

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

BOUNCE EXCHANGE, INC.

Plaintiff,

v.

ZEUS ENTERPRISE LTD., d/b/a YIELDIFY,
OMNI HOTELS MANAGEMENT
CORPORATION, GURWITCH PRODUCTS
LLC, d/b/a LAURA MERCIER, and
METADOT CORP., d/b/a DAS KEYBOARD

Defendants.

Civil Action No.: 2:16-CV-00410-JRG-RSP

JURY TRIAL DEMANDED

**BOUNCE EXCHANGE’S FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT AND FOR DECLARATORY JUDGMENT**

Plaintiff Bounce Exchange, Inc. (“Bounce Exchange”), by and through its attorneys, Fish & Richardson P.C., brings this first amended complaint against Zeus Enterprise Ltd., doing business as Yieldify (“Yieldify”), Omni Hotels Management Corporation (“Omni Hotels”), Gurwitch Products LLC, doing business as Laura Mercier (“Laura Mercier”), and Metadot Corp., doing business as Das Keyboard (“Das Keyboard”) (collectively, “Defendants”). In support thereof, Bounce Exchange alleges the following.

NATURE OF ACTION

1. This case concerns the willful patent infringement by Defendants Yieldify, Omni Hotels, Laura Mercier and Das Keyboard of two Bounce Exchange Patents (U.S. Patents Nos. 8,645,212 and 9,141,976), each entitled “DETECTION OF EXIT BEHAVIOR OF AN INTERNET USER.”

2. The patents-in-suit are directed to online Internet advertising technology and address the challenge of engaging and retaining website visitors. As the patents state in their common specification, online advertisements in the prior art “[we]re often targeted to a user accessing the website, [which] [i]n many cases the user considers ... to be cumbersome or bothersome when the user is attempting to read the website.” (’976 Patent at 1:27-31). Accordingly, the patents-in-suit are each directed to solving the problem in the prior art by creating novel systems, methods and computer program products for *detecting exit behavior of a user accessing a webpage*—referred to as *exit-intent technology*—so that more purposeful Internet content can be delivered to a user when the user’s session would otherwise be effectively over. They describe and claim a solution rooted in computer technology—analyzing the intent of a website visitor based on the visitor’s cursor motions and other web-based activity information—to overcome problems relating to the cumbersome and burdensome presentation of advertisements on a web browser, problems specifically arising in the realm of computer networks.

3. Bounce Exchange further seeks a declaratory judgment that Bounce Exchange and its customers do not infringe any claim of United States Patent No. 8,806,327, entitled “System and method for displaying unrequested information within a web browser.”

Bounce Exchange Develops its Patented Exit-Intent Technology

4. Bounce Exchange was co-founded in 2010 by young entrepreneurs Cole Sharp and Ryan Urban, and began operations in a business incubator at New York University Polytechnic. Consistent with what is described and claimed in the patents-in-suit, Bounce Exchange (and more specifically, its CEO and named inventor, Ryan Urban) pioneered proprietary software technology and services that enable retail website owners and other online publishers to retain website visitors,

direct them as to where to go next, and/or display them timely advertising, increasing Internet sales and revenues. Bounce Exchange's software is generally referred to in the industry as behavioral marketing automation software. Bounce Exchange's developed software ("Bounce Exchange Software"), among other things, monitors an end-user's activities, including mouse movements, and detects when a user intends to leave – or "bounce" off – the website. The software practices the claims of both the '212 and '976 Patents. The software includes various "triggers" that are based on user activity and will cause a campaign—such as an advertisement or other message—to be displayed to the end-user. Depending upon the objective, a given campaign may encourage the end-user to stay on the current website, suggest where that user should go next and/or display an advertisement. Bounce Exchange refers to these triggers as the "keys to the house," given the time taken to research and develop them, and their importance to the effectiveness of Bounce Exchange's service and overall business model. Bounce Exchange's triggers relating to its patented exit-intent technology are among the most critical to its business and continued success.

5. Although Bounce Exchange began in 2010 as a company of just a few employees, it has grown, through the research, development, dedication and hard work of the Bounce Exchange team, to a company in 2016 of over 120 employees and over 350 customers.

Defendant Yieldify Copies Bounce Exchange's Proprietary Technology

6. Yieldify is a UK corporation that began business operations in 2013.

7. In March 2013, what are now known to be Yieldify executives contacted Bounce Exchange under the guise of being potential customers.

8. Mr. Jay Radia, Yieldify's Chief Executive Officer, contacted Bounce Exchange in March 2013, presenting himself as a potential customer and requesting a demonstration of the

Bounce Exchange Software. In that same month, Mr. Meelan Radia, Yieldify's Chief Technical Officer, also contacted Bounce Exchange, presenting himself as a reseller acting on behalf of potential customers and requesting a demonstration of the Bounce Exchange Software.

9. Bounce Exchange provided a demonstration of the Bounce Exchange Software to Mr. Meelan Radia and provided information about the Bounce Exchange Software to Mr. Jay Radia, and also provided these gentlemen non-public information about Bounce Exchange's "exit-intent" technology as well as certain marketing material, but at no time authorized Messrs. Radia, Yieldify, or any agents thereof to reproduce, distribute, make, use, sell, offer for sale, import into the United States, or otherwise use, Bounce Exchange's software or technology.

10. Messrs. Meelan and Jay Radia did not become Bounce Exchange customers. Instead, on information and belief, these Yieldify executives copied the Bounce Exchange Software and functionality in an effort to directly compete with Bounce Exchange. Indeed, on information and belief, in April 2013—one month after receiving the Bounce Exchange demonstration—Yieldify went live with a first operative iteration of behavioral marketing automation software for a UK-based client.

11. At least by May 10, 2013, Yieldify's public-facing website (www.yieldify.com) described a Yieldify-offered software solution that, just like what is described in Bounce Exchange's patents-in-suit, "monitors user behavior pattern and detects when a visitor is about to leave the site," and, once detected, presents an "unobtrusive communication" to the user in the form of "a personalized overlay message":

Yieldify's unique technology monitors user behaviour pattern and detects when the visitor is about to leave the site. Once detected, a personalised overlay message invites the user to leave their contact information. Client experience has shown that this unobtrusive communication has increased the opt-in rate to

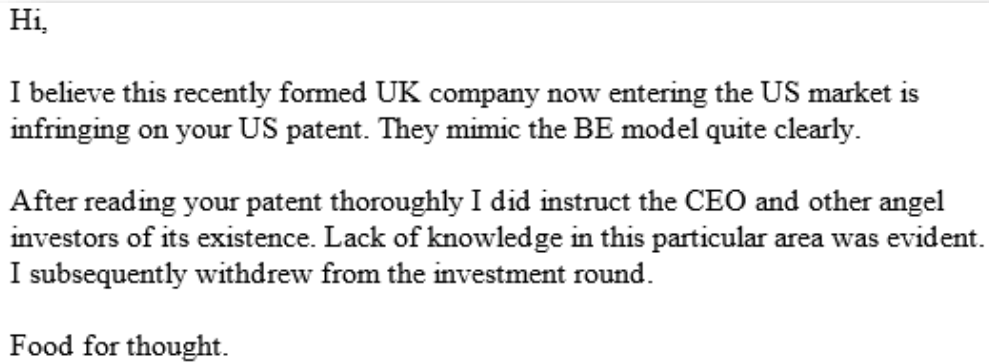
a staggering 5-30 %. This translates into a real increase of 1000%-6000% (average opt-ins are typically just 0.5%).

Yieldify’s website at least as of that time further described that its software solution “precisely tracks the visitor’s mouse movements, speed and user behaviour to determine the style and timing of the overlay.”

12. On information and belief, not only did Yieldify copy from Bounce Exchange the functionality of the Bounce Exchange Software, Yieldify also copied the very marketing information that Bounce Exchange used to promote its software. As demonstrated by the following table, for example, Yieldify’s website as of May 10, 2013 included marketing information strikingly similar to what Bounce created and included on its site.

Bounce Exchange’s Website www.bounceexchange.com as of March 25, 2013	Yieldify’s Website www.yieldify.com as of May 10, 2013 (language re-ordered for comparison purposes)
<p>90%-99% Of Your Marketing Spend Is Completely Worthless</p> <p>70%-96% of the visitors abandoning your site will NEVER RETURN</p> <p>Email is a phenomenal profit driver, however most websites capture less than 1 in 400 emails from visitors (who have not purchased)</p> <p>Up to 85% of shoppers who add to cart DO NOT BUY ANYTHING</p>	<p>Well currently you’re leaving lots of cash on the table.</p> <p>FACT 1: Currently 70-96% of visitors leave your site and never ever return. So basically most of your hard work, time and money in getting traffic is being wasted.</p> <p>FACT 3: Over 99% of visitors leave no contact information before they exit or abandon the cart as opt-in rates for leaving email addresses are only between 0.25-1.0%</p> <p>FACT 2: 85% of shoppers who add items to their cart make no purchase. Visitors always have second thoughts and get distracted or become disinterested in making the purchase.</p>

13. Later, on or about March 4, 2014, Bounce Exchange received a communication from a potential investor in Yieldify, notifying Bounce Exchange CEO Ryan Urban about Yieldify's existence, what was believed to be its patent infringement, and its mimicking of the Bounce Exchange model. Under a "Yieldify" subject line, the potential investor wrote:

A screenshot of an email message with a white background and a grey border. The text is as follows:

Hi,

I believe this recently formed UK company now entering the US market is infringing on your US patent. They mimic the BE model quite clearly.

After reading your patent thoroughly I did instruct the CEO and other angel investors of its existence. Lack of knowledge in this particular area was evident. I subsequently withdrew from the investment round.

Food for thought.

Thus, on information and belief, Yieldify is and has been aware of Bounce Exchange's '212 Patent since at least as early as March 2014.

14. On information and belief, Yieldify secured its first US-based client on or about November 2014. In attempting to directly compete with Bounce Exchange, Yieldify has offered, and continues to offer, exit-intent technology software and services in the United States that infringe the Bounce Exchange patents-in-suit.

15. With its copied exit-intent technology, Yieldify is directly competing with Bounce Exchange, causing lost sales and customers, damage to the marketplace (such as a reduction in perceived quality of behavioral marketing automation software generally), and increased price sensitivity among prospective and current customers. Furthermore, the market is such that once a customer sets its website up with a competitor, they are likely to stay with that competitor, so

Yieldify's copying and patent infringement have irreparably damaged Bounce Exchange's business. In addition, Yieldify successfully raised over \$11.5 Million in venture financing based on its copied technology and software, and used such proceeds to, *inter alia*, expand operations in the United States and increase its attempt to directly compete with and prejudice Bounce Exchange.

16. On information and belief, Defendants Omni Hotels, Laura Mercier and Das Keyboard are each website-operator customers of Yieldify in the United States. These companies, *inter alia*, use the infringing Yieldify exit intent software on their respective websites and transmit the infringing Yieldify exit-intent software for use (and infringement) by website visitors.

THE PARTIES

17. Bounce Exchange is a Delaware corporation with its principal place of business at 620 8th Avenue, Floor 21, New York, New York 10018.

18. On information and belief, Zeus Enterprise Ltd. operates its business under the name "Yieldify." Yieldify is a United Kingdom company with its principal place of business in London, England. Yieldify operates in the United States out of its office located at 28 W 27th Street, 10th Floor, New York, New York, 10001.

19. On information and belief, Omni Hotels is a Delaware corporation with its principal place of business at 4001 Maple Avenue, Suite 600, Dallas, Texas, 75219.

20. On information and belief, Gurwitch Products LLC operates its business under the name "Laura Mercier." Laura Mercier is a Delaware corporation with its principal place of business at 8 Greenway Plaza, Suite 700, Houston, Texas, 77046.

21. On information and belief, Metadot Corporation operates its business under the name “Das Keyboard.” Das Keyboard is a Texas corporation with its principal place of business at 9020 North Capital of Texas Highway, Suite 365 Building 1, Austin, Texas, 78759.

JURISDICTION AND VENUE

22. Bounce Exchange hereby restates and re-alleges the allegations set forth in paragraphs 1 through 21 above as if fully set forth herein.

23. This action for patent infringement arises under the patent laws of the United States, Title 35 of the United States Code.

24. Declaratory Judgment remedy is sought under 28 U.S.C. §§2201 and 2202. An actual, substantial, and continuing justiciable controversy with respect to infringement of the ’327 Patent exists between Bounce Exchange and Yieldify that requires a declaration of rights by this Court. Since the filing of Bounce Exchange’s initial complaint, Yieldify filed suit against Bounce Exchange for infringement of the ’327 Patent (a patent it allegedly acquired from the secondary market) in the United States District Court for the Southern District of New York, captioned *Zeus Enterprise Ltd. d/b/a Yieldify v. Bounce Exchange Inc.*, No. 1:16-cv-3226. Thereafter, Yieldify sent threatening letters to numerous Bounce Exchange customers, including some who plainly do not use the software alleged to infringe, demanding that such customers discontinue use of Bounce Exchange’s software within two weeks.

25. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1331 (jurisdiction over federal questions) and 28 U.S.C. § 1338(a) (jurisdiction over civil actions arising under any Act of Congress relating to patents).

26. This Court has personal jurisdiction over Defendants under the laws of the State of Texas, including the Texas long-arm statute, Tex. Civ. Prac. & Rem. Code § 17.042.

27. On information and belief, defendant Yieldify, through its own acts and/or through the acts of affiliated companies (acting as its agents or alter egos) makes, uses, offers to sell, sells (directly or through intermediaries), licenses and/or supplies, in this District and elsewhere in the United States, software products and services, through regular distribution channels, knowing such software products and services would be used, offered for sale and/or sold in this District by and to publishers, advertisers and end-users. Bounce Exchange's cause of action arises directly from Yieldify's business contacts and other activities in the State of Texas.

28. On information and belief, defendant Yieldify directly or through their subsidiaries or intermediaries, makes, uses, offers for sale, sells, advertises, makes available and/or markets and, at all relevant times has made, used, offered for sale, sold, advertised and made available and/or marketed software products and services within the Eastern District of Texas, e.g., through its website <http://yieldify.com/us/>, thereby infringing U.S. Patent Nos. 8,645,212 and 9,141,976. Yieldify knowingly and repeatedly transmits computer files to customers and end users in the State of Texas, e.g., through the <http://yieldify.com/us/> website, and generates revenue when customers and end-users in this District make use of Yieldify's software products and services.

29. This Court has personal jurisdiction over defendant Yieldify as it is an entity purposefully and deliberately directing its business efforts, sales, and marketing to customers in the State of Texas (e.g., defendants Omni Hotels, Laura Mercier, and Das Keyboard), resulting in significant contacts between Yieldify and this forum.

30. On information and belief, defendant Omni Hotels purchased and continuously uses Yieldify's infringing software products and services in the State of Texas, targeting end-users in this District and throughout the State. This court has personal jurisdiction over Omni Hotels at least because it is an entity doing business in Texas and committing acts of infringement in Texas.

31. On information and belief, defendant Laura Mercier purchased and continuously uses Yieldify's infringing software products and services in the State of Texas, targeting end-users in this District and throughout the State. This court has personal jurisdiction over Laura Mercier at least because it is an entity doing business in Texas and committing acts of infringement in Texas.

32. On information and belief, defendant Das Keyboard purchased and continuously uses Yieldify's infringing software products and services in the State of Texas, targeting end-users in this District and throughout the State. This court has personal jurisdiction over Das Keyboard at least because it is a Texas corporation doing business in Texas and committing acts of infringement in Texas.

33. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), (c) and 1400(b).

DEFENDANTS' INFRINGING SOFTWARE PRODUCTS AND SERVICES

34. Bounce Exchange repeats and re-alleges the allegations of paragraphs 1 through 33 as if fully set forth herein.

35. On information and belief, Yieldify makes, uses, sells, offers for sale, and imports into the United States software products and/or services ("Yieldify Software") that "anticipate when a visitor is about to leave [the customer's] website without converting... [Yieldify] can

respond to your visitors' intent to exit with a message tailored to their on-site behavior – just before they are about to abandon.” See <http://yieldify.com/us/>. The Yieldify Software integrates with a customer's website to provide targeted messages to users who appear to be about to leave the website. The response may depend on the particular webpage visited or other variable use and user scenarios. A particular customer may also have different messages or “campaigns” that are executed by the Yieldify Software under the desired circumstances. The Yieldify Software makes the determination that a user is going to leave based on certain mouse movements and/or information collected about the user.

36. On information and belief, this information about the user may include characteristics of the user's computer, whether the user has already responded to a previous exit message, and other characteristics of the user or the user's behavior.

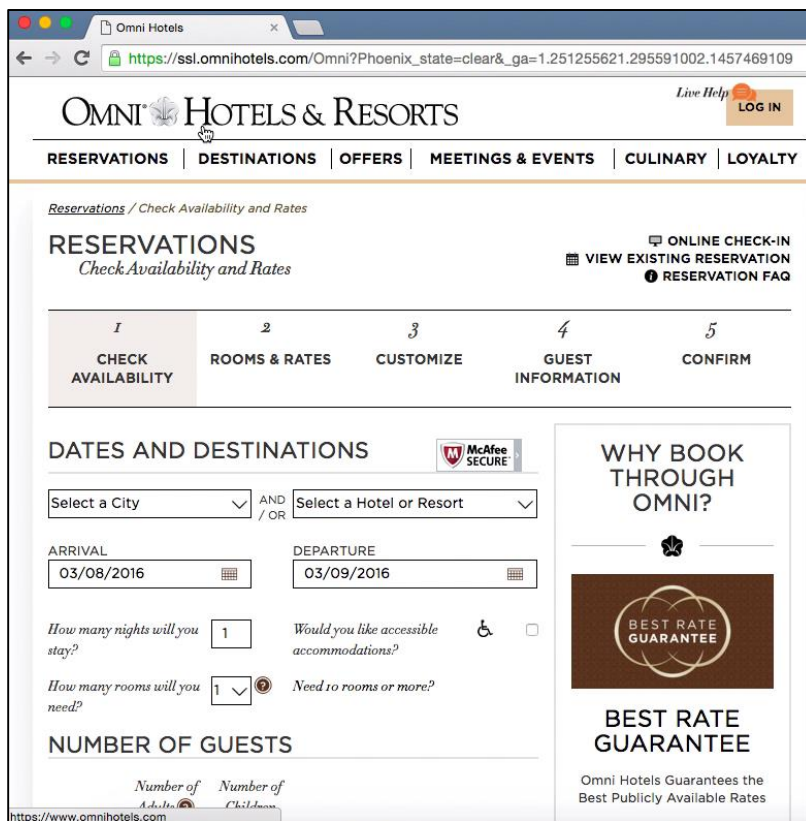
37. Mr. Jay Radia, in an interview with Zanox Blog, explained that Yieldify Software “tracks a users' behaviour on a website including mouse movements and speed. When a user goes to leave the site we serve them a highly-targeted bespoke message which is relevant to their interests and offers some form of incentive or promotion to enhance conversion rates. [Yieldify Software] can segment users by many different metrics – including, for example, geo-location, traffic source, session, even the local weather – and offer user-relevant campaigns on that basis.”¹

38. The Yieldify Software is distributed and/or executed by its customers' websites and by end-users who visit those websites. In some cases, Yieldify may distribute the Yieldify Software and content through third-party content delivery networks that it directs.

¹ Alexandra Lilienthal, “Publisher Introduction: Convert your traffic with Yieldify” (May 21, 2014), *available at* <http://blog.zanox.com/en/zanox/2014/05/21/yieldify/>.

Yieldify and Omni Hotels

39. Omni Hotels is one such customer that uses the Yieldify Software on its website, www.omnihotels.com. As an example, the following is part of a publicly accessible webpage of Omni Hotels’ website:



40. On information and belief, the Yieldify Software, as implemented by at least one processor, detects a user accessing this webpage, and sets a predetermined value stored in a memory that corresponds to a pixel or plurality of pixels on the webpage (e.g., a predetermined value corresponding to a horizontal line).

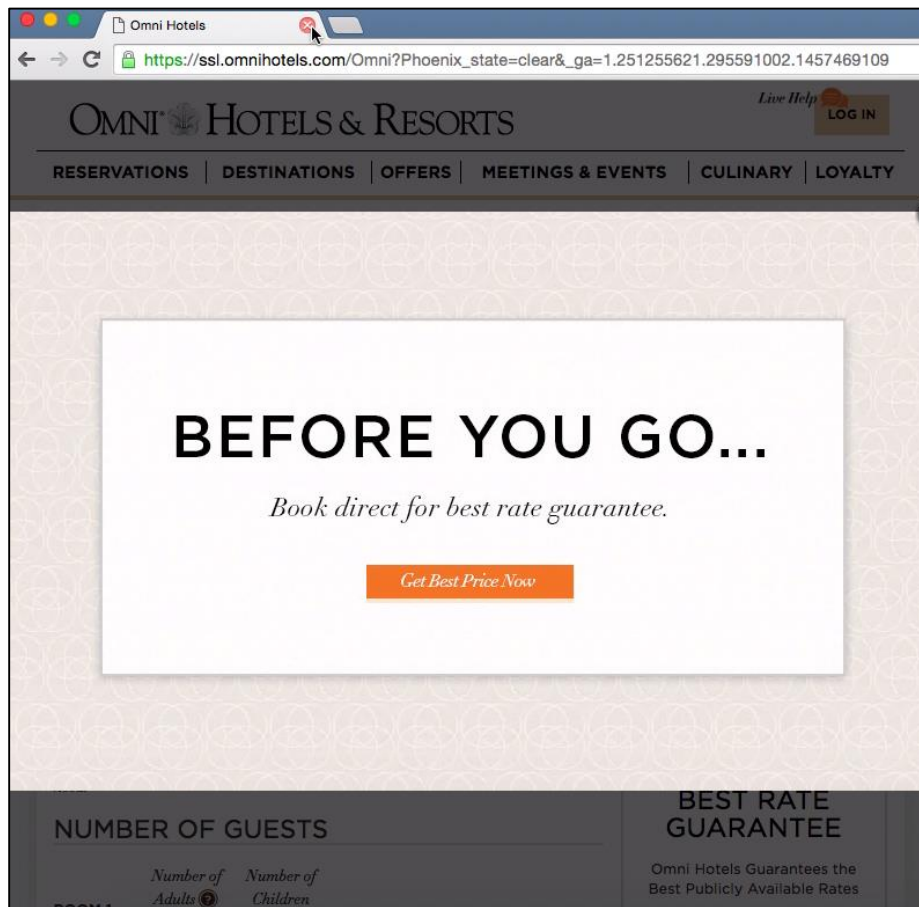
41. On information and belief, while a user is browsing this webpage, the Yieldify Software detects activity that indicates the user intends to initiate an exit command at a position

on the display relative to the predetermined value, e.g., certain mouse-cursor movement activity toward the top of the page.

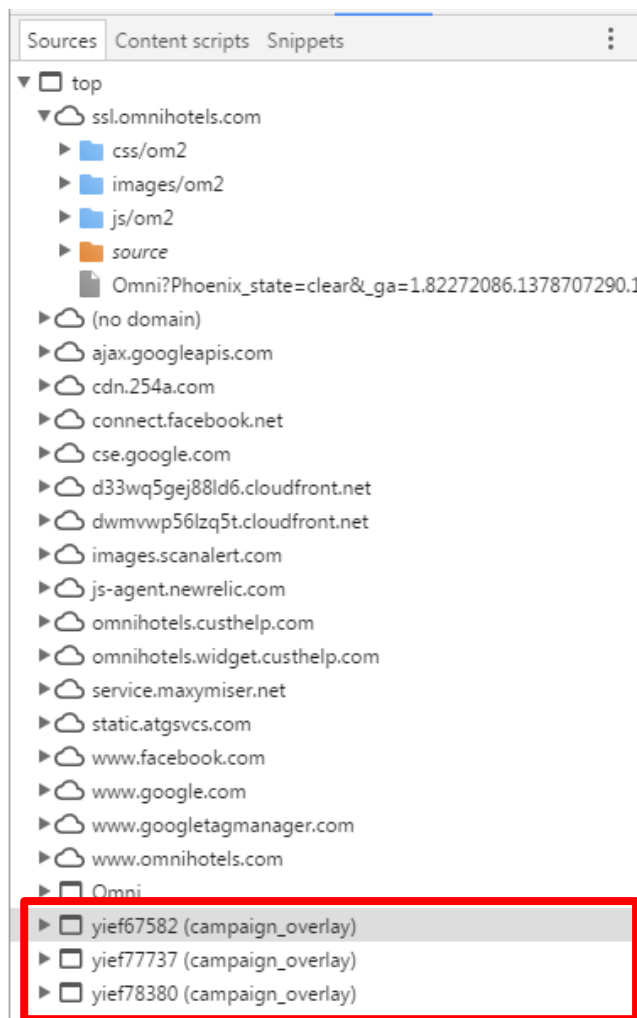
42. At least some of this Yieldify Software is publicly viewable to visitors of Omni Hotels' website (albeit in obfuscated form), an example of which is reproduced below:

Excerpt from "Yieldify_1459258394.js" as it exists on Omni Hotels' Website
<pre> 18: [function(e, t, i) { function n() { this.callbacks = [], this.mouseInside = !1 } var r = yiel, o = r.md.util; n.prototype.setup = function() { r.md.trigger.bindEvent(document.getElementsByTagName("html")[0], "mouseout", this.mouseLeave.bind(this)), r.md.trigger.bindEvent(document.getElementsByTagName("html")[0], "mouseenter", this.mouseEnter.bind(this)) }, n.prototype.mouseLeave = function(e) { try { e = yiel.\$event.fix(e) } catch (t) { o.debug(t) } } o.debug("mouseLeave", e, e.clientY < 5), e.clientY < 5 && (this.mouseInside = !1, o.each(this.callbacks, function(t) { t(e) })) }, n.prototype.mouseEnter = function(e) { o.debug("mouseenter", e), this.mouseInside = !0 }, n.prototype.out = function() { return !this.mouseInside }, n.prototype.onExit = function(e) { this.callbacks.push(e) }, t.exports = new n }, {}]</pre>

43. On information and belief, after detecting activity of a user that indicates that the user intends to leave the page, the Yieldify Software, working in conjunction with Omni Hotels' website, displays a message overlay and link as reproduced below:



44. On information and belief, Omni Hotels’ website uses and runs code from the Yieldify Software that, among other things, can show multiple types of messages or advertisements, referred to as campaigns. At least some of this code is publicly viewable to visitors of OmniHotels’ website, reproduced in small part below (e.g. “app.yieldify.com”, “yief67584 (campaign_overlay)”, “yief77737 (campaign_overlay)”, “yief78380 (campaign_overlay)”):

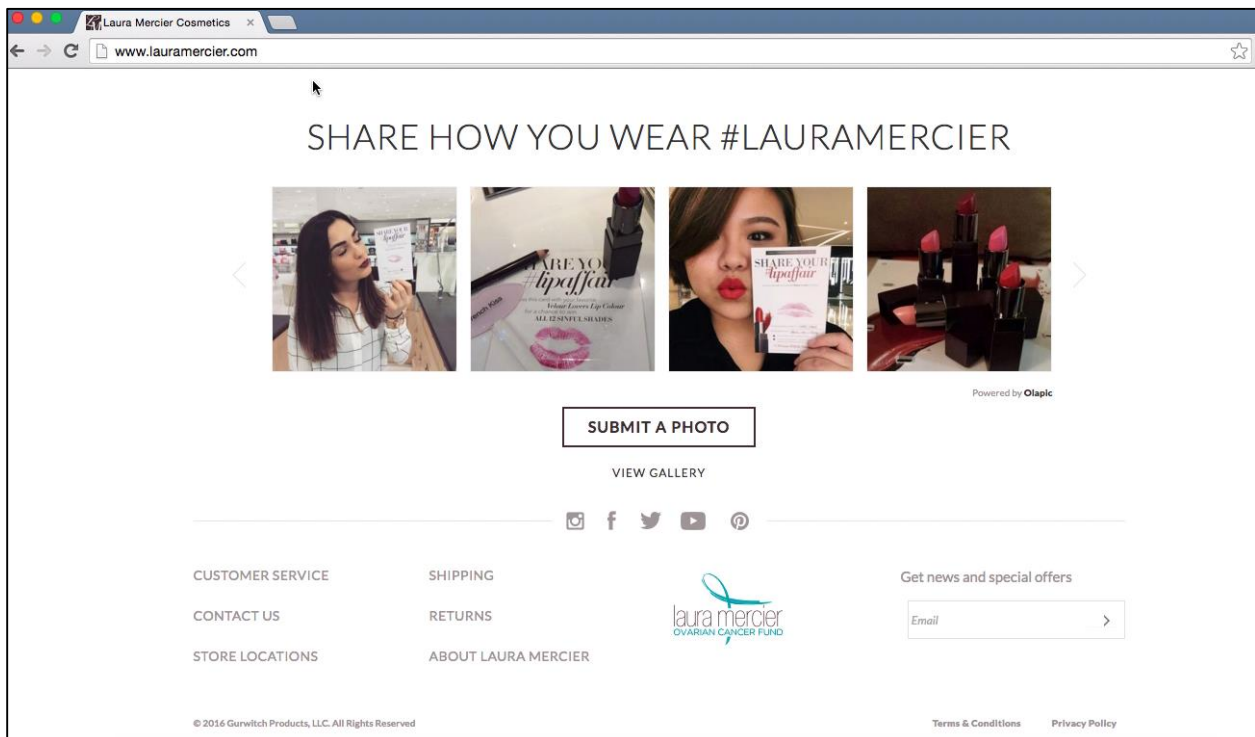


45. On information and belief, the Yieldify Software collects information about users that is used in its determination about exit behavior and appropriate responses. On information and belief, in addition to information about a user's mouse movement, Yieldify and Omni Hotels also collect information about a user's computer, website viewing behavior, and other user behaviors or characteristics. Some of this information may also be stored in cookies, examples of which are shown below:

Name	Value	Domain	Path	Expires ...	Size
yieldify_iv	1	.omnihotels.com	/	Session	12
yieldify_original_referrer	https%3A//www.google.com/	.omnihotels.com	/	Session	51
yieldify_rmg_segment	B	.omnihotels.com	/	Session	21
yieldify_sale_ts	1459790319092	.omnihotels.com	/	2017-0...	29
yieldify_st	1	.omnihotels.com	/	2017-0...	12
yieldify_stc	1	.omnihotels.com	/	Session	13
yieldify_tv	%7B%7Dyv1	.omnihotels.com	/	2016-0...	20
yieldify_ujt	18762	.omnihotels.com	/	Session	17
yieldify_visit	1	.omnihotels.com	/	2016-0...	15

Yieldify and Laura Mercier

46. Laura Mercier is another Yieldify customer that uses the Yieldify Software on its website, <http://www.lauramercier.com/>. As an example, the following is part of a publicly accessible webpage of Laura Mercier’s website:



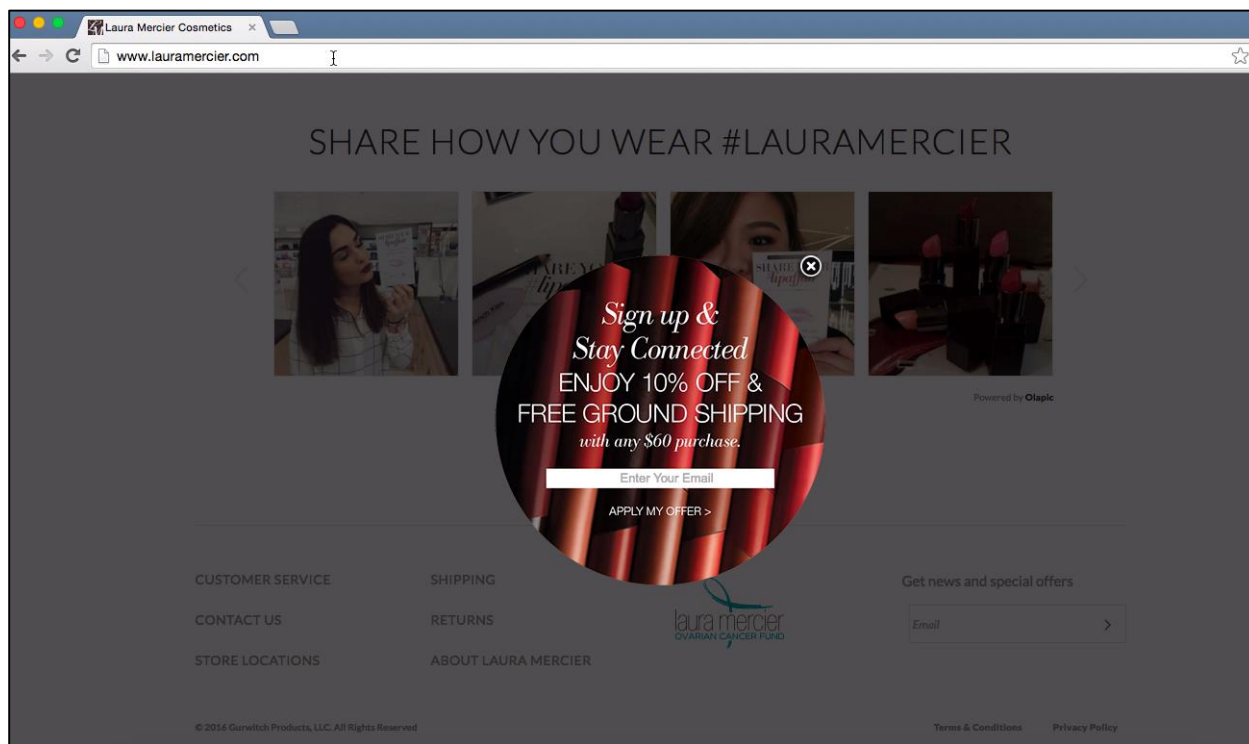
47. On information and belief, the Yieldify Software, as implemented by at least one processor, detects a user accessing this webpage, and sets a predetermined value stored in a memory that corresponds to a pixel or plurality of pixels on the webpage (e.g., a predetermined value corresponding to a horizontal line).

48. On information and belief, while a user is browsing this webpage, the Yieldify Software detects activity that indicates the user intends to initiate an exit command at a position on the display relative to the predetermined value, e.g., certain mouse-cursor movement activity toward the top of the page.

49. At least some of this Yieldify Software is publicly viewable to visitors of Laura Mercier's website (albeit in obfuscated form), an example of which is reproduced below:

Excerpt from "Yieldify_1459258394.js" as it exists on Laura Mercier's Website
<pre> 18: [function(e, t, i) { function n() { this.callbacks = [], this.mouseInside = !1 } var r = yiel, o = r.md.util; n.prototype.setup = function() { r.md.trigger.bindEvent(document.getElementsByTagName("html")[0], "mouseout", this.mouseLeave.bind(this)), r.md.trigger.bindEvent(document.getElementsByTagName("html")[0], "mouseenter", this.mouseEnter.bind(this)) }, n.prototype.mouseLeave = function(e) { try { e = yiel.\$.event.fix(e) } catch (t) { o.debug(t) } o.debug("mouseLeave", e, e.clientY < 5), e.clientY < 5 && (this.mouseInside = !1, o.each(this.callbacks, function(t) { t(e) })) }, n.prototype.mouseEnter = function(e) { o.debug("mouseenter", e), this.mouseInside = !0 }, n.prototype.out = function() { return !this.mouseInside }, n.prototype.onExit = function(e) { this.callbacks.push(e) }, t.exports = new n }, {}], </pre>

50. On information and belief, after detecting activity of a user that indicates that the user intends to leave the page, the Yieldify Software, working in conjunction with Laura Mercier's website, displays a message overlay and link as reproduced below:



51. On information and belief, Laura Mercier’s website runs code from the Yieldify Software that, among other things, can show multiple types of messages or advertisements, referred to as campaigns. At least some of this code is publicly viewable to visitors of Laura Mercier’s website, reproduced in small part below (e.g. “app.yieldify.com”, “yief57904”).

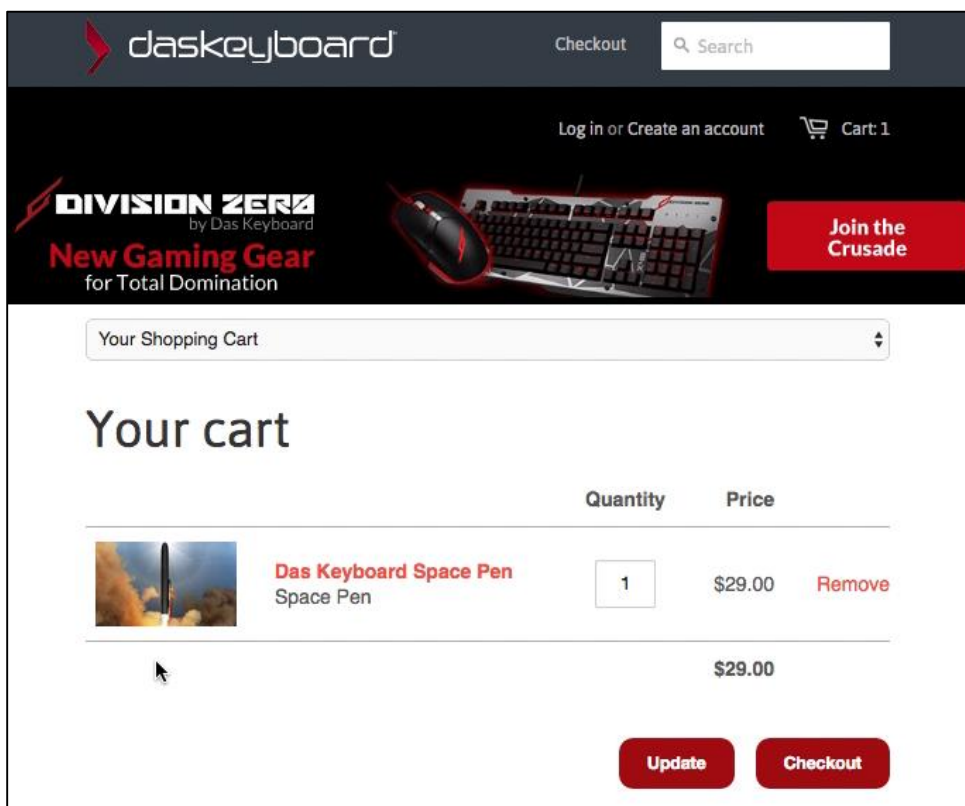
```
<iframe id="yief57904" src="//app.yieldify.com/yieldify/campaign_overlay?campaign_id=57904&referrer=&url=http%3A//www.lauramercier.com/" style="overflow:hidden; " frameborder="0" vspace="0" hspace="0" marginwidth="0" marginheight="0" target="_parent">
```

52. On information and belief, the Yieldify Software collects information about users that is used in its determination about exit behavior and appropriate responses. In addition to information about a user’s mouse movement, Yieldify and Laura Mercier also collect information about a user’s computer, website viewing behavior, and other user behaviors or characteristics. Some of this information may also be stored in cookies, examples of which are shown below:

Name	Value	Domain	Path	Expires ...	Size
yieldify_delay	1	.lauramercier.com	/	2016-0...	15
yieldify_frequency_57904	1	.lauramercier.com	/	2016-0...	25
yieldify_isale	57904.1459814970492	.lauramercier.com	/	Session	33
yieldify_iv	1	.lauramercier.com	/	Session	12
yieldify_location	%257B%2522country%2522%253A%2522Uni...	.lauramercier.com	/	2016-0...	163
yieldify_sale_ts	1459814946010	.lauramercier.com	/	2017-0...	29
yieldify_st	1	.lauramercier.com	/	2017-0...	12
yieldify_stc	1	.lauramercier.com	/	Session	13
yieldify_ujt	yieldify_stc 556	.lauramercier.com	/	Session	15
yieldify_unique	1	.lauramercier.com	/	Session	16
yieldify_visit	1	.lauramercier.com	/	2016-0...	15

Yieldify and Das Keyboard

53. Das Keyboard is another Yieldify customer that uses the Yieldify Software on its website, www.daskeyboard.com. As an example, the following is a webpage of Das Keyboard’s website:



54. On information and belief, the Yieldify Software, as implemented by at least one processor, detects a user accessing this webpage, and sets a predetermined value stored in a

memory that corresponds to a pixel or plurality of pixels on the webpage (e.g., a predetermined value corresponding to a horizontal line).

55. On information and belief, while a user is browsing this webpage, the Yieldify Software detects activity that indicates the user intends to initiate an exit command at a position on the display relative to the predetermined value, e.g., certain mouse-cursor movement activity toward the top of the page.

56. At least some of this Yieldify Software is publicly viewable to visitors of Das Keyboard's website (albeit in obfuscated form), an example of which is reproduced below:

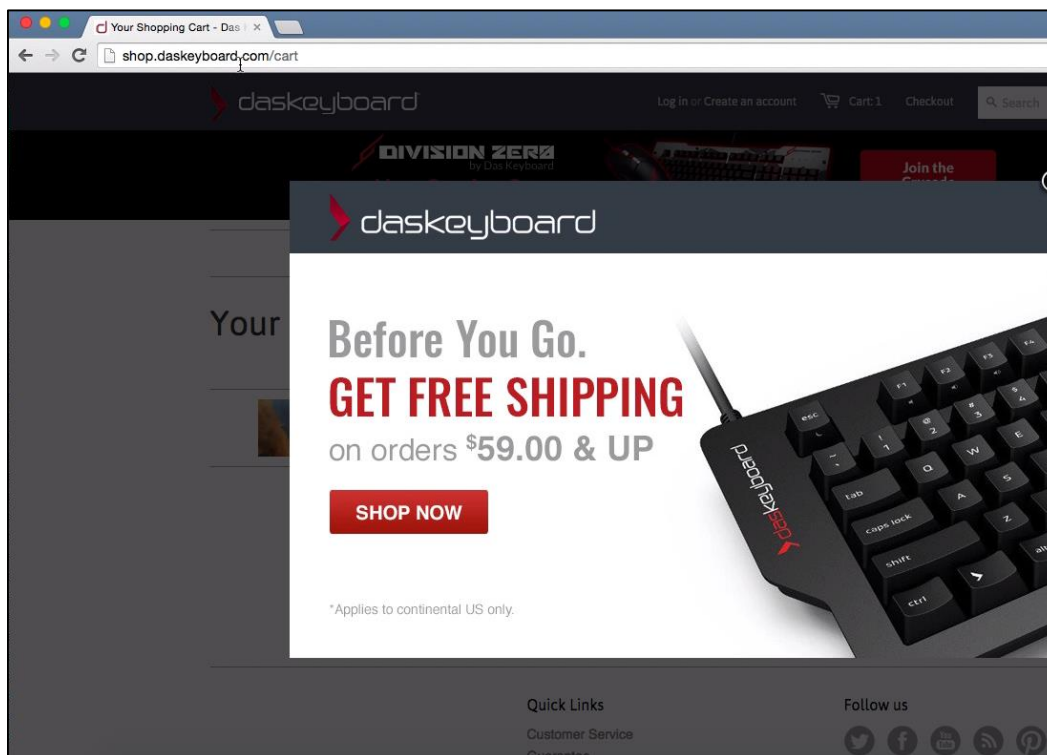
Excerpt from "Yieldify_1459258394.js" as it exists on Das Keyboard's Website

```

18: [function(e, t, i) {
    function n() {
        this.callbacks = [], this.mouseInside = !1
    }
    var r = yiel,
        o = r.md.util;
    n.prototype.setup = function() {
        r.md.trigger.bindEvent(document.getElementsByTagName("html")[0], "mouseout",
this.mouseLeave.bind(this)),
r.md.trigger.bindEvent(document.getElementsByTagName("html")[0], "mouseenter",
this.mouseEnter.bind(this))
    }, n.prototype.mouseLeave = function(e) {
        try {
            e = yiel.$.event.fix(e)
        } catch (t) {
            o.debug(t)
        }
        o.debug("mouseLeave", e, e.clientY < 5), e.clientY < 5 && (this.mouseInside = !1,
o.each(this.callbacks, function(t) {
            t(e)
        })))
    }, n.prototype.mouseEnter = function(e) {
        o.debug("mouseenter", e), this.mouseInside = !0
    }, n.prototype.out = function() {
        return !this.mouseInside
    }, n.prototype.onExit = function(e) {
        this.callbacks.push(e)
    }, t.exports = new n
}, {}],

```

57. After detecting activity of a user that indicates that the user intends to leave the page, the Yieldify Software, working in conjunction with Das Keyboard's website, displays a message overlay and link as reproduced below:



58. On information and belief, Das Keyboard's website runs code from the Yieldify Software that, among other things, can show multiple types of messages or advertisements, referred to as campaigns. At least some of this code is publicly viewable to visitors of Das Keyboard's website, reproduced in small part below (e.g. "app.yieldify.com", "yief34431"):

```
▼ <iframe id="yief34431" src="//app.yieldify.com/yieldify/campaign_overlay?
campaign_id=34431&referrer_products/das-keyboard-space-pen&url=http%3A//
shop.daskeyboard.com/cart" style="overflow:hidden; " frameborder="0" vspace="0" hspace=
"0" marginwidth="0" marginheight="0" target="_parent">
```

59. On information and belief, the infringing Yieldify Software collects information about users that is used in its determination about exit behavior and appropriate responses. In

addition to information about a user’s mouse movement, Yieldify and Das Keyboard also collect information about a user’s computer, website viewing behavior, and other user behaviors or characteristics. Some of this information may also be stored in cookies, examples of which are shown below:

	Name	Value	Domain	Path	Expires...	Size
Frames						
Web SQL						
IndexedDB						
Local Storage						
Session Storage						
Cookies						
shop.daskeyboard.com	yieldify_isale	34431.1459815805079	.daskeyboard.co...	/	Session	33
app.yieldify.com	yieldify_iv	1	.shopify.com	/	Session	12
dis.us.criteo.com	yieldify_iv	1	.daskeyboard.co...	/	Session	12
checkout.shopify.com	yieldify_location	%257B%2522country%2522%253A%2522...	.daskeyboard.co...	/	2016-0...	163
Application Cache	yieldify_location	%257B%2522country%2522%253A%2522...	.shopify.com	/	2016-0...	163
Cache Storage	yieldify_original_referrer	http%3A//shop.daskeyboard.com/cart	.shopify.com	/	Session	60
Service Workers	yieldify_sale_ts	1459815731208	.daskeyboard.co...	/	2017-0...	29
	yieldify_sale_ts	1459815801161	.shopify.com	/	2017-0...	29
	yieldify_st	1	.daskeyboard.co...	/	2017-0...	12
	yieldify_st	1	.shopify.com	/	2017-0...	12
	yieldify_stc	1	.shopify.com	/	Session	13
	yieldify_stc	1	.daskeyboard.co...	/	Session	13
	yieldify_tv	%7B%22das-keyboard-4c-professional-co...	.daskeyboard.co...	/	2016-0...	86
	yieldify_tv	%7B%7Dyv1	.shopify.com	/	2016-0...	20
	yieldify_ujt	999	.shopify.com	/	Session	15
	yieldify_ujt	1041	.daskeyboard.co...	/	Session	16
	yieldify_visit	1	.shopify.com	/	2016-0...	15
	yieldify_visit	1	.daskeyboard.co...	/	2016-0...	15

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 8,645,212

60. Bounce Exchange repeats and re-alleges the allegations of paragraphs 1 through 59 as if fully set forth herein.

61. On February 04, 2014, United States Patent No. 8,645,212 (“the ’212 Patent”) entitled “DETECTION OF EXIT BEHAVIOR OF AN INTERNET USER” was duly and properly issued by the United States Patent and Trademark Office. A true and correct copy of the ’212 Patent is attached to the Complaint as Exhibit A.

62. Bounce Exchange is the assignee and owner of the right, title, and interest in and to the ’212 Patent. Bounce Exchange’s Software practices the claims of the ’212 Patent.

63. On information and belief, Defendants have infringed and continue to infringe one or more claims of the '212 Patent in violation of 35 U.S.C. § 271(a) in the United States by making, using, offering to sell, selling, and/or importing into the United States, a computer program product and system that infringes one or more claims of the '212 Patent, including, without limitation, claims 18-20, 22-25, and 27-28, and by performing the computer-implemented method steps of one or more claims of the '212 Patent, including, without limitation, claims 1-13 and 15-17. Defendants' infringing software products and services include, but are not limited to, the software platform offered on the Defendants' websites described above in paragraphs 1-59.

64. On information and belief, Yieldify knew of the '212 Patent, at least based on communications Yieldify executives had with Bounce Exchange executives prior to the filing of the Complaint and via communications about Bounce Exchange Patents with prospective investors in Yieldify. In addition, Yieldify's knowledge of the '212 Patent is evidenced by its filing of a Petition for Covered Business Method Review of the '212 Patent with the United States Patent and Trademark Office on February 26, 2016. Yieldify and the other Defendants also have knowledge of the '212 Patent and the infringement of it as of the filing of the Complaint.

65. On information and belief, Yieldify and the other Defendants also have infringed and continue to infringe one or more of the claims of the '212 Patent in violation of 35 U.S.C. § 271(b) and/or (c) in this judicial district and elsewhere in the United States by actively inducing others to infringe and/or contributing to the infringement. Yieldify actively markets and sells its infringing software products and services to advertisers and publishers, including but not limited to the other Defendants, knowing that they will use them and make them available for download and subsequent use by end-user visitors to publisher websites. Yieldify knows that its software

is especially made for use in an infringement of the '212 Patent, and not suitable for substantial non-infringing use.

66. On information and belief, Omni Hotels, Laura Mercier, and Day Keyboard have also taken active steps, including advertising and promoting their websites, with specific intent to cause end-user visitors to their websites to download and use Yieldify's infringing software products. These Defendants know, at least as of the filing of the Complaint, that the Yieldify Software is especially made for use in an infringement of the '212 Patent, and not suitable for substantial non-infringing use.

67. On information and belief, Yieldify has acted in concert with the other Defendants and other website publishers and advertisers, and end-users located within this judicial district and elsewhere, to infringe the '212 Patent. Yieldify and other Defendants continue to knowingly induce infringement and possess specific intent to encourage their customers' and other users' infringement.

68. Bounce Exchange has suffered irreparable harm as a result of Defendants' infringement of the '212 Patent and will continue to suffer irreparable harm unless Defendants are enjoined from infringing the '212 Patent.

69. Bounce Exchange has suffered and will continue to suffer monetary damages as a result of Defendants' infringement of the '212 Patent.

COUNT II: INFRINGEMENT OF U.S. PATENT NO. 9,141,976

70. Bounce Exchange repeats and re-alleges the allegations of paragraphs 1 through 69 as if fully set forth herein.

71. On September 22, 2015, United States Patent No. 9,141,976 (“the ’976 Patent”) entitled “DETECTION OF EXIT BEHAVIOR OF AN INTERNET USER” was duly and properly issued by the United States Patent and Trademark Office. A true and correct copy of the ’976 Patent is attached to the Complaint as Exhibit B.

72. Bounce Exchange is the assignee and owner of the right, title, and interest in and to the ’976 Patent. Bounce Exchange’s Software practices the claims of the ’976 Patent.

73. On information and belief, Defendants have infringed and continue to infringe one or more claims of the ’976 Patent in violation of 35 U.S.C. § 271(a) in the United States by making, using, offering to sell, selling and/or importing into the United States a computer program product and system that infringes one or more claims of the ’976 Patent, including, without limitation, claims 20-28 and 30-31, and by performing the computer-implemented method steps of one or more claims of the ’976 Patent, including, without limitation, claims 1-16, 18-19, and 32. Defendants’ infringing software products and services include, but are not limited to, the software platform offered on the Defendants’ websites described above in paragraphs 1-69.

74. On information and belief, Yieldify knew of the ’976 Patent, at least based on communications Yieldify executives had with Bounce Exchange executives prior to the filing of the Complaint. On information and belief, Yieldify also knew of the ’976 patent on or about the date of its issuance given that it is a continuation of the ’212 patent identified above. Yieldify and the other Defendants also have knowledge of the ’976 Patent and the infringement of it at least as of the filing of the Complaint.

75. On information and belief, Yieldify and the other Defendants also have infringed and continue to infringe one or more of the claims of the ’976 Patent in violation of 35 U.S.C.

§ 271(b) and/or (c) in this judicial district and elsewhere in the United States by actively inducing others to infringe and/or contributing to the infringement. Yieldify actively markets and sells its infringing software products and services to advertisers and publishers, including but not limited to the other Defendants, knowing that they will use them and make them available for download and subsequent use by end-user visitors to publisher websites. Yieldify knows that its software is especially made for use in an infringement of the '976 Patent, and not suitable for substantial non-infringing use.

76. On information and belief, Omni Hotels, Laura Mercier, and Day Keyboard have also taken active steps, including advertising and promoting their websites, with specific intent to cause end-user visitors to their websites to download and use the infringing Yieldify's software products. These Defendants know, at least as of the filing of the Complaint, that the Yieldify Software is especially made for use in an infringement of the '976 Patent, and not suitable for substantial non-infringing use.

77. On information and belief, Yieldify has acted in concert with the other Defendants and other website publishers and advertisers, and end-users located within this judicial district and elsewhere, to infringe the '976 Patent. Yieldify and the other Defendants continue to knowingly induce infringement and possess specific intent to encourage their customers' and other users' infringement.

78. Bounce Exchange has suffered irreparable harm as a result of Defendants' infringement of the '976 Patent and will continue to suffer irreparable harm unless Defendants are enjoined from infringing the '976 Patent.

79. Bounce Exchange has suffered and will continue to suffer monetary damages as a result of Defendants' infringement of the '976 Patent.

**COUNT III: DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 8,806,327**

80. Bounce Exchange repeats and re-alleges the allegations of paragraphs 1 through 79 as if fully set forth herein.

81. As a result of Yieldify's allegations of infringement by Bounce Exchange, an actual controversy exists as to the infringement of the claims of the '327 Patent. A true and correct copy of the '327 Patent is attached to the Complaint as Exhibit C.

82. Bounce Exchange's use, sale, license, and/or distribution of the Bounce Exchange Software does not and has not infringed any claim of the '327 Patent under 35 U.S.C. §271(a), §271(b) or §271(c), either directly or indirectly, individually or jointly, or literally or under the doctrine of equivalents.

83. Bounce Exchange's customers that use the Bounce Exchange Software and their end-user website visitors do not and have not infringed any claim of the '327 Patent either directly or indirectly, individually or jointly, or literally or under the doctrine of equivalents.

84. The allegations of patent infringement by Yieldify have caused and will continue to cause Bounce Exchange harm.

85. Bounce Exchange seeks and requires resolution of the issues asserted in this claim, as the accusations of infringement made by Yieldify have placed a cloud over Bounce Exchange's ability to conduct business so long as these issues regarding the '327 Patent remain unresolved.

86. Bounce Exchange is entitled to a declaratory judgment that it has not infringed and does not infringe any claim of the '327 Patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests this Court:

- a. To enter a judgment in favor of Bounce Exchange that Defendants have infringed the '212 Patent and the '976 Patent in violation of 35 U.S.C. § 271(a), (b), and/or (c);
- b. To enter orders enjoining Defendants and their officers, agents, employees, and all persons in active concert or participation with any of the foregoing, from further infringement in violation of 35 U.S.C. § 271(a), (b), and/or (c);
- c. To award Bounce Exchange its damages in amounts sufficient to compensate it for Defendants' infringement, together with pre-judgment and post-judgment interest and costs, pursuant to 35 U.S.C. § 284;
- d. To find Defendants' infringement willful and award treble the amount of damages and losses sustained by Bounce Exchange as a result of Defendants' infringement under 35 U.S.C. § 284;
- e. A declaration that Bounce Exchange has not infringed, and does not infringe, or actively induce others to infringe any valid and enforceable claim of the '327 patent, either directly or indirectly, individually or jointly, or literally or under the doctrine of equivalents;
- f. A permanent injunction preventing Yieldify, including its officers, agents, employees, and all persons acting in concert or participation with Yieldify, from charging that the claims of the '327 patent are infringed by Bounce Exchange;

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