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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

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11 MAXELL, LTD.,
12 Plaintiff,
13 v.
14 FANDANGO MEDIA, LLC,
15 Defendant.

CASE NO. 2:17-cv-7534
**COMPLAINT AND DEMAND FOR
JURY TRIAL**

Judge:

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1 Plaintiff Maxell, Ltd. (“Maxell”), by and through its undersigned counsel,
2 files this complaint under 35 U.S.C. § 271 for Patent Infringement against
3 Defendant Fandango Media, LLC (“Fandango” or “Defendant”) and further alleges
4 as follows, upon actual knowledge with respect to itself and its own acts, and upon
5 information and belief as to all other matters.
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8 **NATURE OF THE ACTION**

9 1. This is an action for patent infringement by Maxell. Founded in 1961
10 as Maxell Electric Industrial Co., Ltd., Maxell is a leading global manufacturer of
11 information storage media products, including magnetic tapes, optical discs, and
12 battery products such as lithium ion rechargeable micro batteries and alkaline dry
13 batteries, and the company has over 50 years of experience producing industry-
14 leading recordable media and energy products for both the consumer and the
15 professional markets.
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18 2. Maxell has built up an international reputation for excellence and
19 reliability, for pioneering the power supplies and digital recording for today’s
20 mobile and multi-media devices, and leading the electronics industry in the fields of
21 storage media and batteries.
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23 3. Since being one of the first companies to develop alkaline batteries and
24 Blu Ray camcorder discs, Maxell has always assured its customers of industry
25 leading product innovation and is one of the world’s foremost suppliers of memory,
26 power, audio, and visual goods.
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1 4. As more fully described below, in 2009 Hitachi, Ltd. assigned much of
2 its intellectual property to Hitachi Consumer Electronics Co., Ltd., then in 2013
3 Hitachi Consumer Electronics Co., Ltd. assigned the intellectual property, including
4 the patents in this case, to Hitachi Maxell, Ltd. which later assigned the patents to
5 Maxell as a result of a reorganization and name change. This was an effort to align
6 its intellectual property with the licensing, business development, and research and
7 development efforts of Maxell, including in the mobile and mobile-media device
8 market (Hitachi, Ltd., Hitachi Consumer Electronics Co., Ltd., and Hitachi Maxell,
9 Ltd. are referred to herein collectively as “Hitachi”).
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13 5. Maxell continues to develop and manufacture products in the mobile
14 device market including wireless charging solutions, wireless flash drives,
15 multimedia players, storage devices, and headphones. Maxell also maintains
16 intellectual property related to televisions, tablets, digital cameras, and mobile
17 phones. As a mobile technology developer and industry leader, and due to its
18 historical and continuous investment in research and development, Maxell owns a
19 portfolio of patents related to such technologies and actively enforces its patents
20 through licensing and/or litigation. Maxell is forced to bring this action against
21 Fandango as a result of Fandango’s knowing and ongoing infringement of Maxell’s
22 patents.
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1 **THE PARTIES**

2 6. Plaintiff Maxell, Ltd. is a Japanese corporation with a registered place
3 of business at 1 Koizumi, Oyamazaki, Oyamazaki-cho, Otokuni-gun, Kyoto, Japan.

4 7. On information and belief, Defendant Fandango is a Virginia company
5 with a principal place of business located at 12200 West Olympic Boulevard Suite
6 400, Los Angeles, CA 90064.

7 8. Fandango is an online content delivery and media technology company
8 that provides media services, as well as the ability to purchase movie tickets. It was
9 founded in 2000.

10 9. On information and belief, Fandango acquired the movie streaming
11 service M-GO in 2016, which Fandango then re-branded as FandangoNow.

12 10. On information and belief, a Fandango user has the option of watching
13 a movie immediately or at a later time using services offered via FandangoNow.
14 For example, consumers can watch movies and TV shows on televisions or other
15 devices using Fandango services, including FandangoNow. Fandango services,
16 such as FandangoNow, work on consoles such as the Xbox, tablets such as the
17 iPad, smartphones, and other electronic devices such as Roku.

18 **NATURE OF THE ACTION**

19 11. This is a civil action for patent infringement arising under the patent
20 laws of the United States, 35 U.S.C. §§ 1 *et seq.*

1 12. Fandango has infringed and continues to infringe, contributed to and
2 continues to contribute to the infringement of, and/or actively induced and
3 continues to induce others to infringe Maxell’s U.S. Patent Nos. 8,311,389 (the
4 “389 Patent”); 9,083,942 (the “942 Patent”); 9,773,522 (the “522 Patent”);
5 6,954,583 (the “583 Patent”); 7,515,810 (the “810 Patent”); 9,384,783 (the “783
6 Patent”); and 8,255,679 (the “679 Patent”) (collectively, “the Asserted Patents”).
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9 13. Maxell is the legal owner by assignment of the Asserted Patents,
10 which were duly and legally issued by the United States Patent and Trademark
11 Office.
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13 14. Maxell seeks injunctive relief and monetary damages.
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15 **JURISDICTION AND VENUE**

16 15. Maxell brings this action for patent infringement under the patent laws
17 of the United States, 35 U.S.C. § 271 *et seq.*
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19 16. This Court has subject matter jurisdiction over the subject matter of
20 this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action arises
21 under the patent laws of the United States.
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23 17. The Court has personal jurisdiction over Fandango because (1)
24 Maxell’s claims arise in whole or in part from Fandango’s conduct in California
25 and (2) Fandango is subject to personal jurisdiction under the provisions of the
26 California Long Arm Statute, Cal. Code. Civ. Proc. § 410.10, by virtue of the fact
27 that, upon information and belief, Fandango has availed itself of the privilege of
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1 conducting and soliciting business within this State, including engaging in at least
2 some of the infringing acts alleged herein through the sales and marketing of
3 infringing products in this State. The allegations and claims set forth in this action
4 arise out of Fandango's infringing activities in this State, as well as by others acting
5 as Fandango's agents and/or representatives, such that it would be reasonable for
6 this Court to exercise jurisdiction consistent with the principles underlying the U.S.
7 Constitution, and would not offend traditional notions of fair play and substantial
8 justice.
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12 18. Upon further information and belief, Fandango has also established
13 minimum contacts with this District and regularly transacts and does business
14 within this District, including advertising, promoting and selling products over the
15 internet, through intermediaries, representatives and/or agents located within this
16 District, that infringe Maxell's patents, which products are then marketed to, sold
17 to, accessed by, and streamed directly to citizens residing within this State and this
18 District. Upon further information and belief, Fandango has purposefully directed
19 activities at citizens of this State and located within this District.
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23 19. On information and belief, Fandango has purposefully and voluntarily
24 placed its products into the stream of commerce with the expectation that they will
25 be purchased and used by customers located in the State of California and the
26 Central District of California. On information and belief, Fandango's customers in
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1 the Central District of California have purchased and used and continue to purchase
2 and use Fandango's products and services.

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4 20. Venue in the Central District of California is proper pursuant to 28
5 U.S.C. §§ 1391 and 1400 because Fandango resides in this District. Further,
6 Fandango maintains a regular and established place of business in this district and
7 has committed infringing acts in this district.
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9 **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,311,389**

10 21. Maxell incorporates paragraphs 1-20 above by reference.

11
12 22. U.S. Patent No. 8,311,389 (the "389 Patent," attached hereto at
13 Exhibit 1) duly issued on November 13, 2012 and is entitled *Digital information*
14 *recording apparatus, reproducing apparatus and transmitting apparatus.*
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16 23. Maxell is the owner by assignment of the '389 Patent and possesses all
17 rights under the '389 Patent, including the exclusive right to recover for past and
18 future infringement.
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20 24. Fandango has directly infringed one or more claims of the '389 Patent
21 in this judicial district and elsewhere in California, including at least claims 3-4 and
22 7-8 literally and/or under the doctrine of equivalents, by or through making, using,
23 importing, offering for sale and/or selling their telecommunications technology,
24 including by way of example its television and movie streaming/download service
25 known as FandangoNow.
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1 25. FandangoNow is an Internet-based home entertainment service that
2 provides access to a library of movies through a variety of devices. For example,
3 “[t]he FandangoNow app gives you instant access to your FandangoNow library to
4 allow you to stream and download movies and TV shows on your iPhone or iPad.”
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6 26. FandangoNow allows viewers to watch a title immediately or
7 download it to a device (“Download videos on iPad, iPhone or Android devices
8 using the FandangoNow app”) that has audio/video information and control
9 information related thereto. On information and belief, the control information
10 includes a first period for retaining the audio/video information on the recording
11 medium, in that viewers have 30 days to complete watching the rental, and a second
12 period for enabling reproduction of the audio/video information recorded on the
13 recording medium after the audio/video information is initially accessed for
14 reproduction from the recording medium, in that once a viewer starts a movie or
15 television show they must complete it within, for example, 48 hours (“but
16 sometimes less and sometimes more.”)
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21 27. The foregoing features and capabilities of FandangoNow, and
22 Fandango’s description and/or demonstration thereof, including in user manuals,
23 advertising, and information on its website reflect Fandango’s direct infringement
24 by satisfying every element of at least claims 3-4 and 7-8 of the ’389 Patent, under
25 35 U.S.C. § 271(a).
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1 28. Fandango has also actively induced, and continues to induce, the
2 infringement of at least claims 3-4 and 7-8 of the '389 Patent, in this judicial district
3 and elsewhere in the United States, by actively inducing its customers, including
4 end-users, to use FandangoNow's system (*e.g.*, the FandangoNow App operating
5 on a tablet or smartphone) in an infringing manner as described above. On
6 information and belief, Fandango has specifically intended that its customers use
7 the FandangoNow software that infringe at least claims 3-4 and 7-8 of the '389
8 Patent by, at a minimum, providing access to, support for, training and instructions
9 for, its FandangoNow software to its customers, on at least its website, to enable
10 them to infringe at least claims 3-4 and 7-8 of the '389 Patent, as described above.
11 Fandango's customers who purchase devices and components thereof (*e.g.*, iPads,
12 Android tablets, etc.) and operate such devices and components in accordance with
13 Fandango's instructions (*e.g.*, in use with the FandangoNow App) directly infringe
14 one or more claims of the '389 Patent in violation of 35 U.S.C. § 271. Fandango is
15 thereby liable for infringement of the '389 Patent pursuant to 35 U.S.C. § 271(b).

21 29. Fandango has indirectly infringed at least claims 3-4 and 7-8 of the
22 '389 Patent, by, among other things, contributing to the direct infringement of
23 others, including customers of the FandangoNow system by making, offering to
24 sell, or selling, in the United States, or importing a component of a patented
25 machine, manufacture, or combination, or an apparatus for use in practicing a
26 patented process, constituting a material part of the invention, knowing the same to
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1 be especially made or especially adapted for use in infringement of the '389 Patent,
2 and not a staple article or commodity of commerce suitable for substantial non-
3 infringing use.
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5 30. For example, the FandangoNow system includes the FandangoNow
6 software or application (*e.g.*, operating on a computer, television, tablet,
7 smartphone). This is a component of a patented machine, manufacture, or
8 combination, or an apparatus for use in practicing a patented process. Furthermore,
9 such a component is a material part of the invention and upon information and
10 belief is not a staple article or commodity of commerce suitable for substantial non-
11 infringing use. Thus, Fandango is liable for infringement of the '389 Patent
12 pursuant to 35 U.S.C. § 271(c).
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16 31. Fandango has been on notice of the '389 Patent since at least the
17 invitation for negotiations sent by Maxell on October 6, 2017, and, at the latest, the
18 service of this complaint. By the time of trial, Fandango will thus have known and
19 intended (since receiving such notice), that its continued actions would actively
20 induce and contribute to actual infringement of at least claims 3-4 and 7-8 of the
21 '389 Patent.
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24 32. Fandango undertook and continues its infringing actions despite an
25 objectively high likelihood that such activities infringed the '389 Patent, which has
26 been duly issued by the USPTO, and is presumed valid. For example, since at least
27 October 6, 2017, Fandango has been aware of an objectively high likelihood that its
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1 actions constituted and continue to constitute infringement of the '389 Patent, and
2 that the '389 Patent is valid. On information and belief, Fandango could not
3 reasonably, subjectively believe that its actions do not constitute infringement of
4 the '389 Patent, nor could it reasonably, subjectively believe that the patent is
5 invalid. Despite that knowledge and subjective belief, and the objectively high
6 likelihood that its actions constitute infringement, Fandango has continued its
7 infringing activities. As such, Fandango willfully infringes the '389 Patent.

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10 33. Maxell has been damaged by Fandango's infringement of the '389
11 Patent.

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13 **COUNT II – INFRINGEMENT OF U.S. PATENT NO. 9,083,942**

14 34. Maxell incorporates paragraphs 1-33 above by reference.

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16 35. U.S. Patent No. 9,083,942 (the "'942 Patent," attached hereto at
17 Exhibit 2) duly issued on July 14, 2015 and is entitled *Digital information*
18 *recording apparatus, reproducing apparatus and transmitting apparatus.*

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20 36. Maxell is the owner by assignment of the '942 Patent and possesses all
21 rights under the '942 Patent, including the exclusive right to recover for past and
22 future infringement.

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24 37. On information and belief, Fandango has directly infringed one or
25 more claims of the '942 Patent in this judicial district and elsewhere in California,
26 including at least claims 1, 2, 4, 5, 7, 8, 10, 11, 13, 14, 16, 17, 19, 20, 22, 23 of the
27 '942 Patent literally and/or under the doctrine of equivalents, by or through making,
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1 using, importing, offering for sale and/or selling their telecommunications
2 technology, including by way of example its television and movie
3 streaming/download service known as FandangoNow.
4

5 38. FandangoNow is an Internet-based home entertainment service that
6 provides access to a library of movies through a variety of devices. For example,
7 “[t]he FandangoNow app gives you instant access to your FandangoNow library to
8 allow you to stream and download movies and TV shows on your iPhone or iPad.”
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10 39. FandangoNow allows viewers to watch a title immediately or
11 download it to a device (“Download videos on iPad, iPhone or Android devices
12 using the FandangoNow app”) that has audio/video information and control
13 information related thereto. On information and belief, the control information
14 includes a first period for retaining the audio/video information on the recording
15 medium, in that viewers have 30 days to complete watching the rental, and a second
16 period for enabling reproduction of the audio/video information recorded on the
17 recording medium after the audio/video information is initially accessed for
18 reproduction from the recording medium, in that once a view starts a movie or
19 television show they must complete it within, for example, 48 hours (“but
20 sometimes less and sometimes more.”)
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25 40. The foregoing features and capabilities of FandangoNow, and
26 Fandango’s description and/or demonstration thereof, including in user manuals,
27 advertising, and information on its website reflect Fandango’s direct infringement
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1 by satisfying every element of at least claims 1, 2, 4, 5, 7, 8, 10, 11, 13, 14, 16, 17,
2 19, 20, 22, 23 of the '942 Patent, under 35 U.S.C. § 271(a).

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4 41. Fandango has also actively induced, and continues to induce, the
5 infringement of at least claims 1, 2, 4, 5, 7, 8, 10, 11, 13, 14, 16, 17, 19, 20, 22, 23
6 of the '942 Patent, in this judicial district and elsewhere in the United States, by
7 actively inducing its customers, including end-users, to use FandangoNow's system
8 (*e.g.*, the FandangoNow App operating on a tablet or smartphone) in an infringing
9 manner as described above. On information and belief, Fandango has specifically
10 intended that its customers use the FandangoNow software that infringe at least
11 claims 1, 2, 4, 5, 7, 8, 10, 11, 13, 14, 16, 17, 19, 20, 22, 23 of the '942 Patent by, at
12 a minimum, providing access to, support for, training and instructions for, its
13 FandangoNow software to its customers, on at least its website, to enable them to
14 infringe at least claims 1, 2, 4, 5, 7, 8, 10, 11, 13, 14, 16, 17, 19, 20, 22, 23 of the
15 '942 Patent, as described above. Fandango's customers who purchase devices and
16 components thereof (*e.g.*, iPads, Android tablets, etc.) and operate such devices and
17 components in accordance with Fandango's instructions (*e.g.*, in use with the
18 FandangoNow App) directly infringe one or more claims of the '942 Patent in
19 violation of 35 U.S.C. § 271. Fandango is thereby liable for infringement of the
20 '942 Patent pursuant to 35 U.S.C. § 271(b).

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27 42. Fandango has indirectly infringed at least claims 1, 2, 4, 5, 7, 8, 10, 11,
28 13, 14, 16, 17, 19, 20, 22, 23 of the '942 Patent, by, among other things,

1 contributing to the direct infringement of others, including customers of the
2 FandangoNow system by making, offering to sell, or selling, in the United States,
3 or importing a component of a patented machine, manufacture, or combination, or
4 an apparatus for use in practicing a patented process, constituting a material part of
5 the invention, knowing the same to be especially made or especially adapted for use
6 in infringement of the '942 Patent, and not a staple article or commodity of
7 commerce suitable for substantial non-infringing use.

10 43. For example, the FandangoNow system includes the FandangoNow
11 software or application (*e.g.*, operating on a computer, television, tablet,
12 smartphone). This is a component of a patented machine, manufacture, or
13 combination, or an apparatus for use in practicing a patented process. Furthermore,
14 such a component is a material part of the invention and upon information and
15 belief is not a staple article or commodity of commerce suitable for substantial non-
16 infringing use. Thus, Fandango is liable for infringement of the '942 Patent
17 pursuant to 35 U.S.C. § 271(c).

21 44. Fandango has been on notice of the '942 Patent since at least the
22 invitation for negotiations sent by Maxell on October 6, 2017, and, at the latest, the
23 service of this complaint. By the time of trial, Fandango will thus have known and
24 intended (since receiving such notice), that its continued actions would actively
25 induce and contribute to actual infringement of at least claims 1, 2, 4, 5, 7, 8, 10,
26 11, 13, 14, 16, 17, 19, 20, 22, 23 of the '942 Patent.

1 45. Fandango undertook and continues its infringing actions despite an
2 objectively high likelihood that such activities infringed the '942 Patent, which has
3 been duly issued by the USPTO, and is presumed valid. For example, since at least
4 October 6, 2017, Fandango has been aware of an objectively high likelihood that its
5 actions constituted and continue to constitute infringement of the '942 Patent, and
6 that the '942 Patent is valid. On information and belief, Fandango could not
7 reasonably, subjectively believe that its actions do not constitute infringement of
8 the '942 Patent, nor could it reasonably, subjectively believe that the patent is
9 invalid. Despite that knowledge and subjective belief, and the objectively high
10 likelihood that its actions constitute infringement, Fandango has continued its
11 infringing activities. As such, Fandango willfully infringes the '942 Patent.
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16 46. Maxell has been damaged by Fandango's infringement of the '942
17 Patent.
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19 **COUNT III – INFRINGEMENT OF U.S. PATENT 9,773,522**

20 47. Maxell incorporates paragraphs 1-46 above by reference.

21 48. U.S. Patent No. 9,773,522 (the "'522 Patent," attached hereto at
22 Exhibit 3) duly issued on September 26, 2017, and is entitled *Digital information*
23 *recording apparatus, reproducing apparatus and transmitting apparatus.*
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25 49. Maxell is the owner by assignment of the '522 Patent and possesses all
26 rights under the '522 Patent, including the exclusive right to recover for past and
27 future infringement.
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1 50. Fandango has directly infringed one or more claims of the '522 Patent
2 in this judicial district and elsewhere in California, including at least claims 13, 14,
3 16, 17, 19, 20, 22, 23 of the '522 Patent literally and/or under the doctrine of
4 equivalents, by or through making, using, importing, offering for sale and/or selling
5 their telecommunications technology, including by way of example its television
6 and movie streaming/download service known as FandangoNow.
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9 51. FandangoNow is an Internet-based home entertainment service that
10 provides access to a library of movies through a variety of devices. For example,
11 “[t]he FandangoNow app gives you instant access to your FandangoNow library to
12 allow you to stream and download movies and TV shows on your iPhone or iPad.”
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14 52. FandangoNow allows viewers to watch a title immediately or
15 download it to a device (“Download videos on iPad, iPhone or Android devices
16 using the FandangoNow app”) that has audio/video information and control
17 information related thereto. On information and belief, the control information
18 includes a first period for retaining the audio/video information on the recording
19 medium, in that viewers have 30 days to complete watching the rental, and a second
20 period for enabling reproduction of the audio/video information recorded on the
21 recording medium after the audio/video information is initially accessed for
22 reproduction from the recording medium, in that once a view starts a movie or
23 television show they must complete it within, for example, 48 hours (“but
24 sometimes less and sometimes more.”)
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1 53. The foregoing features and capabilities of FandangoNow, and
2 Fandango's description and/or demonstration thereof, including in user manuals,
3 advertising, and information on its website reflect Fandango's direct infringement
4 by satisfying every element of at least claims 13, 14, 16, 17, 19, 20, 22, 23 of the
5 '522 Patent, under 35 U.S.C. § 271(a).
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8 54. Fandango has also actively induced, and continues to induce, the
9 infringement of at least claims 13, 14, 16, 17, 19, 20, 22, 23 of the '522 Patent, in
10 this judicial district and elsewhere in the United States, by actively inducing its
11 customers, including end-users, to use FandangoNow's system (*e.g.*, the
12 FandangoNow App operating on a tablet or smartphone) in an infringing manner as
13 described above. On information and belief, Fandango has specifically intended
14 that its customers use the FandangoNow software that infringe at least claims 13,
15 14, 16, 17, 19, 20, 22, 23 of the '522 Patent by, at a minimum, providing access to,
16 support for, training and instructions for, its FandangoNow software to its
17 customers, on at least its website, to enable them to infringe at least claims 13, 14,
18 16, 17, 19, 20, 22, 23 of the '522 Patent, as described above. Fandango's customers
19 who purchase devices and components thereof (*e.g.*, iPads, Android tablets, etc.)
20 and operate such devices and components in accordance with Fandango's
21 instructions (*e.g.*, in use with the FandangoNow App) directly infringe one or more
22 claims of the '522 Patent in violation of 35 U.S.C. § 271. Fandango is thereby
23 liable for infringement of the '522 Patent pursuant to 35 U.S.C. § 271(b).
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1 55. Fandango has indirectly infringed at least claims 13, 14, 16, 17, 19, 20,
2 22, 23 of the '522 Patent, by, among other things, contributing to the direct
3 infringement of others, including customers of the FandangoNow system by
4 making, offering to sell, or selling, in the United States, or importing a component
5 of a patented machine, manufacture, or combination, or an apparatus for use in
6 practicing a patented process, constituting a material part of the invention, knowing
7 the same to be especially made or especially adapted for use in infringement of the
8 '522 Patent, and not a staple article or commodity of commerce suitable for
9 substantial non-infringing use.
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13 56. For example, the FandangoNow system includes the FandangoNow
14 software or application (*e.g.*, operating on a computer, television, tablet,
15 smartphone). This is a component of a patented machine, manufacture, or
16 combination, or an apparatus for use in practicing a patented process. Furthermore,
17 such a component is a material part of the invention and upon information and
18 belief is not a staple article or commodity of commerce suitable for substantial non-
19 infringing use. Thus, Fandango is liable for infringement of the '522 Patent
20 pursuant to 35 U.S.C. § 271(c).
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24 57. Fandango has been on notice of the '522 Patent since at least the
25 invitation for negotiations sent by Maxell on October 6, 2017, and, at the latest, the
26 service of this complaint. By the time of trial, Fandango will thus have known and
27 intended (since receiving such notice), that its continued actions would actively
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1 induce and contribute to actual infringement of at least claims 13, 14, 16, 17, 19,
2 20, 22, 23 of the '522 Patent.

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4 58. Fandango undertook and continues its infringing actions despite an
5 objectively high likelihood that such activities infringed the '522 Patent, which has
6 been duly issued by the USPTO, and is presumed valid. For example, since at least
7 October 6, 2017, Fandango has been aware of an objectively high likelihood that its
8 actions constituted and continue to constitute infringement of the '522 Patent, and
9 that the '522 Patent is valid. On information and belief, Fandango could not
10 reasonably, subjectively believe that its actions do not constitute infringement of
11 the '522 Patent, nor could it reasonably, subjectively believe that the patent is
12 invalid. Despite that knowledge and subjective belief, and the objectively high
13 likelihood that its actions constitute infringement, Fandango has continued its
14 infringing activities. As such, Fandango willfully infringes the '522 Patent.

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18 59. Maxell has been damaged by Fandango's infringement of the '522
19 Patent.

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21 **COUNT IV – INFRINGEMENT OF U.S. PATENT NO. 6,954,583**

22 60. Maxell incorporates paragraphs 1-59 above by reference.

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24 61. U.S. Patent No. 6,954,583 (the "583 Patent," attached hereto at
25 Exhibit 4) duly issued on October 11, 2005, and is entitled *Video Access Method*
26 *and Video Access Apparatus*.

1 62. Maxell is the owner by assignment of the '583 Patent and possesses all
2 rights under the '583 Patent, including the exclusive right to recover for past and
3 future infringement.
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5 63. Fandango has directly infringed one or more claims of the '583 Patent
6 in this judicial district and elsewhere in California, including at least claim 3
7 literally and/or under the doctrine of equivalents, by or through making, using,
8 importing, offering for sale and/or selling their telecommunications technology,
9 including by way of example its television and movie streaming/download service
10 known as FandangoNow.
11

12 64. FandangoNow is an Internet-based home entertainment service that
13 provides access to a library of movies through a variety of devices. For example,
14 “[t]he FandangoNow app gives you instant access to your FandangoNow library to
15 allow you to stream and download movies and TV shows on your iPhone or iPad.”
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18 65. A “representative image list” comprising “containing at least one
19 representative image of reduced size” (*i.e.*, thumbnail images) is available on
20 FandangoNow for each movie or television show. FandangoNow displays the
21 representative image list stepwise over a predetermined time duration. Further, the
22 FandangoNow system comprises a user interface means for enabling selection of a
23 reduced-sized representative image (thumbnail). These representative images are
24 representative of a scene distanced for a given time in that they appear sequentially
25 when fast forwarding or rewinding or otherwise selecting a scene using the given
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1 input, be that a button push, a double tap on the screen, or the use of an external
2 controller. FandangoNow is observed to effect a transition wherein the selected
3 representative image is gradually extended stepwise from a displayed position—
4 from a small thumbnail image to full screen image when selected.
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6 66. The foregoing features and capabilities of FandangoNow, and
7 Fandango's description and/or demonstration thereof, including in user manuals,
8 advertising, and information on its website reflect Fandango's direct infringement
9 by satisfying every element of at least claim 3 of the '583 Patent, under 35 U.S.C. §
10 271(a).
11

12 67. Fandango has also actively induced, and continues to induce, the
13 infringement of at least claim 3 of the '583 Patent, in this judicial district and
14 elsewhere in the United States, by actively inducing its customers, including end-
15 users, to use FandangoNow's system (*e.g.*, the FandangoNow App operating on a
16 tablet or smartphone) in an infringing manner as described above. On information
17 and belief, Fandango has specifically intended that its customers use the
18 FandangoNow software that infringe at least claim 3 of the '583 Patent by, at a
19 minimum, providing access to, support for, training and instructions for, its
20 FandangoNow software to its customers, on at least its website, to enable them to
21 infringe at least claim 3 of the '583 Patent, as described above. Fandango's
22 customers who purchase devices and components thereof (*e.g.*, iPads, Android
23 tablets, etc.) and operate such devices and components in accordance with
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1 Fandango's instructions (*e.g.*, in use with the FandangoNow App) directly infringe
2 one or more claims of the '583 Patent in violation of 35 U.S.C. § 271. Fandango is
3 thereby liable for infringement of the '583 Patent pursuant to 35 U.S.C. § 271(b).
4

5 68. Fandango has indirectly infringed at least claim 3 of the '583 Patent,
6 by, among other things, contributing to the direct infringement of others, including
7 customers of the FandangoNow system by making, offering to sell, or selling, in the
8 United States, or importing a component of a patented machine, manufacture, or
9 combination, or an apparatus for use in practicing a patented process, constituting a
10 material part of the invention, knowing the same to be especially made or especially
11 adapted for use in infringement of the '583 Patent, and not a staple article or
12 commodity of commerce suitable for substantial non-infringing use.
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16 69. For example, the FandangoNow system includes the FandangoNow
17 software or application (*e.g.*, operating on a computer, television, tablet,
18 smartphone). This is a component of a patented machine, manufacture, or
19 combination, or an apparatus for use in practicing a patented process. Furthermore,
20 such a component is a material part of the invention and upon information and
21 belief is not a staple article or commodity of commerce suitable for substantial non-
22 infringing use. Thus, Fandango is liable for infringement of the '583 Patent
23 pursuant to 35 U.S.C. § 271(c).
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27 70. Fandango has been on notice of the '583 Patent since at least the
28 invitation for negotiations sent by Maxell on October 6, 2017, and, at the latest, the

1 service of this complaint. By the time of trial, Fandango will thus have known and
2 intended (since receiving such notice), that its continued actions would actively
3 induce and contribute to actual infringement of at least claim 3 of the '583 Patent.
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5 71. Fandango undertook and continues its infringing actions despite an
6 objectively high likelihood that such activities infringed the '583 Patent, which has
7 been duly issued by the USPTO, and is presumed valid. For example, since at least
8 October 6, 2017, Fandango has been aware of an objectively high likelihood that its
9 actions constituted and continue to constitute infringement of the '583 Patent, and
10 that the '583 Patent is valid. On information and belief, Fandango could not
11 reasonably, subjectively believe that its actions do not constitute infringement of
12 the '583 Patent, nor could it reasonably, subjectively believe that the patent is
13 invalid. Despite that knowledge and subjective belief, and the objectively high
14 likelihood that its actions constitute infringement, Fandango has continued its
15 infringing activities. As such, Fandango willfully infringes the '583 Patent.
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20 72. Maxell has been damaged by Fandango's infringement of the '583
21 Patent.
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23 **COUNT V – INFRINGEMENT OF U.S. PATENT NO. 7,515,810**

24 73. Maxell incorporates paragraphs 1-72 above by reference.

25 74. U.S. Patent No. 7,515,810 (the "'810 Patent," attached hereto at
26 Exhibit 5) duly issued on April 7, 2009, and is entitled *Video Access Method and*
27 *Video Access Apparatus*.
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1 75. Maxell is the owner by assignment of the '810 Patent and possesses all
2 rights under the '810 Patent, including the exclusive right to recover for past and
3 future infringement.
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5 76. On information and belief, Fandango has directly infringed one or
6 more claims of the '810 Patent in this judicial district and elsewhere in California,
7 including at least claims 1, 2, and 6 literally and/or under the doctrine of
8 equivalents, by or through making, using, importing, offering for sale and/or selling
9 their telecommunications technology, including by way of example its television
10 and movie streaming service known as FandangoNow.
11

12 77. FandangoNow is an Internet-based home entertainment service that
13 provides access to a library of movies through a variety of devices. For example,
14 “[t]he FandangoNow app gives you instant access to your FandangoNow library to
15 allow you to stream and download movies and TV shows on your iPhone or iPad.”
16

17 78. A “list of time-serial representative images of scenes” (*i.e.*, thumbnail
18 images) are available on FandangoNow for each movie or television show. Further,
19 FandangoNow gives users an option to “scroll” the list of scenes using some kind
20 of input (*e.g.*, a button press). The scrolling functionality is simulated by changing
21 the “representative image” (*i.e.*, a thumbnail image in a time distant location) to a
22 new image in a subsequent fashion. These representative images are representative
23 of a scene distanced for a given time in that they appear sequentially when fast
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1 forwarding or rewinding or otherwise selecting a scene using the given input, be
2 that a button push, a double tap on the screen, or the use of an external controller.

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4 79. The foregoing features and capabilities of FandangoNow, and
5 Fandango's description and/or demonstration thereof, including in user manuals,
6 advertising, and information on its website reflect Fandango's direct infringement
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8 by satisfying every element of at least claims 1, 2, and 6 of the '810 Patent, under
9 35 U.S.C. § 271(a).

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11 80. Fandango has also actively induced, and continues to induce, the
12 infringement of at least claims 1, 2, and 6 of the '810 Patent, in this judicial district
13 and elsewhere in the United States, by actively inducing its customers, including
14 end-users, to use FandangoNow's system (*e.g.*, the FandangoNow App operating
15 on a tablet or smartphone) in an infringing manner as described above. On
16 information and belief, Fandango has specifically intended that its customers use
17 the FandangoNow software that infringe at least claims 1, 2, and 6 of the '810
18 Patent by, at a minimum, providing access to, support for, training and instructions
19 for, its FandangoNow software to its customers, on at least its website, to enable
20 them to infringe at least claims 1, 2, and 6 of the '810 Patent, as described above.
21 Fandango's customers who purchase devices and components thereof (*e.g.*, iPads,
22 Android tablets, etc.) and operate such devices and components in accordance with
23 Fandango's instructions (*e.g.*, in use with the FandangoNow App) directly infringe
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1 one or more claims of the '810 Patent in violation of 35 U.S.C. § 271. Fandango is
2 thereby liable for infringement of the '810 Patent pursuant to 35 U.S.C. § 271(b).

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4 81. Fandango has indirectly infringed at least claims 1, 2, and 6 of the '810
5 Patent, by, among other things, contributing to the direct infringement of others,
6 including customers of the FandangoNow system by making, offering to sell, or
7 selling, in the United States, or importing a component of a patented machine,
8 manufacture, or combination, or an apparatus for use in practicing a patented
9 process, constituting a material part of the invention, knowing the same to be
10 especially made or especially adapted for use in infringement of the '810 Patent,
11 and not a staple article or commodity of commerce suitable for substantial non-
12 infringing use.

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16 82. For example, the FandangoNow system includes the FandangoNow
17 software or application (*e.g.*, operating on a computer, television, tablet,
18 smartphone). This is a component of a patented machine, manufacture, or
19 combination, or an apparatus for use in practicing a patented process. Furthermore,
20 such a component is a material part of the invention and upon information and
21 belief is not a staple article or commodity of commerce suitable for substantial non-
22 infringing use. Thus, Fandango is liable for infringement of the '810 Patent
23 pursuant to 35 U.S.C. § 271(c).

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27 83. Fandango has been on notice of the '810 Patent since at least the
28 invitation for negotiations sent by Maxell on October 6, 2017, and, at the latest, the

1 service of this complaint. By the time of trial, Fandango will thus have known and
2 intended (since receiving such notice), that its continued actions would actively
3 induce and contribute to actual infringement of at least claims 1, 2, and 6 of the
4 '810 Patent.
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6 84. Fandango undertook and continues its infringing actions despite an
7 objectively high likelihood that such activities infringed the '810 Patent, which has
8 been duly issued by the USPTO, and is presumed valid. For example, since at least
9 October 6, 2017, Fandango has been aware of an objectively high likelihood that its
10 actions constituted and continue to constitute infringement of the '810 Patent, and
11 that the '810 Patent is valid. On information and belief, Fandango could not
12 reasonably, subjectively believe that its actions do not constitute infringement of
13 the '810 Patent, nor could it reasonably, subjectively believe that the patent is
14 invalid. Despite that knowledge and subjective belief, and the objectively high
15 likelihood that its actions constitute infringement, Fandango has continued its
16 infringing activities. As such, Fandango willfully infringes the '810 Patent.
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21 85. Maxell has been damaged by Fandango's infringement of the '810
22 Patent.
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24 **COUNT VI – INFRINGEMENT OF U.S. PATENT NO. 9,384,783**

25 86. Maxell incorporates paragraphs 1-85 above by reference.

26 87. U.S. Patent No. 9,384,783 (the "783 Patent," attached hereto at
27 Exhibit 6) duly issued on July 5, 2016 and is entitled *Editing method and recording*
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1 *and reproducing device.*

2 88. Maxell is the owner by assignment of the '783 Patent and possesses all
3 rights under the '783 Patent, including the exclusive right to recover for past and
4 future infringement.
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6 89. Fandango has directly infringed one or more claims of the '783 Patent
7 in this judicial district and elsewhere in California, including at least claim 2
8 literally and/or under the doctrine of equivalents, by or through making, using,
9 importing, offering for sale and/or selling their telecommunications technology,
10 including by way of example its television and movie streaming/download service
11 known as FandangoNow.
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13 90. FandangoNow is an Internet-based home entertainment service that
14 provides access to a library of movies through a variety of devices. For example,
15 “[t]he FandangoNow app gives you instant access to your FandangoNow library to
16 allow you to stream and download movies and TV shows on your iPhone or iPad.”
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19 91. FandangoNow allows a user to perform the steps of downloading a
20 movie, for example, to a recording medium in a device (*e.g.*, a tablet) that can be
21 reproduced on the device’s display. Using FandangoNow, a user can perform the
22 steps of displaying a first and second area associated with groups of video
23 information. Further, a user can view video information in a second group of
24 information even if the video information, included in both the first and second
25 group of information and recorded on the recording medium, is deleted from the
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1 first group of information.

2 92. The foregoing features and capabilities of FandangoNow, and
3 Fandango's description and/or demonstration thereof, including in user manuals,
4 advertising, and information on its website reflect Fandango's direct infringement
5 by satisfying every element of at least claim 2 of the '783 Patent, under 35 U.S.C. §
6 271(a).
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8 93. Fandango has also actively induced, and continues to induce, the
9 infringement of at least claim 2 of the '783 Patent, in this judicial district and
10 elsewhere in the United States, by actively inducing its customers, including end-
11 users, to use FandangoNow's system (*e.g.*, the FandangoNow App operating on a
12 tablet or smartphone) in an infringing manner as described above. On information
13 and belief, Fandango has specifically intended that its customers use the
14 FandangoNow software that infringe at least claim 2 of the '783 Patent by, at a
15 minimum, providing access to, support for, training and instructions for, its
16 FandangoNow software to its customers, on at least its website, to enable them to
17 infringe at least claim 2 of the '783 Patent, as described above. Fandango's
18 customers who purchase devices and components thereof (*e.g.*, iPads, Android
19 tablets, etc.) and operate such devices and components in accordance with
20 Fandango's instructions (*e.g.*, in use with the FandangoNow App) directly infringe
21 one or more claims of the '783 Patent in violation of 35 U.S.C. § 271. Fandango is
22 thereby liable for infringement of the '783 Patent pursuant to 35 U.S.C. § 271(b).
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1 94. Fandango has indirectly infringed at least claim 2 of the '783 Patent,
2 by, among other things, contributing to the direct infringement of others, including
3 customers of the FandangoNow system by making, offering to sell, or selling, in the
4 United States, or importing a component of a patented machine, manufacture, or
5 combination, or an apparatus for use in practicing a patented process, constituting a
6 material part of the invention, knowing the same to be especially made or especially
7 adapted for use in infringement of the '783 Patent, and not a staple article or
8 commodity of commerce suitable for substantial non-infringing use.
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12 95. For example, the FandangoNow system includes the FandangoNow
13 software or application (*e.g.*, operating on a computer, television, tablet,
14 smartphone). This is a component of a patented machine, manufacture, or
15 combination, or an apparatus for use in practicing a patented process. Furthermore,
16 such a component is a material part of the invention and upon information and
17 belief is not a staple article or commodity of commerce suitable for substantial non-
18 infringing use. Thus, Fandango is liable for infringement of the '783 Patent
19 pursuant to 35 U.S.C. § 271(c).
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23 96. Fandango has been on notice of the '783 Patent since at least the
24 invitation for negotiations sent by Maxell on October 6, 2017, and, at the latest, the
25 service of this complaint. By the time of trial, Fandango will thus have known and
26 intended (since receiving such notice), that its continued actions would actively
27 induce and contribute to actual infringement of at least claim 2 of the '783 Patent.
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1 97. Fandango undertook and continues its infringing actions despite an
2 objectively high likelihood that such activities infringed the '783 Patent, which has
3 been duly issued by the USPTO, and is presumed valid. For example, since at least
4 October 6, 2017, Fandango has been aware of an objectively high likelihood that its
5 actions constituted and continue to constitute infringement of the '783 Patent, and
6 that the '783 Patent is valid. On information and belief, Fandango could not
7 reasonably, subjectively believe that its actions do not constitute infringement of
8 the '783 Patent, nor could it reasonably, subjectively believe that the patent is
9 invalid. Despite that knowledge and subjective belief, and the objectively high
10 likelihood that its actions constitute infringement, Fandango has continued its
11 infringing activities. As such, Fandango willfully infringes the '783 Patent.
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16 98. Maxell has been damaged by Fandango's infringement of the '783
17 Patent.
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19 **COUNT VII – INFRINGEMENT OF U.S. PATENT NO. 8,255,679**

20 99. Maxell incorporates paragraphs 1-98 above by reference.

21 100. U.S. Patent No. 8,255,679 (the "'679 Patent," attached hereto at
22 Exhibit 7) duly issued on August 28, 2012 and is entitled *Receiver and receiving*
23 *method*.
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25 101. Maxell is the owner by assignment of the '679 Patent and possesses all
26 rights under the '679 Patent, including the exclusive right to recover for past and
27 future infringement.
28

1 102. Fandango has directly infringed one or more claims of the '679 Patent
2 in this judicial district and elsewhere in California, including at least claim 7
3 literally and/or under the doctrine of equivalents, by or through making, using,
4 importing, offering for sale and/or selling their telecommunications technology,
5 including by way of example its television and movie streaming/download service
6 known as FandangoNow.
7

9 103. FandangoNow is an Internet-based home entertainment service that
10 provides access to a library of movies through a variety of devices. For example,
11 “[t]he FandangoNow app gives you instant access to your FandangoNow library to
12 allow you to stream and download movies and TV shows on your iPhone or iPad.”
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14 104. On information and belief, FandangoNow allows a user to download,
15 for example, content data (*e.g.*, a movie) along with encrypted information that is to
16 be decoded. Further, on information and belief, FandangoNow allows a user to
17 either begin playback after (first state) or before (second state) all content data has
18 been downloaded.
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21 105. The foregoing features and capabilities of FandangoNow, and
22 Fandango’s description and/or demonstration thereof, including in user manuals,
23 advertising, and information on its website reflect Fandango’s direct infringement
24 by satisfying every element of at least claim 7 of the '679 Patent, under 35 U.S.C. §
25 271(a).
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28 106. Fandango has also actively induced, and continues to induce, the

1 infringement of at least claim 7 of the '679 Patent, in this judicial district and
2 elsewhere in the United States, by actively inducing its customers, including end-
3 users, to use FandangoNow's system (*e.g.*, the FandangoNow App operating on a
4 tablet or smartphone) in an infringing manner as described above. On information
5 and belief, Fandango has specifically intended that its customers use the
6 FandangoNow software that infringe at least claim 7 of the '679 Patent by, at a
7 minimum, providing access to, support for, training and instructions for, its
8 FandangoNow software to its customers, on at least its website, to enable them to
9 infringe at least claim 7 of the '679 Patent, as described above. Fandango's
10 customers who purchase devices and components thereof (*e.g.*, iPads, Android
11 tablets, etc.) and operate such devices and components in accordance with
12 Fandango's instructions (*e.g.*, in use with the FandangoNow App) directly infringe
13 one or more claims of the '679 Patent in violation of 35 U.S.C. § 271. Fandango is
14 thereby liable for infringement of the '679 Patent pursuant to 35 U.S.C. § 271(b).

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20 107. Fandango has indirectly infringed at least claim 7 of the '679 Patent,
21 by, among other things, contributing to the direct infringement of others, including
22 customers of the FandangoNow system by making, offering to sell, or selling, in the
23 United States, or importing a component of a patented machine, manufacture, or
24 combination, or an apparatus for use in practicing a patented process, constituting a
25 material part of the invention, knowing the same to be especially made or especially
26 adapted for use in infringement of the '679 Patent, and not a staple article or
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1 commodity of commerce suitable for substantial non-infringing use.

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3 108. For example, the FandangoNow system includes the FandangoNow
4 software or application (*e.g.*, operating on a computer, television, tablet,
5 smartphone). This is a component of a patented machine, manufacture, or
6 combination, or an apparatus for use in practicing a patented process. Furthermore,
7 such a component is a material part of the invention and upon information and
8 belief is not a staple article or commodity of commerce suitable for substantial non-
9 infringing use. Thus, Fandango is liable for infringement of the '679 Patent
10 pursuant to 35 U.S.C. § 271(c).
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13 109. Fandango has been on notice of the '679 Patent since at least the
14 invitation for negotiations sent by Maxell on October 6, 2017, and, at the latest, the
15 service of this complaint. By the time of trial, Fandango will thus have known and
16 intended (since receiving such notice), that its continued actions would actively
17 induce and contribute to actual infringement of at least claim 7 of the '679 Patent.
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20 110. Fandango undertook and continues its infringing actions despite an
21 objectively high likelihood that such activities infringed the '679 Patent, which has
22 been duly issued by the USPTO, and is presumed valid. For example, since at least
23 October 6, 2017, Fandango has been aware of an objectively high likelihood that its
24 actions constituted and continue to constitute infringement of the '679 Patent, and
25 that the '679 Patent is valid. On information and belief, Fandango could not
26 reasonably, subjectively believe that its actions do not constitute infringement of
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1 the '679 Patent, nor could it reasonably, subjectively believe that the patent is
2 invalid. Despite that knowledge and subjective belief, and the objectively high
3 likelihood that its actions constitute infringement, Fandango has continued its
4 infringing activities. As such, Fandango willfully infringes the '679 Patent.
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6 111. Maxell has been damaged by Fandango's infringement of the '679
7 Patent.
8

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Maxell prays for relief as follows:
11

12 1. A judgment declaring that Fandango has infringed and are infringing
13 one or more claims of the '389, '942, '522, '583, '810, '783, and '679 Patents;
14

15 2. A judgment awarding Maxell compensatory damages as a result of
16 Fandango's infringement of one or more claims of the '389, '942, '522, '583, '810,
17 '783, and '679 Patents, together with interest and costs, consistent with lost profits
18 and in no event less than a reasonable royalty;
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20 3. A judgment awarding Maxell treble damages and pre-judgment
21 interest under 35 U.S.C. § 284 as a result of Fandango's willful and deliberate
22 infringement of one or more claims of the '389, '942, '522, '583, '810, '783, and
23 '679 Patents;
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25 4. A judgment declaring that this case is exceptional and awarding
26 Maxell its expenses, costs, and attorneys' fees in accordance with 35 U.S.C. §§ 284
27 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;
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5. A grant of preliminary and permanent injunctions enjoining Defendant from further acts of infringement of one or more claims of the '389, '942, '522, '583, '810, '783, and '679 Patents; and

6. Such other and further relief as the Court deems just and proper.

JURY TRIAL DEMANDED

Maxell hereby demands a trial by jury.

Dated: October 13, 2017

Respectfully submitted,

MAYER BROWN LLP

By: /s/ Kfir B. Levy

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