

protection, and detection of digital watermarks in digital data;”

5. U.S. Patent 7,953,981 titled “Optimization methods for the insertion, protection, and detection of digital watermarks in digital data;”
6. U.S. Patent 8,121,343 titled “Optimization Methods For The Insertion, Protection, and Detection of Digital Watermarks in Digitized Data;”
7. U.S. Patent 8,161,286 titled “Method and System for Digital Watermarking;”
8. U.S. Patent 8,175,330 titled “Optimization methods for the insertion, protection, and detection of digital watermarks in digital data;”
9. U.S. Patent 8,225,099 titled “Linear predictive coding implementation of digital watermarks;”
10. U.S. Patent 8,307,213 titled “Method and System for Digital Watermarking;” as follows:

NATURE OF THE SUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

PARTIES

2. Plaintiff Blue Spike, LLC is a Texas limited liability company and has its headquarters and principal place of business at 1820 Shiloh Road, Suite 1201-C, Tyler, Texas 75703. Blue Spike, LLC is the assignee of the Patent-in-Suit, and has ownership of all substantial rights in the asserted Patents, including the rights to grant sublicenses, to exclude others from using it, and to sue and obtain damages and other relief for past and future acts of patent infringement.

3. The defendants in this action sell products and services that infringe the Patents-in-Suit, and are also related as parent companies, subsidiaries, purchasers and/or sellers of infringing business units, or partners and/or officers. Many of the infringing products and/or services identified in this complaint have been owned by more than one defendant through business purchases and subsidiary entity formations. On information and belief, the defendants are related through the following business transactions:

- a. Defendants NexGuard Labs USA, Inc. and NexGuard Labs Netherlands B.V. are subsidiaries of Civolution B.V.;
- b. Defendant Civolution USA, Inc. was a subsidiary of Civolution B.V.;
- c. Defendant 4C Insight, Inc. purchased Civolution USA, Inc. (renamed Teletrax USA, Inc.) from Civolution B.V.;
- d. Defendant Kudaleski Group purchased Civolution B.V.;
- e. Defendant Kantar Media Intelligences, Inc. purchased SyncNow from Civolution B.V.; and
- f. Defendant Competitive Media Reporting, LLC is an officer of Kantar Media Intelligences and does business as Kantar Media, Kantar Media CMAG, and Kantar Media Intelligence.

4. NexGuard Labs USA, Inc. is a subsidiary of Civolution B.V. It is a Delaware corporation, having its principal place of business at 252 West 38th Street, Suite 1402, New York, NY 10018. NexGuard Labs USA, Inc. can be served with process through its registered agent, VCorp Services, LLC, located at 1013 Centere Road, Suite 403-B,

Wilmington, DE 19805. NexGuard Labs USA, Inc. does business in the State of Texas and in the Eastern District of Texas. It also tracks and records audio and video content of end users in E.D. Texas.

5. NexGuard Labs Netherlands B.V. is a Dutch limited liability company, having its principal place of business at High Tech Campus 9, 5656 AE Eindhoven, The Netherlands. NexGuard Labs Netherlands B.V. can be served with process through its U.S. subsidiary, NexGuard Labs USA, Inc. or through the Texas Secretary of State. NexGuard Labs Netherlands B.V. does business in the State of Texas and in the Eastern District of Texas.

6. 4C Insights, Inc. purchased Teletrax, USA Inc. from defendant Civolution B.V. Teletrax, USA Inc. is a Delaware corporation having its principal place of business at 499 7th Ave., 22nd Floor South, New York, NY 10018. Teletrax USA, Inc. can be served with process through its registered agent, Corporation Service Company, located at 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808. Teletrax USA, Inc. does business in the State of Texas and in the Eastern District of Texas.

7. Competitive Media Reporting, LLC is a Delaware limited liability company having its principal place of business at 100 Park Ave 4th Floor, New York, DE, 10017. Competitive Media Reporting, LLC also does business by the following names: “ADGOOROO; KANTAR MEDIA CMAG; KANTAR MEDIA INTELLIGENCE; KANTAR MEDIA; TNS MEDIA INTELLIGENCE; TNS MEDIA INTELLIGENCE/CMR; and KANTAR MEDIA MARX.” Competitive Media Reporting, LLC can be served with process through its registered agent, Corporate

Creations Network, Inc. located at 3411 Silverside Road, #104, Rodney Building, Wilmington, DE 19810.

8. Kantar Media Intelligences, Inc. (“Kantar”) purchased a second-screen audio watermarking business, from Civolution. It is a New York corporation, having its principal place of business at 11 Madison Avenue, 12th Floor, New York, NY 10010. Kantar Media Intelligences, Inc. can be served with process through its offices located at 100 Park Ave 4th Floor, New York, DE, 10017. Kantar Media Intelligences, Inc. does business in the State of Texas and in the Eastern District of Texas.

9. Civolution USA, Inc. is a Delaware corporation, having its principal place of business at 499 7th Avenue, 22nd Floor South, New York, New York 10018. Civolution USA, Inc. can be served with process through its registered agent, Corporation Service Company, located at 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808. Civolution USA, Inc. does business in the State of Texas and in the Eastern District of Texas.

10. Kudelski S.A. d/b/a Kudelski Group is a Swiss corporation, having its principal place of business at Route De Genève 22-24, Cheseaux-Sur-Lausanne, Vaud, 1033 Switzerland. Kudelski S.A. can be served with process through its U.S. subsidiary, NexGuard Labs USA, Inc. or through the Texas Secretary of State. NexGuard Labs Netherlands B.V. does business in the State of Texas and in the Eastern District of Texas.

JURISDICTION AND VENUE

11. This lawsuit is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §101 *et seq.* The Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§1331, 1332, 1338(a), and 1367.

12. The Court has personal jurisdiction over Defendants for at least four reasons: (1) Defendants have committed acts of patent infringement and contributed to and induced acts of patent infringement by others in this District and elsewhere in Texas; (2) Defendants regularly do business or solicit business in the District and in Texas; (3) Defendants engage in other persistent courses of conduct and derives substantial revenue from products and/or services provided to individuals in the District and in Texas; and (4) Defendants have purposefully established substantial, systematic, and continuous contacts with the District and should reasonably expect to be haled into court here.

13. Defendants monitor video and/or audio content related to patrons residing in the Eastern District of Texas.

14. The accused technology focuses on media content produced, tracked, and viewed in the Eastern District of Texas, including original programming, rebroadcasts, and advertisements.

15. Defendant NexGuard's watermarking technology and products are implemented into its partners' products. Ex. 1 (showing a list of NexGuard's partners who integrate or resell NexGuard's technology such as "chipsets to transcoders to video servers and beyond"). One of those partners, Imagine Communications, is headquartered in this district. Ex. 2 (listing Imagine Communications' headquarters in Frisco, TX). Another partner, Rohde and Schwartz, has a sales team in this state. Ex. 3 (listing an open position "to join our South Central Region sales team based in Austin, Texas"). Both Imagine Communications as well as Rohde and Schwartz sell products that integrate NexGuard's infringing technology. Exs. 4 and 5. NexGuard admits that it has ongoing contact with a

customer in this state. And NexGuard is now a wholly owned by Kudaleski Group, as of July 2016, which has extensive connections in this state.

16. Defendant 4C Insights, Inc. infringes the patents-in-suit through its recent acquisition of Teletrax from Civolution. The accused technology, embeds a digital watermark and/or fingerprint into video whenever it is edited, transmitted, broadcast or duplicated. It uses the digital watermark technology claimed in the patents-in-suit to track content. 4C has clients that directly infringe with offices in Texas (including eBay Resolution Media, and WideOrbit). Defendant 4C has related product services that infringe in a similar way. These related product offerings are not defined by a specific name as the unpatented use of the Patents-in-suit is done on an ad-hoc client specific application tailored for specific customer's tracking requirements.

- a. By filing a motion to transfer for convenience pursuant to 28 U.S.C. § 1404(a), has admitted that personal jurisdiction and therefore venue in this patent case are both proper in the Eastern District of Texas.

17. Defendant Kantar purchased defendant Civolution's SyncNow technology. It is deployed in Texas (including Irving-based Digital Generation, Inc. ("DG")). Defendant Competitive Media Reporting, LLC is an officer of Kantar Media Intelligences, Inc. and does business as Kantar Media Intelligences.

18. Defendant Kudelski S.A. has contacts with this district and has filed suit for patent infringement in this district. *See* <http://www.fiercecable.com/cable/verizon-sued-for-patent-infringement-by-kudelski>.

19. Thus, the Court's exercise of jurisdiction over Defendants will not offend traditional notions of fair play and substantial justice.

20. Venue is proper in this judicial district under 28 U.S.C. §§1391(b)–(c) and 1400(b) because Defendant does business in the State of Texas, Defendant has committed acts of infringement in Texas and in the District, a substantial part of the events or omissions giving rise to Blue Spike's injury happened in the District, and Defendant is subject to personal jurisdiction in the District.

BACKGROUND

21. The owners of art, music, films, and other creations who want to sell and license their work in digital form over the Internet need an efficient way to manage, monitor, and monetize it. Blue Spike founder Scott Moskowitz pioneered—and continues to invent—technology that makes such management possible, and which has parlayed with equal importance into other industries.

22. Moskowitz, who earned two degrees *cum laude* from the Wharton School of Finance and Commerce at the University of Pennsylvania, is an inventor of more than 100 U.S. Patents, including each of the Patents-in-Suit.

23. In 1992, Moskowitz entered the entertainment industry by doing agency work in Japan for a large U.S. wholesaler of music-related products.

24. In 1993, Moskowitz filed his first U.S. digital-content-management patent application. That year, he also founded the software start-up The Dice Company, which would become widely recognized as a leader in digital watermarking. Since that first patent, Moskowitz has continued to create patented inventions in the field of information

management and security at a prodigious pace. His goal from the outset has been to commercialize his patented inventions.

25. Moskowitz founded Blue Spike, Inc. in November 1997.

26. Moskowitz's status as a pioneer in this new field between cryptography and signal analysis is evident from the United States Patent and Trademark Office's categorization of his patent applications. The USPTO was initially puzzled about how to classify his early inventions, as the then-existing patent categories in cryptography and signal analysis were, by themselves, inadequate. The USPTO therefore created a new classification for his groundbreaking inventions: classification 713, subclass 176, called "Authentication by digital signature representation or digital watermark."

27. The National Security Agency (NSA) even took interest in his work after he filed one of his early patent applications. The NSA made the application classified under a "secrecy order" while it investigated his pioneering innovations and their impact on national security.

28. As an industry trailblazer, Moskowitz has been an active author and public figure on digital-watermarking and signal-recognition technologies since their emergence. A 1995 *New York Times* article—titled "TECHNOLOGY: DIGITAL COMMERCE; 2 plans for watermarks, which can bind proof of authorship to electronic works"—recognized Moskowitz's The Dice Company as one of two leading software start-ups in this newly created field. *Forbes* also interviewed Moskowitz as an expert for "Cops Versus Robbers in Cyberspace," a September 9, 1996 article about the emergence of digital watermarking and rights-management technology. He has also testified before the Library of Congress regarding the Digital Millennium Copyright Act.

29. He has spoken to the RSA Data Security Conference, the International Financial Cryptography Association, Digital Distribution of the Music Industry, and many other organizations about the business opportunities that digital watermarking creates. Moskowitz also authored *So This Is Convergence?*, the first book of its kind about secure digital-content management. This book has been downloaded over a million times online and has sold thousands of copies in Japan, where Shogakukan published it under the name *Denshi Skashi*, literally “electronic watermark.” Moskowitz was asked to author the introduction to *Multimedia Security Technologies for Digital Rights Management*, a 2006 book explaining digital-rights management. Moskowitz authored a paper for the 2002 International Symposium on Information Technology, titled “What is Acceptable Quality in the Application of Digital Watermarking: Trade-offs of Security, Robustness and Quality.” He also wrote an invited 2003 article titled “Bandwidth as Currency” for the *IEEE Journal*, among other publications.

30. Moskowitz is a senior member of the Institute of Electrical and Electronics Engineers (IEEE), a member of the Association for Computing Machinery, and the International Society for Optics and Photonics (SPIE). As a senior member of the IEEE, Moskowitz has peer-reviewed numerous conference papers and has submitted his own publications.

31. Moskowitz has been at the forefront of industry-based tests—such as the MUSE Embedded Signaling Tests, Secure Digital Music Initiative (“SDMI”), and various tests by performance-rights organizations including ASCAP and BMI, as well as Japan’s Nomura Research Institute.

32. Moskowitz has negotiated projects to incorporate his technologies with leaders in a gamut of industries. For example, Moskowitz worked with EMI, Warner Brothers, and Universal Music Group on music-release tracking systems; with AIG on insurance and financial services; with IBM on watermarking its software and managing movie scripts; and with Juniper Networks on measuring and provisioning the bandwidth used on its routers. Blue Spike is also registered with the Federal Government's Central Contractor Registry (managed under the System for Award Management, "SAM") and participated in the Department of Defense Small Business Innovative Research (SBIR) program.

33. Moskowitz and his companies have always practiced or had business plans to practice his patented inventions. He has worked extensively to ensure that his technology's powerful and patented Giovanni® suite of media security technologies can be licensed to all. Before the industry understood where digital management of content was heading, Moskowitz believed that copyright management was an invaluable element for dramatically expanding the business of music, emphasizing that security must not be shrouded in secrecy and that his patented techniques were the strongest to do so.

34. Moskowitz and Blue Spike continued to produce new versions of its popular digital-watermarking tools. Under Moskowitz's control, Blue Spike also developed its unique Scrambling technologies, which continue to gain currency. Moskowitz and Blue Spike rolled out its "end-to-end" solution for music security. Music encoded with Blue Spike's watermark had both security and CD-quality sound, even when integrated with text, image, and video content. To this day, Moskowitz and Blue Spike are working with artists to help them manage and secure their valuable artistic contributions from its office in Tyler, Texas.

THE ACCUSED PRODUCTS

35. There are five accused products – NexGuard, Vtrack, SyncNow, NexTracker, and Teletrax.

36. The Defendants distills down to three groupings of defendants based on five accused technologies.

37. The **NexGuard Group** includes Defendants NexGuard Labs USA, Inc., NexGuard Labs, B.V., Civolution B.V., and Kudaleski Group. Civolution B.V. and Kudaleski face liability related to past patent infringement of the accused technology named **Vtrack and NexGuard**.

38. The **Kantar Group** includes defendants Kantar, Competitive Media Reporting, LLC, and Civolution B.V.. Patent infringement liability in this group relates to **SyncNow** and **NexTracker**. This product offering was developed by Civolution and sold to Kantar and Competitive Media Reporting.

39. The **4C Group** includes defendants 4C Insights, Civolution USA, Inc. (renamed Teletrax USA, Inc.), and Civolution B.V. and Kudaleski Group.. The accused product/service offering is named **Teletrax**.

40. Each Defendant designs, develops, employs, and/or manufactures digital watermarking technology (including, NexGuard, Vtrack, SyncNow, NexTracker, and Teletrax) that encodes and/or decodes watermarks contained within video content, the “Accused Products,” which infringe at least one claim of each of the Patents-in-Suit.

41. The Kantar Group have liability related to the accused product named TexTracker and SyncNow. It infringes at least one claim of the each of the patents-in-suit except for the ‘071 Patent, by detecting audio watermarks embedded in broadcast content.

42. The NexGuard Group has liability for its watermarking product TeleTrax. It infringes at least one claim of each of patents-in-suit by adding a unique, invisible serial number to video or audio content. NexGuard's watermark technology is designed to remain with the content, regardless of how it might be transcoded, resized, downscaled or otherwise altered for distribution. *See* <http://www.nexguard.com/forensic-watermarking-introduction/>.

43. The 4C Group have patent infringement liability related to accused products/services named Teletrax. By encoding digital watermarks and providing the means for them to be decoded, these defendants enable their customers to track content at explained at <http://www.4centity.com> and <http://www.4cinsights.com/teletrax/>.

44. None of the defendants have sought, much less, obtained a license for any of Blue Spike's patented technologies.

45. Yet Defendants' Accused Products are using methods, devices, and systems taught by Blue Spike's Patents-in-Suit.

COUNT 1:

Infringement of U.S. Patent 5,889,868 titled "Optimization methods for the insertion, protection, and detection of digital watermarks in digitized data"

46. Blue Spike incorporates by reference the allegations in paragraphs above.

47. The '868 Patent is valid, is enforceable, and was duly and legally issued from the United States Patent and Trademark Office. It has a filing date of July 2, 1996.

48. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the '868 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and

devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.

49. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '868 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '868 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are for use in systems that infringe the '868 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '868 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '868 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of the '868 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '868 Patent under 35 U.S.C. §271.

50. Defendant's acts of infringement of the '868 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '868 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

51. Claim 13 of the '868 Patent recites as follows:

13. A method of encoding a watermark in a digital signal, comprising the steps of:
mapping pseudo-random key and processing state information to effect an encode/decode map using a non-linear generator; and
encoding the watermark in the digital signal using the encode/decode map and characteristics of the digital signal.

52. The accused technology NexGuard and Vtrack directly infringe at least claim 13 of this Patent as they both practice the patented method of encoding a watermark into a digital signal.

53. NexGuard is a method for adding or embedding (“encoding”) a watermark into audio and video content (“a digital signal”).

54. The accused product NexGuard performs a process by which a unique, invisible serial number can be added to audio content. The watermark is designed to remain with the content, regardless of how it might be transcoded, resized, downscaled or otherwise altered for distribution.

55. NexGuard for video and audio content allows the creator or service operator to embed a unique serial number in the content as it is playing. This payload remains completely imperceptible to the consumer while at the same time being resistant to nearly any transformation of the video in size, format or resolution. *See* NexGuard’s “Forensic Watermarking 101” webpage, available at <http://www.nexguard.com/forensic-watermarking-introduction/>.

56. The accused technology NexGuard infringes additional claims of the '868 Patent, including 1, 2, 3, 4, 6, 10, and 11 through its method of digital watermarking content as explained below with evidence of infringement taken from NexGuard's website. *See* NexGuard's File Embedder Datasheet.

57. The accused products NexTracker and SyncNow directly infringe at least claim 5 of the '868 Patent as they practice the patented method of encoding a watermark into a digital signal. *See* Exhibit 28, *see also* Exhibits 29-33.

58. The accused product Teletrax directly infringes by practicing claim 5 of the '868 Patent by encoding a digital watermark into a digital signal containing content that it wants to track. *See* Exhibit 6; *see also* Exhibit 7-11. Teletrax uses Blue Spike's patented technology to encode content with a digital watermark so it can later be identified via monitoring of the radio, television or the Internet. Additionally, the accused product Teletrax infringes claims 1, 6, 8, 12, 17, of the '868 Patent.

59. On information and belief, Defendant has at least had constructive notice of the '868 Patent by operation of law and www.bluespike.com.

COUNT 2:

Infringement of U.S. Patent 7,770,017 titled "Optimization methods for the insertion, protection, and detection of digital watermarks in digitized data"

60. Blue Spike incorporates by reference the allegations in paragraphs above.

61. The '017 Patent is valid, is enforceable, and was duly and legally issued from the United States Patent and Trademark Office.

62. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the '017 Patent—directly, contributorily,

or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.

63. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '017 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '017 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are for use in systems that infringe the '017 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '017 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '017 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of the '017 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '017 Patent under 35 U.S.C. §271.

64. Defendant's acts of infringement of the '017 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '017

Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

65. Claim 13 of the '017 Patent recites:

13. A system for authorizing content comprising:
a receiver to receive a potentially watermarked signal;
a selector to select a portion of the potentially watermarked signal to detect a digital watermark; and,
a processor to determine the contents of the detected digital watermark with a key comprising at least one access privilege to the contents of the detected digital watermark.

66. The NexGuard accused technology infringes claim 13 of the '017 patent as explained in the infringement claim chart attached as Exhibit 43.

67. The 4C Group directly infringes by practicing claim 13 of the '017 Patent by encoding a digital watermark into a digital signal containing content that the customer wants to track with their product Teletrax. Teletrax uses Blue Spike's patented technology to encode content with a digital watermark so it can later be identified via monitoring of the radio, television or the Internet. Teletrax is offered for sale by 4C and was formerly offered for sale by Civolution in the last 6 years. Additionally, the accused product Teletrax infringes claims 1, 21, and 23, of the '017 Patent.

68. On information and belief, Defendant has at least had constructive notice of the '017 Patent by operation of law.

COUNT 3:

Infringement of **U.S. Patent 7,877,609** titled **“Optimization methods for the insertion, protection, and detection of digital watermarks in digital data”**

69. Blue Spike incorporates by reference the allegations in paragraphs above.

70. The '609 Patent is valid, is enforceable, and was duly and legally issued from the United States Patent and Trademark Office.

71. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the '609 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.

72. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '609 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '609 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are for use in systems that infringe the '609 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '609 Patent under 35 U.S.C. §271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '609 Patent at least as early as

the service of this complaint and is thus liable for infringement of one or more claims of the '609 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '609 Patent under 35 U.S.C. §271.

73. Defendant's acts of infringement of the '609 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '609 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

a. The 4C Group's accused product Teletrax infringes the claims of the '609 Patent, including Claim 5. *See* Exhibit 12 (Blue Spike Infringement Chart of Teletrax's Infringement of Claim 10 of the '609 Patent); *see also* Exhibits 7,8,9,10,11.

b. The NexGuard Group's accused product NexGuard infringes various claims of the '609 Patent, including claim 5, 6, 7, 8. *See* Exhibit 18; *see also* Exhibits 19-27.

c. The Kantar Group's accused products infringe various claims of the '609 Patent, including Claim 10 of the '609 Patent. *See* Exhibit 34, *see also* Exhibits 29-33.

74. On information and belief, Defendant has at least had constructive notice of the '609 Patent by operation of law.

COUNT 4:

Infringement of **U.S. Patent 7,913,087** titled **“Optimization methods for the insertion, protection, and detection of digital watermarks in digital data”**

75. Blue Spike incorporates by reference the allegations in paragraphs above.

76. The '087 Patent is valid, is enforceable, and was duly and legally issued from the United States Patent and Trademark Office.

77. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the '087 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.

78. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '087 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '087 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are for use in systems that infringe the '087 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '087 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '087 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of

the '087 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '087 Patent under 35 U.S.C. §271.

79. Defendant's acts of infringement of the '087 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '087 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

- a. The 4C Group's accused product Teletrax infringes the at least claim 1 of this Patent. *See* Exhibit 12 (Blue Spike Infringement Chart of Teletrax's Infringement); *see* Exhibit 42; *see also* Exhibits 7,8,9,10,11.
- b. The NexGuard Group's accused product NexGuard infringes various claims of this Patent, including claim 1. *See* Exhibit 18; *see also* Exhibits 19-27.
- c. The Kantar Group's accused products infringe various claims of this Patent, including Claim 1. *See* Exhibit 44, *see also* Exhibits 29-33.

80. On information and belief, Defendant has at least had constructive notice of the '087 Patent by operation of law.

COUNT 5:

Infringement of **U.S. Patent 7,953,981 titled “Optimization methods for the insertion, protection, and detection of digital watermarks in digital data;”**

81. Blue Spike incorporates by reference the allegations in paragraphs above.
82. The '981 Patent is valid, is enforceable, and was duly and legally issued from the United States Patent and Trademark Office.
83. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the '981 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.
84. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '981 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '981 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are for use in systems that infringe the '981 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '981 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '981 Patent at least as early as

the service of this complaint and is thus liable for infringement of one or more claims of the '981 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '981 Patent under 35 U.S.C. §271.

85. Defendant's acts of infringement of the '981 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '981 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

86. On information and belief, Defendant has at least had constructive notice of the '981 Patent by operation of law.

COUNT 6:

Infringement of U.S. Patent 8,121,343 titled "Optimization Methods For The Insertion, Protection, and Detection of Digital Watermarks in Digitized Data"

87. Blue Spike incorporates by reference the allegations in paragraphs above.

88. The '343 Patent is valid, is enforceable, and was duly and legally issued from the United States Patent and Trademark Office.

89. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the '343 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.

90. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '343 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '343 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are for use in systems that infringe the '343 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '343 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '343 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of the '343 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '343 Patent under 35 U.S.C. §271.

91. Defendant's acts of infringement of the '343 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '343 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

- a. The 4C Group's accused product Teletrax infringes the at least claim 1 of this Patent. *See* Exhibit 12 (Blue Spike

Infringement Chart of Teletrax’s Infringement); *see* Exhibit 42; *see also* Exhibits 7,8,9,10,11.

b. The NexGuard Group’s accused product NexGuard infringes various claims of this Patent, including claim 1.

See Exhibit 18; *see also* Exhibits 19-27.

c. The Kantar Group’s accused products infringe various claims of this Patent, including Claim 1. *See* Exhibit 44, *see also* Exhibits 29-33.

92. On information and belief, Defendant has at least had constructive notice of the ’343 Patent by operation of law

COUNT 7:

Infringement of U.S. Patent 8,161,286 titled “Method and System for Digital Watermarking”

93. Blue Spike incorporates by reference the allegations in paragraphs above.

94. The ’286 Patent is valid, is enforceable, and was duly and legally issued from the United States Patent and Trademark Office.

95. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the ’286 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.

96. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the ’286

Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '286 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are for use in systems that infringe the '286 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '286 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '286 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of the '286 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '286 Patent under 35 U.S.C. §271.

97. Defendant's acts of infringement of the '017 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '286 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

98. On information and belief, Defendant has at least had constructive notice of the '286 Patent by operation of law

COUNT 8:

Infringement of U.S. Patent 8,175,330 titled “Optimization methods for the insertion, protection, and detection of digital watermarks in digital data”

99. Blue Spike incorporates by reference the allegations in paragraphs above.

100. The '330 Patent is valid, is enforceable, and was duly and legally issued from the United States Patent and Trademark Office.

101. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the '330 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.

102. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '330 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '330 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are for use in systems that infringe the '330 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '330 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '330 Patent at least as early as

the service of this complaint and is thus liable for infringement of one or more claims of the '330 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '330 Patent under 35 U.S.C. §271.

103. Defendant's acts of infringement of the '330 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '330 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

- a. The 4C Group's accused product Teletrax infringes the at least claim 1 of this Patent. *See* Exhibit 12 (Blue Spike Infringement Chart of Teletrax's Infringement); *see* Exhibit 42; *see also* Exhibits 7,8,9,10,11.
- b. The NexGuard Group's accused product NexGuard infringes various claims of this Patent, including claim 1. *See* Exhibit 18; *see also* Exhibits 19-27.
- c. The Kantar Group's accused products infringe various claims of this Patent, including Claim 1. *See* Exhibit 44, *see also* Exhibits 29-33.

104. On information and belief, Defendant has at least had constructive notice of the '330 Patent by operation of law.

COUNT 9:

Infringement of U.S. Patent 8,225,099 titled “Linear predictive coding implementation of digital watermarks”

105. Blue Spike incorporates by reference the allegations in paragraphs above.
106. The '099 Patent is valid, is enforceable, and was duly and legally issued from the United States Patent and Trademark Office.
107. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the '099 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.
108. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '099 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '099 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are for use in systems that infringe the '099 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '099 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '099 Patent at least as early as

the service of this complaint and is thus liable for infringement of one or more claims of the '099 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '099 Patent under 35 U.S.C. §271.

109. Defendant's acts of infringement of the '099 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '099 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

- a. The 4C Group's accused product Teletrax infringes the at least claim 1 of this Patent. *See* Exhibit 12 (Blue Spike Infringement Chart of Teletrax's Infringement); *see* Exhibit 42; *see also* Exhibits 7,8,9,10,11.
- b. The NexGuard Group's accused product NexGuard infringes various claims of this Patent, including claim 1. *See* Exhibit 18; *see also* Exhibits 19-27.
- c. The Kantar Group's accused products infringe various claims of this Patent, including Claim 1. *See* Exhibit 44, *see also* Exhibits 29-33.

110. On information and belief, Defendant has at least had constructive notice of the '099 Patent by operation of law.

**COUNT 10:
Infringement of U.S. Patent 8,307,213 titled “Method and System for Digital
Watermarking”**

111. Blue Spike incorporates by reference the allegations in paragraphs above.
112. The '213 Patent is valid, is enforceable, and was duly and legally issued from the United States Patent and Trademark Office.
113. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the '213 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.
114. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '213 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '213 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are for use in systems that infringe the '213 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '213 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '213 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of

the '213 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '213 Patent under 35 U.S.C. §271.

115. Defendant's acts of infringement of the '213 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '213 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

- a. The 4C Group's accused product Teletrax infringes the at least claim 1 of this Patent. *See* Exhibit 12 (Blue Spike Infringement Chart of Teletrax's Infringement); *see* Exhibit 42; *see also* Exhibits 7,8,9,10,11.
- b. The NexGuard Group's accused product NexGuard infringes various claims of this Patent, including claim 1. *See* Exhibit 18; *see also* Exhibits 19-27.
- c. The Kantar Group's accused products infringe various claims of this Patent, including Claim 1. *See* Exhibit 44, *see also* Exhibits 29-33.

116. On information and belief, Defendant has at least had constructive notice of the '213 Patent by operation of law.

WILLFUL INFRINGEMENT

117. Defendants infringement of the Patent-in-Suit by each Defendant has been willful and continues to be willful. Each defendant had knowledge of the Patent-in-Suit, including but not limited to at least one or more of the following:

- a. Through Civolution USA Inc. and Civolution B.V.'s previous lawsuit with Blue Spike, which lead to negotiations to license the Patents-in-Suit and related technology;
- b. Competitive Media Reporting, LLC and Kantar Media Intelligences, Inc.s due diligence of the previous Blue Spike lawsuit in their acquisition of Civolution USA, Inc.;
- c. 4C Insights, Inc.'s due diligence of the previous Blue Spike lawsuit with Civolution in its acquisition of Teletrax USA, Inc., a spinoff of Civolution USA Inc.
- d. Kudelski S.A.'s due diligence of its 2016 purchase of Civolution B.V. with knowledge of this lawsuit being asserted at that time.

REQUEST FOR RELIEF

Blue Spike incorporates each of the allegations in paragraphs above and respectfully asks the Court to:

- (a) enter a judgment that Defendant has directly infringed, contributorily infringed, and/or induced infringement of one or more claims of each of the Patent-in-Suit;
- (b) enter a judgment awarding Blue Spike all damages adequate to compensate it for Defendant's infringement of, direct or contributory, or inducement to infringe, the Patent-

in-Suit, including all pre-judgment and post-judgment interest at the maximum rate permitted by law;

(c) enter a judgment awarding treble damages pursuant to 35 U.S.C. §284 for Defendant's willful infringement of one or more of the Patent-in-Suit;

(d) issue a preliminary injunction and thereafter a permanent injunction enjoining and restraining Defendant, its directors, officers, agents, servants, employees, and those acting in privity or in concert with them, and their subsidiaries, divisions, successors, and assigns, from further acts of infringement, contributory infringement, or inducement of infringement of the Patent-in-Suit;

(e) enter a judgment requiring Defendant to pay the costs of this action, including all disbursements, and attorneys' fees as provided by 35 U.S.C. §285, together with prejudgment interest; and

(f) award Blue Spike all other relief that the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Blue Spike demands a jury trial on all issues that may be determined by a jury.

Respectfully submitted,

/s/ Randall T. Garteiser
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Counsel for Blue Spike, LLC

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Federal Rule of Civil Procedure 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email, on this date stamped above.

/s/ Randall T. Garteiser
Randall T. Garteiser