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REALTIME ADAPTIVE STREAMING LLC

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

REALTIME ADAPTIVE STREAMING LLC,
Plaintiff,

vs.

HULU, LLC,

Defendant.

Case No. 2:17-cv-07611

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.* in which Plaintiff Realtime Adaptive Streaming LLC ("Plaintiff" or "Realtime") makes the following allegations against Defendant Hulu, LLC ("Defendant" or "Hulu").

NATURE OF THE CASE

1. This action arises under 35 U.S.C. § 271 for Hulu's infringement of Realtime's United States Patent Nos. 8,934,535 ("the '535 patent"), 9,769,477 ("the '477 patent"), 9,762,907

("the '907 patent"), 7,386,046 ("the '046 patent"), 8,867,610 ("the '610 patent"), 8,634,462 ("the '462 patent"), and 9,578,298 ("the '298 patent") (collectively, the "Patents-In-Suit").

PARTIES

2. Realtime is a Texas limited liability company. Realtime has a place of business at 1828 E.S.E. Loop 323, Tyler, Texas 75701. Realtime has researched and developed specific solutions for data compression, including, for example, those that increase the speeds at which data can be stored and accessed. As recognition of its innovations rooted in this technological field, Realtime holds multiple United States patents and pending patent applications.

3. Defendant Hulu is a Delaware limited liability company, with its principal place of business at 2500 Broadway, 2nd Floor, Santa Monica, California 90404. Hulu may be served with process by serving its registered agent, C T Corporation System, 818 West Seventh Street, Suite 930, Los Angeles, California 90017.

4. Hulu has a regular and established place of business in this District, including, e.g., distribution facilities, employees, and other business. For example, Hulu's principal place of business at 2500 Broadway, 2nd Floor, Santa Monica, California 90404 is clearly in this District.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Hulu in this action because, among other things: Hulu has its principal place of business in this District; Hulu has committed, aided, abetted, contributed to and/or participated in the commission of acts giving rise to this action within the State of California and this District and has established minimum contacts with this forum such that the exercise of jurisdiction over Hulu would not offend traditional notions of fair play and substantial justice; Hulu has placed products and services that practice the claims of the Patents-in-Suit into the stream of commerce with the reasonable expectation and/or knowledge that actual or potential users of such products and/or services were located within this District; and Hulu has sold, advertised, solicited customers, marketed and distributed its services that practice the claims of the Patents-in-

Suit in this District.

THE PATENTS-IN-SUIT

7. Realtime incorporates by reference the preceding paragraphs as if fully set forth herein.

8. The '535 patent, titled "Systems and methods for video and audio data storage and distribution," was duly and properly issued by the United States Patent and Trademark Office ("USPTO") on January 13, 2015. A copy of the '535 patent is attached hereto as Exhibit A. Realtime is the owner and assignee of the '535 patent and holds the right to sue for and recover all damages for infringement thereof, including past infringement.

9. The '477 patent, titled "Video data compression systems," was duly and properly issued by the USPTO on September 19, 2017. A copy of the '477 patent is attached hereto as Exhibit B. Realtime is the owner and assignee of the '477 patent and holds the right to sue for and recover all damages for infringement thereof, including past infringement.

10. The '907 patent, titled "System and Methods for Video and Audio Data Distribution," was duly and properly issued by the USPTO on September 12, 2017. A copy of the '907 patent is attached hereto as Exhibit C. Realtime is the owner and assignee of the '907 patent and holds the right to sue for and recover all damages for infringement thereof, including past infringement.

11. The '046 patent, titled "Bandwidth Sensitive Data Compression and Decompression," was duly and properly issued by the USPTO on June 10, 2008. A copy of the '046 patent is attached hereto as Exhibit D. Realtime is the owner and assignee of the '046 patent and holds the right to sue for and recover all damages for infringement thereof, including past infringement.

12. The '610 patent, titled "System and Methods for Video and Audio Data Distribution," was duly and properly issued by the USPTO on October 21, 2014. A copy of the '610 patent is attached hereto as Exhibit E. Realtime is the owner and assignee of the '610 patent and holds the right to sue for and recover all damages for infringement thereof, including past infringement.

13. The '462 patent, titled "Quantization for Hybrid Video Coding," was duly and properly used by the USPTO on January 21, 2014. A copy of the '462 patent is attached hereto as

Exhibit F. Realtime is the owner and assignee of the '462 patent and holds the right to sue for and recover all damages for infringement thereof, including past infringement.

14. The '298 patent, titled "Method for Decoding 2D-compatible Stereoscopic Video Flows," was duly and properly issued by the USPTO on February 21, 2017. A copy of the '298 patent is attached hereto as Exhibit G. Realtime is the owner and assignee of the '298 patent and holds the right to sue for and recover all damages for infringement thereof, including past infringement.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 8,934,535

15. Plaintiff re-alleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

16. On information and belief, Hulu has made, used, offered for sale, sold and/or imported into the United States Hulu products that infringe the '535 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Hulu's streaming products/services, such as, e.g., Hulu's streaming service, Hulu's video compression media encoders, Hulu's ad products for brands including Hulu's Ad Selector, Hulu's Blockbuster, Hulu's Branded Entertainment Selector, Hulu's Custom Integrated Commercial, Hulu's Interactive Interstitial, Hulu's Interactive Interstitial Template (DR), Hulu's Masthead Brand Placement, Hulu's Page Brand Placement, Hulu's Premium Slate, Hulu's Slate, Hulu's T-Commerce, Hulu's Video Commercial, Hulu VR, Hulu's 4K video services, and all versions and variations thereof since the issuance of the '535 patent ("Accused Instrumentalities").

17. For example, the Accused Instrumentalities utilize the H.264 video compression standard, as can be seen by the below screenshot of Hulu's Video Commercial ad product for brands (https://www.hulu.com/advertising/ad-product/video-commercial/):

hulu FOR BRANDS

Video Commercial

The Video Commercial includes placement of your advertiser's video creative into any one of Hulu's standard long-form content commercial breaks.

Hulu manages the encoding, hosting, and streaming of the video ads/associated creative assets.

AVAILABLE ON

TIMELINE

5 business days traffic and testing lead-time from the receipt of the final asset

Specs

DELIVERABLES TO HULU

- Video Commercial – ProRes .MOV
- 3rd Party Tracking Tags (if applicable).
- Video: 1 × 1 trackers and click commands
- Max standard video commercial length is :60s

SIZE

SD

- 720 x 480
- 4:3 or 16:9 pixel aspect ratio
- No black bars
- 3:2 display aspect ratio is not accepted
- No letterboxing or pillarboxing
- Bitrate: Greater than 2mbps.
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

HD

- 1280 x 720 or 1920 x 1080 (16:9)
- 1440 x 1080 (4:3)
- No black bars
- Constant Bitrate (CBR) 15-30 Mbps
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

FILE FORMATS

- Quicktime movie (.mov)
- MPEG-4 (.mp4) format only

AUDIO

- 2 channels only
- PCM (preferred) or AAC codec
- 192 kbps minimum
- 16 or 24 bit only
- 48 kHz sample rate
- Audio is required

FRAME RATE

- 23.98, 25, or 29.97 based on native frame rate
- Remove any pull-down added for broadcast
- Constant frame rate only
- Please make content progressive using adaptive de-interlace with no frame blending.

CODEC

- Apple ProRes 422 HQ codec preferred
- H.264 codec
- Interlaced video is not accepted

18. The Accused Instrumentalities also accept the usage of the H.264 video compression standard. For example, on the page for Hulu's Custom Integrated Commercial ad product (https://www.hulu.com/advertising/ad-product/custom-integrated-commercial/), under header "Specs" and sub-header "Codec" is listed the text "H.264 codec is accepted.":

hulu FOR BRANDS

Custom Integrated Commercial

The Custom Integrated Commercial (or CIC) is a new advertising solution that strategically integrates and aligns your brand's values and message with Hulu's in a custom developed and produced commercial that feels like content.

Specs

DELIVERABLES TO HULU

While Hulu is able to work with a great variety of assets in the creation of a Custom Integrated Commercial (or "CIC"), the preferred formats, where appropriate and available, include:

- Apple ProRes 422 (HQ) video files
- Accompanying audio, split-track (if available)
- Vector brand logos in .eps or .ai format (if available)
- Brand style guides
- Brand font
- For motion graphics assets, AE project files with associated media (if available)

SIZE

- 1280 x 720 or 1920 x 1080 (16:9)
- 1440 x 1080 (4:3)
- No black bars
- Constant Bitrate (CBR) 15-30 Mbps
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

FILE FORMATS

- Quicktime movie (.mov)
- MPEG-4 (.mp4) format only

AUDIO

- 2 channels only
- Audio (HD/SD): 192 kbps minimum & PCM (preferred) or AAC codec
- 16 or 24 bit only
- 48 kHz sample rate
- Audio is required

FRAME RATE

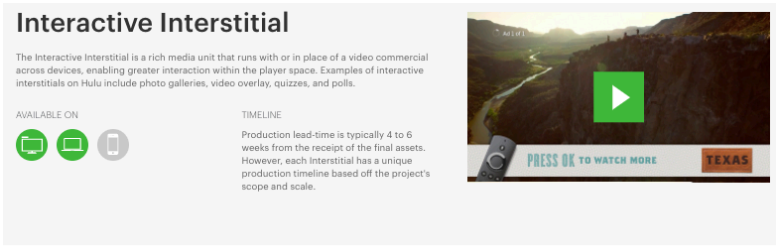
- 23.98, 25, or 29.97 based on native frame rate
- Remove any pull-down added for broadcast
- Constant frame rate only
- Please make content progressive using adaptive de-interlace with no frame blending.

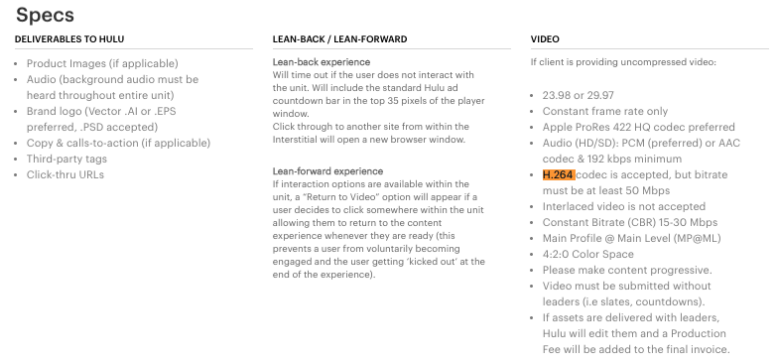
CODEC

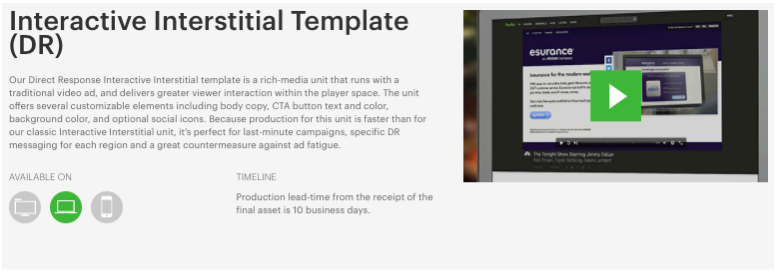
- Apple ProRes 422 HQ codec preferred
- H.264 codec is accepted
- Interlaced video is not accepted

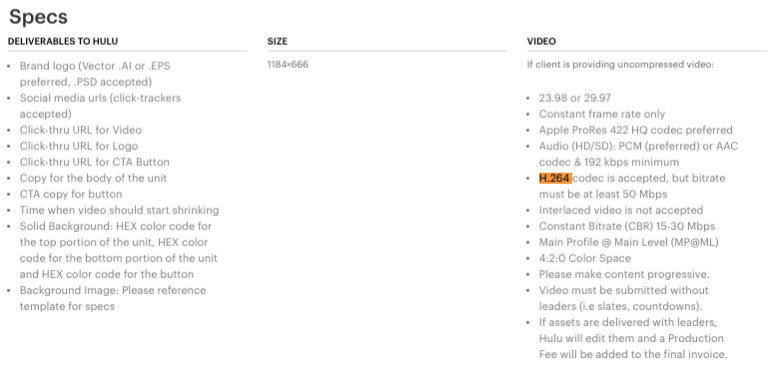
19. Similarly, on the page for Hulu's Interactive Interstitial ad product (https://www.hulu.com/advertising/ad-product/interactive-interstitial/) under header "Specs" and sub-header "Video" is listed the text "H.264 codec is accepted, but bitrate must be at least 50 Mbps." Likewise, on the page for Hulu's Interactive Interstitial Template (DR) (https://www.hulu.com/advertising/ad-product/interactive-interstitial-template-dr/) , the same text "H.264 codec is accepted, but bitrate must be at least 50 Mbps" is listed under header "Specs" and

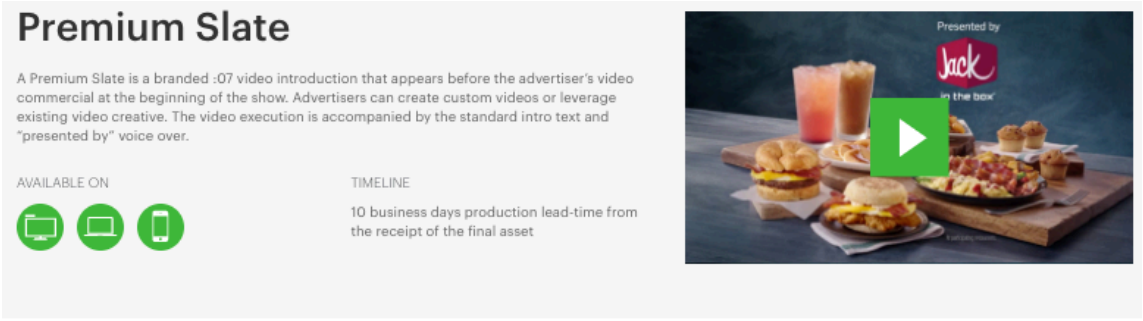
sub-header "Video." In addition, on the page for Hulu's Premium Slate ad product (https://www.hulu.com/advertising/ad-product/premium-slate/) the text "(H.264 codec is accepted, but bitrate must be at least 50 Mbps)" is listed under header "Specs" and sub-header "Codec." Representative screenshots are shown below:

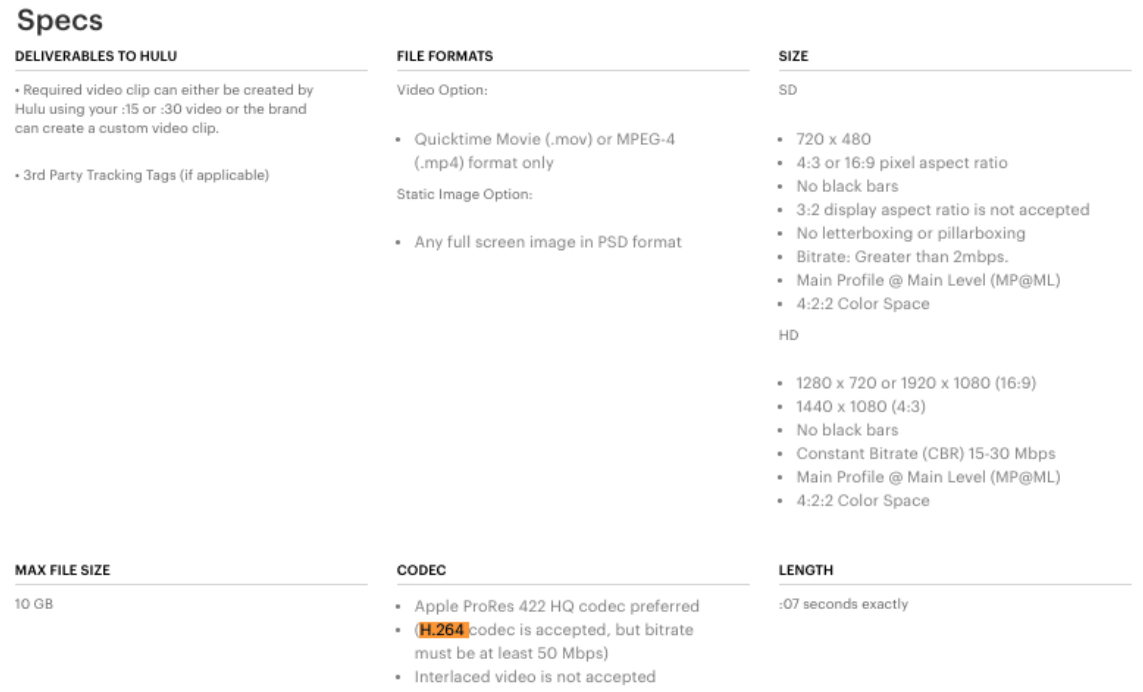












20. The Accused Instrumentalities also use H.264 video compression to select and compress based on parameters such as bitrate, as explained by the website "How Stuff Works" (http://computer.howstuffworks.com/internet/basics/hulu4.htm):

> "Hulu.com uses Cascading Style Sheets (CSS) and JavaScript to lay out its web pages, and it powers the video and controls through the Flash player and browser on your computer. When you request a video, Hulu sends it to you it as a Flash format streaming video file (FLV) along with the video player and the sponsors' advertisements.
>
> Hulu encodes the video file for one of two types of video encoding devices (known as codecs) that translates streaming data into the moving images on your screen and the sound in your speakers. Hulu sends the file to you at one of **five speeds, or bitrates, measured as the amount of data sent per second**. When you play a video, the codec Hulu uses depends on the bitrate at which it's sending the video to you.
>
> The site uses the On2 Flash VP6 codec for video streams that run at bitrates of 480 kilobits per second (Kbps) and 700 Kbps. This codec is supported by Flash versions 8.0 and higher, which is installed in more than 98 percent of

> computers in the U.S. Hulu's higher bitrate streams of 1,000 Kbps and 2,500 Kbps use a codec that requires a bit more from your Internet connection. This more intensive codec **follows the H.264 video coding standard**, which requires Flash 9.0.124.0 or higher [source: Hulu].
>
> How does all of this come together? While you're viewing most videos on Hulu, **you control the bitrate** when you switch between two progressive scan rates: 360p (standard resolution) or 480p (high resolution).

21. The Accused Instrumentalities determine a parameter of at least a portion of a video data block. As shown below, examples of such parameters include bitrate (or max video bitrate) and resolution parameters. Different parameters correspond with different end applications. H.264 provides for multiple different ranges of such parameters, each included in the "profiles" and "levels" as defined by the H.264 standard, from the below shown paragraphs from a white paper and Wikipedia. *See* http://www.axis.com/files/whitepaper/wp_h264_31669_en_0803_lo.pdf at 5:

> **4. H.264 profiles and levels**
>
> The joint group involved in defining H.264 focused on creating a simple and clean solution, limiting options and features to a minimum. An important aspect of the standard, as with other video standards, is providing the capabilities in profiles (sets of algorithmic features) and levels (performance classes) that optimally support popular productions and common formats.
>
> H.264 has seven profiles, each targeting a specific class of applications. Each profile defines what feature set the encoder may use and limits the decoder implementation complexity.
>
> Network cameras and video encoders will most likely use a profile called the baseline profile, which is intended primarily for applications with limited computing resources. The baseline profile is the most suitable given the available performance in a real-time encoder that is embedded in a network video product. The profile also enables low latency, which is an important requirement of surveillance video and also particularly important in enabling real-time, pan/tilt/zoom (PTZ) control in PTZ network cameras.
>
> H.264 has 11 levels or degree of capability to limit performance, bandwidth and memory requirements. Each level defines the bit rate and the encoding rate in macroblock per second for resolutions ranging from QCIF to HDTV and beyond. The higher the resolution, the higher the level required.

See https://en.wikipedia.org/wiki/H.264/MPEG-4_AVC:

Levels with maximum property values

Level	Max decoding speed		Max frame size		Max video bit rate for video coding layer (VCL) kbit/s			Examples for high resolution @ highest frame rate (max stored frames) Toggle additional details
	Luma samples/s	Macroblocks/s	Luma samples	Macroblocks	Baseline, Extended and Main Profiles	High Profile	High 10 Profile	
1	380,160	1,485	25,344	99	64	80	192	176×144@15.0 (4)
1b	380,160	1,485	25,344	99	128	160	384	176×144@15.0 (4)
1.1	768,000	3,000	101,376	396	192	240	576	352×288@7.5 (2)
1.2	1,536,000	6,000	101,376	396	384	480	1,152	352×288@15.2 (6)
1.3	3,041,280	11,880	101,376	396	768	960	2,304	352×288@30.0 (6)
2	3,041,280	11,880	101,376	396	2,000	2,500	6,000	352×288@30.0 (6)
2.1	5,068,800	19,800	202,752	792	4,000	5,000	12,000	352×576@25.0 (6)
2.2	5,184,000	20,250	414,720	1,620	4,000	5,000	12,000	720×576@12.5 (5)
3	10,368,000	40,500	414,720	1,620	10,000	12,500	30,000	720×576@25.0 (5)
3.1	27,648,000	108,000	921,600	3,600	14,000	17,500	42,000	1,280×720@30.0 (5)
3.2	55,296,000	216,000	1,310,720	5,120	20,000	25,000	60,000	1,280×1,024@42.2 (4)
4	62,914,560	245,760	2,097,152	8,192	20,000	25,000	60,000	2,048×1,024@30.0 (4)
4.1	62,914,560	245,760	2,097,152	8,192	50,000	62,500	150,000	2,048×1,024@30.0 (4)
4.2	133,693,440	522,240	2,228,224	8,704	50,000	62,500	150,000	2,048×1,080@60.0 (4)
5	150,994,944	589,824	5,652,480	22,080	135,000	168,750	405,000	3,672×1,536@26.7 (5)
5.1	251,658,240	983,040	9,437,184	36,864	240,000	300,000	720,000	4,096×2,304@26.7 (5)
5.2	530,841,600	2,073,600	9,437,184	36,864	240,000	300,000	720,000	4,096×2,304@56.3 (5)

22. A video data block is organized by the group of pictures (GOP) structure, which is a "collection of successive pictures within a coded video stream." *See* Wikipedia Article on Group of Pictures, https://en.wikipedia.org/wiki/Group_of_pictures. A GOP structure can contain intra coded pictures (I picture or I frame), predictive coded pictures (P picture or P frame), bipredictive coded pictures (B picture or B frame) and direct coded pictures (D picture or D frames, or DC direct coded pictures which are used only in MPEG-1 video). *See* Wikipedia Articles on Video Compression Types and MPEG-1, https://en.wikipedia.org/wiki/Video_compression_picture_types (for descriptions of I frames, P frames and B frames); https://en.wikipedia.org/wiki/MPEG-1#D-frames (for descriptions of D frames). Thus, at least a portion of a video data block would also make up a GOP structure and could also contain I frames, P frames, B frames and/or D frames. The GOP structure also reflects the size of a video data block, and the GOP structure can be controlled and used to fine-tune other parameters (e.g. bitrate, max video bitrate and resolution parameters) or even be considered as a parameter by itself.

23. Based on the bitrate and/or resolution parameter identified (e.g. bitrate, max video bitrate, resolution, GOP structure or frame type within a GOP structure), any H.264-compliant

system such as the Accused Instrumentalities would determine which profile (e.g., "baseline," "extended," "main", or "high") corresponds with that parameter, then select between at least two asymmetric compressors. If baseline or extended is the corresponding profile, then the system will select a Context-Adaptive Variable Length Coding ("CAVLC") entropy encoder. If main or high is the corresponding profile, then the system will select a Context-Adaptive Binary Arithmetic Coding ("CABAC") entropy encoder. Both encoders are asymmetric compressors because it takes a longer period of time for them to compress data than to decompress data. *See* https://sonnati.wordpress.com/2007/10/29/how-h-264-works-part-ii/:

	Baseline	Extended	Main	High	High 10
I and P Slices	Yes	Yes	Yes	Yes	Yes
B Slices	No	Yes	Yes	Yes	Yes
SI and SP Slices	No	Yes	No	No	No
Multiple Reference Frames	Yes	Yes	Yes	Yes	Yes
In-Loop Deblocking Filter	Yes	Yes	Yes	Yes	Yes
CAVLC Entropy Coding	Yes	Yes	Yes	Yes	Yes
CABAC Entropy Coding	No	No	Yes	Yes	Yes
Flexible Macroblock Ordering (FMO)	Yes	Yes	No	No	No
Arbitrary Slice Ordering (ASO)	Yes	Yes	No	No	No
Redundant Slices (RS)	Yes	Yes	No	No	No
Data Partitioning	No	Yes	No	No	No
Interlaced Coding (PicAFF, MBAFF)	No	Yes	Yes	Yes	Yes
4:2:0 Chroma Format	Yes	Yes	Yes	Yes	Yes
Monochrome Video Format (4:0:0)	No	No	No	Yes	Yes
4:2:2 Chroma Format	No	No	No	No	No
4:4:4 Chroma Format	No	No	No	No	No
8 Bit Sample Depth	Yes	Yes	Yes	Yes	Yes
9 and 10 Bit Sample Depth	No	No	No	No	Yes
11 to 14 Bit Sample Depth	No	No	No	No	No
8×8 vs. 4×4 Transform Adaptivity	No	No	No	Yes	Yes
Quantization Scaling Matrices	No	No	No	Yes	Yes
Separate Cb and Cr QP control	No	No	No	Yes	Yes
Separate Color Plane Coding	No	No	No	No	No
Predictive Lossless Coding	No	No	No	No	No

See http://web.cs.ucla.edu/classes/fall03/cs218/paper/H.264_MPEG4_Tutorial.pdf at 7:

> The following table summarizes the two major types of entropy coding: Variable Length Coding (VLC) and Context Adaptive Binary Arithmetic Coding (CABAC). CABAC offers superior coding efficiency over VLC by adapting to the changing probability distribution of symbols, by exploiting correlation between symbols, and by adaptively exploiting bit correlations using arithmetic coding. H.264 also supports Context Adaptive Variable Length Coding (CAVLC) which offers superior entropy coding over VLC without the full cost of CABAC.
>
> **H.264 Entropy Coding – Comparison of Approaches**

Characteristics	Variable Length Coding (VLC)	Context Adaptive Binary Arithmetic Coding(CABAC)
• Where it is used	MPEG-2, MPEG-4 ASP	H.264/MPEG-4 AVC (high efficiency option)
• Probability distribution	**Static** - Probabilities never change	**Adaptive** - Adjusts probabilities based on actual data
• Leverages correlation between symbols	**No** - Conditional probabilities ignored	**Yes** - Exploits symbol correlations by using "contexts"
• Non-integer code words	**No** - Low coding efficiency forhigh probability symbols	**Yes** - Exploits "arithmetic coding" which generates non-integer code words for higher efficiency

Moreover, the H.264 Standard requires a bit-flag descriptor, which is set to determine the correct decoder for the corresponding encoder. As shown below, if the flag = 0, then CAVLC must have been selected as the encoder; if the flag = 1, then CABAC must have been selected as the encoder. *See* https://www.itu.int/rec/dologin_pub.asp?lang=e&id=T-REC-H.264-201304-S!!PDF-E&type=items (Rec. ITU-T H.264 (04/2013)) at 80:

> **entropy_coding_mode_flag** selects the entropy decoding method to be applied for the syntax elements for which two descriptors appear in the syntax tables as follows:
>
> – If entropy_coding_mode_flag is equal to 0, the method specified by the left descriptor in the syntax table is applied (Exp-Golomb coded, see clause 9.1 or CAVLC, see clause 9.2).
>
> – Otherwise (entropy_coding_mode_flag is equal to 1), the method specified by the right descriptor in the syntax table is applied (CABAC, see clause 9.3).

24. The Accused Instrumentalities compress the at least the portion of the data block with the selected one or more asymmetric compressors to provide one or more compressed data blocks, which can be organized in a GOP structure (see above). After its selection, the asymmetric compressor (CAVLC or CABAC) will compress the video data to provide various compressed data blocks, which can also be organized in a GOP structure, as discussed previously above. *See* https://sonnati.wordpress.com/2007/10/29/how-h-264-works-part-ii/:

Entropy Coding

For entropy coding, H.264 may use an enhanced VLC, a more complex context-adaptive variable-length coding (CAVLC) or an ever more complex Context-adaptive binary-arithmetic coding (CABAC) which are complex techniques to losslessly compress syntax elements in the video stream knowing the probabilities of syntax elements in a given context. The use of CABAC can improve the compression of around 5-7%. CABAC may requires a 30-40% of total processing power to be accomplished.

See http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.602.1581&rep=rep1&type=pdf at 13:

Typical compression ratios to maintain excellent quality are:

- 10:1 for general images using JPEG
- 30:1 for general video using H.263 and MPEG-2
- 60:1 for general video using H.264 and WMV9

See http://www.ijera.com/papers/Vol3_issue4/BM34399403.pdf at 2:

> Most visual communication systems today use Baseline Profile. Baseline is the simplest H.264 profile and defines, for example, zigzag scanning of the picture and using 4:2:0 (YUV video formats) chrominance sampling. In Baseline Profile, the picture is split in blocks consisting of 4x4 pixels, and each block is processed separately. Another important element of the Baseline Profile is the use of Universal Variable Length Coding (UVLC) and Context Adaptive Variable Length Coding (CAVLC) entropy coding techniques.
>
> The Extended and Main Profiles includes the functionality of the Baseline Profile and add improvements to the predictions algorithms. Since transmitting every single frame (think 30 frames per second for good quality video) is not feasible if you are trying to reduce the bit rate 1000-2000 times, temporal and motion prediction are heavily used in H.264, and allow transmitting only the difference between one frame and the previous frames. The result is spectacular efficiency gain, especially for scenes with little change and motion.
>
> The High Profile is the most powerful profile in H.264, and it allows most efficient coding of video. For example, large coding gain achieved through the use of Context Adaptive Binary Arithmetic Coding (CABAC) encoding which is more efficient than the UVLC/CAVLC used in Baseline Profile.
>
> The High Profile also uses adaptive transform that decides on the fly if 4x4 or 8x8-pixel blocks should be used. For example, 4x4 blocks are used for the parts of the picture that are dense with detail, while parts that have little detail are transformed using 8x8 blocks.

25. Therefore, on information and belief, Hulu has directly infringed and continues to infringe the '535 patent, for example, through its own use and testing of the Accused Instrumentalities, which when used, practices the method claimed by Claim 15 of the '535 patent, namely, a method, comprising: determining a parameter of at least a portion of a data block; selecting one or more asymmetric compressors from among a plurality of compressors based upon the determined parameter or attribute; compressing the at least the portion of the data block with the selected one or more asymmetric compressors to provide one or more compressed data blocks; and storing at least a portion of the one or more compressed data blocks. Upon information and belief, Hulu uses the Accused Instrumentalities to practice infringing methods for its own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to Hulu's customers.

26. On information and belief, the Accused Instrumentalities store at least a portion of the one or more compressed data blocks in buffers, hard disk, or other forms of memory/storage.

27. On information and belief, Hulu also directly infringes and continues to infringe other claims of the '535 patent, for similar reasons as explained above with respect to Claim 15 of the '535 patent.

28. On information and belief, all of the Accused Instrumentalities perform the claimed methods in substantially the same way, e.g., in the manner specified in the H.264 standard.

29. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '535 patent.

30. On information and belief, Hulu has had knowledge of the '535 patent since at least the filing of this Complaint or shortly thereafter, and on information and belief, Hulu knew of the '535 patent and knew of its infringement, including by way of this lawsuit. By the time of trial, Hulu will have known and intended (since receiving such notice) that its continued actions would actively induce and contribute to the infringement of the claims of the '535 patent.

31. Upon information and belief, Hulu's affirmative acts of making, using, and selling the Accused Instrumentalities, and providing implementation services and technical support to users of the Accused Instrumentalities, including, e.g., through training, demonstrations, brochures,

installation and user guides, have induced (at least since filing of this action) and continue to induce users of the Accused Instrumentalities to use them in their normal and customary way to infringe the '535 patent by practicing a method, comprising: determining a parameter of at least a portion of a data block; selecting one or more asymmetric compressors from among a plurality of compressors based upon the determined parameter or attribute; compressing the at least the portion of the data block with the selected one or more asymmetric compressors to provide one or more compressed data blocks; and storing at least a portion of the one or more compressed data blocks. For example, Hulu adopted H.264 as its video codec in its streaming products/services, such as, e.g., Hulu's streaming service, Hulu's video compression media encoders, and Hulu's ad products for brands. For similar reasons, Hulu also induces its customers to use the Accused Instrumentalities to infringe other claims of the '535 patent. Hulu specifically intended and was aware that these normal and customary activities would infringe the '535 patent. Hulu performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '535 patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Hulu engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Hulu has induced (at least since filing of this action) and continues to induce users of the Accused Instrumentalities to use the Accused Instrumentalities in their ordinary and customary way to infringe the '535 patent, knowing that such use constitutes infringement of the '535 patent. Accordingly, Hulu has been (at least since filing of this action), and currently is, inducing infringement of the '535 patent, in violation of 35 U.S.C. § 271(b).

32. Hulu has also infringed, and continues to infringe, claims of the '535 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Instrumentalities, which are used in practicing the process, or using the systems, of the '535 patent, and constitute a material part of the invention. Hulu knows the components in the Accused Instrumentalities to be especially made or especially adapted for use in infringement of the '535 patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. Accordingly, Hulu has been (at least since filing of this action), and currently is, contributorily infringing the '535 patent, in violation of 35 U.S.C. § 271(c).

33. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' compression features, Hulu has injured Realtime and is liable to Realtime for infringement of the '535 patent pursuant to 35 U.S.C. § 271.

34. As a result of Hulu's infringement of the '535 patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Hulu's infringement, but in no event less than a reasonable royalty for the use made of the invention by Hulu, together with interest and costs as fixed by the Court.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 9,769,477

35. Plaintiff re-alleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

36. On information and belief, Hulu has made, used, offered for sale, sold and/or imported into the United States Hulu products that infringe the '477 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Hulu's streaming products/services, such as, e.g., Hulu's streaming service, Hulu's video compression media encoders, Hulu's ad products for brands including Hulu's Ad Selector, Hulu's Blockbuster, Hulu's Branded Entertainment Selector, Hulu's Custom Integrated Commercial, Hulu's Interactive Interstitial, Hulu's Interactive Interstitial Template (DR), Hulu's Masthead Brand Placement, Hulu's Page Brand Placement, Hulu's Premium Slate, Hulu's Slate, Hulu's T-Commerce, Hulu's Video Commercial, Hulu VR, Hulu's 4K video services, and all versions and variations thereof since the issuance of the '477 patent ("Accused Instrumentalities").

37. For example, the Accused Instrumentalities utilize the H.264 video compression standard, as can be seen by the below screenshot of Hulu's Video Commercial ad product for brands (https://www.hulu.com/advertising/ad-product/video-commercial/):

hulu FOR BRANDS

Video Commercial

The Video Commercial includes placement of your advertiser's video creative into any one of Hulu's standard long-form content commercial breaks.

Hulu manages the encoding, hosting, and streaming of the video ads/associated creative assets.

AVAILABLE ON

TIMELINE

5 business days traffic and testing lead-time from the receipt of the final asset

Specs

DELIVERABLES TO HULU

- Video Commercial – ProRes .MOV
- 3rd Party Tracking Tags (if applicable).
- Video: 1 × 1 trackers and click commands
- Max standard video commercial length is :60s

SIZE

SD

- 720 x 480
- 4:3 or 16:9 pixel aspect ratio
- No black bars
- 3:2 display aspect ratio is not accepted
- No letterboxing or pillarboxing
- Bitrate: Greater than 2mbps.
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

HD

- 1280 x 720 or 1920 x 1080 (16:9)
- 1440 x 1080 (4:3)
- No black bars
- Constant Bitrate (CBR) 15-30 Mbps
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

FILE FORMATS

- Quicktime movie (.mov)
- MPEG-4 (.mp4) format only

AUDIO

- 2 channels only
- PCM (preferred) or AAC codec
- 192 kbps minimum
- 16 or 24 bit only
- 48 kHz sample rate
- Audio is required

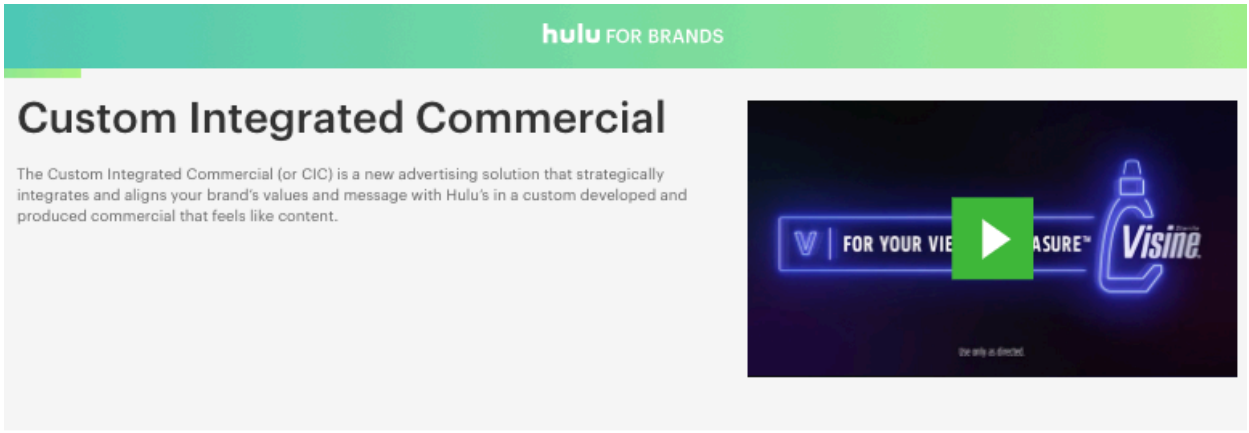
FRAME RATE

- 23.98, 25, or 29.97 based on native frame rate
- Remove any pull-down added for broadcast
- Constant frame rate only
- Please make content progressive using adaptive de-interlace with no frame blending.

CODEC

- Apple ProRes 422 HQ codec preferred
- H.264 codec
- Interlaced video is not accepted

38. The Accused Instrumentalities also accept the usage of the H.264 video compression standard. For example, on the page for Hulu's Custom Integrated Commercial ad product (https://www.hulu.com/advertising/ad-product/custom-integrated-commercial/), under header "Specs" and sub-header "Codec" is listed the text "H.264 codec is accepted.":



Specs

DELIVERABLES TO HULU

While Hulu is able to work with a great variety of assets in the creation of a Custom Integrated Commercial (or "CIC"), the preferred formats, where appropriate and available, include:

- Apple ProRes 422 (HQ) video files
- Accompanying audio, split-track (if available)
- Vector brand logos in .eps or .ai format (if available)
- Brand style guides
- Brand font
- For motion graphics assets, AE project files with associated media (if available)

SIZE

- 1280 x 720 or 1920 x 1080 (16:9)
- 1440 x 1080 (4:3)
- No black bars
- Constant Bitrate (CBR) 15-30 Mbps
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

FILE FORMATS

- Quicktime movie (.mov)
- MPEG-4 (.mp4) format only

AUDIO

- 2 channels only
- Audio (HD/SD): 192 kbps minimum & PCM (preferred) or AAC codec
- 16 or 24 bit only
- 48 kHz sample rate
- Audio is required

FRAME RATE

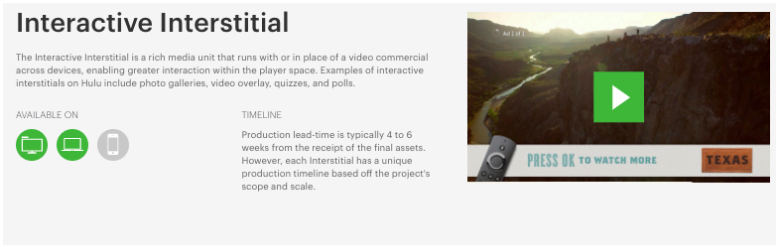
- 23.98, 25, or 29.97 based on native frame rate
- Remove any pull-down added for broadcast
- Constant frame rate only
- Please make content progressive using adaptive de-interlace with no frame blending.

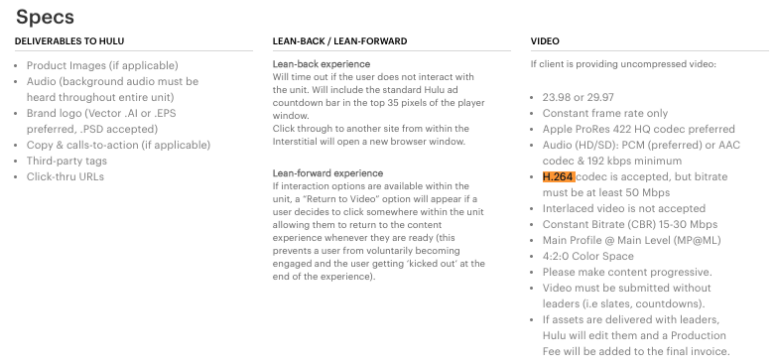
CODEC

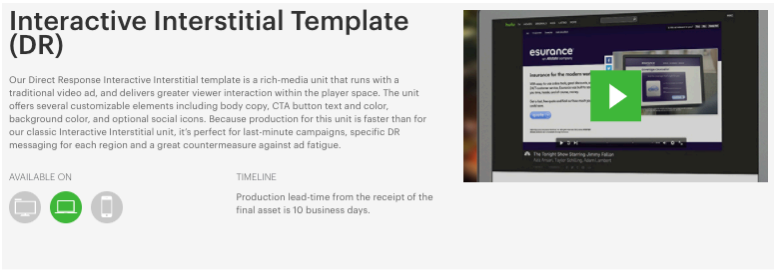
- Apple ProRes 422 HQ codec preferred
- H.264 codec is accepted
- Interlaced video is not accepted

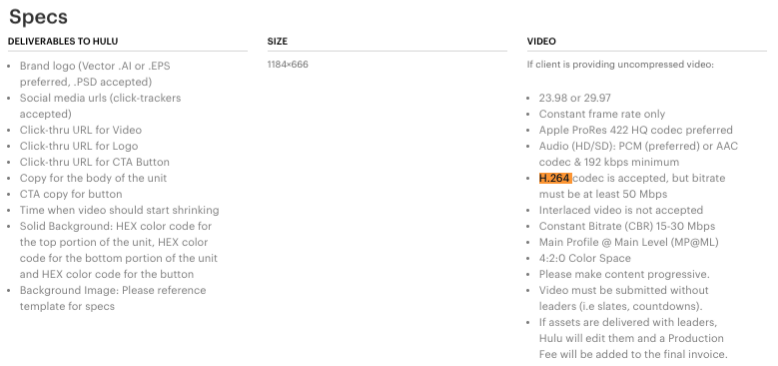
39. Similarly, on the page for Hulu's Interactive Interstitial ad product (https://www.hulu.com/advertising/ad-product/interactive-interstitial/) under header "Specs" and sub-header "Video" is listed the text "H.264 codec is accepted, but bitrate must be at least 50 Mbps." Likewise, on the page for Hulu's Interactive Interstitial Template (DR) (https://www.hulu.com/advertising/ad-product/interactive-interstitial-template-dr/) , the same text "H.264 codec is accepted, but bitrate must be at least 50 Mbps" is listed under header "Specs" and

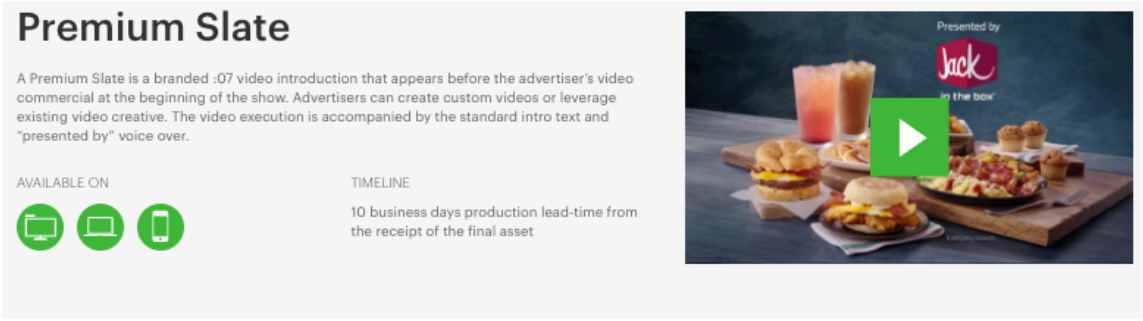
sub-header "Video." In addition, on the page for Hulu's Premium Slate ad product (https://www.hulu.com/advertising/ad-product/premium-slate/) the text "(H.264 codec is accepted, but bitrate must be at least 50 Mbps)" is listed under header "Specs" and sub-header "Codec." Representative screenshots are shown below:

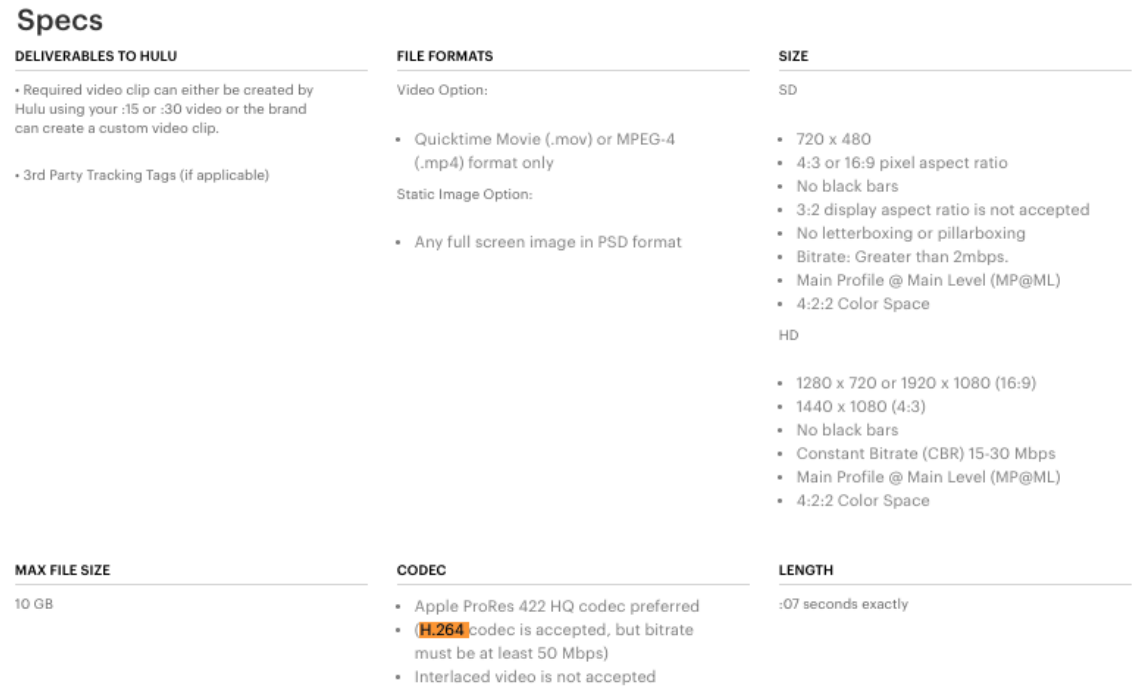












40. The Accused Instrumentalities also use H.264 video compression to select and compress based on parameters such as bitrate, as explained by the website "How Stuff Works" (http://computer.howstuffworks.com/internet/basics/hulu4.htm):

> "Hulu.com uses Cascading Style Sheets (CSS) and JavaScript to lay out its web pages, and it powers the video and controls through the Flash player and browser on your computer. When you request a video, Hulu sends it to you it as a Flash format streaming video file (FLV) along with the video player and the sponsors' advertisements.
>
> Hulu encodes the video file for one of two types of video encoding devices (known as codecs) that translates streaming data into the moving images on your screen and the sound in your speakers. Hulu sends the file to you at one of **five speeds, or bitrates, measured as the amount of data sent per second**. When you play a video, the codec Hulu uses depends on the bitrate at which it's sending the video to you.
>
> The site uses the On2 Flash VP6 codec for video streams that run at bitrates of 480 kilobits per second (Kbps) and 700 Kbps. This codec is supported by Flash versions 8.0 and higher, which is installed in more than 98 percent of

> computers in the U.S. Hulu's higher bitrate streams of 1,000 Kbps and 2,500 Kbps use a codec that requires a bit more from your Internet connection. This more intensive codec **follows the H.264 video coding standard**, which requires Flash 9.0.124.0 or higher [source: Hulu].
>
> How does all of this come together? While you're viewing most videos on Hulu, **you control the bitrate** when you switch between two progressive scan rates: 360p (standard resolution) or 480p (high resolution).

41. The Accused Instrumentalities determine a parameter of at least a portion of a video data block. As shown below, examples of such parameters include bitrate (or max video bitrate) and resolution parameters. Different parameters correspond with different end applications. H.264 provides for multiple different ranges of such parameters, each included in the "profiles" and "levels" as defined by the H.264 standard, from the below shown paragraphs from a white paper and Wikipedia. *See* http://www.axis.com/files/whitepaper/wp_h264_31669_en_0803_lo.pdf at 5:

> **4. H.264 profiles and levels**
>
> The joint group involved in defining H.264 focused on creating a simple and clean solution, limiting options and features to a minimum. An important aspect of the standard, as with other video standards, is providing the capabilities in profiles (sets of algorithmic features) and levels (performance classes) that optimally support popular productions and common formats.
>
> H.264 has seven profiles, each targeting a specific class of applications. Each profile defines what feature set the encoder may use and limits the decoder implementation complexity.
>
> Network cameras and video encoders will most likely use a profile called the baseline profile, which is intended primarily for applications with limited computing resources. The baseline profile is the most suitable given the available performance in a real-time encoder that is embedded in a network video product. The profile also enables low latency, which is an important requirement of surveillance video and also particularly important in enabling real-time, pan/tilt/zoom (PTZ) control in PTZ network cameras.
>
> H.264 has 11 levels or degree of capability to limit performance, bandwidth and memory requirements. Each level defines the bit rate and the encoding rate in macroblock per second for resolutions ranging from QCIF to HDTV and beyond. The higher the resolution, the higher the level required.

See https://en.wikipedia.org/wiki/H.264/MPEG-4_AVC:

Levels with maximum property values

Level	Max decoding speed		Max frame size		Max video bit rate for video coding layer (VCL) kbit/s			Examples for high resolution @ highest frame rate (max stored frames) Toggle additional details
	Luma samples/s	Macroblocks/s	Luma samples	Macroblocks	Baseline, Extended and Main Profiles	High Profile	High 10 Profile	
1	380,160	1,485	25,344	99	64	80	192	176×144@15.0 (4)
1b	380,160	1,485	25,344	99	128	160	384	176×144@15.0 (4)
1.1	768,000	3,000	101,376	396	192	240	576	352×288@7.5 (2)
1.2	1,536,000	6,000	101,376	396	384	480	1,152	352×288@15.2 (6)
1.3	3,041,280	11,880	101,376	396	768	960	2,304	352×288@30.0 (6)
2	3,041,280	11,880	101,376	396	2,000	2,500	6,000	352×288@30.0 (6)
2.1	5,068,800	19,800	202,752	792	4,000	5,000	12,000	352×576@25.0 (6)
2.2	5,184,000	20,250	414,720	1,620	4,000	5,000	12,000	720×576@12.5 (5)
3	10,368,000	40,500	414,720	1,620	10,000	12,500	30,000	720×576@25.0 (5)
3.1	27,648,000	108,000	921,600	3,600	14,000	17,500	42,000	1,280×720@30.0 (5)
3.2	55,296,000	216,000	1,310,720	5,120	20,000	25,000	60,000	1,280×1,024@42.2 (4)
4	62,914,560	245,760	2,097,152	8,192	20,000	25,000	60,000	2,048×1,024@30.0 (4)
4.1	62,914,560	245,760	2,097,152	8,192	50,000	62,500	150,000	2,048×1,024@30.0 (4)
4.2	133,693,440	522,240	2,228,224	8,704	50,000	62,500	150,000	2,048×1,080@60.0 (4)
5	150,994,944	589,824	5,652,480	22,080	135,000	168,750	405,000	3,672×1,536@26.7 (5)
5.1	251,658,240	983,040	9,437,184	36,864	240,000	300,000	720,000	4,096×2,304@26.7 (5)
5.2	530,841,600	2,073,600	9,437,184	36,864	240,000	300,000	720,000	4,096×2,304@56.3 (5)

42. A video data block is organized by the group of pictures (GOP) structure, which is a "collection of successive pictures within a coded video stream." *See* Wikipedia Article on Group of Pictures, https://en.wikipedia.org/wiki/Group_of_pictures. A GOP structure can contain intra coded pictures (I picture or I frame), predictive coded pictures (P picture or P frame), bipredictive coded pictures (B picture or B frame) and direct coded pictures (D picture or D frames, or DC direct coded pictures which are used only in MPEG-1 video). *See* Wikipedia Articles on Video Compression Types and MPEG-1, https://en.wikipedia.org/wiki/Video_compression_picture_types (for descriptions of I frames, P frames and B frames); https://en.wikipedia.org/wiki/MPEG-1#D-frames (for descriptions of D frames). Thus, at least a portion of a video data block would also make up a GOP structure and could also contain I frames, P frames, B frames and/or D frames. The GOP structure also reflects the size of a video data block, and the GOP structure can be controlled and used to fine-tune other parameters (e.g. bitrate, max video bitrate and resolution parameters) or even be considered as a parameter by itself.

43. Based on the bitrate and/or resolution parameter identified (e.g. bitrate, max video bitrate, resolution, GOP structure or frame type within a GOP structure), any H.264-compliant

system such as the Accused Instrumentalities would determine which profile (e.g., "baseline," "extended," "main", or "high") corresponds with that parameter, then select between at least two asymmetric compressors. If baseline or extended is the corresponding profile, then the system will select a Context-Adaptive Variable Length Coding ("CAVLC") entropy encoder. If main or high is the corresponding profile, then the system will select a Context-Adaptive Binary Arithmetic Coding ("CABAC") entropy encoder. Both encoders are asymmetric compressors because it takes a longer period of time for them to compress data than to decompress data. *See* https://sonnati.wordpress.com/2007/10/29/how-h-264-works-part-ii/:

	Baseline	Extended	Main	High	High 10
I and P Slices	Yes	Yes	Yes	Yes	Yes
B Slices	No	Yes	Yes	Yes	Yes
SI and SP Slices	No	Yes	No	No	No
Multiple Reference Frames	Yes	Yes	Yes	Yes	Yes
In-Loop Deblocking Filter	Yes	Yes	Yes	Yes	Yes
CAVLC Entropy Coding	Yes	Yes	Yes	Yes	Yes
CABAC Entropy Coding	No	No	Yes	Yes	Yes
Flexible Macroblock Ordering (FMO)	Yes	Yes	No	No	No
Arbitrary Slice Ordering (ASO)	Yes	Yes	No	No	No
Redundant Slices (RS)	Yes	Yes	No	No	No
Data Partitioning	No	Yes	No	No	No
Interlaced Coding (PicAFF, MBAFF)	No	Yes	Yes	Yes	Yes
4:2:0 Chroma Format	Yes	Yes	Yes	Yes	Yes
Monochrome Video Format (4:0:0)	No	No	No	Yes	Yes
4:2:2 Chroma Format	No	No	No	No	No
4:4:4 Chroma Format	No	No	No	No	No
8 Bit Sample Depth	Yes	Yes	Yes	Yes	Yes
9 and 10 Bit Sample Depth	No	No	No	No	Yes
11 to 14 Bit Sample Depth	No	No	No	No	No
8×8 vs. 4×4 Transform Adaptivity	No	No	No	Yes	Yes
Quantization Scaling Matrices	No	No	No	Yes	Yes
Separate Cb and Cr QP control	No	No	No	Yes	Yes
Separate Color Plane Coding	No	No	No	No	No
Predictive Lossless Coding	No	No	No	No	No

See http://web.cs.ucla.edu/classes/fall03/cs218/paper/H.264_MPEG4_Tutorial.pdf at 7:

> The following table summarizes the two major types of entropy coding: Variable Length Coding (VLC) and Context Adaptive Binary Arithmetic Coding (CABAC). CABAC offers superior coding efficiency over VLC by adapting to the changing probability distribution of symbols, by exploiting correlation between symbols, and by adaptively exploiting bit correlations using arithmetic coding. H.264 also supports Context Adaptive Variable Length Coding (CAVLC) which offers superior entropy coding over VLC without the full cost of CABAC.
>
> **H.264 Entropy Coding – Comparison of Approaches**

Characteristics	Variable Length Coding (VLC)	Context Adaptive Binary Arithmetic Coding(CABAC)
• Where it is used	MPEG-2, MPEG-4 ASP	H.264/MPEG-4 AVC (high efficiency option)
• Probability distribution	**Static** - Probabilities never change	**Adaptive** - Adjusts probabilities based on actual data
• Leverages correlation between symbols	**No** - Conditional probabilities ignored	**Yes** - Exploits symbol correlations by using "contexts"
• Non-integer code words	**No** - Low coding efficiency forhigh probability symbols	**Yes** - Exploits "arithmetic coding" which generates non-integer code words for higher efficiency

Moreover, the H.264 Standard requires a bit-flag descriptor, which is set to determine the correct decoder for the corresponding encoder. As shown below, if the flag = 0, then CAVLC must have been selected as the encoder; if the flag = 1, then CABAC must have been selected as the encoder. *See* https://www.itu.int/rec/dologin_pub.asp?lang=e&id=T-REC-H.264-201304-S!!PDF-E&type=items (Rec. ITU-T H.264 (04/2013)) at 80:

> **entropy_coding_mode_flag** selects the entropy decoding method to be applied for the syntax elements for which two descriptors appear in the syntax tables as follows:
>
> – If entropy_coding_mode_flag is equal to 0, the method specified by the left descriptor in the syntax table is applied (Exp-Golomb coded, see clause 9.1 or CAVLC, see clause 9.2).
>
> – Otherwise (entropy_coding_mode_flag is equal to 1), the method specified by the right descriptor in the syntax table is applied (CABAC, see clause 9.3).

44. The Accused Instrumentalities compress the at least the portion of the data block with the selected one or more asymmetric compressors to provide one or more compressed data blocks, which can be organized in a GOP structure (see above). After its selection, the asymmetric compressor (CAVLC or CABAC) will compress the video data to provide various compressed data blocks, which can also be organized in a GOP structure, as discussed previously above. *See* https://sonnati.wordpress.com/2007/10/29/how-h-264-works-part-ii/:

Entropy Coding

For entropy coding, H.264 may use an enhanced VLC, a more complex context-adaptive variable-length coding (CAVLC) or an ever more complex Context-adaptive binary-arithmetic coding (CABAC) which are complex techniques to losslessly compress syntax elements in the video stream knowing the probabilities of syntax elements in a given context. The use of CABAC can improve the compression of around 5-7%. CABAC may requires a 30-40% of total processing power to be accomplished.

See http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.602.1581&rep=rep1&type=pdf at 13:

Typical compression ratios to maintain excellent quality are:

- 10:1 for general images using JPEG
- 30:1 for general video using H.263 and MPEG-2
- 60:1 for general video using H.264 and WMV9

See http://www.ijera.com/papers/Vol3_issue4/BM34399403.pdf at 2:

> Most visual communication systems today use Baseline Profile. Baseline is the simplest H.264 profile and defines, for example, zigzag scanning of the picture and using 4:2:0 (YUV video formats) chrominance sampling. In Baseline Profile, the picture is split in blocks consisting of 4x4 pixels, and each block is processed separately. Another important element of the Baseline Profile is the use of Universal Variable Length Coding (UVLC) and Context Adaptive Variable Length Coding (CAVLC) entropy coding techniques.
>
> The Extended and Main Profiles includes the functionality of the Baseline Profile and add improvements to the predictions algorithms. Since transmitting every single frame (think 30 frames per second for good quality video) is not feasible if you are trying to reduce the bit rate 1000-2000 times, temporal and motion prediction are heavily used in H.264, and allow transmitting only the difference between one frame and the previous frames. The result is spectacular efficiency gain, especially for scenes with little change and motion.
>
> The High Profile is the most powerful profile in H.264, and it allows most efficient coding of video. For example, large coding gain achieved through the use of Context Adaptive Binary Arithmetic Coding (CABAC) encoding which is more efficient than the UVLC/CAVLC used in Baseline Profile.
>
> The High Profile also uses adaptive transform that decides on the fly if 4x4 or 8x8-pixel blocks should be used. For example, 4x4 blocks are used for the parts of the picture that are dense with detail, while parts that have little detail are transformed using 8x8 blocks.

45. Therefore, on information and belief, Hulu has directly infringed and continues to infringe the '477 patent, for example, through its sale, offer for sale, importation, use and testing of the Accused Instrumentalities that practice Claim 1 of the '477 patent, namely, a system, comprising: a plurality of different asymmetric data compression encoders, wherein each asymmetric data compression encoder of the plurality of different asymmetric data compression encoders is configured to utilize one or more data compression algorithms, and wherein a first asymmetric data compression encoder of the plurality of different asymmetric data compression encoders is configured to compress data blocks containing video or image data at a higher data compression rate than a second asymmetric data compression encoder of the plurality of different asymmetric data compression encoders; and one or more processors configured to: determine one or more data parameters, at least one of the determined one or more data parameters relating to a throughput of a communications channel measured in bits per second; and select one or more asymmetric data compression encoders from among the plurality of different asymmetric data compression encoders based upon, at least in part, the determined one or more data parameters.

46. On information and belief, the Accused Instrumentalities store at least a portion of the one or more compressed data blocks in buffers, hard disk, or other forms of memory/storage.

47. On information and belief, Hulu also directly infringes and continues to infringe other claims of the '477 patent, for similar reasons as explained above with respect to Claim 1 of the '477 patent.

48. On information and belief, all of the Accused Instrumentalities perform the claimed methods in substantially the same way, e.g., in the manner specified in the H.264 standard.

49. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '477 patent.

50. On information and belief, Hulu has had knowledge of the '477 patent since at least the filing of this Complaint or shortly thereafter, and on information and belief, Hulu knew of the '477 patent and knew of its infringement, including by way of this lawsuit. By the time of trial, Hulu will have known and intended (since receiving such notice) that its continued actions would actively induce and contribute to the infringement of the claims of the '477 patent.

51. Upon information and belief, Hulu's affirmative acts of making, using, and selling the Accused Instrumentalities, and providing implementation services and technical support to users of the Accused Instrumentalities, including, e.g., through training, demonstrations, brochures, installation and user guides, have induced (at least since filing of this action) and continue to induce users of the Accused Instrumentalities to use them in their normal and customary way to infringe the '477 patent by practicing a system, comprising: a plurality of different asymmetric data compression encoders, wherein each asymmetric data compression encoder of the plurality of different asymmetric data compression encoders is configured to utilize one or more data compression algorithms, and wherein a first asymmetric data compression encoder of the plurality of different asymmetric data compression encoders is configured to compress data blocks containing video or image data at a higher data compression rate than a second asymmetric data compression encoder of the plurality of different asymmetric data compression encoders; and one or more processors configured to: determine one or more data parameters, at least one of the determined one or more data parameters relating to a throughput of a communications channel measured in bits per second; and select one or more asymmetric data compression encoders from among the plurality of different asymmetric data compression encoders based upon, at least in part, the determined one or more data parameters. For example, Hulu adopted H.264 as its video codec in its streaming products/services, such as, e.g., Hulu's streaming service, Hulu's video compression media encoders, and Hulu's ad products for brands. For similar reasons, Hulu also induces its customers to use the Accused Instrumentalities to infringe other claims of the '477 patent. Hulu specifically intended and was aware that these normal and customary activities would infringe the '477 patent. Hulu performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '477 patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Hulu engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Hulu has induced (at least since filing of this action) and continues to induce users of the Accused Instrumentalities to use the Accused Instrumentalities in their ordinary and customary way to infringe the '477 patent, knowing that such use constitutes infringement of the '477 patent.

Accordingly, Hulu has been (at least since filing of this action), and currently is, inducing infringement of the '477 patent, in violation of 35 U.S.C. § 271(b).

52. Hulu has also infringed, and continues to infringe, claims of the '477 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Instrumentalities, which are used in practicing the process, or using the systems, of the '477 patent, and constitute a material part of the invention. Hulu knows the components in the Accused Instrumentalities to be especially made or especially adapted for use in infringement of the '477 patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. Accordingly, Hulu has been (at least since filing of this action), and currently is, contributorily infringing the '477 patent, in violation of 35 U.S.C. § 271(c).

53. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' compression features, Hulu has injured Realtime and is liable to Realtime for infringement of the '477 patent pursuant to 35 U.S.C. § 271.

54. As a result of Hulu's infringement of the '477 patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Hulu's infringement, but in no event less than a reasonable royalty for the use made of the invention by Hulu, together with interest and costs as fixed by the Court.

COUNT III

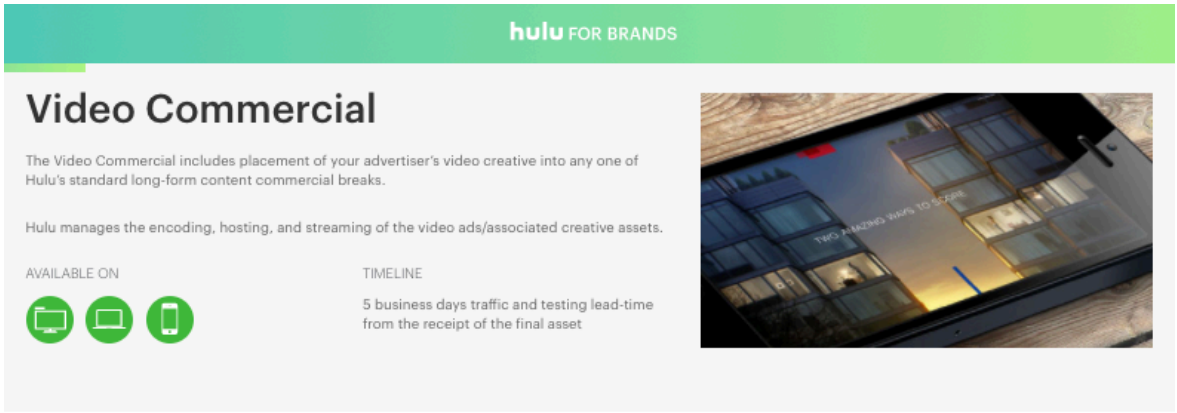
INFRINGEMENT OF U.S. PATENT NO. 9,762,907

55. Plaintiff re-alleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

56. On information and belief, Hulu has made, used, offered for sale, sold and/or imported into the United States Hulu products that infringe the '907 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Hulu's streaming products/services, such as, e.g., Hulu's streaming service, Hulu's video compression media encoders, Hulu's ad products for brands including Hulu's Ad Selector, Hulu's Blockbuster, Hulu's Branded Entertainment Selector, Hulu's Custom Integrated Commercial, Hulu's Interactive

Interstitial, Hulu's Interactive Interstitial Template (DR), Hulu's Masthead Brand Placement, Hulu's Page Brand Placement, Hulu's Premium Slate, Hulu's Slate, Hulu's T-Commerce, Hulu's Video Commercial, Hulu VR, Hulu's 4K video services, and all versions and variations thereof since the issuance of the '907 patent ("Accused Instrumentalities")

57. For example, the Accused Instrumentalities utilize the H.264 video compression standard, as can be seen by the below screenshot of Hulu's Video Commercial ad product for brands (https://www.hulu.com/advertising/ad-product/video-commercial/):



Specs

DELIVERABLES TO HULU

- Video Commercial – ProRes .MOV
- 3rd Party Tracking Tags (if applicable).
- Video: 1 × 1 trackers and click commands
- Max standard video commercial length is :60s

SIZE

SD

- 720 x 480
- 4:3 or 16:9 pixel aspect ratio
- No black bars
- 3:2 display aspect ratio is not accepted
- No letterboxing or pillarboxing
- Bitrate: Greater than 2mbps.
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

HD

- 1280 x 720 or 1920 x 1080 (16:9)
- 1440 x 1080 (4:3)
- No black bars
- Constant Bitrate (CBR) 15-30 Mbps
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

FILE FORMATS

- Quicktime movie (.mov)
- MPEG-4 (.mp4) format only

AUDIO

- 2 channels only
- PCM (preferred) or AAC codec
- 192 kbps minimum
- 16 or 24 bit only
- 48 kHz sample rate
- Audio is required

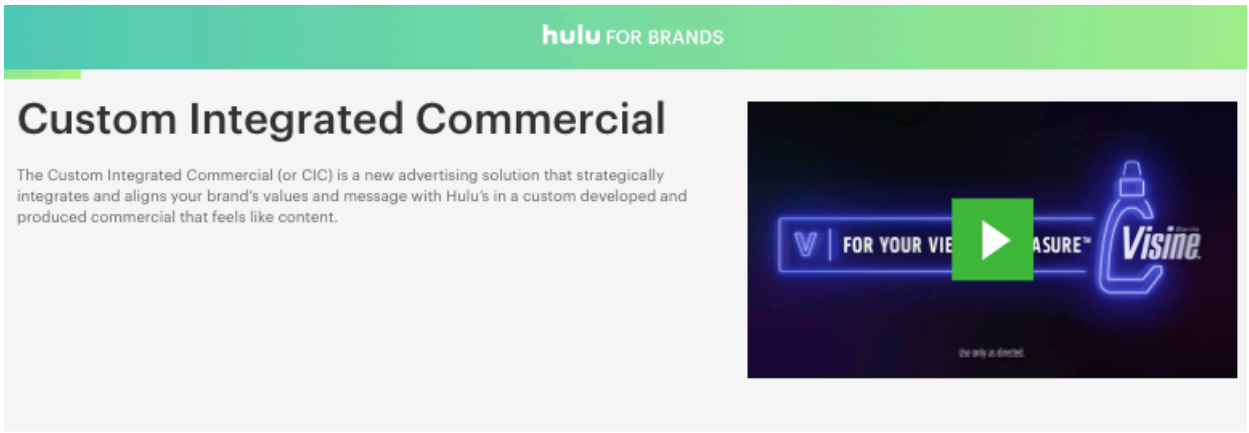
FRAME RATE

- 23.98, 25, or 29.97 based on native frame rate
- Remove any pull-down added for broadcast
- Constant frame rate only
- Please make content progressive using adaptive de-interlace with no frame blending.

CODEC

- Apple ProRes 422 HQ codec preferred
- H.264 codec
- Interlaced video is not accepted

58. The Accused Instrumentalities also accept the usage of the H.264 video compression standard. For example, on the page for Hulu's Custom Integrated Commercial ad product (https://www.hulu.com/advertising/ad-product/custom-integrated-commercial/), under header "Specs" and sub-header "Codec" is listed the text "H.264 codec is accepted.":



Specs

DELIVERABLES TO HULU

While Hulu is able to work with a great variety of assets in the creation of a Custom Integrated Commercial (or "CIC"), the preferred formats, where appropriate and available, include:

- Apple ProRes 422 (HQ) video files
- Accompanying audio, split-track (if available)
- Vector brand logos in .eps or .ai format (if available)
- Brand style guides
- Brand font
- For motion graphics assets, AE project files with associated media (if available)

SIZE

- 1280 x 720 or 1920 x 1080 (16:9)
- 1440 x 1080 (4:3)
- No black bars
- Constant Bitrate (CBR) 15-30 Mbps
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

FILE FORMATS

- Quicktime movie (.mov)
- MPEG-4 (.mp4) format only

AUDIO

- 2 channels only
- Audio (HD/SD): 192 kbps minimum & PCM (preferred) or AAC codec
- 16 or 24 bit only
- 48 kHz sample rate
- Audio is required

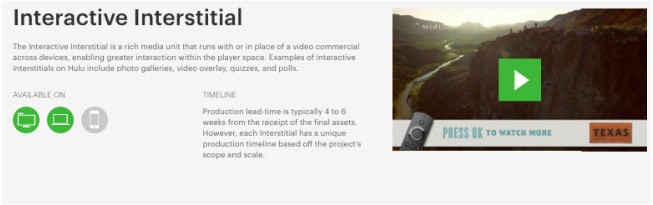
FRAME RATE

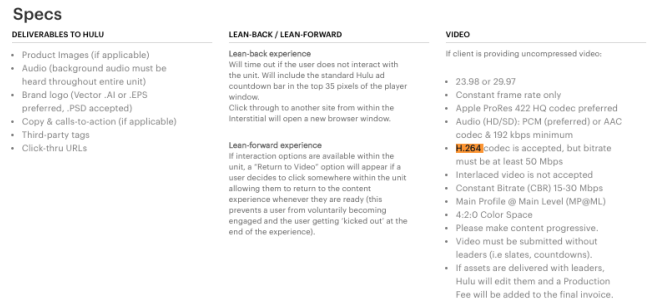
- 23.98, 25, or 29.97 based on native frame rate
- Remove any pull-down added for broadcast
- Constant frame rate only
- Please make content progressive using adaptive de-interlace with no frame blending.

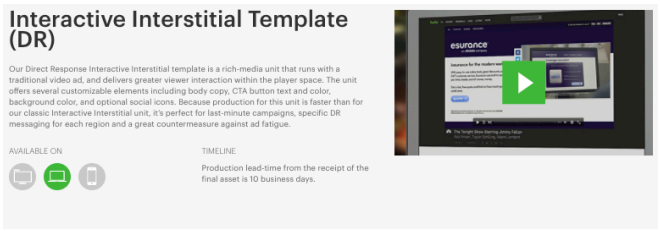
CODEC

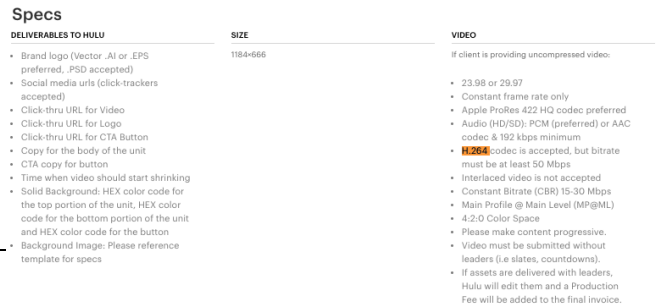
- Apple ProRes 422 HQ codec preferred
- H.264 codec is accepted
- Interlaced video is not accepted

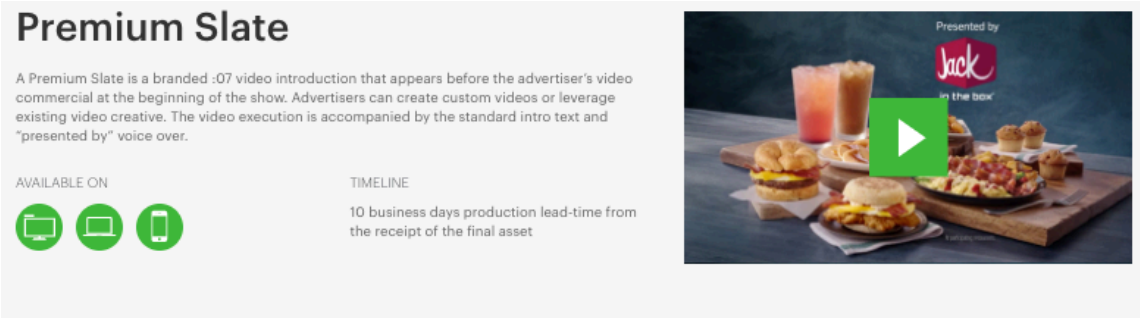
59. Similarly, on the page for Hulu's Interactive Interstitial ad product (https://www.hulu.com/advertising/ad-product/interactive-interstitial/) under header "Specs" and sub-header "Video" is listed the text "H.264 codec is accepted, but bitrate must be at least 50 Mbps." Likewise, on the page for Hulu's Interactive Interstitial Template (DR) (https://www.hulu.com/advertising/ad-product/interactive-interstitial-template-dr/) , the same text "H.264 codec is accepted, but bitrate must be at least 50 Mbps" is listed under header "Specs" and sub-header "Video." In addition, on the page for Hulu's Premium Slate ad product (https://www.hulu.com/advertising/ad-product/premium-slate/) the text "(H.264 codec is accepted, but bitrate must be at least 50 Mbps)" is listed under header "Specs" and sub-header "Codec." Representative screenshots are shown below:











Premium Slate

A Premium Slate is a branded :07 video introduction that appears before the advertiser's video commercial at the beginning of the show. Advertisers can create custom videos or leverage existing video creative. The video execution is accompanied by the standard intro text and "presented by" voice over.

AVAILABLE ON

TIMELINE

10 business days production lead-time from the receipt of the final asset

Specs

DELIVERABLES TO HULU

- Required video clip can either be created by Hulu using your :15 or :30 video or the brand can create a custom video clip.
- 3rd Party Tracking Tags (if applicable)

FILE FORMATS

Video Option:

- Quicktime Movie (.mov) or MPEG-4 (.mp4) format only

Static Image Option:

- Any full screen image in PSD format

SIZE

SD

- 720 x 480
- 4:3 or 16:9 pixel aspect ratio
- No black bars
- 3:2 display aspect ratio is not accepted
- No letterboxing or pillarboxing
- Bitrate: Greater than 2mbps.
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

HD

- 1280 x 720 or 1920 x 1080 (16:9)
- 1440 x 1080 (4:3)
- No black bars
- Constant Bitrate (CBR) 15-30 Mbps
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

MAX FILE SIZE

10 GB

CODEC

- Apple ProRes 422 HQ codec preferred
- (H.264 codec is accepted, but bitrate must be at least 50 Mbps)
- Interlaced video is not accepted

LENGTH

:07 seconds exactly

60. The Accused Instrumentalities also use H.264 video compression to select and compress based on parameters such as bitrate, as explained by the website "How Stuff Works" (http://computer.howstuffworks.com/internet/basics/hulu4.htm):

> "Hulu.com uses Cascading Style Sheets (CSS) and JavaScript to lay out its web pages, and it powers the video and controls through the Flash player and browser on your computer. When you request a video, Hulu sends it to you it as a Flash format streaming video file (FLV) along with the video player and the sponsors' advertisements.
>
> Hulu encodes the video file for one of two types of video encoding devices (known as codecs) that translates streaming data into the moving images on your screen and the sound in your speakers. Hulu sends the file to you at one of **five speeds, or bitrates, measured as the amount of data sent per second**. When you play a video, the codec Hulu uses depends on the bitrate at which it's sending the video to you.

> The site uses the On2 Flash VP6 codec for video streams that run at bitrates of 480 kilobits per second (Kbps) and 700 Kbps. This codec is supported by Flash versions 8.0 and higher, which is installed in more than 98 percent of computers in the U.S. Hulu's higher bitrate streams of 1,000 Kbps and 2,500 Kbps use a codec that requires a bit more from your Internet connection. This more intensive codec **follows the H.264 video coding standard**, which requires Flash 9.0.124.0 or higher [source: Hulu].
>
> How does all of this come together? While you're viewing most videos on Hulu, **you control the bitrate** when you switch between two progressive scan rates: 360p (standard resolution) or 480p (high resolution).

61. The Accused Instrumentalities determine a parameter of at least a portion of a video data block. As shown below, examples of such parameters include bitrate (or max video bitrate) and resolution parameters. Different parameters correspond with different end applications. H.264 provides for multiple different ranges of such parameters, each included in the "profiles" and "levels" as defined by the H.264 standard, from the below shown paragraphs from a white paper and Wikipedia. *See* http://www.axis.com/files/whitepaper/wp_h264_31669_en_0803_lo.pdf at 5:

> **4. H.264 profiles and levels**
>
> The joint group involved in defining H.264 focused on creating a simple and clean solution, limiting options and features to a minimum. An important aspect of the standard, as with other video standards, is providing the capabilities in profiles (sets of algorithmic features) and levels (performance classes) that optimally support popular productions and common formats.
>
> H.264 has seven profiles, each targeting a specific class of applications. Each profile defines what feature set the encoder may use and limits the decoder implementation complexity.
>
> Network cameras and video encoders will most likely use a profile called the baseline profile, which is intended primarily for applications with limited computing resources. The baseline profile is the most suitable given the available performance in a real-time encoder that is embedded in a network video product. The profile also enables low latency, which is an important requirement of surveillance video and also particularly important in enabling real-time, pan/tilt/zoom (PTZ) control in PTZ network cameras.
>
> H.264 has 11 levels or degree of capability to limit performance, bandwidth and memory requirements. Each level defines the bit rate and the encoding rate in macroblock per second for resolutions ranging from QCIF to HDTV and beyond. The higher the resolution, the higher the level required.

See https://en.wikipedia.org/wiki/H.264/MPEG-4_AVC:

Levels with maximum property values

Level	Max decoding speed		Max frame size		Max video bit rate for video coding layer (VCL) kbit/s			Examples for high resolution @ highest frame rate (max stored frames) Toggle additional details
	Luma samples/s	Macroblocks/s	Luma samples	Macroblocks	Baseline, Extended and Main Profiles	High Profile	High 10 Profile	
1	380,160	1,485	25,344	99	64	80	192	176×144@15.0 (4)
1b	380,160	1,485	25,344	99	128	160	384	176×144@15.0 (4)
1.1	768,000	3,000	101,376	396	192	240	576	352×288@7.5 (2)
1.2	1,536,000	6,000	101,376	396	384	480	1,152	352×288@15.2 (6)
1.3	3,041,280	11,880	101,376	396	768	960	2,304	352×288@30.0 (6)
2	3,041,280	11,880	101,376	396	2,000	2,500	6,000	352×288@30.0 (6)
2.1	5,068,800	19,800	202,752	792	4,000	5,000	12,000	352×576@25.0 (6)
2.2	5,184,000	20,250	414,720	1,620	4,000	5,000	12,000	720×576@12.5 (5)
3	10,368,000	40,500	414,720	1,620	10,000	12,500	30,000	720×576@25.0 (5)
3.1	27,648,000	108,000	921,600	3,600	14,000	17,500	42,000	1,280×720@30.0 (5)
3.2	55,296,000	216,000	1,310,720	5,120	20,000	25,000	60,000	1,280×1,024@42.2 (4)
4	62,914,560	245,760	2,097,152	8,192	20,000	25,000	60,000	2,048×1,024@30.0 (4)
4.1	62,914,560	245,760	2,097,152	8,192	50,000	62,500	150,000	2,048×1,024@30.0 (4)
4.2	133,693,440	522,240	2,228,224	8,704	50,000	62,500	150,000	2,048×1,080@60.0 (4)
5	150,994,944	589,824	5,652,480	22,080	135,000	168,750	405,000	3,672×1,536@26.7 (5)
5.1	251,658,240	983,040	9,437,184	36,864	240,000	300,000	720,000	4,096×2,304@26.7 (5)
5.2	530,841,600	2,073,600	9,437,184	36,864	240,000	300,000	720,000	4,096×2,304@56.3 (5)

62. A video data block is organized by the group of pictures (GOP) structure, which is a "collection of successive pictures within a coded video stream." *See* Wikipedia Article on Group of Pictures, https://en.wikipedia.org/wiki/Group_of_pictures. A GOP structure can contain intra coded pictures (I picture or I frame), predictive coded pictures (P picture or P frame), bipredictive coded pictures (B picture or B frame) and direct coded pictures (D picture or D frames, or DC direct coded pictures which are used only in MPEG-1 video). *See* Wikipedia Articles on Video Compression Types and MPEG-1, https://en.wikipedia.org/wiki/Video_compression_picture_types (for descriptions of I frames, P frames and B frames); https://en.wikipedia.org/wiki/MPEG-1#D-frames (for descriptions of D frames). Thus, at least a portion of a video data block would also make up a GOP structure and could also contain I frames, P frames, B frames and/or D frames. The GOP structure also reflects the size of a video data block, and the GOP structure can be controlled and used to fine-tune other parameters (e.g. bitrate, max video bitrate and resolution parameters) or even be considered as a parameter by itself.

63. Based on the bitrate and/or resolution parameter identified (e.g. bitrate, max video bitrate, resolution, GOP structure or frame type within a GOP structure), any H.264-compliant

system such as the Accused Instrumentalities would determine which profile (e.g., "baseline," "extended," "main", or "high") corresponds with that parameter, then select between at least two asymmetric compressors. If baseline or extended is the corresponding profile, then the system will select a Context-Adaptive Variable Length Coding ("CAVLC") entropy encoder. If main or high is the corresponding profile, then the system will select a Context-Adaptive Binary Arithmetic Coding ("CABAC") entropy encoder. Both encoders are asymmetric compressors because it takes a longer period of time for them to compress data than to decompress data. *See* https://sonnati.wordpress.com/2007/10/29/how-h-264-works-part-ii/:

	Baseline	Extended	Main	High	High 10
I and P Slices	Yes	Yes	Yes	Yes	Yes
B Slices	No	Yes	Yes	Yes	Yes
SI and SP Slices	No	Yes	No	No	No
Multiple Reference Frames	Yes	Yes	Yes	Yes	Yes
In-Loop Deblocking Filter	Yes	Yes	Yes	Yes	Yes
CAVLC Entropy Coding	Yes	Yes	Yes	Yes	Yes
CABAC Entropy Coding	No	No	Yes	Yes	Yes
Flexible Macroblock Ordering (FMO)	Yes	Yes	No	No	No
Arbitrary Slice Ordering (ASO)	Yes	Yes	No	No	No
Redundant Slices (RS)	Yes	Yes	No	No	No
Data Partitioning	No	Yes	No	No	No
Interlaced Coding (PicAFF, MBAFF)	No	Yes	Yes	Yes	Yes
4:2:0 Chroma Format	Yes	Yes	Yes	Yes	Yes
Monochrome Video Format (4:0:0)	No	No	No	Yes	Yes
4:2:2 Chroma Format	No	No	No	No	No
4:4:4 Chroma Format	No	No	No	No	No
8 Bit Sample Depth	Yes	Yes	Yes	Yes	Yes
9 and 10 Bit Sample Depth	No	No	No	No	Yes
11 to 14 Bit Sample Depth	No	No	No	No	No
8×8 vs. 4×4 Transform Adaptivity	No	No	No	Yes	Yes
Quantization Scaling Matrices	No	No	No	Yes	Yes
Separate Cb and Cr QP control	No	No	No	Yes	Yes
Separate Color Plane Coding	No	No	No	No	No
Predictive Lossless Coding	No	No	No	No	No

See http://web.cs.ucla.edu/classes/fall03/cs218/paper/H.264_MPEG4_Tutorial.pdf at 7:

> The following table summarizes the two major types of entropy coding: Variable Length Coding (VLC) and Context Adaptive Binary Arithmetic Coding (CABAC). CABAC offers superior coding efficiency over VLC by adapting to the changing probability distribution of symbols, by exploiting correlation between symbols, and by adaptively exploiting bit correlations using arithmetic coding. H.264 also supports Context Adaptive Variable Length Coding (CAVLC) which offers superior entropy coding over VLC without the full cost of CABAC.
>
> **H.264 Entropy Coding – Comparison of Approaches**

Characteristics	Variable Length Coding (VLC)	Context Adaptive Binary Arithmetic Coding(CABAC)
• Where it is used	MPEG-2, MPEG-4 ASP	H.264/MPEG-4 AVC (high efficiency option)
• Probability distribution	**Static** - Probabilities never change	**Adaptive** - Adjusts probabilities based on actual data
• Leverages correlation between symbols	**No** - Conditional probabilities ignored	**Yes** - Exploits symbol correlations by using "contexts"
• Non-integer code words	**No** - Low coding efficiency forhigh probability symbols	**Yes** - Exploits "arithmetic coding" which generates non-integer code words for higher efficiency

Moreover, the H.264 Standard requires a bit-flag descriptor, which is set to determine the correct decoder for the corresponding encoder. As shown below, if the flag = 0, then CAVLC must have been selected as the encoder; if the flag = 1, then CABAC must have been selected as the encoder. *See* https://www.itu.int/rec/dologin_pub.asp?lang=e&id=T-REC-H.264-201304-S!!PDF-E&type=items (Rec. ITU-T H.264 (04/2013)) at 80:

> **entropy_coding_mode_flag** selects the entropy decoding method to be applied for the syntax elements for which two descriptors appear in the syntax tables as follows:
>
> – If entropy_coding_mode_flag is equal to 0, the method specified by the left descriptor in the syntax table is applied (Exp-Golomb coded, see clause 9.1 or CAVLC, see clause 9.2).
>
> – Otherwise (entropy_coding_mode_flag is equal to 1), the method specified by the right descriptor in the syntax table is applied (CABAC, see clause 9.3).

64. The Accused Instrumentalities compress the at least the portion of the data block with the selected one or more asymmetric compressors to provide one or more compressed data blocks, which can be organized in a GOP structure (see above). After its selection, the asymmetric compressor (CAVLC or CABAC) will compress the video data to provide various compressed data blocks, which can also be organized in a GOP structure, as discussed previously above. *See* https://sonnati.wordpress.com/2007/10/29/how-h-264-works-part-ii/:

Entropy Coding

For entropy coding, H.264 may use an enhanced VLC, a more complex context-adaptive variable-length coding (CAVLC) or an ever more complex Context-adaptive binary-arithmetic coding (CABAC) which are complex techniques to losslessly compress syntax elements in the video stream knowing the probabilities of syntax elements in a given context. The use of CABAC can improve the compression of around 5-7%. CABAC may requires a 30-40% of total processing power to be accomplished.

See http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.602.1581&rep=rep1&type=pdf at 13:

Typical compression ratios to maintain excellent quality are:

- 10:1 for general images using JPEG
- 30:1 for general video using H.263 and MPEG-2
- 60:1 for general video using H.264 and WMV9

See http://www.ijera.com/papers/Vol3_issue4/BM34399403.pdf at 2:

Most visual communication systems today use Baseline Profile. Baseline is the simplest H.264 profile and defines, for example, zigzag scanning of the picture and using 4:2:0 (YUV video formats) chrominance sampling. In Baseline Profile, the picture is split in blocks consisting of 4x4 pixels, and each block is processed separately. Another important element of the Baseline Profile is the use of Universal Variable Length Coding (UVLC) and Context Adaptive Variable Length Coding (CAVLC) entropy coding techniques.

The Extended and Main Profiles includes the functionality of the Baseline Profile and add improvements to the predictions algorithms. Since transmitting every single frame (think 30 frames per second for good quality video) is not feasible if you are trying to reduce the bit rate 1000-2000 times, temporal and motion prediction are heavily used in H.264, and allow transmitting only the difference between one frame and the previous frames. The result is spectacular efficiency gain, especially for scenes with little change and motion.

The High Profile is the most powerful profile in H.264, and it allows most efficient coding of video. For example, large coding gain achieved through the use of Context Adaptive Binary Arithmetic Coding (CABAC) encoding which is more efficient than the UVLC/CAVLC used in Baseline Profile.

The High Profile also uses adaptive transform that decides on the fly if 4x4 or 8x8-pixel blocks should be used. For example, 4x4 blocks are used for the parts of the picture that are dense with detail, while parts that have little detail are transformed using 8x8 blocks.

65. Therefore, on information and belief, Hulu has directly infringed and continues to infringe the '907 patent, for example, through its sale, offer for sale, importation, use and testing of the Accused Instrumentalities, which practices the system claimed by Claim 1 of the '907 patent, namely, a system comprising: one or more different asymmetric data compression algorithms, wherein each algorithm of the one or more different asymmetric data compression algorithms utilizes one or more asymmetric data compression routines of a plurality of different asymmetric data compression routines, wherein a first asymmetric data compression routine of the plurality of different asymmetric data compression routines is configured to produce compressed data with a higher data rate for a given data throughput than a second asymmetric data compression routine of the plurality of different asymmetric data compression routines; and a processor configured: to analyze one or more data parameters from one or more data blocks containing video data, wherein at least one data parameter relates to an expected or anticipated throughput of a communications channel; and to select two or more different data compression routines from among a plurality of different data compression routines based upon, at least in part, the one or more data parameters relating to the expected or anticipated throughput of the communications channel.

66. On information and belief, the Accused Instrumentalities store at least a portion of the one or more compressed data blocks in buffers, hard disk, or other forms of memory/storage.

67. On information and belief, Hulu also directly infringes and continues to infringe other claims of the '907 patent, for similar reasons as explained above with respect to Claim 8 of the '907 patent.

68. On information and belief, all of the Accused Instrumentalities perform the claimed methods in substantially the same way, e.g., in the manner specified in the H.264 standard.

69. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '907 patent.

70. On information and belief, Hulu has had knowledge of the '907 patent since at least the filing of this Complaint or shortly thereafter, and on information and belief, Hulu knew of the '907 patent and knew of its infringement, including by way of this lawsuit. By the time of trial, Hulu will have known and intended (since receiving such notice) that its continued actions would

actively induce and contribute to the infringement of the claims of the '907 patent.

71. Upon information and belief, Hulu's affirmative acts of making, using, and selling the Accused Instrumentalities, and providing implementation services and technical support to users of the Accused Instrumentalities, including, e.g., through training, demonstrations, brochures, installation and user guides, have induced (at least since filing of this action) and continue to induce users of the Accused Instrumentalities to use them in their normal and customary way to infringe the '907 patent by practicing a system comprising: one or more different asymmetric data compression algorithms, wherein each algorithm of the one or more different asymmetric data compression algorithms utilizes one or more asymmetric data compression routines of a plurality of different asymmetric data compression routines, wherein a first asymmetric data compression routine of the plurality of different asymmetric data compression routines is configured to produce compressed data with a higher data rate for a given data throughput than a second asymmetric data compression routine of the plurality of different asymmetric data compression routines; and a processor configured: to analyze one or more data parameters from one or more data blocks containing video data, wherein at least one data parameter relates to an expected or anticipated throughput of a communications channel; and to select two or more different data compression routines from among a plurality of different data compression routines based upon, at least in part, the one or more data parameters relating to the expected or anticipated throughput of the communications channel. For example, Hulu adopted H.264 as its video codec in its streaming products/services, such as, e.g., Hulu's streaming service, Hulu's video compression media encoders, and Hulu's ad products for brands. For similar reasons, Hulu also induces its customers to use the Accused Instrumentalities to infringe other claims of the '907 patent. Hulu specifically intended and was aware that these normal and customary activities would infringe the '907 patent. Hulu performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '907 patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Hulu engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Hulu has induced (at least since filing of this action) and continues to induce users of the Accused

Instrumentalities to use the Accused Instrumentalities in their ordinary and customary way to infringe the '907 patent, knowing that such use constitutes infringement of the '907 patent. Accordingly, Hulu has been (at least since filing of this action), and currently is, inducing infringement of the '907 patent, in violation of 35 U.S.C. § 271(b).

72. Hulu has also infringed, and continues to infringe, claims of the '907 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Instrumentalities, which are used in practicing the process, or using the systems, of the '907 patent, and constitute a material part of the invention. Hulu knows the components in the Accused Instrumentalities to be especially made or especially adapted for use in infringement of the '907 patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. Accordingly, Hulu has been, and currently is, contributorily infringing the '907 patent, in violation of 35 U.S.C. § 271(c).

73. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' compression features, Hulu has injured Realtime and is liable to Realtime for infringement of the '907 patent pursuant to 35 U.S.C. § 271.

74. As a result of Hulu's infringement of the '907 patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Hulu's infringement, but in no event less than a reasonable royalty for the use made of the invention by Hulu, together with interest and costs as fixed by the Court.

COUNT IV

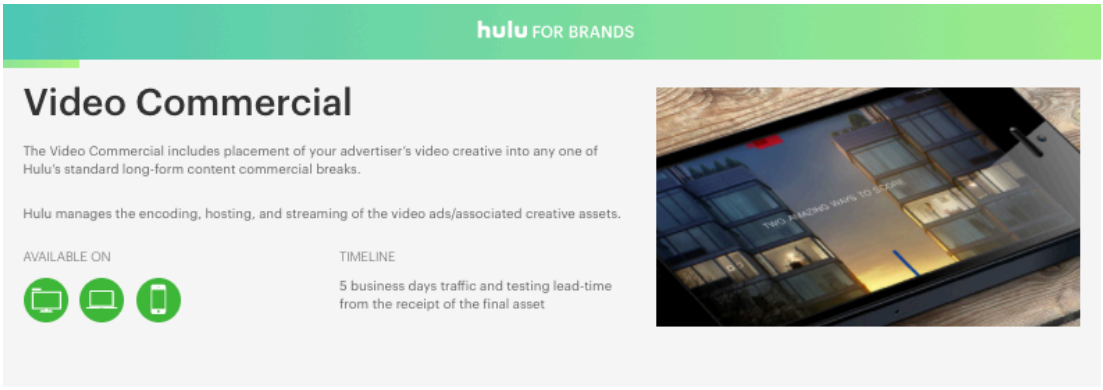
INFRINGEMENT OF U.S. PATENT NO. 7,386,046

75. Plaintiff re-alleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

76. On information and belief, Hulu has made, used, offered for sale, sold and/or imported into the United States Hulu products that infringe the '046 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Hulu's streaming products/services, such as, e.g., Hulu's streaming service, Hulu's video compression

media encoders, Hulu's ad products for brands including Hulu's Ad Selector, Hulu's Blockbuster, Hulu's Branded Entertainment Selector, Hulu's Custom Integrated Commercial, Hulu's Interactive Interstitial, Hulu's Interactive Interstitial Template (DR), Hulu's Masthead Brand Placement, Hulu's Page Brand Placement, Hulu's Premium Slate, Hulu's Slate, Hulu's T-Commerce, Hulu's Video Commercial, Hulu VR, Hulu's 4K video services, and all versions and variations thereof since the issuance of the '046 patent ("Accused Instrumentalities")

77. For example, the Accused Instrumentalities utilize the H.264 video compression standard, as can be seen by the below screenshot of Hulu's Video Commercial ad product for brands (https://www.hulu.com/advertising/ad-product/video-commercial/):



Specs

DELIVERABLES TO HULU

- Video Commercial – ProRes .MOV
- 3rd Party Tracking Tags (if applicable).
- Video: 1 × 1 trackers and click commands
- Max standard video commercial length is :60s

SIZE

SD

- 720 x 480
- 4:3 or 16:9 pixel aspect ratio
- No black bars
- 3:2 display aspect ratio is not accepted
- No letterboxing or pillarboxing
- Bitrate: Greater than 2mbps.
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

HD

- 1280 x 720 or 1920 x 1080 (16:9)
- 1440 x 1080 (4:3)
- No black bars
- Constant Bitrate (CBR) 15-30 Mbps
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

FILE FORMATS

- Quicktime movie (.mov)
- MPEG-4 (.mp4) format only

AUDIO

- 2 channels only
- PCM (preferred) or AAC codec
- 192 kbps minimum
- 16 or 24 bit only
- 48 kHz sample rate
- Audio is required

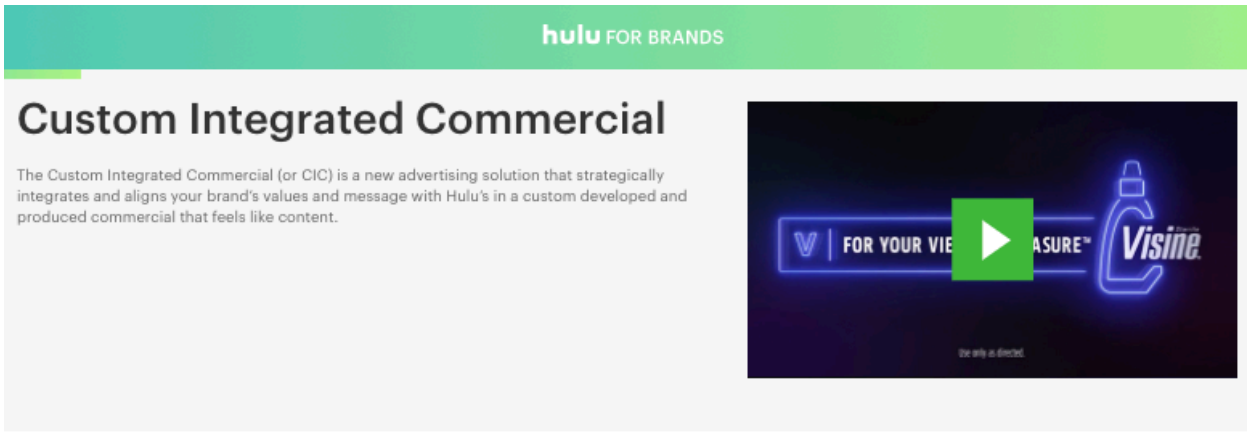
FRAME RATE

- 23.98, 25, or 29.97 based on native frame rate
- Remove any pull-down added for broadcast
- Constant frame rate only
- Please make content progressive using adaptive de-interlace with no frame blending.

CODEC

- Apple ProRes 422 HQ codec preferred
- H.264 codec
- Interlaced video is not accepted

78. The Accused Instrumentalities also accept the usage of the H.264 video compression standard. For example, on the page for Hulu's Custom Integrated Commercial ad product (https://www.hulu.com/advertising/ad-product/custom-integrated-commercial/), under header "Specs" and sub-header "Codec" is listed the text "H.264 codec is accepted.":



Specs

DELIVERABLES TO HULU

While Hulu is able to work with a great variety of assets in the creation of a Custom Integrated Commercial (or "CIC"), the preferred formats, where appropriate and available, include:

- Apple ProRes 422 (HQ) video files
- Accompanying audio, split-track (if available)
- Vector brand logos in .eps or .ai format (if available)
- Brand style guides
- Brand font
- For motion graphics assets, AE project files with associated media (if available)

SIZE

- 1280 x 720 or 1920 x 1080 (16:9)
- 1440 x 1080 (4:3)
- No black bars
- Constant Bitrate (CBR) 15-30 Mbps
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

FILE FORMATS

- Quicktime movie (.mov)
- MPEG-4 (.mp4) format only

AUDIO

- 2 channels only
- Audio (HD/SD): 192 kbps minimum & PCM (preferred) or AAC codec
- 16 or 24 bit only
- 48 kHz sample rate
- Audio is required

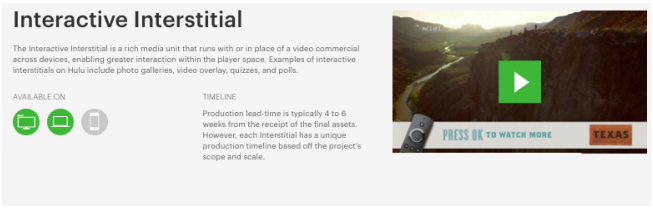
FRAME RATE

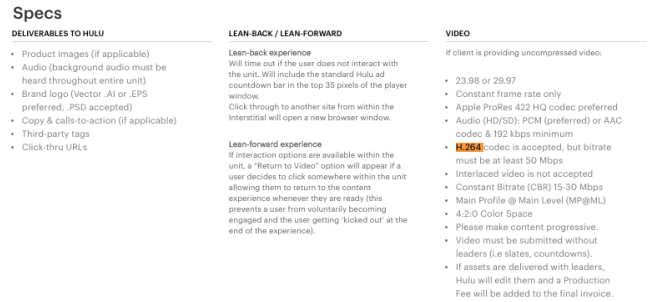
- 23.98, 25, or 29.97 based on native frame rate
- Remove any pull-down added for broadcast
- Constant frame rate only
- Please make content progressive using adaptive de-interlace with no frame blending.

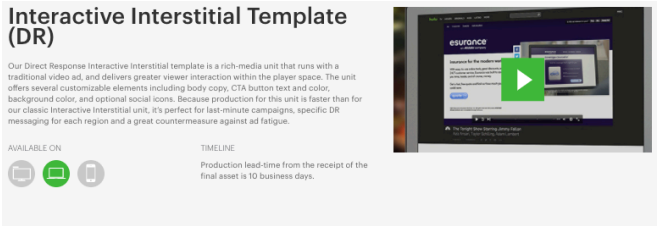
CODEC

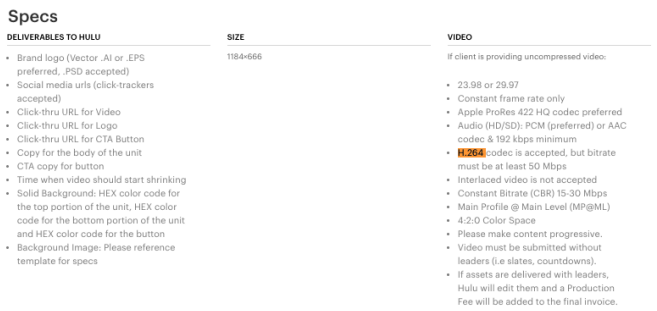
- Apple ProRes 422 HQ codec preferred
- H.264 codec is accepted
- Interlaced video is not accepted

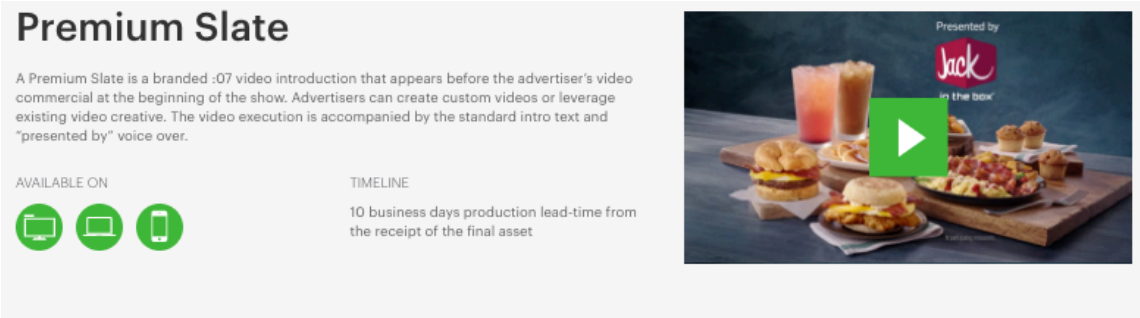
79. Similarly, on the page for Hulu's Interactive Interstitial ad product (https://www.hulu.com/advertising/ad-product/interactive-interstitial/) under header "Specs" and sub-header "Video" is listed the text "H.264 codec is accepted, but bitrate must be at least 50 Mbps." Likewise, on the page for Hulu's Interactive Interstitial Template (DR) (https://www.hulu.com/advertising/ad-product/interactive-interstitial-template-dr/) , the same text "H.264 codec is accepted, but bitrate must be at least 50 Mbps" is listed under header "Specs" and sub-header "Video." In addition, on the page for Hulu's Premium Slate ad product (https://www.hulu.com/advertising/ad-product/premium-slate/) the text "(H.264 codec is accepted, but bitrate must be at least 50 Mbps)" is listed under header "Specs" and sub-header "Codec." Representative screenshots are shown below:











Premium Slate

A Premium Slate is a branded :07 video introduction that appears before the advertiser's video commercial at the beginning of the show. Advertisers can create custom videos or leverage existing video creative. The video execution is accompanied by the standard intro text and "presented by" voice over.

AVAILABLE ON

TIMELINE

10 business days production lead-time from the receipt of the final asset

Specs

DELIVERABLES TO HULU

- Required video clip can either be created by Hulu using your :15 or :30 video or the brand can create a custom video clip.
- 3rd Party Tracking Tags (if applicable)

FILE FORMATS

Video Option:

- Quicktime Movie (.mov) or MPEG-4 (.mp4) format only

Static Image Option:

- Any full screen image in PSD format

SIZE

SD

- 720 x 480
- 4:3 or 16:9 pixel aspect ratio
- No black bars
- 3:2 display aspect ratio is not accepted
- No letterboxing or pillarboxing
- Bitrate: Greater than 2mbps.
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

HD

- 1280 x 720 or 1920 x 1080 (16:9)
- 1440 x 1080 (4:3)
- No black bars
- Constant Bitrate (CBR) 15-30 Mbps
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

MAX FILE SIZE

10 GB

CODEC

- Apple ProRes 422 HQ codec preferred
- (H.264 codec is accepted, but bitrate must be at least 50 Mbps)
- Interlaced video is not accepted

LENGTH

:07 seconds exactly

80. The Accused Instrumentalities also use H.264 video compression to select and compress based on parameters such as bitrate, as explained by the website "How Stuff Works" (http://computer.howstuffworks.com/internet/basics/hulu4.htm):

> "Hulu.com uses Cascading Style Sheets (CSS) and JavaScript to lay out its web pages, and it powers the video and controls through the Flash player and browser on your computer. When you request a video, Hulu sends it to you it as a Flash format streaming video file (FLV) along with the video player and the sponsors' advertisements.
>
> Hulu encodes the video file for one of two types of video encoding devices (known as codecs) that translates streaming data into the moving images on your screen and the sound in your speakers. Hulu sends the file to you at one of **five speeds, or bitrates, measured as the amount of data sent per second**. When you play a video, the codec Hulu uses depends on the bitrate at which it's sending the video to you.

> The site uses the On2 Flash VP6 codec for video streams that run at bitrates of 480 kilobits per second (Kbps) and 700 Kbps. This codec is supported by Flash versions 8.0 and higher, which is installed in more than 98 percent of computers in the U.S. Hulu's higher bitrate streams of 1,000 Kbps and 2,500 Kbps use a codec that requires a bit more from your Internet connection. This more intensive codec **follows the H.264 video coding standard**, which requires Flash 9.0.124.0 or higher [source: Hulu].
>
> How does all of this come together? While you're viewing most videos on Hulu, **you control the bitrate** when you switch between two progressive scan rates: 360p (standard resolution) or 480p (high resolution).

81. The Accused Instrumentalities determine a parameter of at least a portion of a video data block. As shown below, examples of such parameters include bitrate (or max video bitrate) and resolution parameters. Different parameters correspond with different end applications. H.264 provides for multiple different ranges of such parameters, each included in the "profiles" and "levels" as defined by the H.264 standard, from the below shown paragraphs from a white paper and Wikipedia. *See* http://www.axis.com/files/whitepaper/wp_h264_31669_en_0803_lo.pdf at 5:

> **4. H.264 profiles and levels**
>
> The joint group involved in defining H.264 focused on creating a simple and clean solution, limiting options and features to a minimum. An important aspect of the standard, as with other video standards, is providing the capabilities in profiles (sets of algorithmic features) and levels (performance classes) that optimally support popular productions and common formats.
>
> H.264 has seven profiles, each targeting a specific class of applications. Each profile defines what feature set the encoder may use and limits the decoder implementation complexity.
>
> Network cameras and video encoders will most likely use a profile called the baseline profile, which is intended primarily for applications with limited computing resources. The baseline profile is the most suitable given the available performance in a real-time encoder that is embedded in a network video product. The profile also enables low latency, which is an important requirement of surveillance video and also particularly important in enabling real-time, pan/tilt/zoom (PTZ) control in PTZ network cameras.
>
> H.264 has 11 levels or degree of capability to limit performance, bandwidth and memory requirements. Each level defines the bit rate and the encoding rate in macroblock per second for resolutions ranging from QCIF to HDTV and beyond. The higher the resolution, the higher the level required.

See https://en.wikipedia.org/wiki/H.264/MPEG-4_AVC:

Levels with maximum property values

Level	Max decoding speed		Max frame size		Max video bit rate for video coding layer (VCL) kbit/s			Examples for high resolution @ highest frame rate (max stored frames) Toggle additional details
	Luma samples/s	Macroblocks/s	Luma samples	Macroblocks	Baseline, Extended and Main Profiles	High Profile	High 10 Profile	
1	380,160	1,485	25,344	99	64	80	192	176×144@15.0 (4)
1b	380,160	1,485	25,344	99	128	160	384	176×144@15.0 (4)
1.1	768,000	3,000	101,376	396	192	240	576	352×288@7.5 (2)
1.2	1,536,000	6,000	101,376	396	384	480	1,152	352×288@15.2 (6)
1.3	3,041,280	11,880	101,376	396	768	960	2,304	352×288@30.0 (6)
2	3,041,280	11,880	101,376	396	2,000	2,500	6,000	352×288@30.0 (6)
2.1	5,068,800	19,800	202,752	792	4,000	5,000	12,000	352×576@25.0 (6)
2.2	5,184,000	20,250	414,720	1,620	4,000	5,000	12,000	720×576@12.5 (5)
3	10,368,000	40,500	414,720	1,620	10,000	12,500	30,000	720×576@25.0 (5)
3.1	27,648,000	108,000	921,600	3,600	14,000	17,500	42,000	1,280×720@30.0 (5)
3.2	55,296,000	216,000	1,310,720	5,120	20,000	25,000	60,000	1,280×1,024@42.2 (4)
4	62,914,560	245,760	2,097,152	8,192	20,000	25,000	60,000	2,048×1,024@30.0 (4)
4.1	62,914,560	245,760	2,097,152	8,192	50,000	62,500	150,000	2,048×1,024@30.0 (4)
4.2	133,693,440	522,240	2,228,224	8,704	50,000	62,500	150,000	2,048×1,080@60.0 (4)
5	150,994,944	589,824	5,652,480	22,080	135,000	168,750	405,000	3,672×1,536@26.7 (5)
5.1	251,658,240	983,040	9,437,184	36,864	240,000	300,000	720,000	4,096×2,304@26.7 (5)
5.2	530,841,600	2,073,600	9,437,184	36,864	240,000	300,000	720,000	4,096×2,304@56.3 (5)

82. A video data block is organized by the group of pictures (GOP) structure, which is a "collection of successive pictures within a coded video stream." *See* Wikipedia Article on Group of Pictures, https://en.wikipedia.org/wiki/Group_of_pictures. A GOP structure can contain intra coded pictures (I picture or I frame), predictive coded pictures (P picture or P frame), bipredictive coded pictures (B picture or B frame) and direct coded pictures (D picture or D frames, or DC direct coded pictures which are used only in MPEG-1 video). *See* Wikipedia Articles on Video Compression Types and MPEG-1, https://en.wikipedia.org/wiki/Video_compression_picture_types (for descriptions of I frames, P frames and B frames); https://en.wikipedia.org/wiki/MPEG-1#D-frames (for descriptions of D frames). Thus, at least a portion of a video data block would also make up a GOP structure and could also contain I frames, P frames, B frames and/or D frames. The GOP structure also reflects the size of a video data block, and the GOP structure can be controlled and used to fine-tune other parameters (e.g. bitrate, max video bitrate and resolution parameters) or even be considered as a parameter by itself.

83. Based on the bitrate and/or resolution parameter identified (e.g. bitrate, max video bitrate, resolution, GOP structure or frame type within a GOP structure), any H.264-compliant

system such as the Accused Instrumentalities would determine which profile (e.g., "baseline," "extended," "main", or "high") corresponds with that parameter, then select between at least two asymmetric compressors. If baseline or extended is the corresponding profile, then the system will select a Context-Adaptive Variable Length Coding ("CAVLC") entropy encoder. If main or high is the corresponding profile, then the system will select a Context-Adaptive Binary Arithmetic Coding ("CABAC") entropy encoder. Both encoders are asymmetric compressors because it takes a longer period of time for them to compress data than to decompress data. *See* https://sonnati.wordpress.com/2007/10/29/how-h-264-works-part-ii/:

	Baseline	Extended	Main	High	High 10
I and P Slices	Yes	Yes	Yes	Yes	Yes
B Slices	No	Yes	Yes	Yes	Yes
SI and SP Slices	No	Yes	No	No	No
Multiple Reference Frames	Yes	Yes	Yes	Yes	Yes
In-Loop Deblocking Filter	Yes	Yes	Yes	Yes	Yes
CAVLC Entropy Coding	Yes	Yes	Yes	Yes	Yes
CABAC Entropy Coding	No	No	Yes	Yes	Yes
Flexible Macroblock Ordering (FMO)	Yes	Yes	No	No	No
Arbitrary Slice Ordering (ASO)	Yes	Yes	No	No	No
Redundant Slices (RS)	Yes	Yes	No	No	No
Data Partitioning	No	Yes	No	No	No
Interlaced Coding (PicAFF, MBAFF)	No	Yes	Yes	Yes	Yes
4:2:0 Chroma Format	Yes	Yes	Yes	Yes	Yes
Monochrome Video Format (4:0:0)	No	No	No	Yes	Yes
4:2:2 Chroma Format	No	No	No	No	No
4:4:4 Chroma Format	No	No	No	No	No
8 Bit Sample Depth	Yes	Yes	Yes	Yes	Yes
9 and 10 Bit Sample Depth	No	No	No	No	Yes
11 to 14 Bit Sample Depth	No	No	No	No	No
8×8 vs. 4×4 Transform Adaptivity	No	No	No	Yes	Yes
Quantization Scaling Matrices	No	No	No	Yes	Yes
Separate Cb and Cr QP control	No	No	No	Yes	Yes
Separate Color Plane Coding	No	No	No	No	No
Predictive Lossless Coding	No	No	No	No	No

See http://web.cs.ucla.edu/classes/fall03/cs218/paper/H.264_MPEG4_Tutorial.pdf at 7:

> The following table summarizes the two major types of entropy coding: Variable Length Coding (VLC) and Context Adaptive Binary Arithmetic Coding (CABAC). CABAC offers superior coding efficiency over VLC by adapting to the changing probability distribution of symbols, by exploiting correlation between symbols, and by adaptively exploiting bit correlations using arithmetic coding. H.264 also supports Context Adaptive Variable Length Coding (CAVLC) which offers superior entropy coding over VLC without the full cost of CABAC.
>
> **H.264 Entropy Coding – Comparison of Approaches**

Characteristics	Variable Length Coding (VLC)	Context Adaptive Binary Arithmetic Coding(CABAC)
• Where it is used	MPEG-2, MPEG-4 ASP	H.264/MPEG-4 AVC (high efficiency option)
• Probability distribution	**Static** - Probabilities never change	**Adaptive** - Adjusts probabilities based on actual data
• Leverages correlation between symbols	**No** - Conditional probabilities ignored	**Yes** - Exploits symbol correlations by using "contexts"
• Non-integer code words	**No** - Low coding efficiency forhigh probability symbols	**Yes** - Exploits "arithmetic coding" which generates non-integer code words for higher efficiency

Moreover, the H.264 Standard requires a bit-flag descriptor, which is set to determine the correct decoder for the corresponding encoder. As shown below, if the flag = 0, then CAVLC must have been selected as the encoder; if the flag = 1, then CABAC must have been selected as the encoder. *See* https://www.itu.int/rec/dologin_pub.asp?lang=e&id=T-REC-H.264-201304-S!!PDF-E&type=items (Rec. ITU-T H.264 (04/2013)) at 80:

> **entropy_coding_mode_flag** selects the entropy decoding method to be applied for the syntax elements for which two descriptors appear in the syntax tables as follows:
>
> – If entropy_coding_mode_flag is equal to 0, the method specified by the left descriptor in the syntax table is applied (Exp-Golomb coded, see clause 9.1 or CAVLC, see clause 9.2).
>
> – Otherwise (entropy_coding_mode_flag is equal to 1), the method specified by the right descriptor in the syntax table is applied (CABAC, see clause 9.3).

84. The Accused Instrumentalities compress the at least the portion of the data block with the selected one or more asymmetric compressors to provide one or more compressed data blocks, which can be organized in a GOP structure (see above). After its selection, the asymmetric compressor (CAVLC or CABAC) will compress the video data to provide various compressed data blocks, which can also be organized in a GOP structure, as discussed previously above. *See* https://sonnati.wordpress.com/2007/10/29/how-h-264-works-part-ii/:

Entropy Coding

For entropy coding, H.264 may use an enhanced VLC, a more complex context-adaptive variable-length coding (CAVLC) or an ever more complex Context-adaptive binary-arithmetic coding (CABAC) which are complex techniques to losslessly compress syntax elements in the video stream knowing the probabilities of syntax elements in a given context. The use of CABAC can improve the compression of around 5-7%. CABAC may requires a 30-40% of total processing power to be accomplished.

See http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.602.1581&rep=rep1&type=pdf at 13:

Typical compression ratios to maintain excellent quality are:

- 10:1 for general images using JPEG
- 30:1 for general video using H.263 and MPEG-2
- 60:1 for general video using H.264 and WMV9

See http://www.ijera.com/papers/Vol3_issue4/BM34399403.pdf at 2:

> Most visual communication systems today use Baseline Profile. Baseline is the simplest H.264 profile and defines, for example, zigzag scanning of the picture and using 4:2:0 (YUV video formats) chrominance sampling. In Baseline Profile, the picture is split in blocks consisting of 4x4 pixels, and each block is processed separately. Another important element of the Baseline Profile is the use of Universal Variable Length Coding (UVLC) and Context Adaptive Variable Length Coding (CAVLC) entropy coding techniques.
>
> The Extended and Main Profiles includes the functionality of the Baseline Profile and add improvements to the predictions algorithms. Since transmitting every single frame (think 30 frames per second for good quality video) is not feasible if you are trying to reduce the bit rate 1000-2000 times, temporal and motion prediction are heavily used in H.264, and allow transmitting only the difference between one frame and the previous frames. The result is spectacular efficiency gain, especially for scenes with little change and motion.
>
> The High Profile is the most powerful profile in H.264, and it allows most efficient coding of video. For example, large coding gain achieved through the use of Context Adaptive Binary Arithmetic Coding (CABAC) encoding which is more efficient than the UVLC/CAVLC used in Baseline Profile.
>
> The High Profile also uses adaptive transform that decides on the fly if 4x4 or 8x8-pixel blocks should be used. For example, 4x4 blocks are used for the parts of the picture that are dense with detail, while parts that have little detail are transformed using 8x8 blocks.

85. Therefore, on information and belief, Hulu has directly infringed and continues to infringe the '046 patent, for example, through its sale, offer for sale, importation, use and testing of the Accused Instrumentalities, which practices the system claimed by Claim 40 of the '046 patent, namely, a system, comprising: a data compression system for compressing and decompressing data input; a plurality of compression routines selectively utilized by the data compression system, wherein a first one of the plurality of compression routines includes a first compression algorithm and a second one of the plurality of compression routines includes a second compression algorithm; and a controller for tracking throughput and generating a control signal to select a compression routine based on the throughput, wherein said tracking throughput comprises tracking a number of pending access requests to a storage device; and wherein when the controller determines that the throughput falls below a predetermined throughput threshold, the controller commands the data compression engine to use one of the plurality of compression routines to provide a faster rate of compression so as to increase the throughput.

86. On information and belief, the Accused Instrumentalities store at least a portion of the one or more compressed data blocks in buffers, hard disk, or other forms of memory/storage.

87. On information and belief, Hulu also directly infringes and continues to infringe other claims of the '046 patent, for similar reasons as explained above with respect to Claim 40 of the '046 patent.

88. On information and belief, all of the Accused Instrumentalities perform the claimed methods in substantially the same way, e.g., in the manner specified in the H.264 standard.

89. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '046 patent.

90. On information and belief, Hulu has had knowledge of the '046 patent since at least the filing of this Complaint or shortly thereafter, and on information and belief, Hulu knew of the '046 patent and knew of its infringement, including by way of this lawsuit. By the time of trial, Hulu will have known and intended (since receiving such notice) that its continued actions would actively induce and contribute to the infringement of the claims of the '046 patent.

91. Upon information and belief, Hulu's affirmative acts of making, using, and selling the

Accused Instrumentalities, and providing implementation services and technical support to users of the Accused Instrumentalities, including, e.g., through training, demonstrations, brochures, installation and user guides, have induced (at least since filing of this action) and continue to induce users of the Accused Instrumentalities to use them in their normal and customary way to infringe the '046 patent by practicing a system, comprising: a data compression system for compressing and decompressing data input; a plurality of compression routines selectively utilized by the data compression system, wherein a first one of the plurality of compression routines includes a first compression algorithm and a second one of the plurality of compression routines includes a second compression algorithm; and a controller for tracking throughput and generating a control signal to select a compression routine based on the throughput, wherein said tracking throughput comprises tracking a number of pending access requests to a storage device; and wherein when the controller determines that the throughput falls below a predetermined throughput threshold, the controller commands the data compression engine to use one of the plurality of compression routines to provide a faster rate of compression so as to increase the throughput. For example, Hulu adopted H.264 as its video codec in its streaming products/services, such as, e.g., Hulu's streaming service, Hulu's video compression media encoders, and Hulu's ad products for brands. For similar reasons, Hulu also induces its customers to use the Accused Instrumentalities to infringe other claims of the '046 patent. Hulu specifically intended and was aware that these normal and customary activities would infringe the '046 patent. Hulu performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '046 patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Hulu engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Hulu has induced (at least since filing of this action) and continues to induce users of the Accused Instrumentalities to use the Accused Instrumentalities in their ordinary and customary way to infringe the '046 patent, knowing that such use constitutes infringement of the '046 patent. Accordingly, Hulu has been (at least since filing of this action), and currently is, inducing infringement of the '046 patent, in violation of 35 U.S.C. § 271(b).

92. Hulu has also infringed, and continues to infringe, claims of the '046 patent by

offering to commercially distribute, commercially distributing, making, and/or importing the Accused Instrumentalities, which are used in practicing the process, or using the systems, of the '046 patent, and constitute a material part of the invention. Hulu knows the components in the Accused Instrumentalities to be especially made or especially adapted for use in infringement of the '046 patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. Accordingly, Hulu has been, and currently is, contributorily infringing the '046 patent, in violation of 35 U.S.C. § 271(c).

93. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' compression features, Hulu has injured Realtime and is liable to Realtime for infringement of the '046 patent pursuant to 35 U.S.C. § 271.

94. As a result of Hulu's infringement of the '046 patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Hulu's infringement, but in no event less than a reasonable royalty for the use made of the invention by Hulu, together with interest and costs as fixed by the Court.

COUNT V

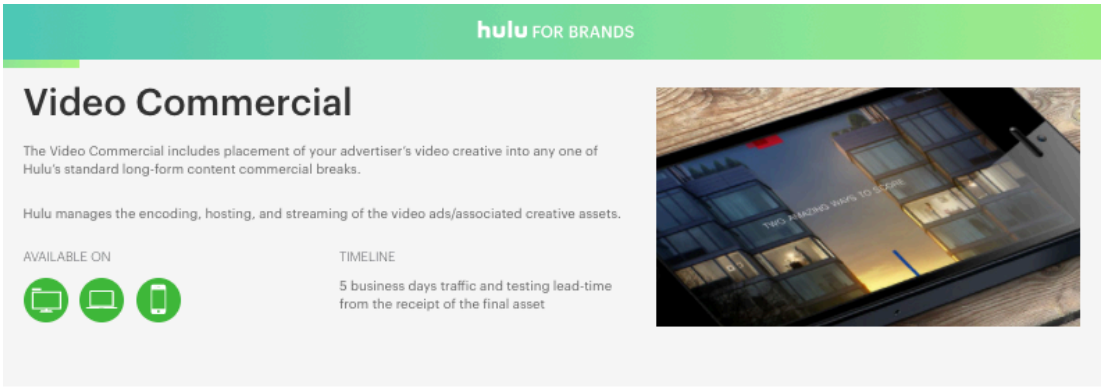
INFRINGEMENT OF U.S. PATENT NO. 8,867,610

95. Plaintiff re-alleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

96. On information and belief, Hulu has made, used, offered for sale, sold and/or imported into the United States Hulu products that infringe the '610 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Hulu's streaming products/services, such as, e.g., Hulu's streaming service, Hulu's video compression media encoders, Hulu's ad products for brands including Hulu's Ad Selector, Hulu's Blockbuster, Hulu's Branded Entertainment Selector, Hulu's Custom Integrated Commercial, Hulu's Interactive Interstitial, Hulu's Interactive Interstitial Template (DR), Hulu's Masthead Brand Placement, Hulu's Page Brand Placement, Hulu's Premium Slate, Hulu's Slate, Hulu's T-Commerce, Hulu's Video Commercial, Hulu VR, Hulu's 4K video services, and all versions and variations thereof since the

issuance of the '610 patent ("Accused Instrumentalities")

97. For example, the Accused Instrumentalities utilize the H.264 video compression standard, as can be seen by the below screenshot of Hulu's Video Commercial ad product for brands (https://www.hulu.com/advertising/ad-product/video-commercial/):



Specs

DELIVERABLES TO HULU

- Video Commercial – ProRes .MOV
- 3rd Party Tracking Tags (if applicable).
- Video: 1 × 1 trackers and click commands
- Max standard video commercial length is :60s

SIZE

SD

- 720 x 480
- 4:3 or 16:9 pixel aspect ratio
- No black bars
- 3:2 display aspect ratio is not accepted
- No letterboxing or pillarboxing
- Bitrate: Greater than 2mbps.
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

HD

- 1280 x 720 or 1920 x 1080 (16:9)
- 1440 x 1080 (4:3)
- No black bars
- Constant Bitrate (CBR) 15-30 Mbps
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

FILE FORMATS

- Quicktime movie (.mov)
- MPEG-4 (.mp4) format only

AUDIO

- 2 channels only
- PCM (preferred) or AAC codec
- 192 kbps minimum
- 16 or 24 bit only
- 48 kHz sample rate
- Audio is required

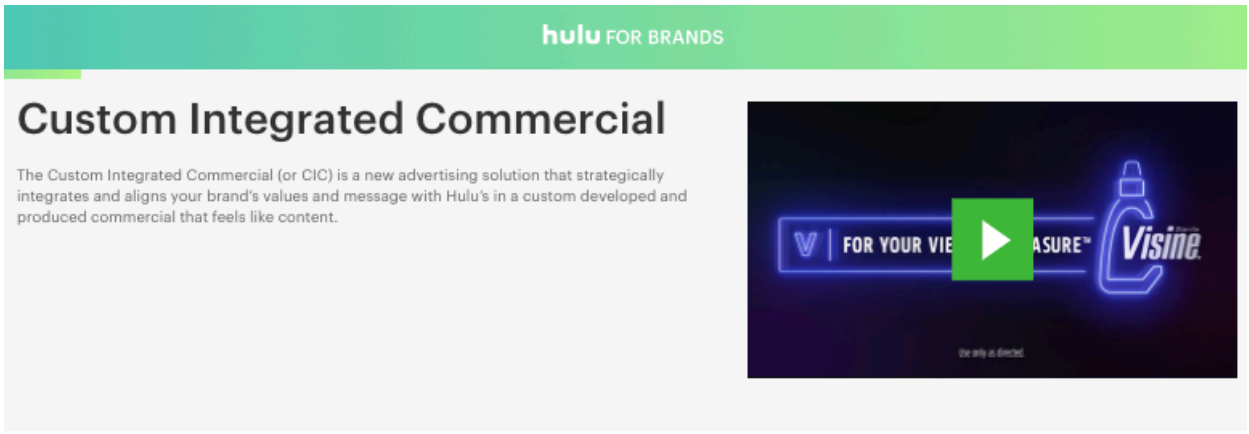
FRAME RATE

- 23.98, 25, or 29.97 based on native frame rate
- Remove any pull-down added for broadcast
- Constant frame rate only
- Please make content progressive using adaptive de-interlace with no frame blending.

CODEC

- Apple ProRes 422 HQ codec preferred
- H.264 codec
- Interlaced video is not accepted

98. The Accused Instrumentalities also accept the usage of the H.264 video compression standard. For example, on the page for Hulu's Custom Integrated Commercial ad product (https://www.hulu.com/advertising/ad-product/custom-integrated-commercial/), under header "Specs" and sub-header "Codec" is listed the text "H.264 codec is accepted.":



Specs

DELIVERABLES TO HULU

While Hulu is able to work with a great variety of assets in the creation of a Custom Integrated Commercial (or "CIC"), the preferred formats, where appropriate and available, include:

- Apple ProRes 422 (HQ) video files
- Accompanying audio, split-track (if available)
- Vector brand logos in .eps or .ai format (if available)
- Brand style guides
- Brand font
- For motion graphics assets, AE project files with associated media (if available)

SIZE

- 1280 x 720 or 1920 x 1080 (16:9)
- 1440 x 1080 (4:3)
- No black bars
- Constant Bitrate (CBR) 15-30 Mbps
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

FILE FORMATS

- Quicktime movie (.mov)
- MPEG-4 (.mp4) format only

AUDIO

- 2 channels only
- Audio (HD/SD): 192 kbps minimum & PCM (preferred) or AAC codec
- 16 or 24 bit only
- 48 kHz sample rate
- Audio is required

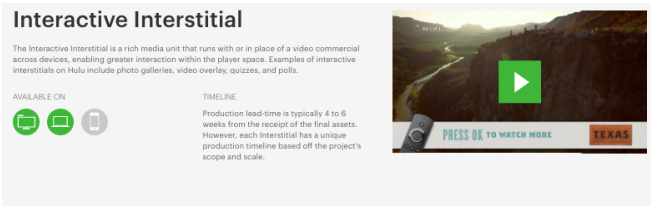
FRAME RATE

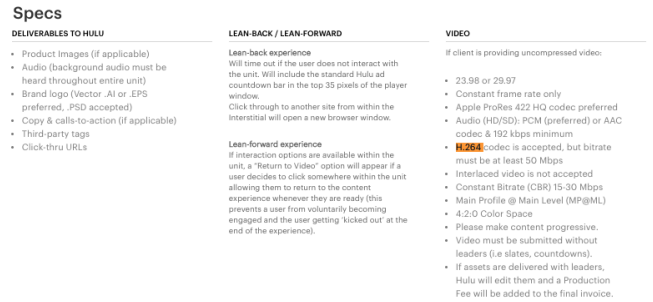
- 23.98, 25, or 29.97 based on native frame rate
- Remove any pull-down added for broadcast
- Constant frame rate only
- Please make content progressive using adaptive de-interlace with no frame blending.

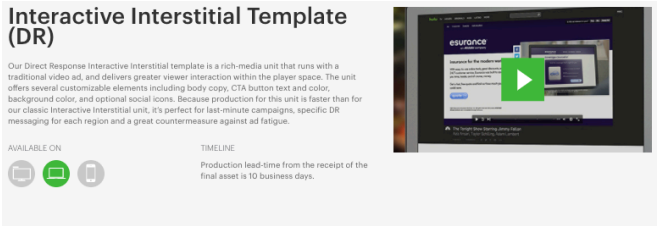
CODEC

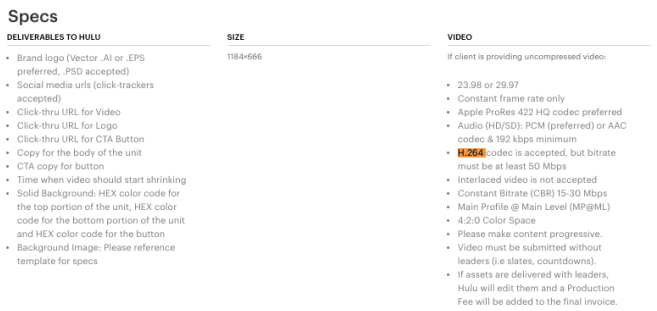
- Apple ProRes 422 HQ codec preferred
- H.264 codec is accepted
- Interlaced video is not accepted

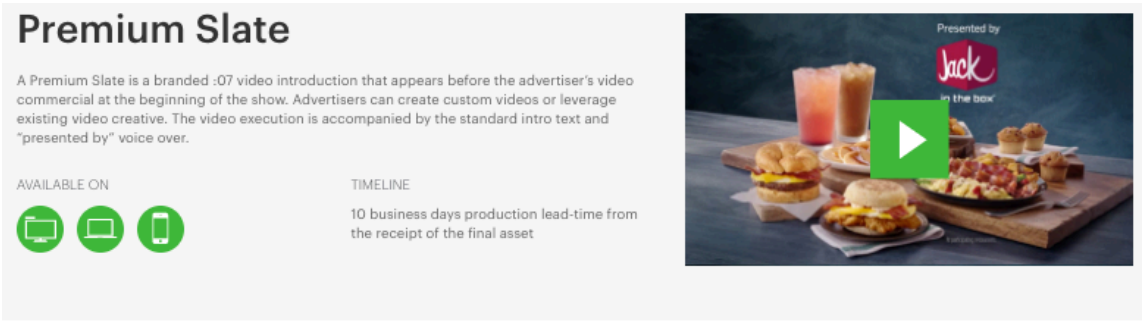
99. Similarly, on the page for Hulu's Interactive Interstitial ad product (https://www.hulu.com/advertising/ad-product/interactive-interstitial/) under header "Specs" and sub-header "Video" is listed the text "H.264 codec is accepted, but bitrate must be at least 50 Mbps." Likewise, on the page for Hulu's Interactive Interstitial Template (DR) (https://www.hulu.com/advertising/ad-product/interactive-interstitial-template-dr/) , the same text "H.264 codec is accepted, but bitrate must be at least 50 Mbps" is listed under header "Specs" and sub-header "Video." In addition, on the page for Hulu's Premium Slate ad product (https://www.hulu.com/advertising/ad-product/premium-slate/) the text "(H.264 codec is accepted, but bitrate must be at least 50 Mbps)" is listed under header "Specs" and sub-header "Codec." Representative screenshots are shown below:











Premium Slate

A Premium Slate is a branded :07 video introduction that appears before the advertiser's video commercial at the beginning of the show. Advertisers can create custom videos or leverage existing video creative. The video execution is accompanied by the standard intro text and "presented by" voice over.

AVAILABLE ON

TIMELINE

10 business days production lead-time from the receipt of the final asset

Specs

DELIVERABLES TO HULU

• Required video clip can either be created by Hulu using your :15 or :30 video or the brand can create a custom video clip.

• 3rd Party Tracking Tags (if applicable)

FILE FORMATS

Video Option:

- Quicktime Movie (.mov) or MPEG-4 (.mp4) format only

Static Image Option:

- Any full screen image in PSD format

SIZE

SD

- 720 x 480
- 4:3 or 16:9 pixel aspect ratio
- No black bars
- 3:2 display aspect ratio is not accepted
- No letterboxing or pillarboxing
- Bitrate: Greater than 2mbps.
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

HD

- 1280 x 720 or 1920 x 1080 (16:9)
- 1440 x 1080 (4:3)
- No black bars
- Constant Bitrate (CBR) 15-30 Mbps
- Main Profile @ Main Level (MP@ML)
- 4:2:2 Color Space

MAX FILE SIZE

10 GB

CODEC

- Apple ProRes 422 HQ codec preferred
- (H.264 codec is accepted, but bitrate must be at least 50 Mbps)
- Interlaced video is not accepted

LENGTH

:07 seconds exactly

100. The Accused Instrumentalities also use H.264 video compression to select and compress based on parameters such as bitrate, as explained by the website "How Stuff Works" (http://computer.howstuffworks.com/internet/basics/hulu4.htm):

> "Hulu.com uses Cascading Style Sheets (CSS) and JavaScript to lay out its web pages, and it powers the video and controls through the Flash player and browser on your computer. When you request a video, Hulu sends it to you it as a Flash format streaming video file (FLV) along with the video player and the sponsors' advertisements.
>
> Hulu encodes the video file for one of two types of video encoding devices (known as codecs) that translates streaming data into the moving images on your screen and the sound in your speakers. Hulu sends the file to you at one of **five speeds, or bitrates, measured as the amount of data sent per second**. When you play a video, the codec Hulu uses depends on the bitrate at which it's sending the video to you.

> The site uses the On2 Flash VP6 codec for video streams that run at bitrates of 480 kilobits per second (Kbps) and 700 Kbps. This codec is supported by Flash versions 8.0 and higher, which is installed in more than 98 percent of computers in the U.S. Hulu's higher bitrate streams of 1,000 Kbps and 2,500 Kbps use a codec that requires a bit more from your Internet connection. This more intensive codec **follows the H.264 video coding standard**, which requires Flash 9.0.124.0 or higher [source: Hulu].
>
> How does all of this come together? While you're viewing most videos on Hulu, **you control the bitrate** when you switch between two progressive scan rates: 360p (standard resolution) or 480p (high resolution).

101. The Accused Instrumentalities determine a parameter of at least a portion of a video data block. As shown below, examples of such parameters include bitrate (or max video bitrate) and resolution parameters. Different parameters correspond with different end applications. H.264 provides for multiple different ranges of such parameters, each included in the "profiles" and "levels" as defined by the H.264 standard, from the below shown paragraphs from a white paper and Wikipedia. *See* http://www.axis.com/files/whitepaper/wp_h264_31669_en_0803_lo.pdf at 5:

> **4. H.264 profiles and levels**
>
> The joint group involved in defining H.264 focused on creating a simple and clean solution, limiting options and features to a minimum. An important aspect of the standard, as with other video standards, is providing the capabilities in profiles (sets of algorithmic features) and levels (performance classes) that optimally support popular productions and common formats.
>
> H.264 has seven profiles, each targeting a specific class of applications. Each profile defines what feature set the encoder may use and limits the decoder implementation complexity.
>
> Network cameras and video encoders will most likely use a profile called the baseline profile, which is intended primarily for applications with limited computing resources. The baseline profile is the most suitable given the available performance in a real-time encoder that is embedded in a network video product. The profile also enables low latency, which is an important requirement of surveillance video and also particularly important in enabling real-time, pan/tilt/zoom (PTZ) control in PTZ network cameras.
>
> H.264 has 11 levels or degree of capability to limit performance, bandwidth and memory requirements. Each level defines the bit rate and the encoding rate in macroblock per second for resolutions ranging from QCIF to HDTV and beyond. The higher the resolution, the higher the level required.

See https://en.wikipedia.org/wiki/H.264/MPEG-4_AVC:

Levels with maximum property values

Level	Max decoding speed		Max frame size		Max video bit rate for video coding layer (VCL) kbit/s			Examples for high resolution @ highest frame rate (max stored frames) Toggle additional details
	Luma samples/s	Macroblocks/s	Luma samples	Macroblocks	Baseline, Extended and Main Profiles	High Profile	High 10 Profile	
1	380,160	1,485	25,344	99	64	80	192	176×144@15.0 (4)
1b	380,160	1,485	25,344	99	128	160	384	176×144@15.0 (4)
1.1	768,000	3,000	101,376	396	192	240	576	352×288@7.5 (2)
1.2	1,536,000	6,000	101,376	396	384	480	1,152	352×288@15.2 (6)
1.3	3,041,280	11,880	101,376	396	768	960	2,304	352×288@30.0 (6)
2	3,041,280	11,880	101,376	396	2,000	2,500	6,000	352×288@30.0 (6)
2.1	5,068,800	19,800	202,752	792	4,000	5,000	12,000	352×576@25.0 (6)
2.2	5,184,000	20,250	414,720	1,620	4,000	5,000	12,000	720×576@12.5 (5)
3	10,368,000	40,500	414,720	1,620	10,000	12,500	30,000	720×576@25.0 (5)
3.1	27,648,000	108,000	921,600	3,600	14,000	17,500	42,000	1,280×720@30.0 (5)
3.2	55,296,000	216,000	1,310,720	5,120	20,000	25,000	60,000	1,280×1,024@42.2 (4)
4	62,914,560	245,760	2,097,152	8,192	20,000	25,000	60,000	2,048×1,024@30.0 (4)
4.1	62,914,560	245,760	2,097,152	8,192	50,000	62,500	150,000	2,048×1,024@30.0 (4)
4.2	133,693,440	522,240	2,228,224	8,704	50,000	62,500	150,000	2,048×1,080@60.0 (4)
5	150,994,944	589,824	5,652,480	22,080	135,000	168,750	405,000	3,672×1,536@26.7 (5)
5.1	251,658,240	983,040	9,437,184	36,864	240,000	300,000	720,000	4,096×2,304@26.7 (5)
5.2	530,841,600	2,073,600	9,437,184	36,864	240,000	300,000	720,000	4,096×2,304@56.3 (5)

102. A video data block is organized by the group of pictures (GOP) structure, which is a "collection of successive pictures within a coded video stream." *See* Wikipedia Article on Group of Pictures, https://en.wikipedia.org/wiki/Group_of_pictures. A GOP structure can contain intra coded pictures (I picture or I frame), predictive coded pictures (P picture or P frame), bipredictive coded pictures (B picture or B frame) and direct coded pictures (D picture or D frames, or DC direct coded pictures which are used only in MPEG-1 video). *See* Wikipedia Articles on Video Compression Types and MPEG-1, https://en.wikipedia.org/wiki/Video_compression_picture_types (for descriptions of I frames, P frames and B frames); https://en.wikipedia.org/wiki/MPEG-1#D-frames (for descriptions of D frames). Thus, at least a portion of a video data block would also make up a GOP structure and could also contain I frames, P frames, B frames and/or D frames. The GOP structure also reflects the size of a video data block, and the GOP structure can be controlled and used to fine-tune other parameters (e.g. bitrate, max video bitrate and resolution parameters) or even be considered as a parameter by itself.

103. Based on the bitrate and/or resolution parameter identified (e.g. bitrate, max video bitrate, resolution, GOP structure or frame type within a GOP structure), any H.264-compliant

system such as the Accused Instrumentalities would determine which profile (e.g., "baseline," "extended," "main", or "high") corresponds with that parameter, then select between at least two asymmetric compressors. If baseline or extended is the corresponding profile, then the system will select a Context-Adaptive Variable Length Coding ("CAVLC") entropy encoder. If main or high is the corresponding profile, then the system will select a Context-Adaptive Binary Arithmetic Coding ("CABAC") entropy encoder. Both encoders are asymmetric compressors because it takes a longer period of time for them to compress data than to decompress data. *See* https://sonnati.wordpress.com/2007/10/29/how-h-264-works-part-ii/:

	Baseline	Extended	Main	High	High 10
I and P Slices	Yes	Yes	Yes	Yes	Yes
B Slices	No	Yes	Yes	Yes	Yes
SI and SP Slices	No	Yes	No	No	No
Multiple Reference Frames	Yes	Yes	Yes	Yes	Yes
In-Loop Deblocking Filter	Yes	Yes	Yes	Yes	Yes
CAVLC Entropy Coding	Yes	Yes	Yes	Yes	Yes
CABAC Entropy Coding	No	No	Yes	Yes	Yes
Flexible Macroblock Ordering (FMO)	Yes	Yes	No	No	No
Arbitrary Slice Ordering (ASO)	Yes	Yes	No	No	No
Redundant Slices (RS)	Yes	Yes	No	No	No
Data Partitioning	No	Yes	No	No	No
Interlaced Coding (PicAFF, MBAFF)	No	Yes	Yes	Yes	Yes
4:2:0 Chroma Format	Yes	Yes	Yes	Yes	Yes
Monochrome Video Format (4:0:0)	No	No	No	Yes	Yes
4:2:2 Chroma Format	No	No	No	No	No
4:4:4 Chroma Format	No	No	No	No	No
8 Bit Sample Depth	Yes	Yes	Yes	Yes	Yes
9 and 10 Bit Sample Depth	No	No	No	No	Yes
11 to 14 Bit Sample Depth	No	No	No	No	No
8×8 vs. 4×4 Transform Adaptivity	No	No	No	Yes	Yes
Quantization Scaling Matrices	No	No	No	Yes	Yes
Separate Cb and Cr QP control	No	No	No	Yes	Yes
Separate Color Plane Coding	No	No	No	No	No
Predictive Lossless Coding	No	No	No	No	No

See http://web.cs.ucla.edu/classes/fall03/cs218/paper/H.264_MPEG4_Tutorial.pdf at 7:

> The following table summarizes the two major types of entropy coding: Variable Length Coding (VLC) and Context Adaptive Binary Arithmetic Coding (CABAC). CABAC offers superior coding efficiency over VLC by adapting to the changing probability distribution of symbols, by exploiting correlation between symbols, and by adaptively exploiting bit correlations using arithmetic coding. H.264 also supports Context Adaptive Variable Length Coding (CAVLC) which offers superior entropy coding over VLC without the full cost of CABAC.
>
> **H.264 Entropy Coding – Comparison of Approaches**

Characteristics	Variable Length Coding (VLC)	Context Adaptive Binary Arithmetic Coding(CABAC)
• Where it is used	MPEG-2, MPEG-4 ASP	H.264/MPEG-4 AVC (high efficiency option)
• Probability distribution	**Static** - Probabilities never change	**Adaptive** - Adjusts probabilities based on actual data
• Leverages correlation between symbols	**No** - Conditional probabilities ignored	**Yes** - Exploits symbol correlations by using "contexts"
• Non-integer code words	**No** - Low coding efficiency forhigh probability symbols	**Yes** - Exploits "arithmetic coding" which generates non-integer code words for higher efficiency

Moreover, the H.264 Standard requires a bit-flag descriptor, which is set to determine the correct decoder for the corresponding encoder. As shown below, if the flag = 0, then CAVLC must have been selected as the encoder; if the flag = 1, then CABAC must have been selected as the encoder. *See* https://www.itu.int/rec/dologin_pub.asp?lang=e&id=T-REC-H.264-201304-S!!PDF-E&type=items (Rec. ITU-T H.264 (04/2013)) at 80:

> **entropy_coding_mode_flag** selects the entropy decoding method to be applied for the syntax elements for which two descriptors appear in the syntax tables as follows:
>
> – If entropy_coding_mode_flag is equal to 0, the method specified by the left descriptor in the syntax table is applied (Exp-Golomb coded, see clause 9.1 or CAVLC, see clause 9.2).
>
> – Otherwise (entropy_coding_mode_flag is equal to 1), the method specified by the right descriptor in the syntax table is applied (CABAC, see clause 9.3).

104. The Accused Instrumentalities compress the at least the portion of the data block with the selected one or more asymmetric compressors to provide one or more compressed data blocks, which can be organized in a GOP structure (see above). After its selection, the asymmetric compressor (CAVLC or CABAC) will compress the video data to provide various compressed data blocks, which can also be organized in a GOP structure, as discussed previously above. *See* https://sonnati.wordpress.com/2007/10/29/how-h-264-works-part-ii/:

Entropy Coding

For entropy coding, H.264 may use an enhanced VLC, a more complex context-adaptive variable-length coding (CAVLC) or an ever more complex Context-adaptive binary-arithmetic coding (CABAC) which are complex techniques to losslessly compress syntax elements in the video stream knowing the probabilities of syntax elements in a given context. The use of CABAC can improve the compression of around 5-7%. CABAC may requires a 30-40% of total processing power to be accomplished.

See http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.602.1581&rep=rep1&type=pdf at 13:

Typical compression ratios to maintain excellent quality are:

- 10:1 for general images using JPEG
- 30:1 for general video using H.263 and MPEG-2
- 60:1 for general video using H.264 and WMV9

See http://www.ijera.com/papers/Vol3_issue4/BM34399403.pdf at 2:

> Most visual communication systems today use Baseline Profile. Baseline is the simplest H.264 profile and defines, for example, zigzag scanning of the picture and using 4:2:0 (YUV video formats) chrominance sampling. In Baseline Profile, the picture is split in blocks consisting of 4x4 pixels, and each block is processed separately. Another important element of the Baseline Profile is the use of Universal Variable Length Coding (UVLC) and Context Adaptive Variable Length Coding (CAVLC) entropy coding techniques.
>
> The Extended and Main Profiles includes the functionality of the Baseline Profile and add improvements to the predictions algorithms. Since transmitting every single frame (think 30 frames per second for good quality video) is not feasible if you are trying to reduce the bit rate 1000-2000 times, temporal and motion prediction are heavily used in H.264, and allow transmitting only the difference between one frame and the previous frames. The result is spectacular efficiency gain, especially for scenes with little change and motion.
>
> The High Profile is the most powerful profile in H.264, and it allows most efficient coding of video. For example, large coding gain achieved through the use of Context Adaptive Binary Arithmetic Coding (CABAC) encoding which is more efficient than the UVLC/CAVLC used in Baseline Profile.
>
> The High Profile also uses adaptive transform that decides on the fly if 4x4 or 8x8-pixel blocks should be used. For example, 4x4 blocks are used for the parts of the picture that are dense with detail, while parts that have little detail are transformed using 8x8 blocks.

105. Therefore, on information and belief, Hulu has directly infringed and continues to infringe the '610 patent, for example, through its sale, offer for sale, importation, use and testing of the Accused Instrumentalities, which practices the system claimed by Claim 1 of the '610 patent, namely, a method, comprising: determining, a parameter or an attribute of at least a portion of a data block having video or audio data; selecting one or more compression algorithms from among a plurality of compression algorithms to apply to the at least the portion of the data block based upon the determined parameter or attribute and a throughput of a communication channel, at least one of the plurality of compression algorithms being asymmetric; and compressing the at least the portion of the data block with the selected compression algorithm after selecting the one or more compression algorithms.

106. On information and belief, the Accused Instrumentalities store at least a portion of the one or more compressed data blocks in buffers, hard disk, or other forms of memory/storage.

107. On information and belief, Hulu also directly infringes and continues to infringe other claims of the '610 patent, for similar reasons as explained above with respect to Claim 1 of the '610 patent.

108. On information and belief, all of the Accused Instrumentalities perform the claimed methods in substantially the same way, e.g., in the manner specified in the H.264 standard.

109. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '610 patent.

110. On information and belief, Hulu has had knowledge of the '610 patent since at least the filing of this Complaint or shortly thereafter, and on information and belief, Hulu knew of the '610 patent and knew of its infringement, including by way of this lawsuit. By the time of trial, Hulu will have known and intended (since receiving such notice) that its continued actions would actively induce and contribute to the infringement of the claims of the '610 patent.

111. Upon information and belief, Hulu's affirmative acts of making, using, and selling the Accused Instrumentalities, and providing implementation services and technical support to users of the Accused Instrumentalities, including, e.g., through training, demonstrations, brochures, installation and user guides, have induced (at least since filing of this action) and continue to induce

users of the Accused Instrumentalities to use them in their normal and customary way to infringe the '610 patent by practicing a method, comprising: determining, a parameter or an attribute of at least a portion of a data block having video or audio data; selecting one or more compression algorithms from among a plurality of compression algorithms to apply to the at least the portion of the data block based upon the determined parameter or attribute and a throughput of a communication channel, at least one of the plurality of compression algorithms being asymmetric; and compressing the at least the portion of the data block with the selected compression algorithm after selecting the one or more compression algorithms. For example, Hulu adopted H.264 as its video codec in its streaming products/services, such as, e.g., Hulu's streaming service, Hulu's video compression media encoders, and Hulu's ad products for brands. For similar reasons, Hulu also induces its customers to use the Accused Instrumentalities to infringe other claims of the '610 patent. Hulu specifically intended and was aware that these normal and customary activities would infringe the '610 patent. Hulu performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '610 patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Hulu engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Hulu has induced (at least since filing of this action) and continues to induce users of the Accused Instrumentalities to use the Accused Instrumentalities in their ordinary and customary way to infringe the '610 patent, knowing that such use constitutes infringement of the '610 patent. Accordingly, Hulu has been (at least since filing of this action), and currently is, inducing infringement of the '610 patent, in violation of 35 U.S.C. § 271(b).

112. Hulu has also infringed, and continues to infringe, claims of the '610 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Instrumentalities, which are used in practicing the process, or using the systems, of the '610 patent, and constitute a material part of the invention. Hulu knows the components in the Accused Instrumentalities to be especially made or especially adapted for use in infringement of the '610 patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. Accordingly, Hulu has been, and currently is, contributorily infringing the '610 patent, in

violation of 35 U.S.C. § 271(c).

113. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' compression features, Hulu has injured Realtime and is liable to Realtime for infringement of the '610 patent pursuant to 35 U.S.C. § 271.

114. As a result of Hulu's infringement of the '610 patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Hulu's infringement, but in no event less than a reasonable royalty for the use made of the invention by Hulu, together with interest and costs as fixed by the Court.

COUNT VI

INFRINGEMENT OF U.S. PATENT NO. 8,634,462

115. Plaintiff re-alleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

116. On information and belief, Hulu has made, used, offered for sale, sold and/or imported into the United States Hulu products that infringe the '462 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Hulu's streaming products/services, such as, e.g., Hulu's streaming service, Hulu's video compression media encoders, Hulu's ad products for brands including Hulu's Ad Selector, Hulu's Blockbuster, Hulu's Branded Entertainment Selector, Hulu's Custom Integrated Commercial, Hulu's Interactive Interstitial, Hulu's Interactive Interstitial Template (DR), Hulu's Masthead Brand Placement, Hulu's Page Brand Placement, Hulu's Premium Slate, Hulu's Slate, Hulu's T-Commerce, Hulu's Video Commercial, Hulu VR, Hulu's 4K video services, and all versions and variations thereof since the issuance of the '462 patent ("Accused Instrumentalities")

117. For example, in an official Hulu blog post on the "Hulu Tech Blog" by Julian Eggrebrecht, Vice President of Device Platforms, Eggrebrecht writes that as a result of the "Hulu VR" application experiencing the challenges of "streaming full 360 degree videos, some even running at 60 frames-per-second, and being fully stereoscopic with individual frames for each eye," and knowing that "the videos would have to have a resolution close to 4K" but also "bitrates for

streaming [that would be kept] somewhat manageable" a solution emerged that was "the first use by Hulu of the new **HEVC** [or H.265] video codec, which compresses video roughly twice as efficiently while maintaining the same quality as the older H.264 standard." *See* https://web.archive.org/web/20160328225322/http://tech.hulu.com/blog/2016/03/24/creating-hulu-vr/ (cached version of: http://tech.hulu.com/blog/2016/03/24/creating-hulu-vr/ which is no longer available online) (emphasis added); http://www.multichannel.com/blog/bauminator/hulu-s-vr-app-could-serve-subscriber-acquisition-tool/403602 ("As explained in [the above-linked] blog post from Hulu's VP of device platforms Julian Eggebrecht, one big challenge was to make the streaming of 360-degree content as bandwidth efficient as possible. 'We knew from the outset that the videos would have to have a resolution close to 4K, but we also wanted to keep the bitrates for streaming somewhat manageable, considering our first device would be the mobile Samsung Gear VR,' Eggebrecht explained. Hulu, he added, addressed that by using **the H.265/HEVC code[c]**, which is about 50% more efficient than H.264, and by optimizing the video data.") (emphasis added).

118. Furthermore, another industry website article covering Hulu Chief Technology Officer Tian Lim's comments on Hulu's public beta launch of a new live TV service in 2017 states that: "Lim also explained why Hulu opted to go with H.264 encoding for its live streams, rather than with **H.265/ HEVC**, **a more efficient codec that Hulu's already using for its on-demand 4K and virtual reality content.** The big issue is that Hulu must support a massive footprint of devices that doesn't support HEVC. Lim said it would be technically possible to go with double live encoders — one for H.264 and one for H.265 — but that the move would likewise multiply origin and cloud DVR storage requirements. Additionally the quality gains for video at resolutions below 1080p, which includes a lot of live TV content, aren't as dramatic with HEVC as they are with higher-resolution content, so those tradeoffs made sense in more ways than one, he said." *See* http://www.multichannel.com/hulu-s-aim-modernizing-tv-experience/412840 (emphasis added).

119. Another industry website article covering Hulu's 4K video services or Hulu's 4K video streaming service states that: "Hulu has also told us that all 4K titles are encoded using the **HEVC codec** which will also improve the efficiency and quality of all resolutions, so even if you are watching on a Full HD display, there should be some improvements as well." *See*

http://www.ubergizmo.com/2016/12/hulu-stream-in-4k/ (emphasis added).

120. The Accused Instrumentalities performs a method for coding a video signal using hybrid coding. For example, the aim of the coding process is the production of a bitstream, as defined in definition 3.12 of the ITU-T H.265 Series H: Audiovisual and Multimedia Systems, "Infrastructure of audiovisual services – Coding of moving video" High efficiency video coding ("HEVC Spec"): "bitstream: A sequence of bits, in the form of a NAL unit stream or a byte stream, that forms the representation of coded pictures and associated data forming one or more coded video sequences (CVSs)." *See also, e.g.,* "Overview of the High Efficiency Video Coding (HEVC) Standard" by Gary J. Sullivan, Fellow, IEEE, Jens-Rainer Ohm, Member, IEEE, Woo-Jin Han, Member, IEEE, and Thomas Wiegand, Fellow, IEEE, published in IEEE TRANSACTIONS ON CIRCUITS AND SYSTEMS FOR VIDEO TECHNOLOGY, VOL. 22, NO. 12, DECEMBER 2012 ("IEEE HEVC) ("The video coding layer of HEVC employs the same hybrid approach (inter-/intrapicture prediction and 2-D transform coding) used in all video compression standards since H.261"). *See also, e.g.,* HEVC Spec at 0.7 "Overview of the design characteristics."

121. The Accused Instrumentalities reduce temporal redundancy by block based motion compensated prediction in order to establish a prediction error signal. For example, clause 8.5.3 Decoding process for prediction units in inter prediction mode and the subclauses thereof of the HEVC Spec describe the block based motion compensation techniques used in the decoding process. *See also, e.g.,* IEEE HEVC at 1651-1652 6) Motion compensation: Quarter-sample precision is used for the MVs, and 7-tap or 8-tap filters are used for interpolation of fractional-sample positions (compared to six-tap filtering of half-sample positions followed by linear interpolation for quarter-sample positions in H.264/MPEG-4 AVC). Similar to H.264/MPEG-4 AVC, multiple reference pictures are used. For each PB, either one or two motion vectors can be transmitted, resulting either in unipredictive or bipredictive coding, respectively. As in H.264/MPEG-4 AVC, a scaling and offset operation may be applied to the prediction signal(s) in a manner known as weighted prediction.").

122. The Accused Instrumentalities perform quantization on samples of the prediction error signal or on coefficients resulting from a transformation of the prediction error signal into the

frequency domain to obtain quantized values, representing quantized samples or quantized coefficients respectively. For example, the quantization parameter and the scaling (inverse quantization) are defined in definitions 3.112 (page 10) and 3.131 (page 11), respectively, the usage of the scaling process in the decoding being described in clause and 8.6 Scaling, transformation and array construction process prior to deblocking filter process of the HEVC Spec. *See also, e.g.,* IEEE HEVC at 1652 ("8) Quantization control: As in H.264/MPEG-4 AVC, uniform reconstruction quantization (URQ) is used in HEVC, with quantization scaling matrices supported for the various transform block sizes.").

123. The Accused Instrumentalities perform a method wherein the prediction error signal includes a plurality of subblocks each including a plurality of quantized values. For example, the quantized samples or transform coefficients from the subblock are scaled and transformed as described in above mentioned clause 8.6 of the HEVC Spec. *See also, e.g.,* IEEE HEVC at 1652 ("Prediction units and prediction blocks (PBs): The decision whether to code a picture area using interpicture or intrapicture prediction is made at the CU level. A PU partitioning structure has its root at the CU level. Depending on the basic prediction-type decision, the luma and chroma CBs can then be further split in size and predicted from luma and chroma prediction blocks (PBs). HEVC supports variable PB sizes from 64×64 down to 4×4 samples.").

124. The Accused Instrumentalities perform a method of calculating a first quantization efficiency for the quantized values of at least one subblock of the plurality of subblocks; setting the quantized values of the at least one subblock to all zeroes; calculating a second quantization efficiency for the at least one subblock while all of the quantized values are zeroes; selecting which of the first and second quantization efficiencies is a higher efficiency; and selecting, for further proceeding, the at least one subblock with the quantized values prior to setting the quantized values of the at least one subblock to all zeroes if the first quantization efficiency is higher and selecting the at least one subblock with the quantized values set to zero, for further proceeding, if the second quantization efficiency is higher. For example, the bitstream resulting from the encoding as described in this last item of the claim contains all the relevant information as needed by the decoder for proper decoding. If the coefficients of the subblock are set to zero as a consequence of the

efficiency calculation, the coded_sub_block_flag, as described in clause 7.4.9.11 Residual coding semantics, HEVC Spec, is set to 0, indicating that all the 16 coefficients of the coded sub block have been set to 0: "coded_sub_block_flag[xS][yS] specifies the following for the sub-block at location (xS, yS) within the current transform block, where a sub-block is a (4x4) array of 16 transform coefficient levels: – If coded_sub_block_flag[xS][yS] is equal to 0, the 16 transform coefficient levels of the sub-block at location (xS, yS) are inferred to be equal to 0."

125. When coded_sub_block_flag[xS][yS] has not been set equal to 0, the position in the array of non 0 coefficients can be determined as follows:

– Otherwise (coded_sub_block_flag[xS][yS] is equal to 1), the following applies:

– If (xS, yS) is equal to (0, 0) and (LastSignificantCoeffX, LastSignificantCoeffY) is not equal to (0, 0), at least one of the 16 sig_coeff_flag syntax elements is present for the sub-block at location (xS, yS).

– Otherwise, at least one of the 16 transform coefficient levels of the sub-block at location (xS, yS) has a non zero value.

When coded_sub_block_flag[xS][yS] is not present, it is inferred as follows:

– If one or more of the following conditions are true, coded_sub_block_flag[xS][yS] is inferred to be equal to 1:

– (xS, yS) is equal to (0, 0)

– (xS, yS) is equal to (LastSignificantCoeffX >> 2 , LastSignificantCoeffY >> 2)

– Otherwise, coded_sub_block_flag[xS][yS] is inferred to be equal to 0.

HEVC Spec at 7.4.9.11 Residual coding semantics. Therefore, even though the coding algorithms than can be used for reaching specific efficiency targets are not specified by the HEVC Spec (as stated in clause 0.7), this particular combination of choices produces a valid bitstream that has to be decoded by a conformant decoder.

126. The infringement of the Accused Instrumentalities is also shown by way of considering the reference software (*see, e.g.,* https://hevc.hhi.fraunhofer.de/). Setting the flag RDOQ=true in the encoder configuration file enables rate-distortion-optimized quantization for

transformed TUs. This feature is implemented in the HM reference software as function xRateDistOptQuant in file TComTrQuant.cpp. In the function xRateDistOptQuant, the efficiency for setting all quantized values to zero is calculated and stored in the variable d64BestCost. In the variable iBestLastIdxP1, a 0 is stored indicating that all values starting from the 0th position are set to zero. Afterwards, the efficiency for keeping quantized values unequal to zero is calculated and stored in the variable totalCost. The variable iBestLastIdxP1 is adjusted correspondingly to values unequal to 0. The two efficiencies d64BestCost and totalCost are compared, and selecting for further proceeding either quantized values, which are all set to zero or quantized values, which are not all set to zero. All values starting from the position defined by the variable iBestLastIdxP1 are set to zero.

127. Calculation of the efficiency for setting all quantized values to zero and storing the result in the variable d64BestCost:

```
Double  d64BestCost         = 0;
Int     ui16CtxCbf          = 0;
Int     iBestLastIdxP1      = 0;
if( !pcCU->isIntra( uiAbsPartIdx ) && isLuma(compID) && pcCU->getTransformIdx( uiAbsPartIdx ) == 0 )
{
  ui16CtxCbf   = 0;
  d64BestCost  = d64BlockUncodedCost + xGetICost( m_pcEstBitsSbac->blockRootCbpBits[ ui16CtxCbf ][ 0 ] );
  d64BaseCost += xGetICost( m_pcEstBitsSbac->blockRootCbpBits[ ui16CtxCbf ][ 1 ] );
}
else
{
  ui16CtxCbf   = pcCU->getCtxQtCbf( rTu, channelType );
  ui16CtxCbf  += getCBFContextOffset(compID);
  d64BestCost  = d64BlockUncodedCost + xGetICost( m_pcEstBitsSbac->blockCbpBits[ ui16CtxCbf ][ 0 ] );
  d64BaseCost += xGetICost( m_pcEstBitsSbac->blockCbpBits[ ui16CtxCbf ][ 1 ] );
}
```

HEVC Reference Software (https://hevc.hhi.fraunhofer.de/).

128. Calculating the efficiency for keeping quantized values unequal to zero and storing the result in the variable totalCost:

```
Bool bFoundLast = false;
for (Int iCGScanPos = iCGLastScanPos; iCGScanPos >= 0; iCGScanPos--)
{
  UInt uiCGBlkPos = codingParameters.scanCG[ iCGScanPos ];

  d64BaseCost -= pdCostCoeffGroupSig [ iCGScanPos ];
  if (uiSigCoeffGroupFlag[ uiCGBlkPos ])
  {
    for (Int iScanPosinCG = uiCGSize-1; iScanPosinCG >= 0; iScanPosinCG--)
    {
      iScanPos = iCGScanPos*uiCGSize + iScanPosinCG;

      if (iScanPos > iLastScanPos) continue;
      UInt   uiBlkPos     = codingParameters.scan[iScanPos];

      if( piDstCoeff[ uiBlkPos ] )
      {
        UInt   uiPosY       = uiBlkPos >> uiLog2BlockWidth;
        UInt   uiPosX       = uiBlkPos - ( uiPosY << uiLog2BlockWidth );

        Double d64CostLast= codingParameters.scanType == SCAN_VER ? xGetRateLast( uiPosY, uiPosX, compID ) :
                                                                    xGetRateLast( uiPosX, uiPosY, compID );
        Double totalCost = d64BaseCost + d64CostLast - pdCostSig[ iScanPos ];
```

HEVC Reference Software (https://hevc.hhi.fraunhofer.de/).

129. Comparing the two efficiencies d64BestCost and totalCost:

```
if( totalCost < d64BestCost )
{
  iBestLastIdxP1  = iScanPos + 1;
  d64BestCost     = totalCost;
}
```

HEVC Reference Software (https://hevc.hhi.fraunhofer.de/).

130. Selecting for further proceeding either quantized values, which are all set to zero or quantized values, which are not all set to zero:

```
//===== clean uncoded coefficients =====
for ( Int scanPos = iBestLastIdxP1; scanPos <= iLastScanPos; scanPos++ )
{
  piDstCoeff[ codingParameters.scan[ scanPos ] ] = 0;
}
```

HEVC Reference Software (https://hevc.hhi.fraunhofer.de/).

131. On information and belief, Hulu also directly infringes and continues to infringe other claims of the '462 patent, for similar reasons as explained above with respect to Claim 1 of the '462 patent, namely, a method for coding a video signal using hybrid coding, comprising: reducing temporal redundancy by block based motion compensated prediction in order to establish a prediction error signal; performing quantization on samples of the prediction error signal or on coefficients resulting from a transformation of the prediction error signal into the frequency domain to obtain quantized values, representing quantized samples or quantized coefficients respectively, wherein the prediction error signal includes a plurality of subblocks each including a plurality of quantized values; calculating a first quantization efficiency for the quantized values of at least one subblock of the plurality of subblocks; setting the quantized values of the at least one subblock to all zeroes; calculating a second quantization efficiency for the at least one subblock while all of the quantized values are zeroes; selecting which of the first and second quantization efficiencies is a higher efficiency; and selecting, for further proceeding, the at least one subblock with the quantized values prior to setting the quantized values of the at least one subblock to all zeroes if the first quantization efficiency is higher and selecting the at least one subblock with the quantized values set to zero, for further proceeding, if the second quantization efficiency is higher.

132. On information and belief, all of the Accused Instrumentalities perform the claimed methods in substantially the same way, e.g., in the manner specified in the HEVC (or H.265) standard.

133. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods and/or systems claimed by the '462 patent.

134. On information and belief, Hulu has had knowledge of the '462 patent since at least the filing of this Complaint or shortly thereafter, and on information and belief, Hulu knew of the '462 patent and knew of its infringement, including by way of this lawsuit. By the time of trial, Hulu will have known and intended (since receiving such notice) that its continued actions would actively induce and contribute to the infringement of the claims of the '462 patent.

135. Upon information and belief, Hulu's affirmative acts of making, using, and selling the Accused Instrumentalities, and providing implementation services and technical support to users of the Accused Instrumentalities, including, e.g., through training, demonstrations, brochures, installation and user guides, have induced (at least since filing of this action) and continue to induce users of the Accused Instrumentalities to use them in their normal and customary way to infringe the '462 patent by practicing a method for coding a video signal using hybrid coding, comprising: reducing temporal redundancy by block based motion compensated prediction in order to establish a prediction error signal; performing quantization on samples of the prediction error signal or on coefficients resulting from a transformation of the prediction error signal into the frequency domain to obtain quantized values, representing quantized samples or quantized coefficients respectively, wherein the prediction error signal includes a plurality of subblocks each including a plurality of quantized values; calculating a first quantization efficiency for the quantized values of at least one subblock of the plurality of subblocks; setting the quantized values of the at least one subblock to all zeroes; calculating a second quantization efficiency for the at least one subblock while all of the quantized values are zeroes; selecting which of the first and second quantization efficiencies is a higher efficiency; and selecting, for further proceeding, the at least one subblock with the quantized values prior to setting the quantized values of the at least one subblock to all zeroes if the first quantization efficiency is higher and selecting the at least one subblock with the quantized values set

to zero, for further proceeding, if the second quantization efficiency is higher. For example, Hulu adopted HEVC (or H.265) as their video codec in their VR and 4K applications, products and services. For similar reasons, Hulu also induces its customers to use the Accused Instrumentalities to infringe other claims of the '462 patent. Hulu specifically intended and were aware that these normal and customary activities would infringe the '462 patent. Hulu performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '462 patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Hulu engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Hulu has induced (at least since filing of this action) and continues to induce users of the Accused Instrumentalities to use the Accused Instrumentalities in their ordinary and customary way to infringe the '462 patent, knowing that such use constitutes infringement of the '462 patent. Accordingly, Hulu has been (at least since filing of this action), and currently is, inducing infringement of the '462 patent, in violation of 35 U.S.C. § 271(b).

136. Hulu has also infringed, and continues to infringe, claims of the '462 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Instrumentalities, which are used in practicing the process, or using the systems, of the '462 patent, and constitute a material part of the invention. Hulu knows the components in the Accused Instrumentalities to be especially made or especially adapted for use in infringement of the '462 patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. Accordingly, Hulu has been, and currently is, contributorily infringing the '462 patent, in violation of 35 U.S.C. § 271(c).

137. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' compression features, Hulu has injured Realtime and is liable to Realtime for infringement of the '462 patent pursuant to 35 U.S.C. § 271.

138. As a result of Hulu's infringement of the '462 patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Hulu's infringement, but in no event

less than a reasonable royalty for the use made of the invention by Hulu, together with interest and costs as fixed by the Court.

COUNT VII

INFRINGEMENT OF U.S. PATENT NO. 9,578,298

139. Plaintiff re-alleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

140. On information and belief, Hulu has made, used, offered for sale, sold and/or imported into the United States Hulu products that infringe the '298 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Hulu's streaming products/services, such as, e.g., Hulu's streaming service, Hulu's video compression media encoders, Hulu's ad products for brands including Hulu's Ad Selector, Hulu's Blockbuster, Hulu's Branded Entertainment Selector, Hulu's Custom Integrated Commercial, Hulu's Interactive Interstitial, Hulu's Interactive Interstitial Template (DR), Hulu's Masthead Brand Placement, Hulu's Page Brand Placement, Hulu's Premium Slate, Hulu's Slate, Hulu's T-Commerce, Hulu's Video Commercial, Hulu VR, Hulu's 4K video services, and all versions and variations thereof since the issuance of the '298 patent ("Accused Instrumentalities")

141. For example, in an official Hulu blog post on the "Hulu Tech Blog" by Julian Eggrebrecht, Vice President of Device Platforms, Eggrebrecht writes that as a result of the "Hulu VR" application experiencing the challenges of "streaming full 360 degree videos, some even running at 60 frames-per-second, and being fully stereoscopic with individual frames for each eye," and knowing that "the videos would have to have a resolution close to 4K" but also "bitrates for streaming [that would be kept] somewhat manageable" a solution emerged that was "the first use by Hulu of the new **HEVC** [or H.265] video codec, which compresses video roughly twice as efficiently while maintaining the same quality as the older H.264 standard." *See* https://web.archive.org/web/20160328225322/http://tech.hulu.com/blog/2016/03/24/creating-hulu-vr/ (cached version of: http://tech.hulu.com/blog/2016/03/24/creating-hulu-vr/ which is no longer available online) (emphasis added); http://www.multichannel.com/blog/bauminator/hulu-s-vr-app-could-serve-subscriber-acquisition-tool/403602 ("As explained in [the above-linked] blog post from

Hulu's VP of device platforms Julian Eggebrecht, one big challenge was to make the streaming of 360-degree content as bandwidth efficient as possible. 'We knew from the outset that the videos would have to have a resolution close to 4K, but we also wanted to keep the bitrates for streaming somewhat manageable, considering our first device would be the mobile Samsung Gear VR,' Eggebrecht explained. Hulu, he added, addressed that by using **the H.265/HEVC code[c]**, which is about 50% more efficient than H.264, and by optimizing the video data.") (emphasis added).

142. Furthermore, another industry website article covering Hulu Chief Technology Officer Tian Lim's comments on Hulu's public beta launch of a new live TV service in 2017 states that: "Lim also explained why Hulu opted to go with H.264 encoding for its live streams, rather than with **H.265/ HEVC**, **a more efficient codec that Hulu's already using for its on-demand 4K and virtual reality content.** The big issue is that Hulu must support a massive footprint of devices that doesn't support HEVC. Lim said it would be technically possible to go with double live encoders — one for H.264 and one for H.265 — but that the move would likewise multiply origin and cloud DVR storage requirements. Additionally the quality gains for video at resolutions below 1080p, which includes a lot of live TV content, aren't as dramatic with HEVC as they are with higher-resolution content, so those tradeoffs made sense in more ways than one, he said." *See* http://www.multichannel.com/hulu-s-aim-modernizing-tv-experience/412840 (emphasis added).

143. Another industry website article covering Hulu's 4K video services or Hulu's 4K video streaming service states that: "Hulu has also told us that all 4K titles are encoded using the **HEVC codec** which will also improve the efficiency and quality of all resolutions, so even if you are watching on a Full HD display, there should be some improvements as well." *See* http://www.ubergizmo.com/2016/12/hulu-stream-in-4k/ (emphasis added).

144. The Accused Instrumentalities receive the video stream which comprises at least one composite frame (FC), each composite frame containing a pair of stereoscopic digital images (L,R) according to a predetermined frame packing format. For example, the coded bitstream when it contains a stereoscopic video in one of the frame packing arrangements such as side-by-side or top-and-bottom or segmented rectangular frame packing format as defined in the following sections of the ITU-T H.265 Series H: Audiovisual and Multimedia Systems, "Infrastructure of audiovisual

services – Coding of moving video" High efficiency video coding ("HEVC Spec"): D.2.16 Frame packing arrangement SEI message syntax, D.3.16 Frame packing arrangement SEI message semantics, D.2.29 Segmented rectangular frame packing arrangement SEI message syntax, D.3.29 Segmented rectangular frame packing arrangement SEI message semantics.

145. The Accused Instrumentalities generate an output video stream which can be reproduced on a visualization apparatus. For example, the output of the decoding process as defined above is a sequence of decoded pictures. *See, e.g.,* HEVC Spec at 3.39 ("3.39 decoded picture: A decoded picture is derived by decoding a coded picture"). Decoded pictures are the input of the display process. *Id.* at 3.47 ("3.47 display process: A process not specified in this Specification having, as its input, the cropped decoded pictures that are the output of the decoding process.").

146. The Accused Instrumentalities receive metadata which determine an area occupied by one of the two images within said composite frame, said metadata indicating either a geometry of the frame packing format or a frame packing type of said composite frame. For example, the HEVC spec provides the default display window parameter to support 2D compatible decoding of stereo formats. *See, e.g.,* HEVC Spec ("NOTE 9 – The default display window parameters in the VUI parameters of the SPS can be used by an encoder to indicate to a decoder that does not interpret the frame packing arrangement SEI message that the default display window is an area within only one of the two constituent frames.").

147. The Accused Instrumentalities determine the area in the composite frame (FC) which is occupied by said one image of the stereoscopic pair within the composite frame based on said metadata. For example, the default display window parameter has been defined to support this application. The parameter syntax is defined in clause E.2.1 VUI parameters syntax, the semantics thereof being described in clause E.3.1 VUI parameters semantics. The usage of the Default Display Window for signaling the 2D single view in a stereoscopic frame packing format is illustrated in Note 9 of clause D.3.16 and Note 3 in Clause D.3.29 cited above.

148. The Accused Instrumentalities decode only that part of the composite frame which contains said one image to be displayed. For example, tiles are intended to support independent decoding of different picture regions. Clause 7.4.3.2.1 cited above illustrates the process to convert CTB picture scan in CTB tile scan to enable independent decoding of the tile. *See also* HEVC Spec:

> **row_height_minus1**[i] plus 1 specifies the height of the i-th tile row in units of coding tree blocks.
>
> The following variables are derived by invoking the coding tree block raster and tile scanning conversion process as specified in clause 6.5.1:
>
> – The list CtbAddrRsToTs[ctbAddrRs] for ctbAddrRs ranging from 0 to PicSizeInCtbsY − 1, inclusive, specifying the conversion from a CTB address in the CTB raster scan of a picture to a CTB address in the tile scan,
>
> – the list CtbAddrTsToRs[ctbAddrTs] for ctbAddrTs ranging from 0 to PicSizeInCtbsY − 1, inclusive, specifying the conversion from a CTB address in the tile scan to a CTB address in the CTB raster scan of a picture,
>
> – the list TileId[ctbAddrTs] for ctbAddrTs ranging from 0 to PicSizeInCtbsY − 1, inclusive, specifying the conversion from a CTB address in tile scan to a tile ID,
>
> – the list ColumnWidthInLumaSamples[i] for i ranging from 0 to num_tile_columns_minus1, inclusive, specifying the width of the i-th tile column in units of luma samples,
>
> – the list RowHeightInLumaSamples[j] for j ranging from 0 to num_tile_rows_minus1, inclusive, specifying the height of the j-th tile row in units of luma samples.
>
> The values of ColumnWidthInLumaSamples[i] for i ranging from 0 to num_tile_columns_minus1, inclusive, and RowHeightInLumaSamples[j] for j ranging from 0 to num_tile_rows_minus1, inclusive, shall all be greater than 0.
>
> The array MinTbAddrZs with elements MinTbAddrZs[x][y] for x ranging from 0 to (PicWidthInCtbsY << (CtbLog2SizeY − MinTbLog2SizeY)) − 1, inclusive, and y ranging from 0 to (PicHeightInCtbsY << (CtbLog2SizeY − MinTbLog2SizeY)) − 1, inclusive, specifying the conversion from a location (x, y) in units of minimum transform blocks to a transform block address in z-scan order, is derived by invoking the z-scan order array initialization process as specified in clause 6.5.2.

149. The Accused Instrumentalities generate an output frame containing said extracted image. For example, there is an output of the tile decoding process. *See, e.g.,* HEVC Spec at 8.1.1 ("8.1.1 General…Input to this process is a bitstream. Output of this process is a list of decoded pictures.").

150. On information and belief, Hulu also directly infringes and continues to infringe other claims of the '298 patent, for similar reasons as explained above with respect to Claim 1 of the '298 patent, namely, a method for processing a video stream of digital images, the method comprising the steps of: receiving the video stream which comprises at least one composite frame (FC), each composite frame containing a pair of stereoscopic digital images (L,R) according to a predetermined frame packing format; generating an output video stream which can be reproduced on a visualization apparatus, receiving metadata which determine an area occupied by one of the two images within said composite frame (FC), said metadata indicating either a geometry of the frame packing format or a frame packing type of said composite frame (FC); determining the area in the composite frame

(FC) which is occupied by said one image of the stereoscopic pair within the composite frame based on said metadata; decoding only that part of the composite frame (FC) which contains said one image to be displayed, and generating an output frame containing said decoded image.

151. On information and belief, all of the Accused Instrumentalities perform the claimed methods in substantially the same way, e.g., in the manner specified in the HEVC (or H.265) standard.

152. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the ’298 patent.

153. On information and belief, Hulu has had knowledge of the ’298 patent since at least the filing of this Complaint or shortly thereafter, and on information and belief, Hulu knew of the ’298 patent and knew of its infringement, including by way of this lawsuit. By the time of trial, Hulu will have known and intended (since receiving such notice) that its continued actions would actively induce and contribute to the infringement of the claims of the ’298 patent.

154. Upon information and belief, Hulu’s affirmative acts of making, using, and selling the Accused Instrumentalities, and providing implementation services and technical support to users of the Accused Instrumentalities, including, e.g., through training, demonstrations, brochures, installation and user guides, have induced (at least since filing of this action) and continue to induce users of the Accused Instrumentalities to use them in their normal and customary way to infringe the ’298 by practicing a method for processing a video stream of digital images, the method comprising the steps of: receiving the video stream which comprises at least one composite frame (FC), each composite frame containing a pair of stereoscopic digital images (L,R) according to a predetermined frame packing format; generating an output video stream which can be reproduced on a visualization apparatus, receiving metadata which determine an area occupied by one of the two images within said composite frame (FC), said metadata indicating either a geometry of the frame packing format or a frame packing type of said composite frame (FC); determining the area in the composite frame (FC) which is occupied by said one image of the stereoscopic pair within the composite frame based on said metadata; decoding only that part of the composite frame (FC) which contains said one image to be displayed, and generating an output frame containing said decoded

image. For example, Hulu adopted HEVC (or H.265) as their video codec in their VR and 4K applications, products and services. For similar reasons, Hulu also induces its customers to use the Accused Instrumentalities to infringe other claims of the '298 patent. Hulu specifically intended and were aware that these normal and customary activities would infringe the '298 patent. Hulu performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '298 patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Hulu engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Hulu has induced (at least since filing of this action) and continues to induce users of the Accused Instrumentalities to use the Accused Instrumentalities in their ordinary and customary way to infringe the '298 patent, knowing that such use constitutes infringement of the '298 patent. Accordingly, Hulu has been (at least since filing of this action), and currently is, inducing infringement of the '298 patent, in violation of 35 U.S.C. § 271(b).

155. Hulu has also infringed, and continues to infringe, claims of the '298 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Instrumentalities, which are used in practicing the process, or using the systems, of the '298 patent, and constitute a material part of the invention. Hulu knows the components in the Accused Instrumentalities to be especially made or especially adapted for use in infringement of the '298 patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. Accordingly, Hulu has been, and currently is, contributorily infringing the '298 patent, in violation of 35 U.S.C. § 271(c).

156. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' compression features, Hulu has injured Realtime and is liable to Realtime for infringement of the '298 patent pursuant to 35 U.S.C. § 271.

157. As a result of Hulu's infringement of the '298 patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Hulu's infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest

and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Realtime respectfully requests that this Court enter:

a. A judgment in favor of Plaintiff that Hulu has infringed, literally and/or under the doctrine of equivalents, the '535, '477, '907, '046, '610, '462, and '298 patents (the "asserted patents" or "patents-in-suit");

b. A judgment and order requiring Hulu to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for its infringement of the asserted patents, as provided under 35 U.S.C. § 284;

c. A judgment and order requiring Hulu to provide an accounting and to pay supplemental damages to Realtime, including without limitation, prejudgment and post-judgment interest;

d. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees against Hulu; and

e. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

1. Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Respectfully Submitted,

Dated: December 29, 2017

/s/ C. Jay Chung

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