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

MYMAIL, LTD.,	§	
	§	
Plaintiff,	§	
	§	**Civil Action No. 2:16-cv-1474-JRG-RSP**
v.	§	
	§	**Jury Trial Demanded**
DUCK DUCK GO, INC.,	§	
	§	
Defendant.	§	

PLAINTIFF'S FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT

Plaintiff MyMail, Ltd. files this First Amended Complaint against Duck Duck Go, Inc. and alleges as follows.

PARTIES

1.   Plaintiff MyMail, Ltd. ("MyMail") is a Texas limited partnership with an office and place business at 5344 County Road 3901, Athens, TX 75752. MyMail was founded in 2003 as an intellectual property development and licensing company providing secure, Internet-related services and efficient web page interaction to Internet service providers, mobile device manufacturers, network carriers, and Internet related toolbar developers. MyMail developed technology providing for the dynamic updating, changing, or modification of toolbar data from remote servers (the "MyMail Toolbar Technology"). Using the MyMail Toolbar Technology, toolbar providers can, for example, dynamically change elements, functions, and buttons on their toolbar(s) for specific, targeted users based on use and individual searches. MyMail has obtained patents covering the MyMail Toolbar Technology and has successfully licensed the patented technology to toolbar providers.

2.   Upon information and belief, Defendant Duck Duck Go, Inc. ("DuckDuckGo") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 190 Country Lane, Phoenixville, Pennsylvania 19460. DuckDuckGo may be served with process through its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

JURISDICTION AND VENUE

3.   This is an action for patent infringement arising under the patent laws of the United States of America, Title 35, United States Code. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4.   DuckDuckGo is engaged in the business of publishing and distributing a browser plug-in called the DuckDuckGo Toolbar that seamlessly integrates with browsers, such as Microsoft Internet Explorer, and appears in a user's browser to provide search, email, news, and other functions as a resource for content from any web page location (the "DuckDuckGo Toolbar"). The DuckDuckGo Toolbar docks itself to a device's browser when installed and sits atop the browser at all times.   DuckDuckGo publishes, promotes, and distributes the DuckDuckGo Toolbar to users in the United States, including users within this District.

5.   Upon information and belief, DuckDuckGo is subject to this Court's specific personal jurisdiction because DuckDuckGo does business in the State of Texas, and has committed acts of infringement in the State of Texas as alleged below. In particular, upon information and belief, DuckDuckGo is subject to the specific personal jurisdiction of this Court because MyMail's claims for patent infringement against DuckDuckGo arise from its acts of infringement in the State of Texas. These acts of infringement include providing the infringing DuckDuckGo Toolbar to users of the DuckDuckGo Toolbar in the State of Texas and causing

the browser on a user device to display the toolbar and perform the other functions of the asserted claims. Therefore, this Court has personal jurisdiction over DuckDuckGo under the Texas long-arm statute, TEX. CIV. PRAC. & REM. CODE §17.042.

6.   Venue is proper in this District under 28 U.S.C. §§ 1391(c) and 1400(b). Upon information and belief, DuckDuckGo has engaged in acts of infringement in the State of Texas described here sufficient to subject it to personal jurisdiction in this District if the District were a separate State.

THE PATENTS-IN-SUIT

7.   On April 28, 2015, the United States Patent and Trademark Office issued United States Patent No. 9,021,070 (the "'070 Patent") entitled "Dynamically Modifying a Toolbar," a true copy of which is attached as Exhibit 1. The '070 Patent is a continuation of United States Patent No. 8,275,863, which was issued on September 25, 2012.

8.   MyMail is the assignee of the '070 Patent, and has the exclusive right to sue for and recover all past, present and future damages for infringement of the '070 Patent.

ALLEGATIONS COMMON TO ALL CLAIMS

9.   The DuckDuckGo Toolbar software causes the toolbar to be displayed on a user Internet device (*i.e.,* a device that can communicate with other devices via the Internet) that includes toolbar buttons. For example, the DuckDuckGo Toolbar displayed on a user's Internet device includes the "News," "twitter," "!bang," and "Gmail" buttons indicated in FIGURE 1.

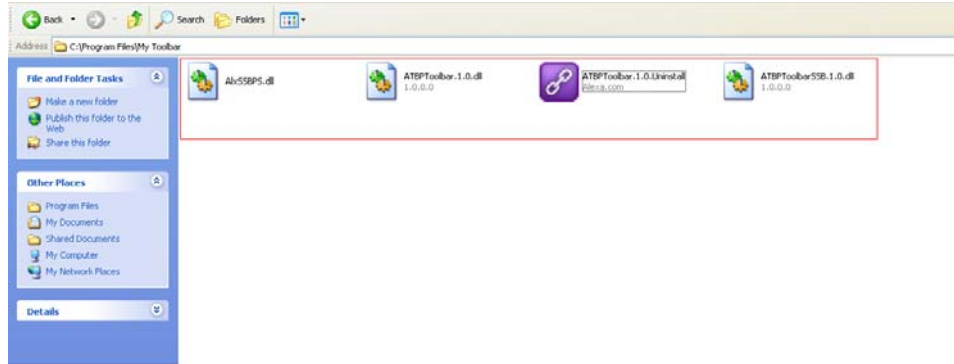**FIGURE 1**
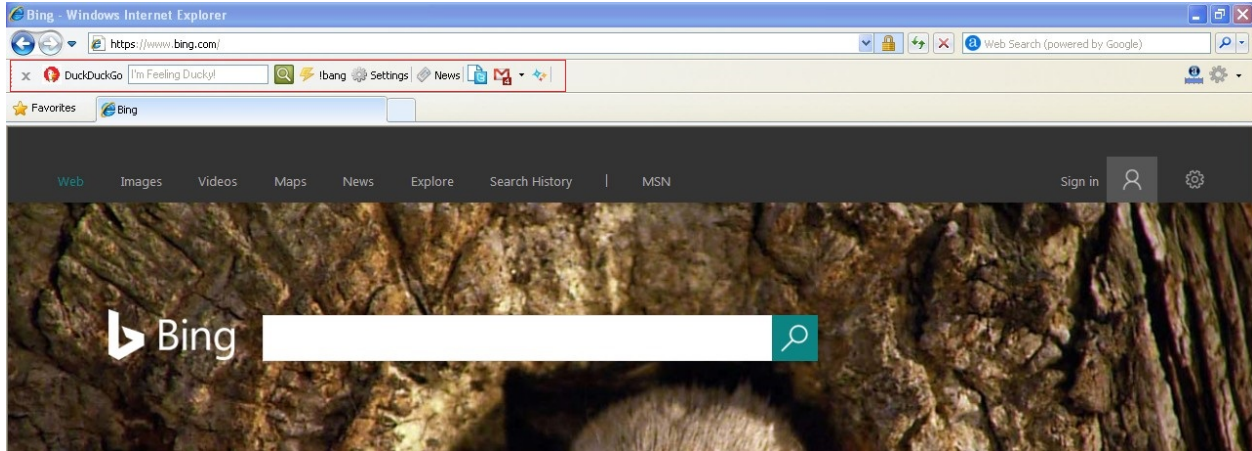
10.   The toolbar buttons on the DuckDuckGo Toolbar are defined by toolbar data stored in toolbar-defining databases.   In particular, the toolbar buttons on the DuckDuckGo Toolbar are defined by toolbar data as indicated in FIGURE 2 below stored in the "C:\Documents and Settings\User\Local Settings" folder on the user Internet device:
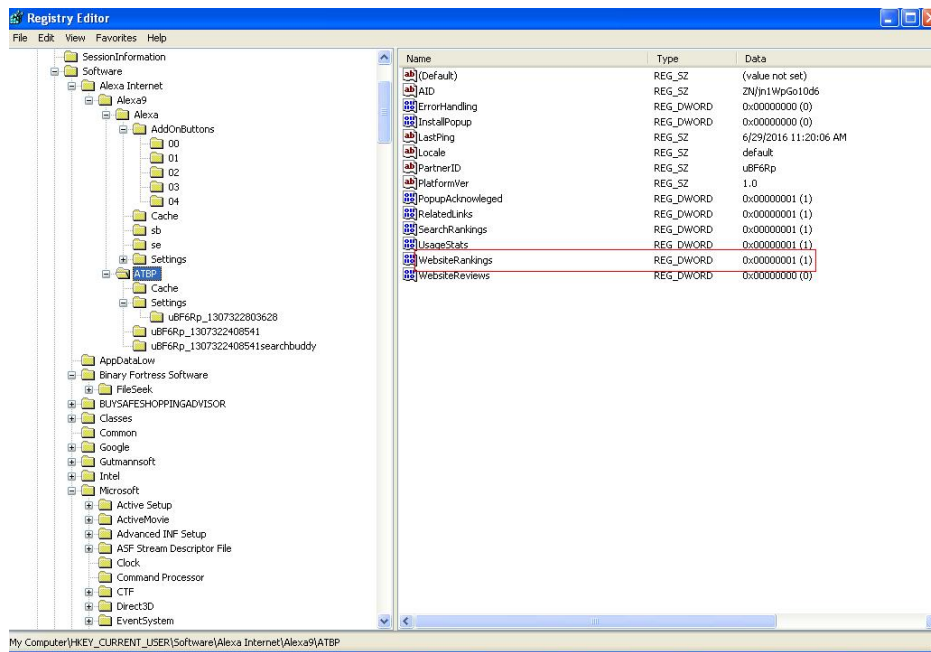
FIGURE 2
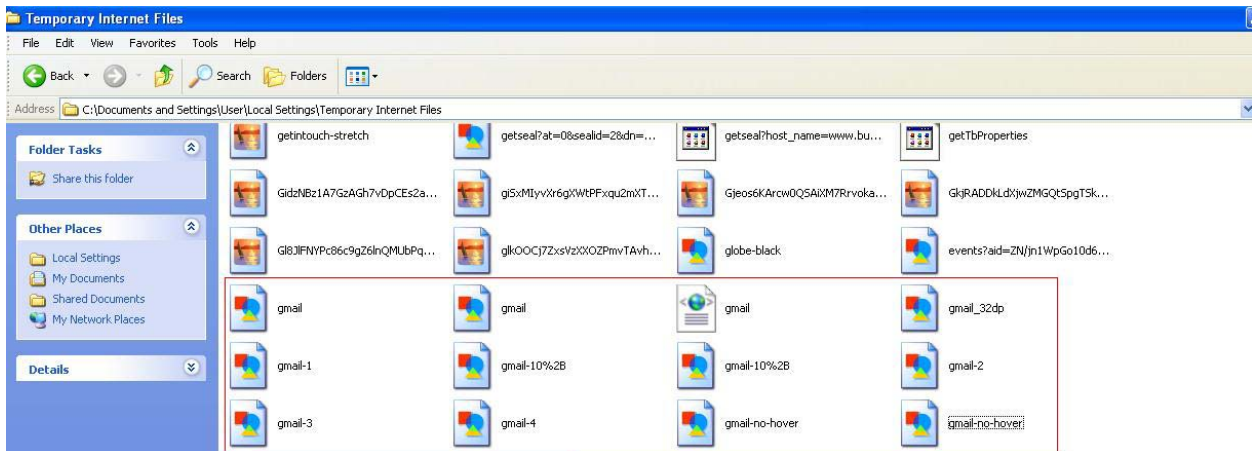
11.   The toolbar buttons are also defined by toolbar data as indicated below in FIGURE 3 stored in the "C:\Program Files\My Toolbar" folder on the user Internet device:

FIGURE 3

12.   The toolbar buttons are also defined by toolbar data as indicated below in FIGURE 4 stored in the Windows System Registry on the user Internet device:

FIGURE 4

13.   The "C:\Documents and Settings\User\Local Settings" and "C:\Program Files\My Toolbar" folders, and the Windows System Registry constitute toolbar defining databases of the user Internet device.

14.   The toolbar data of the DuckDuckGo Toolbar comprises a plurality of toolbar button attributes associated with one or more toolbar buttons of the toolbar. For example, as shown below in FIGURE 5, the toolbar data in the "gmail.xml" file in the "C:\Documents and Settings\User\Local Settings" folder on the user Internet device includes a plurality of toolbar button attributes associated with the toolbar buttons of the toolbar:

FIGURE 5

```
<?xml version="1.0" encoding="utf-8" ?>
<buttons>
    <title>Gmail</title>
    <id>gmail</id>
    <button>
        <type>javascript</type>
        <shortText>
            <![CDATA[ Gmail ]]>
        </shortText>
        <id>gm</id>
        <imageType>icon</imageType>
        <image>
            <![CDATA[ https://s3.amazonaws.com/com.alexa.toolbar/alx/i/10.0/buttons/gmail/gmail-out.png ]]>
        </image>
        <hoverImage>
            <![CDATA[ https://s3.amazonaws.com/com.alexa.toolbar/alx/i/10.0/buttons/gmail/gmail-no-hover.png ]]>
        </hoverImage>
        <tooltip>Sign in to Gmail</tooltip>
        <javascript>
```

15.   At least one of the toolbar button attributes (for example, in the "config.xml" toolbar data) identifies a function to be performed by a specific toolbar button upon actuation of the toolbar button. For example, as shown in FIGURE 6 below, the "value" toolbar button attribute for each button in the toolbar includes a function to be performed when the button is actuated:

FIGURE 6

```
function getTime(offset)
{
    var t = (new Date()).getTime();
    t = t / 1000 + offset;
    return t;
}

function random()
{
    var r = Math.floor(Math.random() * 901 + 100 );
    return r;
}

function gmailUrl()
{
    var url = "https://mail.google.com/mail/";
    return url;
}
```

16.   When the user clicks the "Gmail" button on the DuckDuckGo Toolbar, as shown below in FIGURES 7 and 8, a webpage associated with the button is displayed:
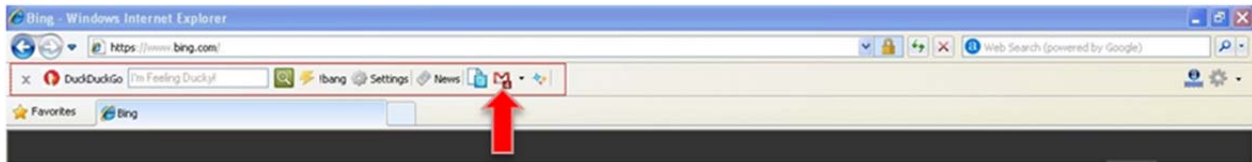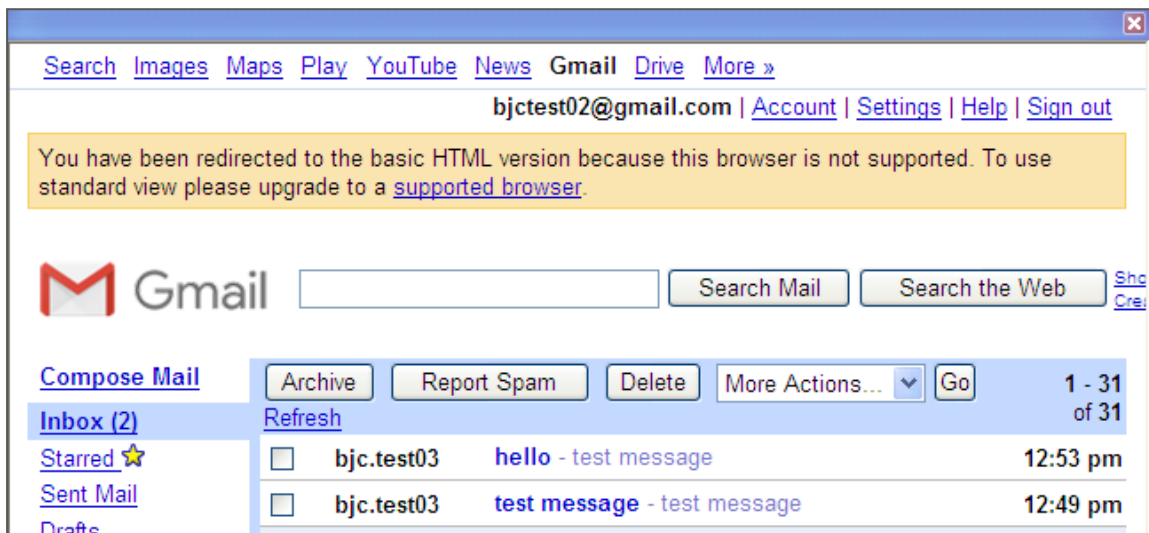
FIGURE 7

FIGURE 8

17.   The DuckDuckGo Toolbar performs "A method for dynamically modifying a toolbar …" For example, as shown below in FIGURE 9 the DuckDuckGo Toolbar communicates with server at IP Address 216.58.197.37, to modify the DuckDuckGo Toolbar by, for example, updating the Gmail "Notifications count" for a logged in user:

FIGURE 9

#	Determine...	X-Clien...	ClientBeginRequest	X-HostIP	X-ClientIP	Result	Protocol	Host	URL
36		1387	16:24:44.906	216.58.197.37	127.0.0.1	200	HTTPS	mail.google.com	/mail/feed/atom

18.   The DuckDuckGo Toolbar further performs the step of "[i]nvoking, from the user Internet device without user intervention, communication of information associated with the one or more toolbar-defining databases to a server associated with a network address." For example, as shown below in FIGURE 10 a GET request sent from a user Internet device to a server associated with a network address such as, for example, the server associated with network address 216.58.197.37.

FIGURE 10

#	Determine...	X-Clien...	ClientBeginRequest	X-HostIP	X-ClientIP	Result	Protocol	Host	URL
36		1387	16:24:44.906	216.58.197.37	127.0.0.1	200	HTTPS	mail.google.com	/mail/feed/atom

19.   The GET request contains information associated with the toolbar data stored in the one or more toolbar defining databases of the user Internet device such as, for example, user info (encoded) in the cookie data is stored in "USER@MAIL.GOOGLE[4].txt" file in "C:\Documents and Settings\User\Cookies" folder as shown below in FIGURES 11 and 12.

FIGURE 11

FIGURE 12

20.   The "GET" request is sent from the user Internet device at IP address 127.0.0.1, without user intervention. For example, as shown below in FIGURE 13, the DuckDuckGo Toolbar automatically sends a GET request at approximately 5 minute intervals, without user intervention, to obtain an updated Gmail "Notifications count."

FIGURE 13

#	Determine...	X-Clien...	ClientBeginRequest	X-HostIP	X-ClientIP	Result	Protocol	Host
49		1413	16:29:57.109	216.58.197.37	127.0.0.1	200	HTTPS	mail.google.com
63		1444	16:35:12.656	74.125.68.19	127.0.0.1	200	HTTPS	mail.google.com
205		1595	16:40:27.218	216.58.197.69	127.0.0.1	200	HTTPS	mail.google.com
216		1617	16:45:42.468	216.58.196.101	127.0.0.1	200	HTTPS	mail.google.com
221		1625	16:50:58.515	216.58.197.37	127.0.0.1	200	HTTPS	mail.google.com
226		1633	16:56:12.265	216.58.220.37	127.0.0.1	200	HTTPS	mail.google.com
231		1642	17:01:12.500	216.58.196.101	127.0.0.1	200	HTTPS	mail.google.com
236		1650	17:06:27.390	172.217.26.69	127.0.0.1	200	HTTPS	mail.google.com
241		1658	17:11:27.390	172.217.26.69	127.0.0.1	200	HTTPS	mail.google.com
10		1350	16:23:36.843	54.231.17.40	127.0.0.1	200	HTTPS	s3.amazonaws.com
12		1349	16:23:36.843	54.231.17.40	127.0.0.1	403	HTTPS	s3.amazonaws.com
15		1360	16:23:37.484	54.231.17.40	127.0.0.1	200	HTTPS	s3.amazonaws.com
16		1352	16:23:37.718	54.231.12.248	127.0.0.1	200	HTTPS	s3.amazonaws.com
21		1364	16:23:38.296	54.231.17.40	127.0.0.1	403	HTTPS	s3.amazonaws.com
28		1373	16:23:39.203	54.231.17.40	127.0.0.1	304	HTTPS	s3.amazonaws.com
30		1351	16:23:40.625	54.231.14.112	127.0.0.1	200	HTTPS	s3.amazonaws.com
31		1382	16:23:40.656	54.231.17.40	127.0.0.1	403	HTTPS	s3.amazonaws.com

21.   On information and belief, the DuckDuckGo toolbar performs the step "receiving, at the server, the information associated with the one or more toolbar-defining databases" because, as shown below in FIGURES 14 and 15, the server responds to the GET request by sending the user Internet device updated toolbar data, such as the Gmail "Notifications count" for a logged in user, in the form of one or more text/xml messages containing the updated toolbar data.
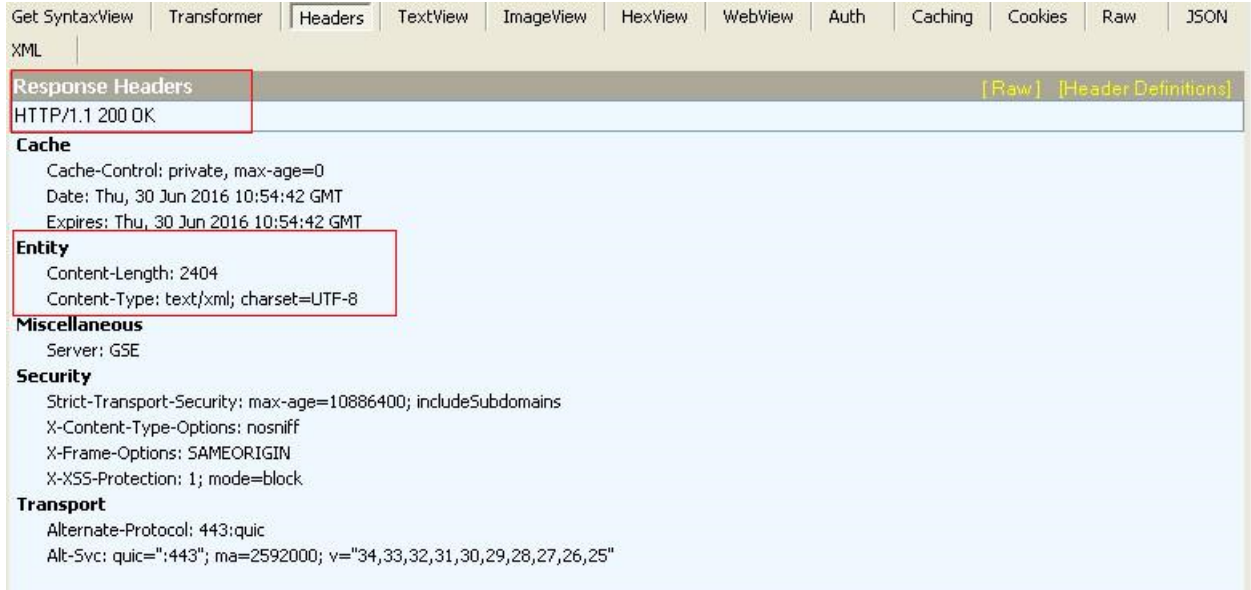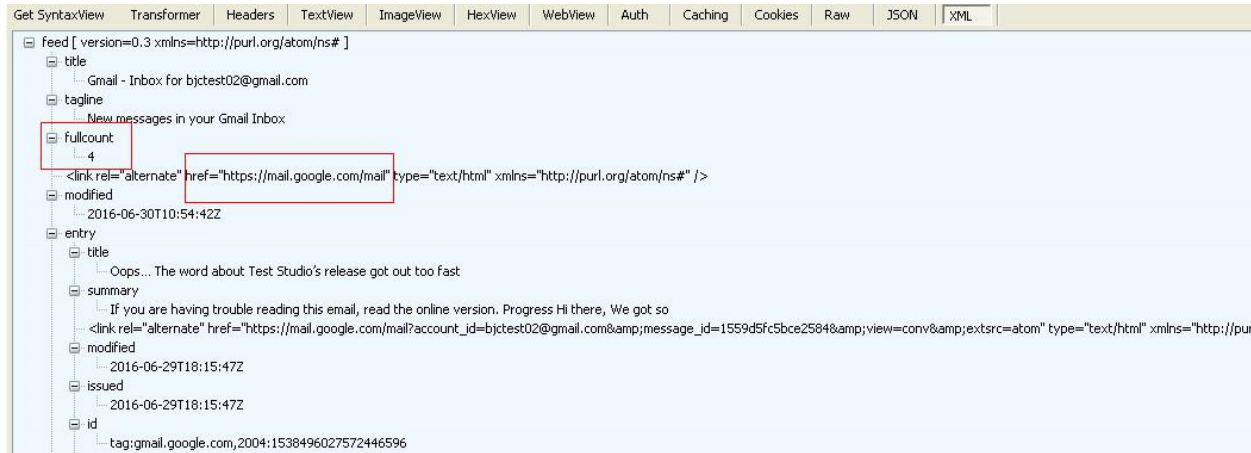
FIGURE 14

FIGURE 15

22.   On information and belief, the DuckDuckGo Toolbar further performs the step of "determining, based on the information associated with the one or more toolbar defining databases, that the user Internet device should receive updated toolbar data."   For example, as shown below in FIGURES 16 and 17, the user Internet device sends GET requests to a server at IP address 216.58.197.37 for updated toolbar data such as the Gmail "Notifications count" for a logged in user. The server responds to the GET request by sending the user Internet device

updated toolbar data in the form of one or more TEXT/XML messages containing the updated

toolbar data:

FIGURE 16

FIGURE 17
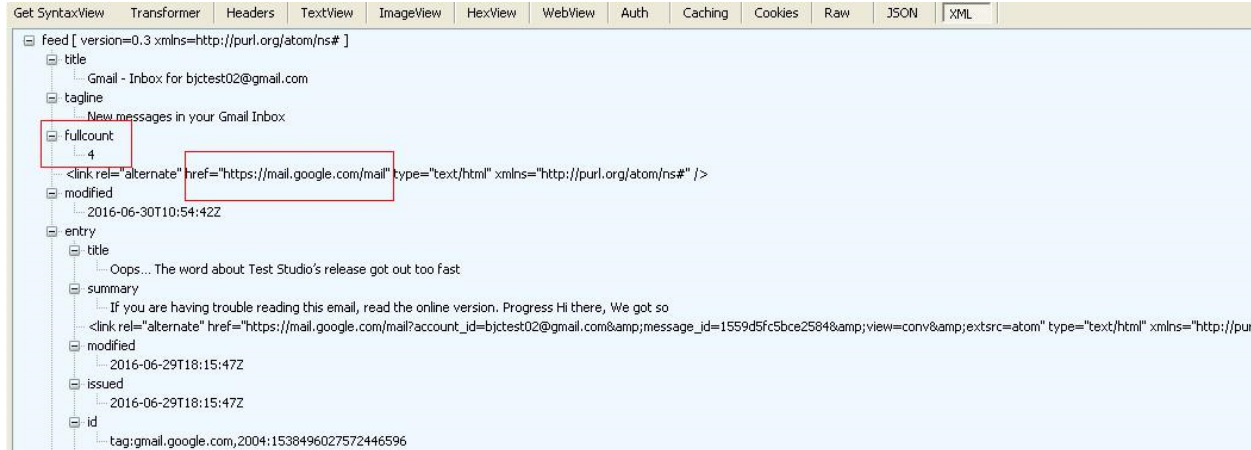
23.   The DuckDuckGo Toolbar further performs the step of "receiving, at the user

Internet device, the updated toolbar data in response to determining that the user Internet device

should receive the updated toolbar data." For example, as shown below in FIGURES 18-20, the

user Internet device receives the updated toolbar data such as the Gmail "Notifications count" for

a logged in user, in the form of TEXT/XML messages from the server at IP address

216.58.197.37. The server sends the updated toolbar data in response to determining that the user

Internet device should receive updated toolbar data, based on, for example, data associated with
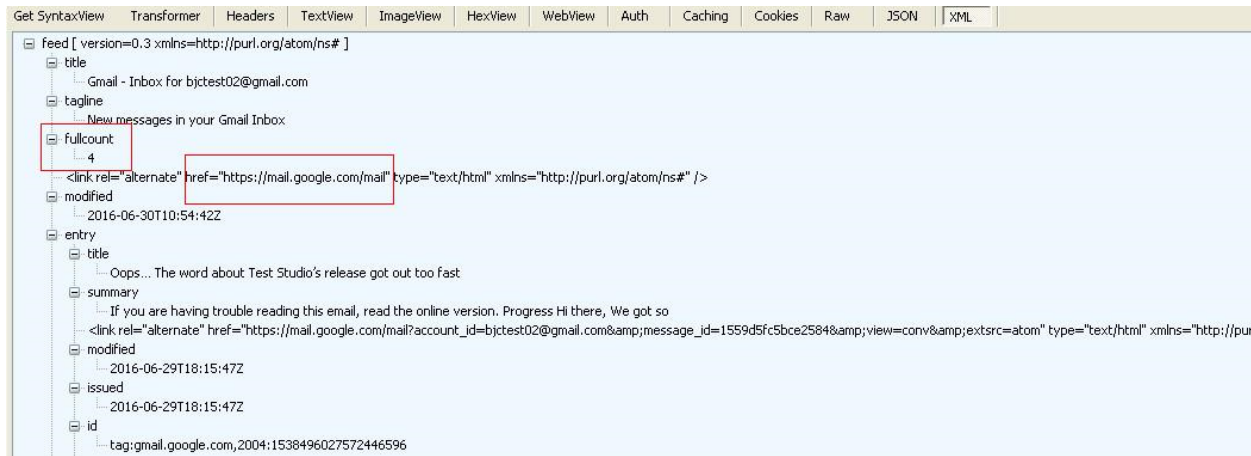
toolbar-defining databases.

FIGURE 18

FIGURE 19

FIGURE 20

24.   The DuckDuckGo Toolbar further performs the step of "initiating, at the user Internet device and without user interaction, an operation to update the toolbar data in accordance with the received updated toolbar data." For example, as shown below in FIGURES 21-23, the DuckDuckGo Toolbar receives the updated toolbar data such as, for example, the latest Gmail "Notifications count" for a user, in the form of TEXT/XML messages from the server at IP address 216.58.197.37. The user Internet device initiates an operation to update the

toolbar data by displaying the latest "Notifications count" on the "Gmail" button in accordance to the received updated toolbar data without any user interaction.

FIGURE 21
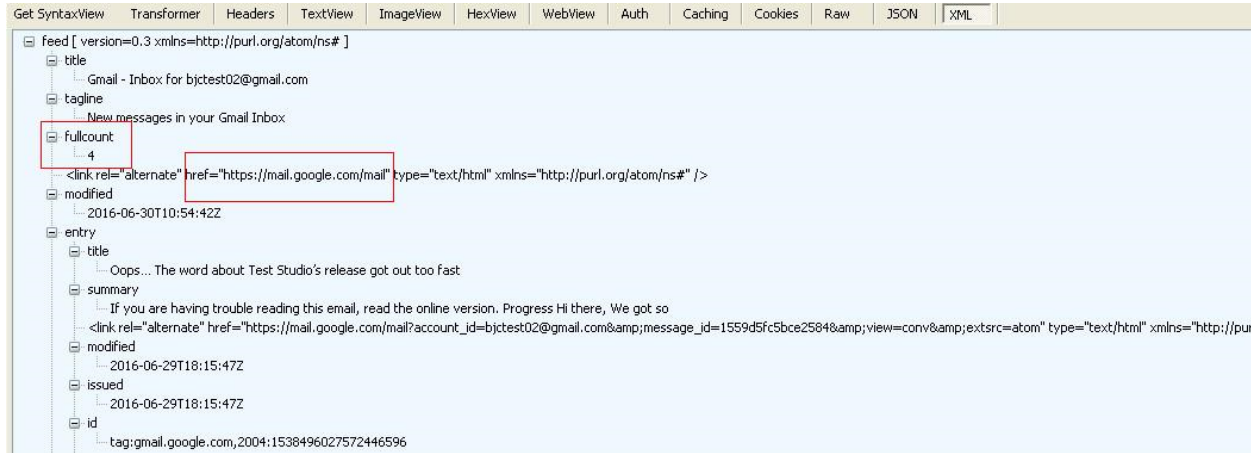

FIGURE 22

FIGURE 23

25.   The DuckDuckGo Toolbar further performs the step of "updating the toolbar data at the user Internet device based on the operation and in accordance with the updated toolbar data, thereby updating the toolbar data, the updating comprising at least… updating the toolbar data to modify an attribute of at least one of the one or more toolbar buttons of the toolbar." For example, as shown below in FIGURES 24-25, the DuckDuckGo Toolbar performs an operation to update the toolbar data to modify an attribute of at least one of the one or more toolbar buttons on the toolbar such as, for example, by updating the Gmail "Notifications count" for a logged in

user, and modifying an attribute of at least one of the one or more toolbar buttons of the toolbar such as, for example, by displaying the latest "Notifications count" on the "Gmail" button.
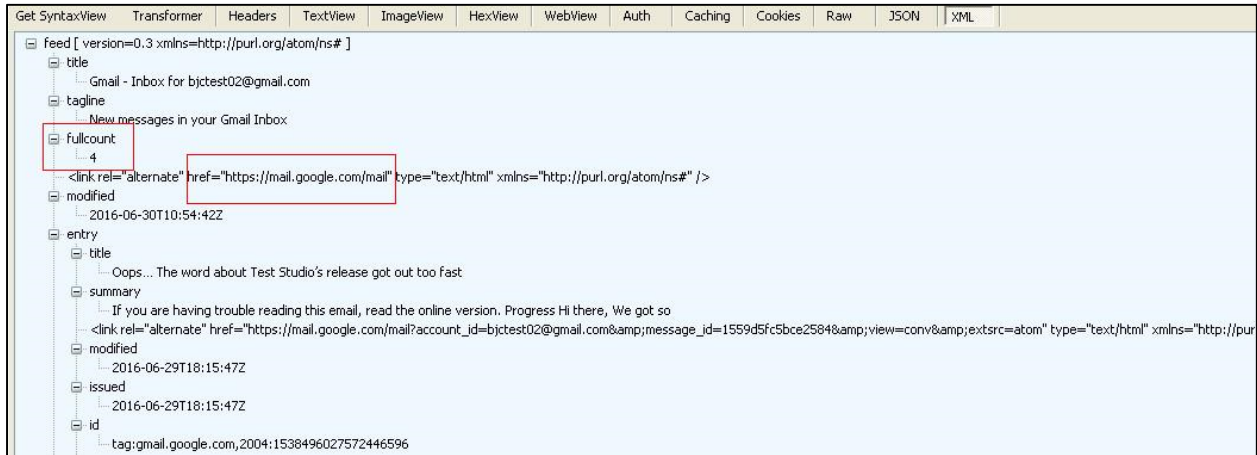
FIGURE 24

FIGURE 25

26.   The DuckDuckGo Toolbar further performs the step of "displaying at the user Internet device the toolbar as defined by the updated toolbar data, wherein the information associated with the toolbar data includes at least… [an] IP address…" For example, as shown below in FIGURE 26, the DuckDuckGo Toolbar displays the toolbar as defined by the updated toolbar data, such as displaying the updated "Notifications count" on the "Gmail" button. As shown in FIGURE 27, for example, the information associated with the toolbar data includes an IP address such as, for example, the IP address 127.0.0.1.

FIGURE 26

FIGURE 27

27.   The DuckDuckGo Toolbar integrates with a browser, such as Internet Explorer, on a device capable of communicating with other devices over a network such as a user Internet device.

28.   The DuckDuckGo Toolbar performs each of the functions described in one or more claims of the '070 Patent, including the functions described above. In particular, the DuckDuckGo Toolbar software embedded in the browser of the user Internet device and remotely located, such as on a server remote from the user Internet device, instructs these devices to perform these functions. The DuckDuckGo Toolbar, therefore, directs and controls the functions of the user Internet device and the remote device(s) that perform the functions described above.

29.   To the extent any third party performs any of the functions described above, the performance of such functions is attributable to the DuckDuckGo Toolbar because it directs and controls the performance of those functions.

CLAIM 1 -- INFRINGEMENT OF U.S. PATENT NO. 9,021,070

30.   Plaintiff incorporates paragraphs 1 through 30 as though fully set forth herein.

31.   Upon information and belief, DuckDuckGo has been and is now directly infringing one or more claims of the '070 Patent by using (including for testing purposes) the

DuckDuckGo Toolbar in violation of 35 U.S.C. § 271(a). The DuckDuckGo Toolbar performs the method for dynamically modifying a toolbar described and claimed in the '070 Patent.

32.   In addition, or in the alternative, DuckDuckGo has been and is now indirectly infringing one or more claims of the '070 Patent by inducing customers to use the DuckDuckGo Toolbar to directly infringe one or more claims of the '070 Patent in violation of 35 U.S.C. § 271(b). The DuckDuckGo Toolbar performs the methods of modifying a toolbar described and claimed in the '070 Patent, and DuckDuckGo has engaged in indirect infringement by its conduct of providing its customers with the infringing DuckDuckGo Toolbar in order to enable those customers to use the DuckDuckGo Toolbar to directly infringe the '070 Patent. On information and belief, DuckDuckGo has intended, and continues to intend, to induce patent infringement by its customers, and has had knowledge that its inducing acts would cause infringement or has been willfully blind to the possibility that its inducing acts would cause infringement.

33.   On information and belief, DuckDuckGo's customers download the accused DuckDuckGo Toolbar and, when the customers use the DuckDuckGo Toolbar, a method of modifying a toolbar is performed as described and claimed in the '070 Patent. Thus, DuckDuckGo's customers directly infringe the claimed methods of the '070 Patent by using the DuckDuckGo Toolbar. On information and belief, DuckDuckGo is or should be aware that the DuckDuckGo Toolbar performs the claimed methods of modifying a toolbar and, therefore, that DuckDuckGo's customers will infringe the '070 Patent by using the DuckDuckGo Toolbar.

34.   Plaintiff has been damaged by DuckDuckGo's infringing activities.

DEMAND FOR JURY TRIAL

35.   Plaintiff, pursuant to Rule 38 of the Federal Rules of Civil Procedure, requests a

trial by jury of any issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following relief:

1.   A judgment in favor of Plaintiff that DuckDuckGo has directly infringed one or

more claims of the '070 Patent;

2.   A judgment and order requiring DuckDuckGo to pay Plaintiff damages adequate

to compensate for infringement under 35 U.S.C. § 284, which damages in no event shall be less

than a reasonable royalty for the use made of the inventions of the '070 Patent, including pre-and

post-judgment interest and costs, including expenses and disbursements; and

3.   Any and all such further necessary relief as the Court may deem just and proper

under the circumstances.

Dated: December 30, 2016

Respectfully submitted,

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