, from New Jersey, using server facilities provided by Defendants.

F. Defendants' Marketing and Financial Operations

50. Defendants GG, DD-Luxembourg and one or more Doe Defendants market the site livejasmin.com through search engine optimization and popup advertising.

51. In addition, Defendant GG, through the Adult Webmaster Empire organization that it operates, has established numerous "Affiliate" sites, co-branded with third parties, which Defendants service by providing the live model streams and delivery and payment infrastructure. Defendants also provide similar services for online interactive experiences with purported psychics, at the site oranum.com. Defendants claim to have 47,000 affiliate sites. On information and belief, Defendants' "affiliate" program is designed to reach expanded and niche markets, trading off of the popularity of the affiliated web sites, many of which are also directed at the U.S. market. The affiliated web sites infringe Plaintiff's patents in the same manner as the LiveJasmin and Oranum sites.

52. On information and belief, Defendants' live webcam streaming business generates hundreds of millions of dollars in annual revenues, including substantial revenues from users in this District. These revenues are derived from consumer payments via credit card for the performances of individual webcam performers, as well as advertising, commercial tie-ins, and other forms of Internet content monetization. On information and belief, Defendants GG, DD-Luxembourg, and one or more Doe Defendants manage worldwide financial functions for the Defendants.

G. Defendants' Control Over U.S. Operations and DD USA

53. While Defendant DD USA operates Defendants' infringing servers in the U.S., on information and belief it does so pursuant to designs provided by Defendants GG, DD-Luxembourg and one or more Doe Defendants from outside the United States, in a manner controlled by those foreign defendants, for the financial benefit of the foreign defendants. Other business functions essential to Defendants' U.S. operations, including without limitation recruiting, marketing, account management, finance, and administration, are effectively outsourced to the foreign defendants. By reason of such involvement in and control over Defendants' U.S. business by said foreign defendants, the foreign defendants are vicariously liable for the infringing conduct of DD USA.

54. On information and belief, and without limiting the foregoing, Defendants GG, DD-Luxembourg, and the Doe Defendants operate in concert with, and/or exercise control over, each other, in a manner that makes them jointly and severally responsible with respect to the conduct complained of herein, including without limitation the conduct that renders them subject to personal jurisdiction and the conduct that makes them liable to Plaintiff for damages.

THE PATENTS-IN-SUIT

55. The patents-in-suit comprise the following United States Patents, which were duly and legally issued on the dates indicated:

Pat. No.	Issued	Title	Reference
8,122,141	Feb. 21, 2012	STREAMING MEDIA BUFFERING SYSTEM	'141 patent
8,327,011	Dec. 4, 2012	STREAMING MEDIA BUFFERING SYSTEM	'011 patent
8,185,611	May 22, 2012	STREAMING MEDIA DELIVERY SYSTEM	'611 patent
8,364,839	Jan. 29, 2013	STREAMING MEDIA DELIVERY SYSTEM	'839 patent

56. The patents-in-suit were developed in the course of Plaintiff's business and were assigned by Price (the inventor) to Plaintiff's predecessors in that business, which reassigned them to Plaintiff, the current operator of the business. Plaintiff owns all rights to recover for past and ongoing infringement of the patents-in-suit.

57. Pursuant to 35 U.S.C. § 287(a), Defendants have had notice of the patents-in-suit since at least May 5, 2014, the date this action was filed. Further, on May 5, 2014, Plaintiff, by its undersigned counsel, sent a letter (the "Demand Letter") to Defendants, also providing notice of Plaintiff's patents (including the patents-in-suit) and of Defendants' infringement.

COUNT I: DIRECT INFRINGEMENT OF THE '141 PATENT

58. Plaintiff repeats and realleges the allegations of paragraphs 1-57 above as if fully set forth at length herein.

59. 35 U.S.C. § 271(a) provides in pertinent part as follows:

"(a) . . . whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States or imports into the United States any patented invention during the term of the patent therefor, infringes the patent."

60. Defendants, acting in respective roles as herein alleged, have infringed and are still infringing the '141 patent by making, selling, offering to sell, performing, and using apparatus and methods that embody one or more claims thereof, by conduct including without limitation the acts alleged in the paragraphs that follow.

61. Defendants provide their services through a large Internet server infrastructure, a material portion of which is located in the United States. Defendants' direct infringement results from the operation of the servers that serve the content for Defendants' accused infringing web sites. Defendants' individual responsibility for the operation of said servers is as follows. DD-Luxembourg expressly holds itself out as responsible for owning and operating the web sites whose content is served by said servers, and thus is responsible for all infringement committed through such web sites. On information and belief, Defendant DD USA physically operates the U.S. servers, and does so at the direction and under the control of Defendants DD-Luxembourg and GG, for the financial benefit of Defendants DD-Luxembourg and GG, and Defendant DD-Luxembourg performs said acts on its part (including without limitation its direction and control of Defendant DD USA) at the direction and under the control of Defendant GG, for the ultimate financial benefit of Defendant GG (including the financial benefit of GG's owners). In addition, Defendant GG has responsibility for infringement practiced through said servers by reason of having had its personnel design, implement, and manage the server software and infrastructure used by the other Defendants.

62. Defendants' servers include servers that use the same "divide and conquer" approach described in the '141 patent to deliver streaming data. Defendants' servers assign serial identifiers to sequential media data elements comprising the stream. The servers receive, from users, requests for these elements. The requests identify the requested data elements by the serial identifiers. The servers then serve the elements in response to the requests. This mechanism provides for a fast start of streaming playback, and at the same time allows the Player to moderate media flow by "pulling" data as needed, based on its own rate of consuming content. Defendants' servers incorporate each and every element of claims 10-17 of the '141 patent and are therefore infringing. By operating such servers, Defendants directly infringe claims 10-17 of the '141 patent.

63. Claims 19-23 of the 141 patent concern computer software that runs servers such as Defendants' servers described in Par. 62. The software that operates defendants' servers meets each and every limitation set forth in claims 19-23 of the '141 patent and is therefore infringing. By operating said servers, and thereby using such computer programs, Defendants directly infringe claims 19-23 of the '141 patent.

64. Claims 1-8 and 28 of the '141 patent concern providing a server essentially as described in Par. 62, as well as software ("Player Software") to run the Players. The Player Software causes Players to request the data elements from the servers, by their identifiers, and to maintain a record of the data elements already received. Defendants provide servers that meet the first set of requirements recited in these claims. Through such servers, Defendants direct and control users' Players

(as further alleged below) to provide Player Software in accordance with the second set of requirements recited in these claims. By performing these steps (which together comprise all of the steps of the claims), Defendants thereby directly infringe claims 1-8 and 28 of the '141 patent.

65. Defendants, through their servers, direct and control users' Players as alleged in Par. 64 by acts including without limitation the following. Defendants' servers read encoded information in network packets received from Players and identify the type of Player that sent the packet. When Defendants identify a Player as compatible with Defendants' video stream, Defendants' servers send such Players electronic instructions that cause the Players, without any user intervention, to load and execute the Player Software (thereby putting the Players and Player Software into service), so that the Player may then request and receive the serialized streaming transmissions from Defendants' servers. Defendants' servers also send electronic data to the Players containing the serial identifiers used by the Players to request streaming media elements, thereby further controlling the operation of the Players.

66. Furthermore, Defendant DD-Luxembourg, acting under the direction and under the control of Defendant GG and for Defendant GG's financial benefit, also provides a "Docler Browser" to replace the native web browser and enhance Player functionality on certain mobile platforms. The Docler Browser inserts itself as the software that carries out the commands from Defendants' servers to load and operate the Player Software.

67. In addition, and in the alternative, and without limiting any of the foregoing allegations, Defendants also directly infringe claims 1-8 and 28 of the '141 patent under 35 U.S.C. § 271(a) by Defendants' acts combined with those of their users, with knowledge that each step of said patented methods will be performed through the combined action of Defendants and the user.

68. Claims 24-27 of the '141 patent concern Player Software. Defendants directly infringe claims 24-27 of the '141 patent by using the Player Software claimed in said claims, which Plaintiff alleges meets each and every limitation set forth in said claims and is infringing, and directing and controlling users' use of such infringing Player Software.

69. Defendants use infringing Player Software and thereby directly infringe claims 24-27 of the '141 patent by putting the Player Software into service as alleged in Par. 65 and making beneficial use of the Player Software by using the Player Software as part of a delivery mechanism whereby Defendants deliver their live streaming video content to end users through the users' Players.

70. In the alternative, and without limiting the foregoing, Defendants also directly infringe claims 24-27 of the '141 patent by directing and controlling users' Players to use infringing Player Software in the manner alleged in Par. 65.

71. Plaintiff is entitled to recover all past, present, and ongoing damages it has sustained as a result of Defendants' direct infringement of the '141 patent.

72. Pursuant to 35 U.S.C. § 284, Plaintiff is entitled to not less than a reasonable royalty for the use made by the Defendants under the '141 patent, in an

amount subject to proof at trial, together with interest and costs as fixed by the Court.

COUNT II: INDUCED INFRINGEMENT OF THE '141 PATENT

73. Plaintiff repeats and realleges the allegations of paragraphs 1-72 above as if fully set forth at length herein.

74. 35 U.S.C. § 271(b) provides:

“Whoever actively induces infringement of a patent shall be liable as an infringer.”

75. In addition and in the alternative to Plaintiff’s allegations of direct infringement of claims 24-27 of the ’141 patent, and without limiting anything alleged in connection therewith, Plaintiff alleges that Defendants, by conduct more particularly alleged in the paragraphs that follow, also actively induce infringement, by users, of claims 24-27 of the ’141 patent.

76. The Player Software meets each and every limitation of claims 24-27 of the ’141 patent, and is therefore infringing. When users use the infringing Player Software, they directly infringe claims 24-27 of the ’141 patent.

77. Defendants actively induce such direct infringement by users in a number of ways, including without limitation the following. Defendants, through their servers as aforesaid, provide to users video streams that are especially adapted to be viewed on Players running compatible Player Software, which streams are only viewable on Players so configured. Defendants’ servers provide such streams when they identify that the user is using compatible Player Software. These streams provide a superior viewing experience that further induces the user

to use Players running such Player Software when they use Defendants' service. Defendants' servers send electronic instructions causing the Players to load and execute compatible Player Software, and electronic data containing the serial identifiers for the Players to use to request sequential media data elements. In certain embodiments, Defendants also provide the Docler Browser, which carries out further actions as alleged in Par. 66 in launching and controlling Player Software.

78. Defendant DD-Luxembourg, acting under the direction and under the control of Defendant GG and for Defendant GG's financial benefit, further induces such infringement by recommending that users use Players adapted to interoperate with their servers and infringe said claims, and facilitating the users' use of such Players by providing directions and links for such use and sites specifically configured for such Players.

79. Defendant DD-Luxembourg, again under Defendant GG's direction and control and for its financial benefit, further induces such infringement by users by providing the Docler Browser, which is specifically configured for use with infringing Player Software.

80. The users of such Players are thereby induced by Defendants to directly infringe claims 24-27 of the '141 patent (*e.g.*, by using Player Software within the scope of said claims, whereby said users directly infringe such claims as aforesaid).

81. As a consequence of the foregoing, since at least as early as May 5, 2014, Defendants have engaged in such inducement with knowledge of the '141 patent; with knowledge that users' Players use Player Software meeting the limitations of

claims 24-27 of the '141 patent; with knowledge that the users directly infringe claims 24-27 of the '141 patent when they use Player Software; with knowledge of how Defendants' conduct actively induces users to infringe the '141 patent by using Player Software; and with the specific intent to cause such infringement, knowing that the users' acts constitute direct infringement of the '141 patent.

82. Plaintiff is entitled to recover all damages it has sustained since at least as early as May 5, 2014, and all such ongoing damage, as a result of Defendants' induced infringement of the '141 patent.

83. Pursuant to 35 U.S.C. § 284, Plaintiff is entitled to not less than a reasonable royalty for such' induced infringement of the '141 patent, in an amount subject to proof at trial, together with interest and costs as fixed by the Court.

COUNT III: DIRECT INFRINGEMENT OF THE '011 PATENT

84. Plaintiff repeats and realleges the allegations of paragraphs 1-83 above as if fully set forth at length herein.

85. Defendants, acting in the respective roles hereinabove alleged, have infringed and are still infringing the '011 patent by using Players that embody one or more claims thereof.

86. Defendants infringe such claims directly, by using the Players claimed in said claims, which Plaintiff alleges meets each and every limitation set forth in said claims and are infringing, and by directing and controlling users' use of such infringing Players.

87. Defendants use infringing Players and thereby directly infringe claims 1-4 of the '011 patent by putting the Players into service as alleged in Par. 65 and

making beneficial use of the Players by making the Players part of a delivery mechanism whereby Defendants deliver their live streaming video content to end users.

88. Defendants direct and control users' Players by acts including without limitation the following. Defendants' servers read encoded information in network packets received from Players and identify the type of Player that sent the packet. When Defendants identify a Player as compatible with Defendants' video stream, Defendants' servers send such Players electronic instructions that cause the Players, without any user intervention, to load and execute the Player Software (thereby putting the Players and the Player Software into service), so that the Player may then request and receive the serialized streaming transmissions from Defendants' servers. Defendants' servers also send electronic data to the Players containing the serial identifiers used by the Players to request streaming media elements, thereby further controlling the operation of the Players.

89. Furthermore, Defendant DD-Luxembourg, again under Defendant GG's direction and control and for its financial benefit, also provides a "Docler Browser" as aforesaid to replace the native web browser and enhance Player functionality on certain mobile platforms. The Docler Browser inserts itself as the software that carries out the commands from Defendants' servers to load and operate the Player Software. The Docler Browser thereby becomes an integral part of users' infringing Players and a part of the mechanism whereby Defendants use such players.

90. Plaintiff is entitled to recover all past, present, and ongoing damages it has sustained as a result of Defendants' direct infringement of the '011 patent.

91. Pursuant to 35 U.S.C. § 284, Plaintiff is entitled to not less than a reasonable royalty for the use made by the Defendants under the '011 patent, in an amount subject to proof at trial, together with interest and costs as fixed by the Court.

COUNT IV: INDUCED INFRINGEMENT OF THE '011 PATENT

92. Plaintiff repeats and realleges the allegations of paragraphs 1-91 above as if fully set forth at length herein.

93. In addition and in the alternative to Plaintiff's allegations of direct infringement of claims 1-4 of the '011 patent, and without limiting anything alleged in connection therewith, Plaintiff alleges that Defendants, by conduct more particularly alleged in the paragraphs that follow, also actively induce infringement, by users, of claims 1-4 of the '011 patent.

94. The users' Players meet each and every limitation of claims 1-4 of the '011 patent, and are therefore infringing. When users use such infringing Players, they directly infringe claims 1-4 of the '011 patent.

95. Defendants actively induce such direct infringement by users in a number of ways, including without limitation the following. Defendants, through their servers as aforesaid, provide to users video streams that are especially adapted to be viewed on Players running compatible Player Software, and only viewable on Players so configured. Defendants' servers provide such streams when they identify that the user is using a compatible Player. These streams provide a superior user experience that further induces the user to use such Players when they use Defendants' service. Defendants' servers send electronic instructions

causing the Players to load and execute compatible Player Software and electronic data containing the serial identifiers for the Players to use to request sequential media data elements. In certain embodiments, Defendants also provide the Docler Browser, which carries out further actions as alleged in Par. 66 in launching and controlling Player Software.

96. Defendant DD-Luxembourg, acting under the direction and under the control of Defendant GG and for Defendant GG's financial benefit, further induces such infringement by recommending that users use Players adapted to interoperate with their servers and infringe said claims, and facilitating the users' use of such Players by providing directions and links for such use and sites specifically configured for such Players.

97. Defendant DD-Luxembourg, again under Defendant GG's direction and control and for its financial benefit, further induces such infringement by users by providing the Docler Browser, which is specifically configured for use with infringing Players and cause users to use such Players to directly infringe.

98. The users of such Players are thereby induced by Defendants to directly infringe claims 1-4 of the '011 patent (*e.g.*, by using Players within the scope of said claims, whereby said users directly infringe such claims).

99. As a consequence of the foregoing, since at least May 5, 2014, Defendants have engaged in such inducement with knowledge of the '011 patent; with knowledge that users' Players use Player Software meeting the limitations of claims 1-4 of the '011 patent; with knowledge that the users directly infringe claims 1-4 of the '011 patent when they use Player Software; with knowledge of how

Defendants' conduct actively induces users to infringe the '011 patent by using Player Software; and with the specific intent to cause such infringement, knowing that the users' acts constitute direct infringement of the '011 patent.

100. Plaintiff is entitled to recover all damages it has sustained since at least as early as May 5, 2014, and all such ongoing damage, as a result of Defendants' induced infringement of the '011 patent.

101. Pursuant to 35 U.S.C. § 284, Plaintiff is entitled to not less than a reasonable royalty for such induced infringement of the '011 patent, in an amount subject to proof at trial, together with interest and costs as fixed by the Court.

COUNT V: DIRECT INFRINGEMENT OF THE '611 PATENT

102. Plaintiff repeats and realleges the allegations of paragraphs 1-101 above as if fully set forth at length herein.

103. Defendants, through their servers as aforesaid, have infringed and are still infringing the '611 patent by making, selling, offering to sell, performing, and using apparatus and methods that embody one or more claims thereof.

104. Among the servers that Defendants operate are servers that employ the buffering (temporary storage) scheme claimed in the '611 patent, to control transmission of streaming media to achieve fast startup of the playback and rapid recovery from interruptions. Those servers send initial streaming media elements to Players at an initial sending rate more rapid than the playback rate of the media stream to fill a buffer in the user's Player, and thereafter send further streaming media data elements to the Player at about the playback rate. Defendants' servers

perform these functions in a manner that meets each and every limitation of one or more claims of the '611 patent, thereby directly infringing the '611 patent.

105. Pursuant to 35 U.S.C. § 284, Plaintiff is entitled to not less than a reasonable royalty for the use made by the Defendants under the '611 patent, in an amount subject to proof at trial, together with interest and costs as fixed by the Court.

106. Plaintiff is entitled to recover all past and continuing damages so sustained by Plaintiff as a result of such infringement.

COUNT VI: DIRECT INFRINGEMENT OF THE '839 PATENT

107. Plaintiff repeats and realleges the allegations of paragraphs 1-106 above as if fully set forth at length herein.

108. Defendants, through their servers as aforesaid, have infringed and are still infringing the '839 patent by making, selling, offering to sell, performing, and using apparatus and methods that embody one or more claims thereof.

109. Among the servers that Defendants operate are servers that employ a buffering scheme as claimed in the '839 patent, to control transmission of streaming media to achieve fast startup of the playback and rapid recovery from interruptions. Those servers load a buffer on the server with streaming media data elements, send an initial amount of streaming media elements to Players at an initial sending rate more rapid than the playback rate, and thereafter send further streaming media data elements to the Player at about the playback rate. Defendants' servers perform these functions in a manner that meets each and every limitation of one or more claims of the '839 patent, thereby directly infringing the '839 patent.

110. Pursuant to 35 U.S.C. § 284, Plaintiff is entitled to not less than a reasonable royalty for the use made by the Defendants under the '839 patent, in an amount subject to proof at trial, together with interest and costs as fixed by the Court.

111. Plaintiff is entitled to recover all past and continuing damages so sustained by Plaintiff as a result of such infringement.

COUNT VII: WILLFUL INFRINGEMENT

112. Plaintiff repeats and realleges the allegations of paragraphs 1-111 above as if fully set forth at length herein.

113. 35 U.S.C. § 284 provides in pertinent part as follows:

“When the damages are not found by a jury, the court shall assess them. In either event the court may increase the damages up to three times the amount found or assessed.”

114. 35 U.S.C. § 285 provides as follows:

“The court in exceptional cases may award reasonable attorney fees to the prevailing party.”

115. Pursuant to 35 U.S.C. § 287, the filing of this action for infringement on May 5, 2014 constituted notice to Defendants of their infringement of the patents-in-suit. At or about the time of the initial filing of this action, Plaintiff also sent the Demand Letter to Defendants. From at least May 5, 2014, Defendants did know or should have known of Plaintiff's patents as so identified, understood the allegations of direct and indirect infringement against them, involving their acts and those of their users, known that their and their users' acts constitute infringement and specifically intended that the users infringe said patents. Defendants were aware or

should have been aware at least from such time that there was an objectively high likelihood that their actions thereafter constituted, and were inducing and contributing to patent infringement. Defendants have no good faith basis to believe that their continuing conduct as alleged herein does not constitute patent infringement.

116. Defendants have continued said infringement without moderation, compensation to Plaintiff, or legal justification since receiving notice as aforesaid on May 5, 2014, reflecting their reckless disregard for Plaintiff's patents and/or intentional infringing conduct.

117. Defendants' continued infringement since at least the filing of this action is willful and deliberate, entitling Plaintiff to increased damages under 35 U.S.C. § 284.

118. Defendants' continued infringement since at least the filing of this action, without a good faith basis to believe that such conduct is not infringing, renders this an extraordinary case under 35 U.S.C. § 285, which entitles Plaintiff to an award of reasonable attorneys' fees.

119. Plaintiff's operations are not in the adult entertainment field and Plaintiff and Defendants are not currently competitors. As a consequence, Plaintiff is not in a position to seek preliminary injunctive relief at this time, and thus lacks an adequate remedy by way of a preliminary injunction to prevent ongoing infringement, including willful infringement, by the Defendants. Accordingly, Plaintiff is entitled to seek enhanced damages for continuing willful infringement even if Defendants had no knowledge of Plaintiffs' patents prior to the filing of the

complaint. Not imposing liability for willful infringement for the Defendants' continued infringing conduct would allow Defendants to continue their knowing infringement with impunity, at no additional cost, and would be unjust.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff WAG ACQUISITION, L.L.C. requests an entry of judgment in its favor and against Defendants as follows:

a) Declaring that each of the Defendants has and/or continues to directly infringe, induce, and contribute to infringement of one of more claims of United States Patent Nos. 8,122,141, 8,327,011, 8,185,611, and 8,364,839;

b) Declaring that each of Defendants' infringement has been willful, and awarding enhanced damages at least from the filing of this action as a result of that willfulness under 35 U.S.C. § 284, jointly and severally against the Defendants;

c) Awarding to Plaintiff the past and continuing damages arising out of Defendants' direct infringement of United States Patent Nos. 8,122,141, 8,327,011, 8,185,611, and 8,364,839 and damages at least from May 5, 2014 for Defendants' indirect infringement as alleged herein, jointly and severally against the Defendants;

d) Awarding attorneys' fees, costs, or other damages pursuant to 35 U.S.C. §§ 284 or 285 or as otherwise permitted by law, jointly and severally against the Defendants;

e) Upon the final judgment of infringement herein, entering an order, pursuant to 35 U.S.C. § 283, permanently enjoining and restraining Defendants and their respective officers, directors, principals, agents, servants, employees, successors and assigns, and all those in active concert or participation with each of the foregoing from infringing, inducing, and/or contributing to the infringement of any claims of United States Patent Nos. 8,122,141, 8,327,011, 8,185,611, and 8,364,839;

f) Awarding costs in this action to Plaintiff; and

g) For such other and further relief as the Court may deem just and proper.

Dated: July 1, 2014

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CERTIFICATE OF SERVICE

On this 1st day of July, 2014, I certify that I served a copy of the foregoing First Amended Complaint upon counsel for Defendants GATTYÁN GROUP S.à r.l., DUODECAD IT SERVICES LUXEMBOURG S.à r.l. and DUODECAD IT SERVICES USA, LLC, via the Court's ECF filing system.

Dated: July 1, 2014

s/ Ronald Abramson
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