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17 Attorneys for Plaintiff Preservation Technologies LLC

18 UNITED STATES DISTRICT COURT

19 CENTRAL DISTRICT OF CALIFORNIA

20 PRESERVATION TECHNOLOGIES
21 LLC,

22 *Plaintiff,*

23 v.

24 MINDGEEK USA INC. and
25 MINDGEEK S.A.R.L.,

26 *Defendants.*

27 Civil Action No. 2:17-cv-08906

28 **COMPLAINT**

Jury Trial Demanded

1 Plaintiff Preservation Technologies LLC (“Preservation” or “Plaintiff”), by and
2 through its attorneys, for its Complaint against Mindgeek USA Inc., and Mindgeek
3 S.A.R.L. (together, “Mindgeek” or “Defendant”) hereby alleges as follows:

4 **I. NATURE OF THE ACTION**

5 1. This is a patent infringement action to end Defendant’s direct, joint,
6 contributory, and/or induced infringement of Plaintiff Preservation’s patented
7 inventions, including but not limited to Defendant’s unauthorized and infringing use,
8 sale, offering for sale, manufacture, and/or importation of methods and products
9 incorporating Plaintiff’s inventions.

10 2. Preservation has obtained all substantial rights and interest to U.S. Patent
11 5,813,014, U.S. Patent 5,832,499, U.S. Patent 6,092,080, U.S. Patent 6,353,831, U.S.
12 Patent 5,832,495, U.S. Patent 6,477,537, U.S. Patent 6,199,060, U.S. Patent
13 6,212,527, U.S. Patent 6,549,911, U.S. Patent 6,581,071, and U.S. Patent 6,574,638
14 (collectively, the “Asserted Patents”).

15 3. Defendant provides, uses, sells, offers for sale, distributes, manufactures,
16 and/or imports infringing products and services, and encourages others to use its
17 products and services in an infringing manner, including its customers.

18 4. Plaintiff Preservation seeks to prevent Defendant from continuing
19 infringement of Plaintiff’s patent rights. Plaintiff further seeks past and future
20 damages and prejudgment and post judgment interest for Defendant’s past
21 infringement of the Asserted Patents.

22 **II. THE PARTIES**

23 5. Plaintiff Preservation is a limited liability company organized and
24 existing under the laws of the State of Delaware, with its principle place of business
25 located at 903 E. 18th Street, Suite 223, Plano, TX 75074.

26 6. Upon information and belief, Mindgeek USA Inc. is a corporation
27 organized and existing under the laws of the State of Delaware, with an established
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1 place of business located at 23000 West Empire Avenue, 7th Floor, Burbank California
2 91504. Upon information and belief, defendant can be served with process by serving
3 its registered agent for service of process in the State of California, CT Corporation
4 System, 818 W 7th Street Suite 930, Los Angeles CA 90017.

5 7. Upon information and belief, Mindgeek S.A.R.L. is a Société à
6 responsabilité limitée organized and existing under the laws of Luxembourg, with a
7 place of business located at 32 Boulevard Royal, L-2249 Luxembourg City,
8 Luxembourg.

9 8. Herein, “Mindgeek” or “Defendant” refers to Mindgeek USA Inc., and
10 Mindgeek S.A.R.L., and all of their parents, subsidiaries, and affiliates.

11 **III. JURISDICTION AND VENUE**

12 9. This is an action for patent infringement, which arises under the Patent
13 Laws of the United States, in particular, 35 U.S.C. §§ 271, 281, 283-285, among
14 others. This Court has subject matter jurisdiction of the action under 28 U.S.C. § 1331
15 and § 1338(a).

16 10. Upon information and belief, this Court has personal jurisdiction over
17 Defendant, and venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (c),
18 and 1400 because, among other things, Mindgeek has established minimum contacts
19 within the forum such that the exercise of jurisdiction over Mindgeek will not offend
20 traditional notions of fair play and substantial justice. For example, Mindgeek has
21 placed products and services that practice and/or embody the claimed inventions of
22 the Asserted Patents into the stream of commerce with the knowledge and/or
23 reasonable expectation that purchasers and users of such products were located within
24 this district. In addition, Mindgeek has sold, advertised, marketed, and distributed
25 products in this district that practice the claimed inventions of the Asserted Patents.
26 Mindgeek derives substantial revenue from the sale of infringing products distributed
27 within this district, and/or expects or should reasonably expect its actions to have
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1 consequences within this district, and derive substantial revenue from interstate and
2 international commerce.

3 11. Venue properly lies in this district under the provisions of 28 U.S.C. §
4 1400 because Defendant has committed acts of infringement and has a regular and
5 established place of business located at 23000 West Empire Avenue, 7th Floor,
6 Burbank California 91504 in this Judicial District.

7 **IV. PLAINTIFF’S PATENTS**

8 12. On September 22, 1998, United States Patent No. 5,813,014 (“the ’014
9 Patent”) was duly and legally issued for a “Method and Apparatus for Management of
10 Multimedia Assets.” The invention disclosed by the ’014 Patent relates to a
11 multimedia system including components that allow input, information retrieval, and
12 display. The claims of the ’014 Patent cover, by way of example only, a method of
13 accessing multimedia data comprising the steps of defining a catalogue, specifying a
14 search request, identifying a result, retrieving a portion of multimedia data, storing the
15 search request, and storing the search result.

16 13. On November 3, 1998, United States Patent No. 5,832,499 (“the ’499
17 Patent”) was duly and legally issued for a “Digital Library System.” The invention
18 disclosed by the ’499 Patent relates to a digital library system to capture, access,
19 manage, and distribute multimedia data. The claims of the ’499 Patent, by way of
20 example only, a digital library system comprising a data capture system, an access
21 management system, and a distribution system.

22 14. On July 18, 2000, United States Patent No. 6,092,080 (“the ’080 Patent”)
23 was duly and legally issued for a “Digital Library System.” The invention disclosed
24 by the ’080 Patent relates to a digital library system that includes systems and
25 mechanisms for capturing, managing, and distributing multimedia data. The claims of
26 the ’080 Patent cover, by way of example only, a digital library system comprising a
27 cataloging system, an access management system, and a distribution system.

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1 15. On March 5, 2002, United States Patent No. 6,353,831 (“the ’831
2 Patent”) was duly and legally issued for a “Digital Library System.” The invention
3 disclosed by the ’831 Patent relates to a digital library system that includes systems
4 and mechanisms for capturing, managing, and distributing multimedia data. The
5 claims of the ’831 Patent cover, by way of example only, a digital library system
6 comprising a means for cataloguing multimedia data, a means for managing access,
7 and a means for distributing.

8 16. On November 3, 1998, United States Patent No. 5,832,495 (“the ’495
9 Patent”) was duly and legally issued for a “Method and Apparatus for Cataloguing
10 Multimedia Data.” The invention disclosed by the ’495 Patent relates to cataloguing
11 of data such as multimedia data. It comprises a catalog including one or more catalog
12 elements, each of which has one or more attributes. The claims of the ’495 Patent
13 cover e, by way of example only, a method of cataloguing comprising creating a
14 catalogue, specifying a description, creating a catalogue element, and creating a point
15 to at least one keyword.

16 17. On November 5, 2002, United States Patent No. 6,477,537 (“the ’537
17 Patent”) was duly and legally issued for a “Method and Apparatus for Management of
18 Multimedia Assets.” The invention disclosed by the ’537 Patent relates to a
19 multimedia system including components that allow input, information retrieval, and
20 display. The claims of the ’495 Patent cover, by way of example only, an application
21 program interface (API) comprising API protocol means comprising a command
22 interface between a first system component and an additional system component
23 comprising means for selecting multimedia data, means for retrieving multimedia
24 data, and means for displaying multimedia data.

25 18. On March 6, 2001, United States Patent No. 6,199,060 (“the ’060
26 Patent”) was duly and legally issued for a “Method and Apparatus for Management of
27 Multimedia Assets.” The invention disclosed by the ’060 Patent relates to a
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1 multimedia system including components to allow input, information retrieval, and
2 display. The claims of the '060 Patent cover, by way of example only, a method of
3 interfacing components in a multimedia system comprising defining a generalized
4 protocol, invoking a search request, communicating between at least two components,
5 returning a search response, invoking a retrieval request, and invoking a transmit
6 request.

7 19. On April 3, 2001, United States Patent No. 6,212,527 (“the '527 Patent”)
8 was duly and legally issued for a “Method and Apparatus for Cataloging Multimedia
9 Data.” The invention disclosed by the '527 Patent relates to cataloging of data such as
10 multimedia data. The claims of the '527 Patent cover, by way of example only, a
11 method of managing the quality of a data collection of multimedia data comprising
12 reviewing multimedia data, creating a quality event, and associating the quality event
13 with input data.

14 20. On April 15, 2003, United States Patent No. 6,549,911 (“the '911
15 Patent”) was duly and legally issued for a “Method and Apparatus for Cataloging
16 Multimedia Data.” The invention disclosed by the '911 Patent relates to cataloging
17 of data such as multimedia data. The claims of the '527 Patent cover, by way of
18 example only, a method of cataloging multimedia data comprising specifying a
19 description, creating a catalogue element, creating a plurality of attributes and
20 attribute elements, and creating a plurality of relationships.

21 21. On July 17, 2003, United States Patent No. 6,581,071 (“the '071 Patent”)
22 was duly and legally issued for a “Surveying System and Method.” The invention
23 disclosed by the '071 Patent relates to a survey system wherein multiple versions of a
24 survey may be defined and data from the survey versions may be maintained as
25 cohesive data. Each survey may comprise different sets of questions and different
26 types of answers. The claims of the '071 Patent cover, by way of example only, a
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1 survey method comprising obtaining a schema, obtaining a definition, and capturing
2 responses.

3 22. On June 3, 2003, United States Patent No. 6,574,638 (“the ’638 Patent”)
4 was duly and legally issued for a “Surveying System and Method.” The invention
5 disclosed by the ’638 Patent relates to a survey system wherein multiple versions of a
6 survey may be defined and data from the survey versions may be maintained as
7 cohesive data. Each survey may comprise a different set of questions and different
8 types of answers. The claims of the ’638 Patent cover, by way of example only,
9 associating multimedia data with surveying data comprising obtaining an association,
10 searching survey data, and identifying multimedia data.

11 23. The USC Shoah Foundation, formerly known as Survivors of the Shoah
12 Visual History Foundation, (the “Shoah Foundation”) developed the patented
13 technology described in paragraphs 15-25, *supra* (collectively, the “Asserted
14 Patents”). In the mid-1990s, Steven Spielberg founded the Shoah Foundation to
15 preserve the testimonies of the then living 50,000 holocaust survivors before their first
16 a hand accounts of the Holocaust were lost as that generation passed away. The Shoah
17 Foundation’s impetus was to gather, catalog, and make available for access thousands
18 of video testimonies. In doing so, the Shoah Foundation sought to build one of the
19 largest video libraries in the world comprising nearly 52,000 video testimonies in 32
20 languages from 56 countries.

21 24. In 1996, there was no digital library or other multimedia system that
22 could handle the large volume of video testimonies collected and maintained by the
23 Shoah Foundation, so Samuel Gustman, CTO of the Shoah Foundation and an
24 inventor of the Patents- in-Suit, set out to design one. Gustman created a digital
25 library system that incorporated a unique distributed modular infrastructure and
26 advanced techniques for indexing, accessing, distributing, and surveying multimedia
27 data. The inventions underlying Gustman’s system were captured in 11 U.S. patents
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1 that make up the Patents-in-Suit. Today, these inventions are used to enhance the
2 consumer multimedia streaming experience in nearly every major internet company.

3 25. At the time of invention, development of multimedia distribution systems
4 was in its infancy. Transmission of video and multimedia over existing computer
5 communication networks, including the Internet, struggled with bandwidth and
6 compatibility issues that impeded the development of early multimedia distribution
7 systems. Liu, Multimedia Over IP: RSVP, RTP, RTCP, RTSP,

8 http://www.cse.wustl.edu/~jain/cis788-97/ftp/ip_multimedia/; Zambelli, A History of
9 Media Streaming and the Future of Connected TV,

10 [https://www.theguardian.com/media-network/media-network-](https://www.theguardian.com/media-network/media-network-blog/2013/mar/01/history-streaming-future-connected-tv)
11 [blog/2013/mar/01/history-streaming-future-connected-tv](https://www.theguardian.com/media-network/media-network-blog/2013/mar/01/history-streaming-future-connected-tv)

12 26. In January 2006, the Shoah Foundation became part of the Dana and
13 David Dornsife College of Letters, Arts and Sciences at the University of Southern
14 California in Los Angeles, where the testimonies in the Visual History Archive are
15 preserved.

16 27. Preservation has all substantial rights and interest to the Asserted Patents,
17 including all rights to recover for all past and future infringements thereof.

18 V. DEFENDANT'S ACTS

19 28. Preservation restates and realleges each of the allegations set forth above
20 and incorporates them herein.

21 29. Upon information and belief, Defendant has infringed and continues to
22 infringe the Asserted Patents by making, providing, selling, offering for sale, using,
23 and/or distributing infringing systems, articles, and methods. Further, Defendant
24 induces and/or contributes to the infringement by one or more third parties, including
25 by way of example only providing and interacting with software (websites and
26 mobile applications) that issues computerized instructions that enable, support, direct,
27 control, and/or put into use components that practice the claimed inventions.

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1 30. The infringing Defendant systems, articles, and methods include, but are
2 not limited to, systems, articles, and methods relating to the cataloguing, organizing,
3 searching, rating, and provisioning of digital multimedia data, including but not
4 limited to Defendant’s software and hardware supporting various Internet websites for
5 streaming video, and related home and mobile device specific applications (the
6 “Accused Systems”). Preservation alleges infringement of the Asserted Patents by the
7 Accused Systems by all of Defendant’s websites listed below (and all other Defendant
8 websites not listed below that use the Accused Systems and similar systems, platforms
9 and/or protocols) collectively referred to herein as “Defendant’s Accused Websites”:

- 10 • PornHub.com (“www.pornhub.com”)
- 11 • YouPorn.com (“www.youporn.com”)
- 12 • Tube8.com (“www.tube8.com”)
- 13 • XTube.com (“www.xtube.com”)
- 14 • ExtremeTube.com (“www.extremetube.com”)
- 15 • RedTube.com (“www.redtube.com”)
- 16 • SpankWire.com (“www.spankwire.com”)
- 17 • KeezMovies.com (“www.keezmovies.com”)
- 18 • YouPornGay.com (“www.youporngay.com”)
- 19 • PornMD.com (“www.pornmd.com”)
- 20 • Brazzers (“www.brazzersnetwork.com”)
- 21 • Digital Playground (“www.digitalplayground.com”)
- 22 • Twistys (“www.twistys.com”)
- 23 • Reality Kings (“www.realitykings.com”)
- 24 • SexTube.com (“www.sextube.com”)
- 25 • Beeg.com (“www.beeg.com”)
- 26 • Mofos.com (“www.mofos.com”)
- 27 • GayTube.com (“www.gaytube.com”)

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1 Preservation, without limitation, explicitly accuses all websites operated, owned, or
2 controlled by Defendant that use the Accused Systems and similar systems, platforms
3 and/or protocols in an infringing manner.

4 31. In addition to the foregoing, Defendant also provides related services and
5 associated applications for the above websites including but not limited to mobile
6 applications. Further, Defendant provides specifications and instructions for the
7 installation and operation of infringing systems and articles to its end users and
8 customers and instructs its end users and customers to use the products and software
9 in an infringing manner, including via the enumerated Accused Systems.

10 **Direct and Joint Infringement**

11 32. Preservation restates and realleges each of the allegations set forth above
12 and incorporates them herein.

13 33. Upon information and belief, Defendant uses, provides and/or distributes
14 infringing systems in this jurisdiction and elsewhere. For example, Defendant
15 provides and/or distributes infringing Accused Systems to its customers and third
16 parties. It uses software and hardware to process queries and requests by third parties.
17 Accused systems used by, put into use by, provided and/or distributed by Defendant
18 include, by way of example only, Defendant's websites and mobile applications and
19 associated computerized instructions, user interfaces, media players, and multimedia.

20 34. Upon information and belief, Defendant uses, puts into use, provides
21 software, applications, mobile applications, hardware and/or instructions to third
22 parties including by way of example only its users, CDNs and customers, who
23 download Defendant's software, applications, and/or mobile applications in
24 accordance with Defendant's provided instructions. Defendant's software interacts
25 with Defendant's servers and/or service by communication with and giving and/or
26 receiving instructions, data, and other information to and from Defendant's servers.

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1 clips, and other multimedia types by using (and putting into use) the systems and
2 solutions claimed by the Asserted Patents. Further, users upload multimedia to
3 Defendant's system and catalogue the uploaded multimedia in an infringing manner.
4 Both the software made available at Defendant's websites and instructions provided
5 by Defendant induce users and third parties to use an infringing system and method,
6 and the third parties do in fact infringe.

7 41. Defendant induces users and third parties to infringe by providing
8 monetary and/or other compensation, such as for uploading and cataloguing
9 multimedia.

10 42. To the extent that some elements of a claim are performed by a different
11 party than Defendant, Defendant, through its software and infringing systems, puts the
12 claimed system of the Asserted Patents into service as described herein and receives a
13 benefit upon performance of steps of the methods of the Asserted Patent. To the extent
14 multimedia is provided by third party servers or networks, Defendant's systems and/or
15 Defendant's customers' systems put these third party systems into use. For example,
16 Defendant provides software instructions downloaded by third parties that put into use
17 the third parties' players and systems. Third parties put into use Defendant's systems
18 by searching for and retrieving multimedia in an infringing manner. Further,
19 Defendant's software establishes the manner and/or timing of the performance of
20 steps of the Asserted Patents, such as establishing the manner and/or timing of user's
21 cataloguing of multimedia.

22 43. Upon information and belief, Defendant receives a benefit from such
23 actions by the third parties as it allows Defendant to provide a desirable product or
24 allows the third parties to purchase products and services from Defendant.

25 44. Upon information and belief, Defendant provides its customers and/or
26 other third parties instructions, materials, advertisements, services, encouragement,
27 and software to use, load, and/or operate the Accused Systems in an infringing
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1 manner. Sending computerized instructions are acts of control by Defendant on the
2 players of third parties. Upon information and belief, Defendant further induces its
3 customers and third parties to use the Accused Systems by providing subscriptions for
4 the Accused Systems. Defendant has actively induced infringement by its customers
5 and/or third parties in this jurisdiction.

6 45. Upon information and belief, Defendant has acted with the specific intent
7 to induce or cause infringement and to conduct acts of infringement as described
8 herein within this jurisdiction and elsewhere. Defendant continues to provide
9 instructions to its customers and third parties to operate the Accused Systems in an
10 infringing manner since having notice and actual knowledge of the Asserted Patents.
11 Defendant's notice and actual knowledge of the Asserted Patents are more fully set
12 forth in paragraphs 53 - 56 below.

13 46. Upon information and belief, customers and users of the Accused
14 Systems reside in this jurisdiction and conduct acts of infringement within this
15 jurisdiction. Upon information and belief, Defendant has been and continues to
16 indirectly infringe the Asserted Patents within this jurisdiction and elsewhere in the
17 United States by, among other things, inducing and/or contributing to third parties'
18 infringement of the claims of the Asserted Patents without Plaintiff's authority.

19 47. Upon information and belief, Defendant provides, makes, sells, and
20 offers its Accused Systems with the specific intention that its customers and/or other
21 third party direct infringers use the Accused Systems in an infringing manner. Upon
22 information and belief, Defendant provides and instructs third parties to use the
23 Accused Systems in the manner claimed in the Asserted Patents.

24 48. Upon information and belief, the Accused Systems have no substantial
25 non-infringing use and is especially made and/or adapted so as to infringe the
26 Asserted Patents.

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1 49. Upon information and belief, Defendant knows its systems, articles and
2 services are especially made or especially adapted for use in an infringement of the
3 Asserted Patents and not a staple article or commodity of commerce suitable for
4 substantial non-infringing use.

5 50. Other than the '071 and '638 Patents, Defendant acquired knowledge of
6 the Asserted Patents no later than September 30, 2014, the date Defendant received
7 Plaintiff's Notice of Infringement letter. Defendant received notice of the '071 and
8 '638 Patents no later than Plaintiff's Notice of Infringement letter of October 3, 2014.

9 51. Upon information and belief, Defendant has had notice and actual
10 knowledge of Plaintiff's rights in the Asserted Patents other than the '071 and '638
11 Patents since at least September 30, 2014.

12 52. Upon information and belief, Defendant has had notice and actual
13 knowledge of Plaintiff's rights in the '071 and '638 Patents since at least October 3,
14 2014.

15 53. Defendant has had notice and actual knowledge of the Asserted Patents at
16 least as of the service date of this complaint.

17 54. Notwithstanding, Defendant continues to willfully and with specific
18 intent infringe upon and cause others to infringe upon one or more claims of the
19 Asserted Patents.

20 **COUNT 1**

21 **(Direct and indirect infringement of United States Patent No. 5,813,014)**

22 55. Preservation restates and realleges each of the allegations set forth above
23 and incorporates them herein.

24 56. Defendant, without permission of Preservation, has been and is presently
25 infringing multiple claims of the '014 Patent, as infringement is defined by 35 U.S.C.
26 § 271(a), by making, using, offering to sell, and selling the Accused Systems. By way
27 of example only, Defendant's Accused Websites such as PornHub.com is an article of
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1 manufacture comprising computer readable program code for accessing multimedia
2 data comprising code to cause a computer to define a catalogue for multimedia data,
3 code to cause a computer to specify a search request, code to cause a computer to
4 identify a result, code to cause a computer to retrieve multimedia data, and code to
5 cause a computer to store the search request and thus uses the invention covered by at
6 least one claim of the '014 Patent, such as but not limited to claim 21.

7 57. Defendant indirectly infringes the '014 Patent by inducing or
8 contributing to the infringement of the '014 Patent, including but not limited to
9 infringement by its customers/consumers, in violation of 35 U.S.C. § 271(b)-(c)&(f).

10 58. Defendant does not have a license or permission to use the claimed
11 subject matter of the '014 Patent.

12 59. As a direct and proximate result of Defendant's direct, joint, induced,
13 and/or contributory infringement of the '014 Patent, Preservation has been injured and
14 has been caused significant financial damage.

15 60. Defendant's aforementioned acts have caused damage to Preservation
16 and will continue to do so unless and until enjoined.

17 61. Preservation alleges upon information and belief that Defendant has,
18 knowingly or with willful blindness, willfully infringed one or more claims of the
19 '014 patent. Defendant had knowledge of the Asserted Patents as set forth above,
20 having been advised of the existence and substance of the Asserted Patents by
21 Preservation. Defendant acted with knowledge of the Asserted Patents, and, despite
22 its knowledge or despite that it should have known of an objectively high likelihood
23 that its actions constituted infringement of Preservation's valid patent rights, continue
24 to infringe.

25 62. This objectively-defined risk was either known or so obvious that it
26 should have been known to Defendant. Preservation seeks enhanced damages
27 pursuant to 35 U.S.C. § 284 from Defendant.

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1 system, and a distribution system and thus uses the invention covered by at least one
2 claim of the '080 Patent, such as but not limited to claim 14.

3 75. Defendant indirectly infringes the '080 Patent by inducing or
4 contributing to the infringement of the '080 Patent, including but not limited to
5 infringement by its customers/consumers, in violation of 35 U.S.C. § 271(b)-(c)&(f).

6 76. Defendant does not have a license or permission to use the claimed
7 subject matter of the '080 Patent.

8 77. As a direct and proximate result of Defendant's direct, joint, induced,
9 and/or contributory infringement of the '080 Patent, Preservation has been injured and
10 has been caused significant financial damage.

11 78. Defendant's aforementioned acts have caused damage to Preservation
12 and will continue to do so unless and until enjoined.

13 79. Preservation alleges upon information and belief that Defendant has,
14 knowingly or with willful blindness, willfully infringed one or more claims of the
15 '080 patent. Defendant had knowledge of the Asserted Patents as set forth above,
16 having been advised of the existence and substance of the Asserted Patents by
17 Preservation. Defendant acted with knowledge of the Asserted Patents, and, despite
18 its knowledge or despite that it should have known of an objectively high likelihood
19 that its actions constituted infringement of Preservation's valid patent rights, continue
20 to infringe.

21 80. This objectively-defined risk was either known or so obvious that it
22 should have been known to Defendant. Preservation seeks enhanced damages
23 pursuant to 35 U.S.C. § 284 from Defendant.

24 81. As a result of Defendant's infringement of the '080 Patent, Preservation
25 has suffered monetary damages. Defendant is thus liable to Preservation in an amount
26 that adequately compensates it for Defendant's infringement, which, by law, cannot be
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1 less than a reasonable royalty, together with interest and costs as fixed by this Court
2 under 35 U.S.C. § 284.

3 **COUNT 4**

4 **(Direct and indirect infringement of United States Patent No. 6,353,831)**

5 82. Preservation restates and realleges each of the allegations set forth above
6 and incorporates them herein.

7 83. Defendant, without permission of Preservation, has been and is presently
8 infringing multiple claims of the '831 Patent, as infringement is defined by 35 U.S.C.
9 § 271(a), by making, using, offering to sell, and selling the Accused Systems. By way
10 of example only, Defendant's Accused Websites such as PornHub.com includes a
11 digital library system comprising a means for cataloguing multimedia data, a means
12 for managing access, and a means for distributing multimedia data and thus uses the
13 invention covered by at least one claim of the '831 Patent, such as but not limited to
14 claim 1.

15 84. Defendant indirectly infringes the '831 Patent by inducing or
16 contributing to the infringement of the '831 Patent, including but not limited to
17 infringement by its customers/consumers, in violation of 35 U.S.C. § 271(b)-(c)&(f).

18 85. Defendant does not have a license or permission to use the claimed
19 subject matter of the '831 Patent.

20 86. As a direct and proximate result of Defendant's direct, joint, induced,
21 and/or contributory infringement of the '831 Patent, Preservation has been injured and
22 has been caused significant financial damage.

23 87. Defendant's aforementioned acts have caused damage to Preservation
24 and will continue to do so unless and until enjoined.

25 88. Preservation alleges upon information and belief that Defendant has,
26 knowingly or with willful blindness, willfully infringed one or more claims of the
27 '831 patent. Defendant had knowledge of the Asserted Patents as set forth above,
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1 having been advised of the existence and substance of the Asserted Patents by
2 Preservation. Defendant acted with knowledge of the Asserted Patents, and, despite
3 its knowledge or despite that it should have known of an objectively high likelihood
4 that its actions constituted infringement of Preservation's valid patent rights, continue
5 to infringe.

6 89. This objectively-defined risk was either known or so obvious that it
7 should have been known to Defendant. Preservation seeks enhanced damages
8 pursuant to 35 U.S.C. § 284 from Defendant.

9 90. As a result of Defendant's infringement of the '831 Patent, Preservation
10 has suffered monetary damages. Defendant is thus liable to Preservation in an amount
11 that adequately compensates it for Defendant's infringement, which, by law, cannot be
12 less than a reasonable royalty, together with interest and costs as fixed by this Court
13 under 35 U.S.C. § 284.

14 **COUNT 5**

15 **(Direct and indirect infringement of United States Patent No. 5,832,495)**

16 91. Preservation restates and realleges each of the allegations set forth above
17 and incorporates them herein.

18 92. Defendant, without permission of Preservation, has been and is presently
19 infringing multiple claims of the '495 Patent, as infringement is defined by 35 U.S.C.
20 § 271(a), by making, using, offering to sell, and selling the Accused Systems. By way
21 of example only, Defendant's Accused Websites such as PornHub.com includes a
22 system for cataloging multimedia data comprising a processing unit, a cataloguing
23 facility, a relationship management facility, and a plurality of index elements and thus
24 uses the invention covered by at least one claim of the '495 Patent, such as but not
25 limited to claim 25.

1 93. Defendant indirectly infringes the '495 Patent by inducing or
2 contributing to the infringement of the '495 Patent, including but not limited to
3 infringement by its customers/consumers, in violation of 35 U.S.C. § 271(b)-(c)&(f).

4 94. Defendant does not have a license or permission to use the claimed
5 subject matter of the '495 Patent.

6 95. As a direct and proximate result of Defendant's direct, joint, induced,
7 and/or contributory infringement of the '495 Patent, Preservation has been injured and
8 has been caused significant financial damage.

9 96. Defendant's aforementioned acts have caused damage to Preservation
10 and will continue to do so unless and until enjoined.

11 97. Preservation alleges upon information and belief that Defendant has,
12 knowingly or with willful blindness, willfully infringed one or more claims of the
13 '495 patent. Defendant had knowledge of the Asserted Patents as set forth above,
14 having been advised of the existence and substance of the Asserted Patents by
15 Preservation. Defendant acted with knowledge of the Asserted Patents, and, despite
16 its knowledge or despite that it should have known of an objectively high likelihood
17 that its actions constituted infringement of Preservation's valid patent rights, continue
18 to infringe.

19 98. This objectively-defined risk was either known or so obvious that it
20 should have been known to Defendant. Preservation seeks enhanced damages
21 pursuant to 35 U.S.C. § 284 from Defendant.

22 99. As a result of Defendant's infringement of the '495 Patent, Preservation
23 has suffered monetary damages. Defendant is thus liable to Preservation in an amount
24 that adequately compensates it for Defendant's infringement, which, by law, cannot be
25 less than a reasonable royalty, together with interest and costs as fixed by this Court
26 under 35 U.S.C. § 284.

COUNT 6

(Direct and indirect infringement of United States Patent No. 6,477,537)

100. Preservation restates and realleges each of the allegations set forth above and incorporates them herein.

101. Defendant, without permission of Preservation, has been and is presently infringing multiple claims of the '537 Patent, as infringement is defined by 35 U.S.C. § 271(a), by making, using, offering to sell, and selling the Accused Systems. By way of example only, Defendant's Accused Websites such as PornHub.com includes an API comprising API protocol means comprising a command interface comprising means for selecting multimedia data, means for retrieving multimedia data, and means for displaying multimedia data and thus uses the invention covered by at least one claim of the '537 Patent, such as but not limited to claim 1.

102. Defendant indirectly infringes the '537 Patent by inducing or contributing to the infringement of the '537 Patent, including but not limited to infringement by its customers/consumers, in violation of 35 U.S.C. § 271(b)-(c)&(f).

103. Defendant does not have a license or permission to use the claimed subject matter of the '537 Patent.

104. As a direct and proximate result of Defendant's direct, joint, induced, and/or contributory infringement of the '537 Patent, Preservation has been injured and has been caused significant financial damage.

105. Defendant's aforementioned acts have caused damage to Preservation and will continue to do so unless and until enjoined.

106. Preservation alleges upon information and belief that Defendant has, knowingly or with willful blindness, willfully infringed one or more claims of the '537 patent. Defendant had knowledge of the Asserted Patents as set forth above, having been advised of the existence and substance of the Asserted Patents by Preservation. Defendant acted with knowledge of the Asserted Patents, and, despite

1 its knowledge or despite that it should have known of an objectively high likelihood
2 that its actions constituted infringement of Preservation's valid patent rights, continue
3 to infringe.

4 107. This objectively-defined risk was either known or so obvious that it
5 should have been known to Defendant. Preservation seeks enhanced damages
6 pursuant to 35 U.S.C. § 284 from Defendant.

7 108. As a result of Defendant's infringement of the '537 Patent, Preservation
8 has suffered monetary damages. Defendant is thus liable to Preservation in an amount
9 that adequately compensates it for Defendant's infringement, which, by law, cannot be
10 less than a reasonable royalty, together with interest and costs as fixed by this Court
11 under 35 U.S.C. § 284.

12 **COUNT 7**

13 **(Direct and indirect infringement of United States Patent No. 6,199,060)**

14 109. Preservation restates and realleges each of the allegations set forth above
15 and incorporates them herein.

16 110. Defendant, without permission of Preservation, has been and is presently
17 infringing multiple claims of the '060 Patent, as infringement is defined by 35 U.S.C.
18 § 271(a), by making, using, offering to sell, and selling the Accused Systems. By way
19 of example only, Defendant's Accused Websites such as PornHub.com includes a
20 computer usable medium having computer readable code configured to cause a
21 computer to define a generalized protocol, invoke a search request, communicate
22 between at least two components, return a search result, invoke a retrieval request, and
23 invoke a transmit request and thus uses the invention covered by at least one claim of
24 the '060 Patent, such as but not limited to claim 14.

25 111. Defendant indirectly infringes the '060 Patent by inducing or
26 contributing to the infringement of the '060 Patent, including but not limited to
27 infringement by its customers/consumers, in violation of 35 U.S.C. § 271(b)-(c)&(f).
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1 112. Defendant does not have a license or permission to use the claimed
2 subject matter of the '060 Patent.

3 113. As a direct and proximate result of Defendant's direct, joint, induced,
4 and/or contributory infringement of the '060 Patent, Preservation has been injured and
5 has been caused significant financial damage.

6 114. Defendant's aforementioned acts have caused damage to Preservation
7 and will continue to do so unless and until enjoined.

8 115. Preservation alleges upon information and belief that Defendant has,
9 knowingly or with willful blindness, willfully infringed one or more claims of the
10 '060 patent. Defendant had knowledge of the Asserted Patents as set forth above,
11 having been advised of the existence and substance of the Asserted Patents by
12 Preservation. Defendant acted with knowledge of the Asserted Patents, and, despite
13 its knowledge or despite that it should have known of an objectively high likelihood
14 that its actions constituted infringement of Preservation's valid patent rights, continue
15 to infringe.

16 116. This objectively-defined risk was either known or so obvious that it
17 should have been known to Defendant. Preservation seeks enhanced damages
18 pursuant to 35 U.S.C. § 284 from Defendant.

19 117. As a result of Defendant's infringement of the '060 Patent, Preservation
20 has suffered monetary damages. Defendant is thus liable to Preservation in an amount
21 that adequately compensates it for Defendant's infringement, which, by law, cannot be
22 less than a reasonable royalty, together with interest and costs as fixed by this Court
23 under 35 U.S.C. § 284.

24 **COUNT 8**

25 **(Direct and indirect infringement of United States Patent No. 6,212,527)**

26 118. Preservation restates and realleges each of the allegations set forth above
27 and incorporates them herein.

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1 119. Defendant, without permission of Preservation, has been and is presently
2 infringing multiple claims of the '527 Patent, as infringement is defined by 35 U.S.C.
3 § 271(a), by making, using, offering to sell, and selling the Accused Systems. By way
4 of example only, Defendant's Accused Websites such as PornHub.com operates a
5 method of managing multimedia data collection quality comprising reviewing
6 multimedia data, creating a quality event, and associating the quality event with an
7 input data portion of the multimedia data and thus uses the invention covered by at
8 least one claim of the '527 Patent, such as but not limited to claim 1.

9 120. Defendant indirectly infringes the '527 Patent by inducing or
10 contributing to the infringement of the '527 Patent, including but not limited to
11 infringement by its customers/consumers, in violation of 35 U.S.C. § 271(b)-(c)&(f).

12 121. Defendant does not have a license or permission to use the claimed
13 subject matter of the '527 Patent.

14 122. As a direct and proximate result of Defendant's direct, joint, induced,
15 and/or contributory infringement of the '527 Patent, Preservation has been injured and
16 has been caused significant financial damage.

17 123. Defendant's aforementioned acts have caused damage to Preservation
18 and will continue to do so unless and until enjoined.

19 124. Preservation alleges upon information and belief that Defendant has,
20 knowingly or with willful blindness, willfully infringed one or more claims of the
21 '527 patent. Defendant had knowledge of the Asserted Patents as set forth above,
22 having been advised of the existence and substance of the Asserted Patents by
23 Preservation. Defendant acted with knowledge of the Asserted Patents, and, despite
24 its knowledge or despite that it should have known of an objectively high likelihood
25 that its actions constituted infringement of Preservation's valid patent rights, continue
26 to infringe.

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1 131. As a direct and proximate result of Defendant's direct, joint, induced,
2 and/or contributory infringement of the '911 Patent, Preservation has been injured and
3 has been caused significant financial damage.

4 132. Defendant's aforementioned acts have caused damage to Preservation
5 and will continue to do so unless and until enjoined.

6 133. Preservation alleges upon information and belief that Defendant has,
7 knowingly or with willful blindness, willfully infringed one or more claims of the
8 '911 patent. Defendant had knowledge of the Asserted Patents as set forth above,
9 having been advised of the existence and substance of the Asserted Patents by
10 Preservation. Defendant acted with knowledge of the Asserted Patents, and, despite
11 its knowledge or despite that it should have known of an objectively high likelihood
12 that its actions constituted infringement of Preservation's valid patent rights, continue
13 to infringe.

14 134. This objectively-defined risk was either known or so obvious that it
15 should have been known to Defendant. Preservation seeks enhanced damages
16 pursuant to 35 U.S.C. § 284 from Defendant.

17 135. As a result of Defendant's infringement of the '911 Patent, Preservation
18 has suffered monetary damages. Defendant is thus liable to Preservation in an amount
19 that adequately compensates it for Defendant's infringement, which, by law, cannot be
20 less than a reasonable royalty, together with interest and costs as fixed by this Court
21 under 35 U.S.C. § 284.

22 **COUNT 10**

23 **(Direct and indirect infringement of United States Patent No. 6,581,071)**

24 136. Preservation restates and realleges each of the allegations set forth above
25 and incorporates them herein.

26 137. Defendant, without permission of Preservation, has been and is presently
27 infringing multiple claims of the '071 Patent, as infringement is defined by 35 U.S.C.
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1 § 271(a), by making, using, offering to sell, and selling the Accused Systems. By way
2 of example only, Defendant's Accused Websites such as PornHub.com includes a
3 memory for storing survey information comprising first and second sets of elements
4 stored in memory and thus uses the invention covered by at least one claim of the '071
5 Patent, such as but not limited to claim 9.

6 138. Defendant indirectly infringes the '070 Patent by inducing or
7 contributing to the infringement of the '071 Patent, including but not limited to
8 infringement by its customers/consumers, in violation of 35 U.S.C. § 271(b)-(c)&(f).

9 139. Defendant does not have a license or permission to use the claimed
10 subject matter of the '070 Patent.

11 140. As a direct and proximate result of Defendant's direct, joint, induced,
12 and/or contributory infringement of the '071 Patent, Preservation has been injured and
13 has been caused significant financial damage.

14 141. Defendant's aforementioned acts have caused damage to Preservation
15 and will continue to do so unless and until enjoined.

16 142. Preservation alleges upon information and belief that Defendant has,
17 knowingly or with willful blindness, willfully infringed one or more claims of the
18 '071 patent. Defendant had knowledge of the Asserted Patents as set forth above,
19 having been advised of the existence and substance of the Asserted Patents by
20 Preservation. Defendant acted with knowledge of the Asserted Patents, and, despite
21 its knowledge or despite that it should have known of an objectively high likelihood
22 that its actions constituted infringement of Preservation's valid patent rights, continue
23 to infringe.

24 143. This objectively-defined risk was either known or so obvious that it
25 should have been known to Defendant. Preservation seeks enhanced damages
26 pursuant to 35 U.S.C. § 284 from Defendant.

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1 144. As a result of Defendant's infringement of the '071 Patent, Preservation
2 has suffered monetary damages. Defendant is thus liable to Preservation in an amount
3 that adequately compensates it for Defendant's infringement, which, by law, cannot be
4 less than a reasonable royalty, together with interest and costs as fixed by this Court
5 under 35 U.S.C. § 284.

6 **COUNT 11**

7 **(Direct and indirect infringement of United States Patent No. 6,574,638)**

8 145. Preservation restates and realleges each of the allegations set forth above
9 and incorporates them herein.

10 146. Defendant, without permission of Preservation, has been and is presently
11 infringing multiple claims of the '638 Patent, as infringement is defined by 35 U.S.C.
12 § 271(a), by making, using, offering to sell, and selling the Accused Systems. By way
13 of example only, Defendant's Accused Websites such as PornHub.com associates
14 multimedia data with survey data comprising obtaining an association between the
15 data, searching the survey data to identify a catalogue element, and identifying
16 multimedia data using the catalogue element and thus uses the invention covered by at
17 least one claim of the '638 Patent, such as but not limited to claim 1. As an example of
18 indirect infringement, end users of the www.pornhub.com website participate in
19 surveys whereby an end user receives and answers one or more questions related to
20 multimedia data (for example, can comment upon and/or rate the adult videos, clips
21 and other media hosted by the website).

22 147. Defendant indirectly infringes the '638 Patent by inducing or
23 contributing to the infringement of the '638 Patent, including but not limited to
24 infringement by its customers/consumers, in violation of 35 U.S.C. § 271(b)-(c)&(f).

25 148. Defendant does not have a license or permission to use the claimed
26 subject matter of the '638 Patent.

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1 149. As a direct and proximate result of Defendant's direct, joint, induced,
2 and/or contributory infringement of the '638 Patent, Preservation has been injured and
3 has been caused significant financial damage.

4 150. Defendant's aforementioned acts have caused damage to Preservation
5 and will continue to do so unless and until enjoined.

6 151. Preservation alleges upon information and belief that Defendant has,
7 knowingly or with willful blindness, willfully infringed one or more claims of the
8 '638 patent. Defendant had knowledge of the Asserted Patents as set forth above,
9 having been advised of the existence and substance of the Asserted Patents by
10 Preservation. Defendant acted with knowledge of the Asserted Patents, and, despite
11 its knowledge or despite that it should have known of an objectively high likelihood
12 that its actions constituted infringement of Preservation's valid patent rights, continue
13 to infringe.

14 152. This objectively-defined risk was either known or so obvious that it
15 should have been known to Defendant. Preservation seeks enhanced damages
16 pursuant to 35 U.S.C. § 284 from Defendant.

17 153. As a result of Defendant's infringement of the '638 Patent, Preservation
18 has suffered monetary damages. Defendant is thus liable to Preservation in an amount
19 that adequately compensates it for Defendant's infringement, which, by law, cannot be
20 less than a reasonable royalty, together with interest and costs as fixed by this Court
21 under 35 U.S.C. § 284.

22 **JURY DEMAND**

23 Plaintiff Preservation hereby requests a trial by jury on all matters to which it is
24 entitled to trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff Preservation respectfully requests that the Court:
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- A. Enter judgment that Defendant directly infringes, contributes to infringement, or induces others to infringe one or more claims of the Asserted Patents literally and/or under the doctrine of equivalents;
- B. Permanently enjoin Defendant, their agents, servants, and employees, and all those in privity with Defendant or in active concert and participation with Defendant, from engaging in acts of infringement of the Asserted Patents;
- C. Award Plaintiff past and future damages together with prejudgment and post-judgment interest to compensate for the infringement by Defendant of the Asserted Patents in accordance with 35 U.S.C. § 284;
- D. Declare this case exceptional pursuant to 35 U.S.C. § 285; and
- E. Award Plaintiff Preservation its costs, disbursements, attorney’s fees, and such further and additional relief as deemed appropriate by this Court.

DATE: December 11, 2017

STRADLING YOCCA CARLSON &
RAUTH, P.C.

By: /s/ Douglas Q. Hahn
Douglas Q. Hahn
Salil Bali

Attorneys for Plaintiff
Preservation Technologies, LLC