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5

6 Attorney for Plaintiff Maxell, Ltd.

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8

**UNITED STATES DISTRICT COURT**

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**CENTRAL DISTRICT OF CALIFORNIA**

10

11

MAXELL, LTD.,

CASE NO. 2:17-cv-7538

12

Plaintiff,

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

13

v.

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FOTV MEDIA NETWORKS INC. and  
CINEMANOW, LLC,

Judge:

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Defendants.

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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 Defendants FOTV Media Networks Inc. (“FOTV”) and CinemaNow, LLC  
4 (collectively “Defendants”) and further alleges as follows, upon actual knowledge  
5 with respect to itself and its own acts, and upon information and belief as to all  
6 other matters.  
7  
8

9 **NATURE OF THE ACTION**

10 1. This is an action for patent infringement by Maxell. Founded in 1961  
11 as Maxell Electric Industrial Co., Ltd., Maxell is a leading global manufacturer of  
12 information storage media products, including magnetic tapes, optical discs, and  
13 battery products such as lithium ion rechargeable micro batteries and alkaline dry  
14 batteries, and the company has over 50 years of experience producing industry-  
15 leading recordable media and energy products for both the consumer and the  
16 professional markets.  
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19 2. Maxell has built up an international reputation for excellence and  
20 reliability, for pioneering the power supplies and digital recording for today’s  
21 mobile and multi-media devices, and leading the electronics industry in the fields of  
22 storage media and batteries.  
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25 3. Since being one of the first companies to develop alkaline batteries and  
26 Blu Ray camcorder discs, Maxell has always assured its customers of industry  
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1 leading product innovation and is one of the world's foremost suppliers of memory,  
2 power, audio, and visual goods.

3  
4 4. As more fully described below, in 2009 Hitachi, Ltd. assigned much of  
5 its intellectual property to Hitachi Consumer Electronics Co., Ltd., then in 2013  
6 Hitachi Consumer Electronics Co., Ltd. assigned the intellectual property, including  
7 the patents in this case, to Hitachi Maxell, Ltd. which later assigned the patents to  
8 Maxell as a result of a reorganization and name change. This was an effort to align  
9 its intellectual property with the licensing, business development, and research and  
10 development efforts of Maxell, including in the mobile and mobile-media device  
11 market (Hitachi, Ltd., Hitachi Consumer Electronics Co., Ltd., and Hitachi Maxell,  
12 Ltd. are referred to herein collectively as "Hitachi").

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16 5. Maxell continues to develop and manufacture products in the mobile  
17 device market including wireless charging solutions, wireless flash drives,  
18 multimedia players, storage devices, and headphones. Maxell also maintains  
19 intellectual property related to televisions, tablets, digital cameras, and mobile  
20 phones. As a mobile technology developer and industry leader, and due to its  
21 historical and continuous investment in research and development, Maxell owns a  
22 portfolio of patents related to such technologies and actively enforces its patents  
23 through licensing and/or litigation. Maxell is forced to bring this action against  
24 Defendants as a result of their knowing and ongoing infringement of Maxell's  
25 patents.  
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**THE PARTIES**

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

7. On information and belief, Defendant FOTV is a Delaware company with a principal place of business located at 338 N. Canon Drive, 3<sup>rd</sup> Floor, Beverly Hills, CA 90210.

8. On information and belief, CinemaNow, LLC is a Delaware entity with a principal place of business located at 338 N. Canon Drive, 3<sup>rd</sup> Floor, Beverly Hills, CA 90210.

9. On information and belief, FOTV acquired CinemaNow, LLC on or about December 2015, and CinemaNow, LLC is now a wholly owned subsidiary of FOTV.

10. Per FOTV’s filings with the SEC, CinemaNow, LLC “is an over-the-top provider that enables transactional digital storefronts across multiple territories by managing the entire content supply chain from licensing to encoding, storage, delivery and commerce reporting.” *See* 10-Q, dated October 3, 2016.

11. On information and belief, a user of Defendants’ television and movie streaming/download service has the option of watching a movie immediately or at a later time. For example, consumers can watch movies and TV shows on televisions or other devices using Defendants’ television and movie streaming/download

1 service. Defendants’ television and movie streaming/download service works on  
2 consoles such as the Xbox, tablets such as the iPad, smartphones, and other  
3 electronic devices such as Roku.  
4

5 **NATURE OF THE ACTION**

6 12. This is a civil action for patent infringement arising under the patent  
7 laws of the United States, 35 U.S.C. §§ 271 *et seq.*  
8

9 13. Defendants have infringed and continue to infringe, contributed to and  
10 continue to contribute to the infringement of, and/or actively induced and continue  
11 to induce others to infringe Maxell’s U.S. Patent Nos. 8,311,389 (the “389  
12 Patent”); 9,083,942 (the “942 Patent”); 9,773,522 (the “522 Patent”); 6,954,583  
13 (the “583 Patent”); 7,515,810 (the “810 Patent”); and 9,384,783 (the “783  
14 Patent”) (collectively, “the Asserted Patents”).  
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17 14. Maxell is the legal owner by assignment of the Asserted Patents,  
18 which were duly and legally issued by the United States Patent and Trademark  
19 Office.  
20

21 15. Maxell seeks injunctive relief and monetary damages.  
22

23 **JURISDICTION AND VENUE**

24 16. Maxell brings this action for patent infringement under the patent laws  
25 of the United States, 35 U.S.C. § 271 *et seq.*  
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1           17. This Court has subject matter jurisdiction over the subject matter of  
2 this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action arises  
3 under the patent laws of the United States.  
4

5           18. The Court has personal jurisdiction over Defendants because (1)  
6 Maxell's claims arise in whole or in part from Defendants' conduct in California  
7 and (2) Defendants are subject to personal jurisdiction under the provisions of the  
8 California Long Arm Statute, Cal. Code. Civ. Proc. § 410.10, by virtue of the fact  
9 that, upon information and belief, Defendants have availed themselves of the  
10 privilege of conducting and soliciting business within this State, including engaging  
11 in at least some of the infringing acts alleged herein through the sales and  
12 marketing of infringing products in this State. In addition, FOTV has previously  
13 availed itself of the Court's jurisdiction in *FilmOn.TV Networks, Inc. v. ViXS Sys.,*  
14 *Inc.*, Case No. 2:14-cv-09136 (C.D. Cal.) (on information and belief, FilmOn.TV  
15 Networks, Inc. changed its name to FOTV in April 2016). The allegations and  
16 claims set forth in this action arise out of Defendants' infringing activities in this  
17 State, as well as by others acting as Defendants' agents and/or representatives, such  
18 that it would be reasonable for this Court to exercise jurisdiction consistent with the  
19 principles underlying the U.S. Constitution, and would not offend traditional  
20 notions of fair play and substantial justice.  
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26           19. Upon further information and belief, Defendants have also established  
27 minimum contacts with this District and regularly transact and do business within  
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1 this District, including advertising, promoting and selling products over the  
2 internet, through intermediaries, representatives and/or agents located within this  
3 District, that infringe Maxell's patents, which products are then marketed to, sold  
4 to, accessed by, and streamed directly to citizens residing within this State and this  
5 District. Upon further information and belief, Defendants have purposefully  
6 directed activities at citizens of this State and located within this District.  
7

9 20. On information and belief, Defendants have purposefully and  
10 voluntarily placed their products and services into the stream of commerce with the  
11 expectation that they will be purchased and used by customers located in the State  
12 of California and the Central District of California. On information and belief,  
13 Defendants' customers in the Central District of California have purchased and  
14 used and continue to purchase and use Defendants' products and services.  
15

17 21. Venue in the Central District of California is proper pursuant to 28  
18 U.S.C. §§ 1391 and 1400 because Defendants reside in this District. Further,  
19 Defendants maintain a regular and established place of business in this district and  
20 have committed infringing acts in this district.  
21

22 **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,311,389**

23 22. Maxell incorporates paragraphs 1-21 above by reference.  
24

25 23. U.S. Patent No. 8,311,389 (the "389 Patent," attached hereto at  
26 Exhibit 1) duly issued on November 13, 2012 and is entitled *Digital information*  
27 *recording apparatus, reproducing apparatus and transmitting apparatus.*  
28

1           24. Maxell is the owner by assignment of the '389 Patent and possesses all  
2 rights under the '389 Patent, including the exclusive right to recover for past and  
3 future infringement.  
4

5           25. Defendants have directly infringed one or more claims of the '389  
6 Patent in this judicial district and elsewhere in California, including at least claims  
7 3-4 and 7-8 literally and/or under the doctrine of equivalents, by or through making,  
8 using, importing, offering for sale and/or selling their telecommunications  
9 technology, including by way of example their television and movie  
10 streaming/download service known as CinemaNow.  
11

12           26. CinemaNow is an Internet-based home entertainment service that  
13 provides access to a library of movies through a variety of devices. For example,  
14 “By downloading or streaming any content, utilizing the CinemaNow Website, the  
15 CinemaNow Apps or accessing any other part of the Service, you are agreeing to  
16 these terms of service and all other policies or notices posted by us on the  
17 CinemaNow Website (collectively, the ‘Terms’).”  
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20           27. CinemaNow allows viewers to watch a title immediately or download  
21 it to a device (“The Content may only be streamed to, or downloaded and stored on,  
22 an approved device”) that has audio/video information and control information  
23 related thereto. On information and belief, the control information includes a first  
24 period for retaining the audio/video information on the recording medium, in that  
25 viewers have 30 days to complete watching the rental, and a second period for  
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1 enabling reproduction of the audio/video information recorded on the recording  
2 medium after the audio/video information is initially accessed for reproduction  
3 from the recording medium, in that once a viewer starts a movie or television show  
4 they must complete it within, for example, 24 or 48 hours (“depending on the  
5 Content.”)  
6

7  
8 28. The foregoing features and capabilities of CinemaNow, and  
9 Defendants’ description and/or demonstration thereof, including in user manuals,  
10 advertising, and information on their website reflect Defendants’ direct  
11 infringement by satisfying every element of at least claims 3-4 and 7-8 of the ’389  
12 Patent, under 35 U.S.C. § 271(a).  
13

14  
15 29. Defendants have also actively induced, and continue to induce, the  
16 infringement of at least claims 3-4 and 7-8 of the ’389 Patent, in this judicial district  
17 and elsewhere in the United States, by actively inducing their customers, including  
18 end-users, to use the CinemaNow system (*e.g.*, the CinemaNow App operating on a  
19 tablet or smartphone) in an infringing manner as described above. On information  
20 and belief, Defendants have specifically intended that their customers use their  
21 software and services that infringe at least claims 3-4 and 7-8 of the ’389 Patent by,  
22 at a minimum, providing access to, support for, training and instructions for, their  
23 CinemaNow software and services to their customers, on at least their website, to  
24 enable them to infringe at least claims 3-4 and 7-8 of the ’389 Patent, as described  
25 above. Defendants’ customers who purchase devices and components thereof (*e.g.*,  
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1 iPads, Android tablets, etc.) and operate such devices and components in  
2 accordance with Defendants' instructions (*e.g.*, in use with the CinemaNow App)  
3 directly infringe one or more claims of the '389 Patent in violation of 35 U.S.C. §  
4 271. Defendants are thereby liable for infringement of the '389 Patent pursuant to  
5 35 U.S.C. § 271(b).  
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8 30. Defendants have indirectly infringed at least claims 3-4 and 7-8 of the  
9 '389 Patent, by, among other things, contributing to the direct infringement of  
10 others, including customers of the CinemaNow system by making, offering to sell,  
11 or selling, in the United States, or importing a component of a patented machine,  
12 manufacture, or combination, or an apparatus for use in practicing a patented  
13 process, constituting a material part of the invention, knowing the same to be  
14 especially made or especially adapted for use in infringement of the '389 Patent,  
15 and not a staple article or commodity of commerce suitable for substantial non-  
16 infringing use.  
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20 31. For example, the CinemaNow system includes the CinemaNow  
21 software or application (*e.g.*, operating on a computer, television, tablet,  
22 smartphone). This is a component of a patented machine, manufacture, or  
23 combination, or an apparatus for use in practicing a patented process. Furthermore,  
24 such a component is a material part of the invention and upon information and  
25 belief is not a staple article or commodity of commerce suitable for substantial non-  
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1 infringing use. Thus, Defendants are liable for infringement of the '389 Patent  
2 pursuant to 35 U.S.C. § 271(c).

3  
4 32. Defendants have been on notice of the '389 Patent since at least the  
5 invitation for negotiations sent by Maxell on October 6, 2017, and, at the latest, the  
6 service of this complaint. By the time of trial, Defendants will thus have known and  
7 intended (since receiving such notice), that their continued actions would actively  
8 induce and contribute to actual infringement of at least claims 3-4 and 7-8 of the  
9 '389 Patent.  
10

11  
12 33. Defendants undertook and continue their infringing actions despite an  
13 objectively high likelihood that such activities infringed the '389 Patent, which has  
14 been duly issued by the USPTO, and is presumed valid. For example, since at least  
15 October 6, 2017, Defendants have been aware of an objectively high likelihood that  
16 their actions constituted and continue to constitute infringement of the '389 Patent,  
17 and that the '389 Patent is valid. On information and belief, Defendants could not  
18 reasonably, subjectively believe that their actions do not constitute infringement of  
19 the '389 Patent, nor could they reasonably, subjectively believe that the patent is  
20 invalid. Despite that knowledge and subjective belief, and the objectively high  
21 likelihood that their actions constitute infringement, Defendants have continued  
22 their infringing activities. As such, Defendants willfully infringe the '389 Patent.  
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27 34. Maxell has been damaged by Defendants' infringement of the '389  
28 Patent.



1           40. CinemaNow allows viewers to watch a title immediately or download  
2 it to a device (“The Content may only be streamed to, or downloaded and stored on,  
3 an approved device”) that has audio/video information and control information  
4 related thereto. On information and belief, the control information includes a first  
5 period for retaining the audio/video information on the recording medium, in that  
6 viewers have 30 days to complete watching the rental, and a second period for  
7 enabling reproduction of the audio/video information recorded on the recording  
8 medium after the audio/video information is initially accessed for reproduction  
9 from the recording medium, in that once a viewer starts a movie or television show  
10 they must complete it within, for example, 24 or 48 hours (“depending on the  
11 Content.”)

12           41. The foregoing features and capabilities of CinemaNow, and  
13 Defendants’ description and/or demonstration thereof, including in user manuals,  
14 advertising, and information on its website reflect Defendants’ direct infringement  
15 by satisfying every element of at least claims 1, 2, 4, 5, 7, 8, 10, 11, 13, 14, 16, 17,  
16 19, 20, 22, 23 of the ’942 Patent, under 35 U.S.C. § 271(a).

17           42. Defendants have also actively induced, and continue to induce, the  
18 infringement of at least claims 1, 2, 4, 5, 7, 8, 10, 11, 13, 14, 16, 17, 19, 20, 22, 23  
19 of the ’942 Patent, in this judicial district and elsewhere in the United States, by  
20 actively inducing their customers, including end-users, to use the CinemaNow  
21 system (*e.g.*, the CinemaNow App operating on a tablet or smartphone) in an

1 infringing manner as described above. On information and belief, Defendants have  
2 specifically intended that their customers use their software and services that  
3 infringe at least claims 1, 2, 4, 5, 7, 8, 10, 11, 13, 14, 16, 17, 19, 20, 22, 23 of the  
4 '942 Patent by, at a minimum, providing access to, support for, training and  
5 instructions for, their CinemaNow software and services to their customers, on at  
6 least their website, to enable them to infringe at least claims 1, 2, 4, 5, 7, 8, 10, 11,  
7 13, 14, 16, 17, 19, 20, 22, 23 of the '942 Patent, as described above. Defendants'  
8 customers who purchase devices and components thereof (*e.g.*, iPads, Android  
9 tablets, etc.) and operate such devices and components in accordance with  
10 Defendants' instructions (*e.g.*, in use with the CinemaNow App) directly infringe  
11 one or more claims of the '942 Patent in violation of 35 U.S.C. § 271. Defendants  
12 are thereby liable for infringement of the '942 Patent pursuant to 35 U.S.C. §  
13 271(b).

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18 43. Defendants have indirectly infringed at least 1, 2, 4, 5, 7, 8, 10, 11, 13,  
19 14, 16, 17, 19, 20, 22, 23 of the '942 Patent, by, among other things, contributing to  
20 the direct infringement of others, including customers of the CinemaNow system by  
21 making, offering to sell, or selling, in the United States, or importing a component  
22 of a patented machine, manufacture, or combination, or an apparatus for use in  
23 practicing a patented process, constituting a material part of the invention, knowing  
24 the same to be especially made or especially adapted for use in infringement of the  
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1 '942 Patent, and not a staple article or commodity of commerce suitable for  
2 substantial non-infringing use.

3  
4 44. For example, the CinemaNow system includes the CinemaNow  
5 software or application (*e.g.*, operating on a computer, television, tablet,  
6 smartphone). This is a component of a patented machine, manufacture, or  
7 combination, or an apparatus for use in practicing a patented process. Furthermore,  
8 such a component is a material part of the invention and upon information and  
9 belief is not a staple article or commodity of commerce suitable for substantial non-  
10 infringing use. Thus, Defendants are liable for infringement of the '942 Patent  
11 pursuant to 35 U.S.C. § 271(c).

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

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21  
22 46. Defendants undertook and continue their infringing actions despite an  
23 objectively high likelihood that such activities infringed the '942 Patent, which has  
24 been duly issued by the USPTO, and is presumed valid. For example, since at least  
25 October 6, 2017, Defendants have been aware of an objectively high likelihood that  
26 their actions constituted and continue to constitute infringement of the '942 Patent,  
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1 and that the '942 Patent is valid. On information and belief, Defendants could not  
2 reasonably, subjectively believe that their actions do not constitute infringement of  
3 the '942 Patent, nor could they reasonably, subjectively believe that the patent is  
4 invalid. Despite that knowledge and subjective belief, and the objectively high  
5 likelihood that their actions constitute infringement, Defendants have continued  
6 their infringing activities. As such, Defendants willfully infringe the '942 Patent.  
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9 47. Maxell has been damaged by Defendants' infringement of the '942  
10 Patent.  
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12 **COUNT III – INFRINGEMENT OF U.S. PATENT 9,773,522**

13 48. Maxell incorporates paragraphs 1-47 above by reference.

14 49. U.S. Patent No. 9,773,522 (the "'522 Patent," attached hereto at  
15 Exhibit 3) duly issued on September 26, 2017, and is entitled *Digital information*  
16 *recording apparatus, reproducing apparatus and transmitting apparatus.*  
17

18 50. Maxell is the owner by assignment of the '522 Patent and possesses all  
19 rights under the '522 Patent, including the exclusive right to recover for past and  
20 future infringement.  
21

22 51. Defendants have directly infringed one or more claims of the '522  
23 Patent in this judicial district and elsewhere in California, including at least claims  
24 13, 14, 16, 17, 19, 20, 22, 23 of the '522 Patent literally and/or under the doctrine of  
25 equivalents, by or through making, using, importing, offering for sale and/or selling  
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1 their telecommunications technology, including by way of example their television  
2 and movie streaming/download service known as CinemaNow.

3  
4 52. CinemaNow is an Internet-based home entertainment service that  
5 provides access to a library of movies through a variety of devices. For example,  
6 “By downloading or streaming any content, utilizing the CinemaNow Website, the  
7 CinemaNow Apps or accessing any other part of the Service, you are agreeing to  
8 these terms of service and all other policies or notices posted by us on the  
9 CinemaNow Website (collectively, the ‘Terms’).”

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11  
12 53. CinemaNow allows viewers to watch a title immediately or download  
13 it to a device (“The Content may only be streamed to, or downloaded and stored on,  
14 an approved device”) that has audio/video information and control information  
15 related thereto. On information and belief, the control information includes a first  
16 period for retaining the audio/video information on the recording medium, in that  
17 viewers have 30 days to complete watching the rental, and a second period for  
18 enabling reproduction of the audio/video information recorded on the recording  
19 medium after the audio/video information is initially accessed for reproduction  
20 from the recording medium, in that once a viewer starts a movie or television show  
21 they must complete it within, for example, 24 or 48 hours (“depending on the  
22 Content.”)

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26 54. The foregoing features and capabilities of CinemaNow, and  
27 Defendants’ description and/or demonstration thereof, including in user manuals,  
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1 advertising, and information on their website reflect Defendants' direct  
2 infringement by satisfying every element of at least claims 13, 14, 16, 17, 19, 20,  
3 22, 23 of the '522 Patent, under 35 U.S.C. § 271(a).  
4

5 55. Defendants have also actively induced, and continue to induce, the  
6 infringement of at least claims 13, 14, 16, 17, 19, 20, 22, 23 of the '522 Patent, in  
7 this judicial district and elsewhere in the United States, by actively inducing their  
8 customers, including end-users, to use the CinemaNow system (*e.g.*, the  
9 CinemaNow App operating on a tablet or smartphone) in an infringing manner as  
10 described above. On information and belief, Defendants have specifically intended  
11 that their customers use their software and services that infringe at least claims 13,  
12 14, 16, 17, 19, 20, 22, 23 of the '522 Patent by, at a minimum, providing access to,  
13 support for, training and instructions for, their CinemaNow software and services to  
14 their customers, on at least their website, to enable them to infringe at least claims  
15 13, 14, 16, 17, 19, 20, 22, 23 of the '522 Patent, as described above. Defendants'  
16 customers who purchase devices and components thereof (*e.g.*, iPads, Android  
17 tablets, etc.) and operate such devices and components in accordance with  
18 Defendants' instructions (*e.g.*, in use with the CinemaNow App) directly infringe  
19 one or more claims of the '522 Patent in violation of 35 U.S.C. § 271. Defendants  
20 are thereby liable for infringement of the '522 Patent pursuant to 35 U.S.C. §  
21 271(b).  
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1           56. Defendants have indirectly infringed at least claims 13, 14, 16, 17, 19,  
2 20, 22, 23 of the '522 Patent, by, among other things, contributing to the direct  
3 infringement of others, including customers of the CinemaNow system by making,  
4 offering to sell, or selling, in the United States, or importing a component of a  
5 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           57. For example, the CinemaNow system includes the CinemaNow  
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, Defendants are liable for infringement of the '522 Patent  
20 pursuant to 35 U.S.C. § 271(c).  
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22

23  
24           58. Defendants have 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, Defendants will thus have known and  
27 intended (since receiving such notice), that their continued actions would actively  
28

1 induce and contribute to actual infringement of at least claims 13, 14, 16, 17, 19,  
2 20, 22, 23 of the '522 Patent

3  
4 59. Defendants undertook and continue their 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, Defendants have been aware of an objectively high likelihood that  
8 their actions constituted and continue to constitute infringement of the '522 Patent,  
9 and that the '522 Patent is valid. On information and belief, Defendants could not  
10 reasonably, subjectively believe that their actions do not constitute infringement of  
11 the '522 Patent, nor could they reasonably, subjectively believe that the patent is  
12 invalid. Despite that knowledge and subjective belief, and the objectively high  
13 likelihood that their actions constitute infringement, Defendants have continued  
14 their infringing activities. As such, Defendants willfully infringe the '522 Patent.  
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18 60. Maxell has been damaged by Defendants' infringement of the '522  
19 Patent.  
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21 **COUNT IV – INFRINGEMENT OF U.S. PATENT NO. 6,954,583**

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

23  
24 62. 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*.  
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1           63. 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.  
4

5           64. Defendants have directly infringed one or more claims of the '583  
6 Patent 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 their television and movie streaming/download  
10 service known as CinemaNow.  
11

12           65. CinemaNow is an Internet-based home entertainment service that  
13 provides access to a library of movies through a variety of devices. For example,  
14 “By downloading or streaming any content, utilizing the CinemaNow Website, the  
15 CinemaNow Apps or accessing any other part of the Service, you are agreeing to  
16 these terms of service and all other policies or notices posted by us on the  
17 CinemaNow Website (collectively, the ‘Terms’).”  
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20           66. A “representative image list” comprising “containing at least one  
21 representative image of reduced size” (*i.e.*, thumbnail images) is available on  
22 CinemaNow for each movie or television show. CinemaNow displays the  
23 representative image list stepwise over a predetermined time duration. Further, the  
24 CinemaNow system comprises a user interface means for enabling selection of a  
25 reduced-sized representative image (thumbnail). These representative images are  
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1 representative of a scene distanced for a given time in that they appear sequentially  
2 when fast forwarding or rewinding or otherwise selecting a scene using the given  
3 input, be that a button push, a double tap on the screen, or the use of an external  
4 controller. The CinemaNow system is observed to effect a transition wherein the  
5 selected representative image is gradually extended stepwise from a displayed  
6 position—from a small thumbnail image to full screen image when selected.  
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9         67. The foregoing features and capabilities of the CinemaNow system, and  
10 Defendants' description and/or demonstration thereof, including in user manuals,  
11 advertising, and information on their website reflect Defendants' direct  
12 infringement by satisfying every element of at least claim 3 of the '583 Patent,  
13 under 35 U.S.C. § 271(a).  
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15

16         68. Defendants have also actively induced, and continue to induce, the  
17 infringement of at least claim 3 of the '583 Patent, in this judicial district and  
18 elsewhere in the United States, by actively inducing their customers, including end-  
19 users, to use the CinemaNow system (*e.g.*, the CinemaNow App operating on a  
20 tablet or smartphone) in an infringing manner as described above. On information  
21 and belief, Defendants have specifically intended that their customers use their  
22 software and services that infringe at least claim 3 of the '583 Patent by, at a  
23 minimum, providing access to, support for, training and instructions for, their  
24 CinemaNow software and services to their customers, on at least their website, to  
25 enable them to infringe at least claim 3 of the '583 Patent, as described above.  
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1 Defendants' customers who purchase devices and components thereof (*e.g.*, iPads,  
2 Android tablets, etc.) and operate such devices and components in accordance with  
3 Defendants' instructions (*e.g.*, in use with the CinemaNow App) directly infringe  
4 one or more claims of the '583 Patent in violation of 35 U.S.C. § 271. Defendants  
5 are thereby liable for infringement of the '583 Patent pursuant to 35 U.S.C. §  
6 271(b).  
7  
8

9         69. Defendants have indirectly infringed at least claim 3 of the '583  
10 Patent, by, among other things, contributing to the direct infringement of others,  
11 including customers of the CinemaNow system by making, offering to sell, or  
12 selling, in the United States, or importing a component of a patented machine,  
13 manufacture, or combination, or an apparatus for use in practicing a patented  
14 process, constituting a material part of the invention, knowing the same to be  
15 especially made or especially adapted for use in infringement of the '583 Patent,  
16 and not a staple article or commodity of commerce suitable for substantial non-  
17 infringing use.  
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21         70. For example, the CinemaNow system includes the CinemaNow  
22 software or application (*e.g.*, operating on a computer, television, tablet,  
23 smartphone). This is a component of a patented machine, manufacture, or  
24 combination, or an apparatus for use in practicing a patented process. Furthermore,  
25 such a component is a material part of the invention and upon information and  
26 belief is not a staple article or commodity of commerce suitable for substantial non-  
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1 infringing use. Thus, Defendants are liable for infringement of the '583 Patent  
2 pursuant to 35 U.S.C. § 271(c).  
3

4 71. Defendants have been on notice of the '583 Patent since at least the  
5 invitation for negotiations sent by Maxell on October 6, 2017, and, at the latest, the  
6 service of this complaint. By the time of trial, Defendants will thus have known and  
7 intended (since receiving such notice), that their continued actions would actively  
8 induce and contribute to actual infringement of at least claim 3 of the '583 Patent.  
9

10 72. Defendants undertook and continue their infringing actions despite an  
11 objectively high likelihood that such activities infringed the '583 Patent, which has  
12 been duly issued by the USPTO, and is presumed valid. For example, since at least  
13 October 6, 2017, Defendants have been aware of an objectively high likelihood that  
14 their actions constituted and continue to constitute infringement of the '583 Patent,  
15 and that the '583 Patent is valid. On information and belief, Defendants could not  
16 reasonably, subjectively believe that their actions do not constitute infringement of  
17 the '583 Patent, nor could they reasonably, subjectively believe that the patent is  
18 invalid. Despite that knowledge and subjective belief, and the objectively high  
19 likelihood that their actions constitute infringement, Defendants have continued  
20 their infringing activities. As such, Defendants willfully infringe the '583 Patent.  
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25 73. Maxell has been damaged by Defendants' infringement of the '583  
26 Patent.  
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1                   **COUNT V – INFRINGEMENT OF U.S. PATENT NO. 7,515,810**

2           74. Maxell incorporates paragraphs 1-73 above by reference.

3  
4           75. U.S. Patent No. 7,515,810 (the “’810 Patent,” attached hereto at  
5 Exhibit 5) duly issued on April 7, 2009, and is entitled *Video Access Method and*  
6 *Video Access Apparatus*.

7  
8           76. Maxell is the owner by assignment of the ‘810 Patent and possesses all  
9 rights under the ’810 Patent, including the exclusive right to recover for past and  
10 future infringement.

11  
12           77. On information and belief, Defendants have directly infringed one or  
13 more claims of the ’810 Patent in this judicial district and elsewhere in California,  
14 including at least claims 1, 2, and 6 literally and/or under the doctrine of  
15 equivalents, by or through making, using, importing, offering for sale and/or selling  
16 their telecommunications technology, including by way of example their television  
17 and movie streaming service known as CinemaNow.

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20           78. CinemaNow is an Internet-based home entertainment service that  
21 provides access to a library of movies through a variety of devices. For example,  
22 “By downloading or streaming any content, utilizing the CinemaNow Website, the  
23 CinemaNow Apps or accessing any other part of the Service, you are agreeing to  
24 these terms of service and all other policies or notices posted by us on the  
25 CinemaNow Website (collectively, the ‘Terms’).”  
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1           79. A “list of time-serial representative images of scenes” (*i.e.*, thumbnail  
2 images) are available on CinemaNow for each movie or television show. Further,  
3 CinemaNow gives users an option to “scroll” the list of scenes using some kind of  
4 input (*e.g.*, a button press). The scrolling functionality is simulated by changing the  
5 “representative image” (*i.e.*, a thumbnail image in a time distant location) to a new  
6 image in a subsequent fashion. These representative images are representative of a  
7 scene distanced for a given time in that they appear sequentially when fast  
8 forwarding or rewinding or otherwise selecting a scene using the given input, be  
9 that a button push, a double tap on the screen, or the use of an external controller.  
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13           80. The foregoing features and capabilities of CinemaNow, and  
14 Defendants’ description and/or demonstration thereof, including in user manuals,  
15 advertising, and information on their website reflect Defendants’ direct  
16 infringement by satisfying every element of at least claims 1, 2, and 6 of the ’810  
17 Patent, under 35 U.S.C. § 271(a).  
18

19  
20           81. Defendants have also actively induced, and continue to induce, the  
21 infringement of at least claims 1, 2, and 6 of the ’810 Patent, in this judicial district  
22 and elsewhere in the United States, by actively inducing their customers, including  
23 end-users, to use the CinemaNow system (*e.g.*, the CinemaNow App operating on a  
24 tablet or smartphone) in an infringing manner as described above. On information  
25 and belief, Defendants have specifically intended that their customers use their  
26 software and services that infringe at least claims 1, 2, and 6 of the ’810 Patent by,  
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1 at a minimum, providing access to, support for, training and instructions for, their  
2 CinemaNow software and services to their customers, on at least their website, to  
3 enable them to infringe at least claims 1, 2, and 6 of the '810 Patent, as described  
4 above. Defendants' customers who purchase devices and components thereof (*e.g.*,  
5 iPads, Android tablets, etc.) and operate such devices and components in  
6 accordance with Defendants' instructions (*e.g.*, in use with the CinemaNow App)  
7 directly infringe one or more claims of the '810 Patent in violation of 35 U.S.C. §  
8 271. Defendants are thereby liable for infringement of the '810 Patent pursuant to  
9 35 U.S.C. § 271(b).

13 82. Defendants have indirectly infringed at least claims 1, 2, and 6 of the  
14 '810 Patent, by, among other things, contributing to the direct infringement of  
15 others, including customers of the CinemaNow system by making, offering to sell,  
16 or selling, in the United States, or importing a component of a patented machine,  
17 manufacture, or combination, or an apparatus for use in practicing a patented  
18 process, constituting a material part of the invention, knowing the same to be  
19 especially made or especially adapted for use in infringement of the '810 Patent,  
20 and not a staple article or commodity of commerce suitable for substantial non-  
21 infringing use.

25 83. For example, the CinemaNow system includes the CinemaNow  
26 software or application (*e.g.*, operating on a computer, television, tablet,  
27 smartphone). This is a component of a patented machine, manufacture, or  
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1 combination, or an apparatus for use in practicing a patented process. Furthermore,  
2 such a component is a material part of the invention and upon information and  
3 belief is not a staple article or commodity of commerce suitable for substantial non-  
4 infringing use. Thus, Defendants are liable for infringement of the '810 Patent  
5 pursuant to 35 U.S.C. § 271(c).  
6

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8 84. Defendants have been on notice of the '810 Patent since at least the  
9 invitation for negotiations sent by Maxell on October 6, 2017, and, at the latest, the  
10 service of this complaint. By the time of trial, Defendants will thus have known and  
11 intended (since receiving such notice), that their continued actions would actively  
12 induce and contribute to actual infringement of at least claims 1, 2, and 6 of the  
13 '810 Patent.  
14

15  
16 85. Defendants undertook and continue their infringing actions despite an  
17 objectively high likelihood that such activities infringed the '810 Patent, which has  
18 been duly issued by the USPTO, and is presumed valid. For example, since at least  
19 October 6, 2017, Defendants have been aware of an objectively high likelihood that  
20 their actions constituted and continue to constitute infringement of the '810 Patent,  
21 and that the '810 Patent is valid. On information and belief, Defendants could not  
22 reasonably, subjectively believe that their actions do not constitute infringement of  
23 the '810 Patent, nor could they reasonably, subjectively believe that the patent is  
24 invalid. Despite that knowledge and subjective belief, and the objectively high  
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1 likelihood that their actions constitute infringement, Defendants have continued  
2 their infringing activities. As such, Defendants willfully infringe the '810 Patent.

3  
4 86. Maxell has been damaged by Defendants' infringement of the '810  
5 Patent.

6 **COUNT VI – INFRINGEMENT OF U.S. PATENT NO. 9,384,783**

7  
8 87. Maxell incorporates paragraphs 1-86 above by reference.

9 88. U.S. Patent No. 9,384,783 (the “'783 Patent,” attached hereto at  
10 Exhibit 6) duly issued on July 5, 2016 and is entitled *Editing method and recording*  
11 *and reproducing device*.

12  
13 89. Maxell is the owner by assignment of the '783 Patent and possesses all  
14 rights under the '783 Patent, including the exclusive right to recover for past and  
15 future infringement.

16  
17 90. Defendants have directly infringed one or more claims of the '783  
18 Patent in this judicial district and elsewhere in California, including at least claim 2  
19 literally and/or under the doctrine of equivalents, by or through making, using,  
20 importing, offering for sale and/or selling their telecommunications technology,  
21 including by way of example their television and movie streaming/download  
22 service known as CinemaNow.

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25 91. CinemaNow is an Internet-based home entertainment service that  
26 provides access to a library of movies through a variety of devices. For example,  
27 “By downloading or streaming any content, utilizing the CinemaNow Website, the  
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1 CinemaNow Apps or accessing any other part of the Service, you are agreeing to  
2 these terms of service and all other policies or notices posted by us on the  
3 CinemaNow Website (collectively, the ‘Terms’).”  
4

5 92. CinemaNow allows a user to perform the steps of downloading a  
6 movie, for example, to a recording medium in a device (*e.g.*, a tablet) that can be  
7 reproduced on the device’s display. Using the CinemaNow system, a user can  
8 perform the steps of displaying a first and second area associated with groups of  
9 video information. Further, a user can view video information in a second group of  
10 information even if the video information, included in both the first and second  
11 group of information and recorded on the recording medium, is deleted from the  
12 first group of information.  
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16 93. The foregoing features and capabilities of the CinemaNow system, and  
17 Defendants’ description and/or demonstration thereof, including in user manuals,  
18 advertising, and information on their website reflect Defendants’ direct  
19 infringement by satisfying every element of at least claim 2 of the ’783 Patent,  
20 under 35 U.S.C. § 271(a).  
21

22  
23 94. Defendants have also actively induced, and continue to induce, the  
24 infringement of at least claim 2 of the ’783 Patent, in this judicial district and  
25 elsewhere in the United States, by actively inducing their customers, including end-  
26 users, to use the CinemaNow system (*e.g.*, the CinemaNow App operating on a  
27 tablet or smartphone) in an infringing manner as described above. On information  
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1 and belief, Defendants have specifically intended that their customers use their  
2 software and services that infringe at least claim 2 of the '783 Patent by, at a  
3 minimum, providing access to, support for, training and instructions for, their  
4 CinemaNow software and services to their customers, on at least their website, to  
5 enable them to infringe at least claim 2 of the '783 Patent, as described above.  
6 Defendants' customers who purchase devices and components thereof (*e.g.*, iPads,  
7 Android tablets, etc.) and operate such devices and components in accordance with  
8 Defendants' instructions (*e.g.*, in use with the CinemaNow App) directly infringe  
9 one or more claims of the '783 Patent in violation of 35 U.S.C. § 271. Defendants  
10 are thereby liable for infringement of the '783 Patent pursuant to 35 U.S.C. §  
11 271(b).  
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16 95. Defendants have indirectly infringed at least claim 2 of the '783  
17 Patent, by, among other things, contributing to the direct infringement of others,  
18 including customers of the CinemaNow system by making, offering to sell, or  
19 selling, in the United States, or importing a component of a patented machine,  
20 manufacture, or combination, or an apparatus for use in practicing a patented  
21 process, constituting a material part of the invention, knowing the same to be  
22 especially made or especially adapted for use in infringement of the '783 Patent,  
23 and not a staple article or commodity of commerce suitable for substantial non-  
24 infringing use.  
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1           96. For example, the CinemaNow system includes the CinemaNow  
2 software or application (*e.g.*, operating on a computer, television, tablet,  
3 smartphone). This is a component of a patented machine, manufacture, or  
4 combination, or an apparatus for use in practicing a patented process. Furthermore,  
5 such a component is a material part of the invention and upon information and  
6 belief is not a staple article or commodity of commerce suitable for substantial non-  
7 infringing use. Thus, Defendants are liable for infringement of the '783 Patent  
8 pursuant to 35 U.S.C. § 271(c).  
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12           97. Defendants have been on notice of the '783 Patent since at least the  
13 invitation for negotiations sent by Maxell on October 6, 2017, and, at the latest, the  
14 service of this complaint. By the time of trial, Defendants will thus have known and  
15 intended (since receiving such notice), that their continued actions would actively  
16 induce and contribute to actual infringement of at least claim 2 of the '783 Patent.  
17

18           98. Defendants undertook and continue their infringing actions despite an  
19 objectively high likelihood that such activities infringed the '783 Patent, which has  
20 been duly issued by the USPTO, and is presumed valid. For example, since at least  
21 October 6, 2017, Defendants have been aware of an objectively high likelihood that  
22 their actions constituted and continue to constitute infringement of the '783 Patent,  
23 and that the '783 Patent is valid. On information and belief, Defendants could not  
24 reasonably, subjectively believe that their actions do not constitute infringement of  
25 the '783 Patent, nor could they reasonably, subjectively believe that the patent is  
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1 invalid. Despite that knowledge and subjective belief, and the objectively high  
2 likelihood that their actions constitute infringement, Defendants have continued  
3 their infringing activities. As such, Defendants willfully infringe the '783 Patent.  
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5 99. Maxell has been damaged by Defendants' infringement of the '783  
6 Patent.  
7

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Maxell prays for relief as follows:

10 1. A judgment declaring that Defendants have infringed and are  
11 infringing one or more claims of the '389, '942, '522, '583, '810, and '783 Patents;  
12

13 2. A judgment awarding Maxell compensatory damages as a result of  
14 Defendants' infringement of one or more claims of the '389, '942, '522, '583, '810,  
15 and '783 Patents, together with interest and costs, consistent with lost profits and in  
16 no event less than a reasonable royalty;  
17

18 3. A judgment awarding Maxell treble damages and pre-judgment  
19 interest under 35 U.S.C. § 284 as a result of Defendants' willful and deliberate  
20 infringement of one or more claims of the '389, '942, '522, '583, '810, and '783  
21 Patents;  
22

23 4. A judgment declaring that this case is exceptional and awarding  
24 Maxell its expenses, costs, and attorneys' fees in accordance with 35 U.S.C. §§ 284  
25 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 Defendants from further acts of infringement of one or more claims of the '389, '942, '522, '583, '810, and '783 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

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