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17 Attorneys for Plaintiff  
18 Landmark Networks, LLC

19 **UNITED STATES DISTRICT COURT**  
20  
21 **NORTHERN DISTRICT OF CALIFORNIA**

22 LANDMARK NETWORKS, LLC,  
23  
24 Plaintiff,  
25  
26 vs.  
27  
28 UBISOFT ENTERTAINMENT, SA and  
UBISOFT, INC.,  
Defendants.

CASE NO. 17-cv-7049-RS  
**FIRST AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT**  
**DEMAND FOR JURY TRIAL**

Plaintiff Landmark Networks, LLC (“Landmark”) files this First Amended Complaint against Ubisoft Entertainment, SA and Ubisoft, Inc. for infringement of U.S. Patent Nos. 6,018,720 and 6,856,966.

**PARTIES**

1. Landmark Networks, LLC is a limited liability company organized under the laws of the State of Texas with its headquarters and principal place of business at 1400 Preston Road, Suite 475, Plano, Texas 75093.



10. A true and correct copy of the '720 Patent is attached as Exhibit A.
11. A true and correct copy of the '966 Patent is attached as Exhibit B.
12. The patents originated from Universal Entertainment Corporation ("UEC").



13. UEC is a Japanese gaming and entertainment company that is publicly traded on the Tokyo Stock Exchange.

14. UEC develops, manufactures, and sells electronic and computerized Pachislot and Pachinko machines and peripheral devices.



15. UEC's research and development efforts focus on gaming systems and software distribution.

16. The '720 and '966 Patents generally relate to product delivery methods and systems for performing product delivery and accounting simultaneously by utilizing rewritable record medium and systems therefor.

17. Conventional card systems, including prepaid cards, credit cards and IC cards, have encountered numerous problems in the case of delivering software, such as game software, and data by using these cards. Such problems include: counterfeiting; specialized card readers for reading

1 prepaid cards; the lack of reloading on a prepaid card; purchasers are limited to possessors of credit  
2 cards; lack of communications between the credit card and computer of a software deliverer about  
3 the sales conditions of software; memory capacity for IC cards is low; and data stored on an IC card  
4 includes personal data which requires encryption and anti-copying techniques and the cost of IC  
5 cards.

6 18. The invention helps solve the problems encountered when trying to provide a  
7 transaction platform for purchase and delivery of software media (purchaser record medium) to  
8 which game software is rewritten or reloaded.

9 19. With the previous method (e.g. conventional card systems) because each purchaser's  
10 data was not linked with a management computer, the information could be illegally changed. At  
11 the time of the invention counterfeited pinball cards had become widespread.

12 20. At the time of the invention prepaid cards could not be used again after cash  
13 represented by cash data or a call rate represented by call-rate data is used up and providers were  
14 struggling with fraud and fraud detection as thieves were able to generate credit card numbers to  
15 purchase software. The matching of account holder name, expiration date etc. of the credit card was  
16 not yet a universal practice. *See Exhibit D, Hansell, S. (1997), Internet Merchants Try to Fight Fraud*  
17 *in Software Purchases, The New York Times.*

18 21. The invention is an improvement in software distribution technology. At the time of  
19 the invention the methods of distributing software were flawed and many software developers and  
20 content providers struggled to enact any control or management of digital content (e.g. peer-to-peer  
21 networks, Napster etc.). The invention sets forth specific means for not only delivering software but  
22 managing the software and preventing fraud.

23 22. The invention eliminates the problems of the conventional product delivery  
24 techniques for delivering primary data, including software, from a data deliverer at the request of a  
25 purchaser.  
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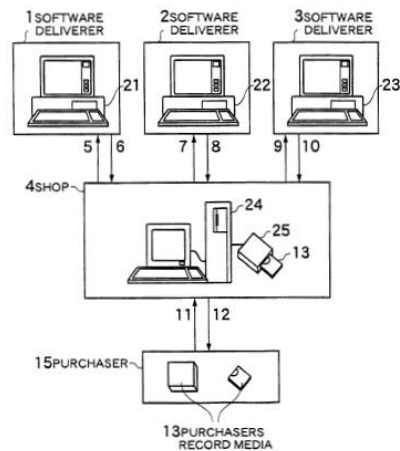
23. At the time of purchase, a purchaser writes purchaser inherent data to the purchaser record medium. When game software is requested from a computer of the shop, data recorded in the purchaser record medium is sent to software deliverers through communication networks and is collated with past data recorded in computer. If matched, the game software is delivered from the software deliverer to the shop and is then recorded in the purchase record medium. Simultaneously, additional data relating to the game software is recorded in the purchase record medium and in the computers of the software deliverers.

24. The additional data that is recorded in the computer of the data deliverer cannot be directly accessed by the purchaser. Thus, even when the purchaser record medium is fabricated or is unauthorizedly rewritten, unauthorized use thereof can be effectively prevented by collating the additional data recorded in the purchaser record medium with the additional data recorded in the computer of the data deliverer.

25. The invention claims a specific, inventive, network architecture that specifies which data is stored on particular network elements and how information flows between them.

26. As set forth in Fig. 1 from the Asserted Patents below the invention describes specific architecture:

FIG.1



1           27.     As described in the patents, the software delivers in 1, 2 and 3 deliver original primary  
2 data relating to games (original software) from the computers 21, 22 and 23 to the computer of 24  
3 through downstream computer networks. The software deliverers manage data recorded in the  
4 computers 21, 22 and 23 and the data bases, which are unique to the software deliverers but are not  
5 open to the public, are constructed in the computers 21 to 23. The purchaser rewritable purchaser  
6 record medium in 13 is purchased at the stop 4 or is a general-purpose record medium.

7           28.     Advantages of the claimed subject matter include online accounting maintenance,  
8 without the need for prepaid or reloadable cards as well as simplifying accounting for transactions  
9 and balance maintenance.  
10

11           29.     Other advantages include a single purchaser record medium which serves as both a  
12 “container” for containing software and a bankbook (or passbook) and the software deliverer can  
13 manage additional data (software and purchaser inherent data and accounting data) recorded in the  
14 purchaser record medium.

15           30.     The additional data can be freely accessed from the computer of the software  
16 deliverer.  
17

18           31.     The invention was an improvement as it not only provided a method for accounting  
19 for purchases and debits but also included in step of recording the first data (e.g. uploading purchased  
20 software).

21           32.     The '720 and '966 Patents achieve the above referenced improvements by claiming,  
22 at least, the inventive combination of recording historical data in both the computer of a software  
23 deliverer and a purchaser's rewritable record medium, performing a comparison of historical data  
24 stored on the computer of a software deliverer and that stored on a purchaser's rewritable record  
25 medium, and performing an accounting operation.  
26

27           33.     This combination was not conventional in 1997, as there did not exist a reliable  
28 method for the sale and distribution of software, over a network, that could keep track of which



1 software purchasers had downloaded to particular devices, in order to protect the seller's content.

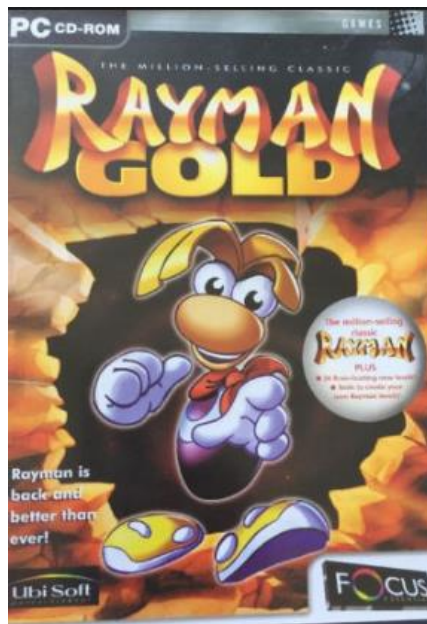
2 34. The inventions set forth in the '720 and '966 Patents do not merely claim the result of  
3 distributing software over a network but a specific method of achieving that result with the additional  
4 benefits as described above. The steps outlined in the '720 and '966 Patents provide a specific means  
5 of achieving the result of reliable distribution and sale of software.

6 35. As the owner of the '720 and '966 Patents, Landmark holds all substantial rights in  
7 and under the '720 and '966 Patents, including the right to grant sublicenses, exclude others, and to  
8 enforce, sue, and recover damages for past and future infringement.  
9

### 10 UBISOFT

11 36. Ubisoft is a leading creator, publisher, and distributor of interactive entertainment and  
12 services, with a rich portfolio of world-renowned brands (*e.g.* Assassin's Creed).

13 37. In the late 1990s Ubisoft was distributing its games via CDRoms including its 1997  
14 game, "Rayman Gold."  
15



26 38. Ubisoft's main business activities today are centered around the production,  
27 publishing and distribution of video games for consoles, PC, smartphones and tablets in both physical  
28

1 and digital formats. *See* 2017 Investor Report, Exhibit C.

2 39. Defendant Ubisoft Entertainment, SA operates in the United States, owns U.S.  
3 patents, litigates in the United States (as both a plaintiff and defendant) and enters into agreements  
4 with U.S. citizens regarding the distribution of its products in the U.S. (including the Uplay  
5 platform/software).

6 40. Defendant Ubisoft, Inc. is a wholly owned subsidiary of Defendant Ubisoft  
7 Entertainment, SA. *See* Exhibit C, p. 11, 135. Defendants also share common management. *See*  
8 Exhibit C, p. 24.

9 41. Defendant Ubisoft Entertainment, SA as the parent of Defendant Ubisoft, Inc. directs  
10 and controls the actions of Defendant Ubisoft, Inc. and together they infringe the Asserted Patents  
11 such that actions of Defendant Ubisoft Entertainment, SA are directly attributable to Defendant  
12 Ubisoft, Inc.

13 42. Alternatively, Defendant Ubisoft, Inc. directs and controls the actions of Defendant  
14 Ubisoft Entertainment, SA as its U.S. distributor and together they infringe the Asserted Patents such  
15 that actions of Defendant Ubisoft, Inc. are directly attributable to Defendant Ubisoft Entertainment,  
16 SA.

17 43. Defendants are also developers of technologies including UPLAY an online gaming  
18 platform.



25 44. Defendants jointly provide their products to its end-users via the Defendants' Uplay  
26 platform.





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4 45. Ubisoft's game platform Uplay distributes and manages games.

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6 46. The Uplay platform is provided by Defendant Ubisoft Entertainment, SA and  
7 Defendant Ubisoft, Inc.

8 47. The End User License Agreement for Uplay specifies that Uplay is owned and  
9 operated by Defendants jointly.

## 10 11 12 END USER LICENCE AGREEMENT

13  
14 PLEASE READ THIS END USER LICENCE AGREEMENT CAREFULLY. This End User License Agreement ("EULA") governs your use of the  
15 videogame, application, software, their associated upgrades, patches, and updates and related services (the "Product") currently provided or which  
16 will be provided by UBISOFT ENTERTAINMENT S.A., or any one of its subsidiaries or affiliated companies, including without limitation UBISOFT  
17 EMEA SAS, UBISOFT INC. or UBISOFT MOBILE GAMES SARL (collectively referred to as "UBISOFT").

18  
19 Exhibit E, Uplay End User License Agreement.

20 48. Ubisoft accounts are also governed by the Services Agreement which specifies that  
21 Defendant Ubisoft Entertainment, SA and its subsidiaries (Ubisoft, Inc.) jointly provide software and  
22 the framework through which the services are provided.

### 23 24 **1. DESCRIPTION OF SERVICES AND LIMITED LICENSE TO USE SERVICES**

25 These Terms of Use (the "**Terms**") sets forth the agreement between Ubisoft Inc. and any one of its parent, subsidiary or affiliated companies,  
26 including without limitation Ubisoft Entertainment SA ("**UBISOFT**" or "**we**") and each user ("**you**" or "**User**"). The Terms govern your use of  
27 UBISOFT's online and mobile games, applications and services, including the online functions of multimedia products, the websites and mobile  
28 sites (collectively "**websites**"), servers, software and the framework through which these services are provided (collectively, the "**Services**"). You  
should read these Terms carefully as they set out the basis on which we make the Services available. UBISOFT's Privacy Policy is an integral part  
of these Terms and is integrated into them by reference. You confirm that you have consulted and accepted the terms of UBISOFT's Privacy Policy  
available on [legal.ubi.com/privacypolicy](http://legal.ubi.com/privacypolicy). In addition, when using particular services or features, you shall be subject to any posted guidelines or  
policies and/or other terms (including without limitation "game rules") applicable to such services, features or purchases that may be posted from  
time to time. All such guidelines or policies are incorporated by reference into these Terms. As a User, your use of any or all of the Services and  
Content (as defined in Article 3.1 below), indicate that you accept these Terms, our Privacy Policy and other applicable terms depending on the  
Service You use including without limitation the terms of sale ("**Terms of Sale**"), the End User License Agreement ("**EULA**") and other "game  
rules") and that you agree to comply with them fully. If you do not agree with these, please do not continue to use our Services

29 Exhibit F, Terms of Use.

49. As set forth below, Ubisoft Inc. is responsible for “distribution” in the United States.

See Exhibit C.

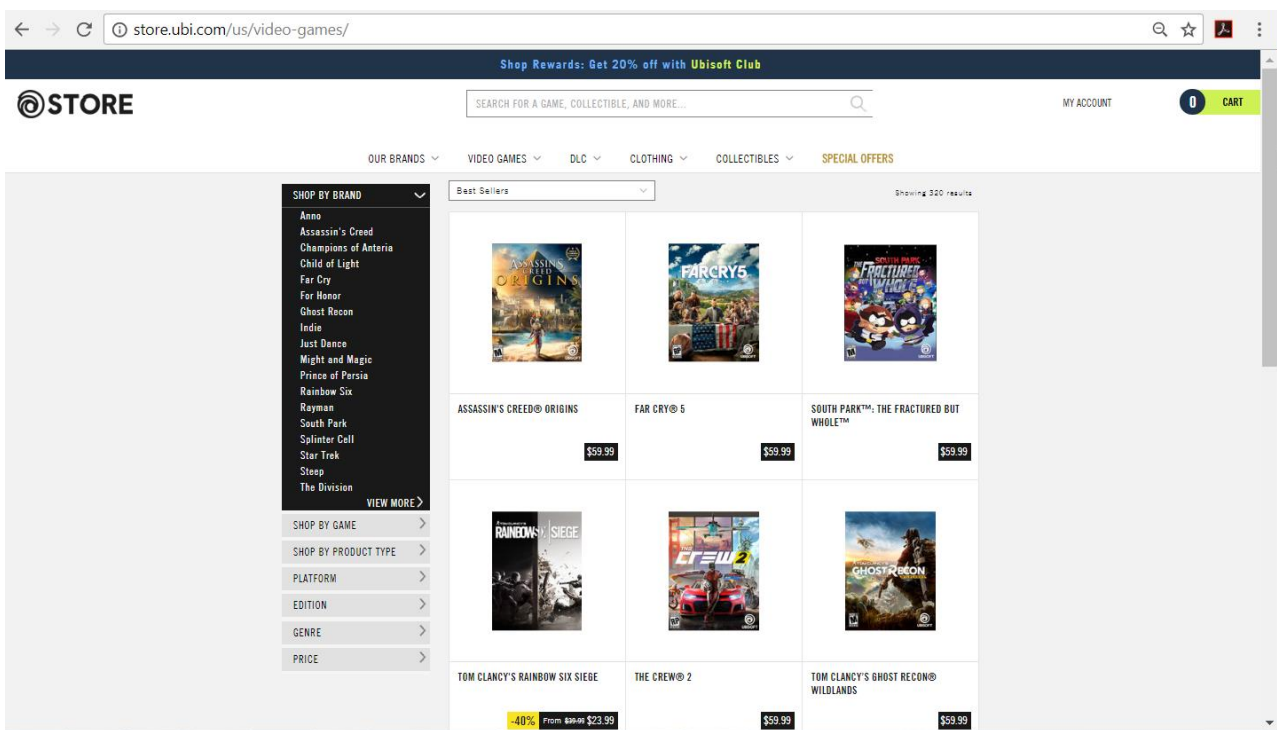
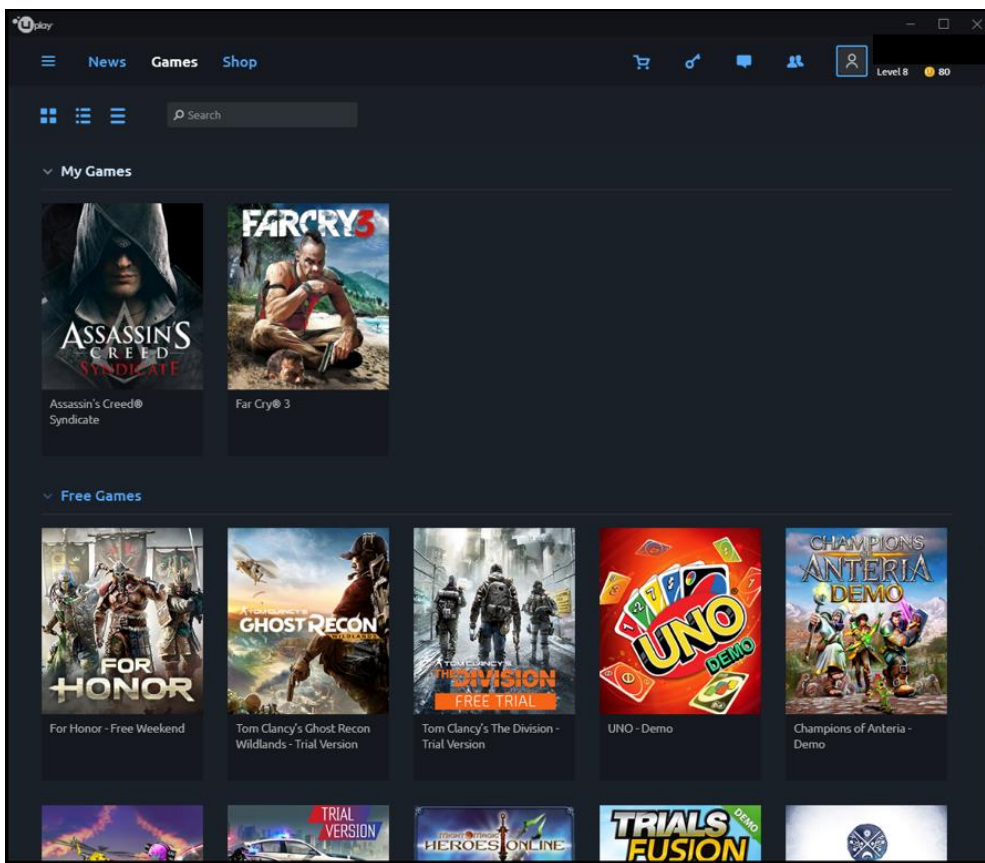
Ubisoft Entertainment SA			
Video game production		Distribution	
Ubisoft Production Internationale SAS France	Ubisoft Entertainment Sweden AB Sweden	Ubisoft France SAS France	Ubisoft Pty Ltd Australia
Ubisoft Paris SAS France	RedLynx Oy <sup>(1)</sup> Finland	Ubisoft EMEA SAS France	Ubisoft Games LLC Russia
Nadéo SAS France	Ubisoft EooD Bulgaria	Ubi Games SA Switzerland	Ubisoft Ltd Hong-Kong
Ubisoft Montpellier SAS France	Ubisoft Srl Romania	Ubisoft Ltd United Kingdom	Ubisoft KK Japan
Ubisoft Annecy SAS France	Ubisoft Ukraine LLC Ukraine	Ubisoft CRC Ltd <sup>(1)</sup> United Kingdom	Ubisoft Divertissements Inc./Ubisoft Entertainment Inc. <sup>(2)</sup> Canada
Ubisoft Création SAS France	Ubisoft Doo Beograd Serbia	Ubisoft Nordic A/S Denmark	Ubisoft Editions Musique Inc./Ubisoft Music Publishing Inc. Canada
Ivory Tower SAS France	Shanghai Ubi Computer Software Co. Ltd China	Ubisoft SA Spain	Ubisoft Inc. United States
Ivory Art & Design Sarl <sup>(1)</sup> France	Chengdu Ubi Computer Software Co. Ltd China	Ubisoft SpA Italy	Ubisoft Entertainment Ltda Brazil
Ubisoft Bordeaux SAS France	Ubisoft Osaka KK Japan	Ubisoft BV Netherlands	Ubisoft GmbH Germany
Ubisoft Singapore Pte Ltd Singapore	Ubisoft Entertainment India Private Ltd India	Ubisoft <sup>(4)</sup> Belgium	Ubisoft <sup>(4)</sup> Austria
Ubi Studios SL Spain	Blue Byte GmbH Germany	Ubisoft Entertainment <sup>(4)</sup> Korea	Ubisoft GmbH spółka z ograniczoną <sup>(4)</sup> Poland
Ubisoft Studios Srl Italy	Red Storm Entertainment Inc. <sup>(1)</sup> United States		
Ubisoft Reflections Ltd <sup>(1)</sup> United Kingdom	Red Storm Entertainment Ltd <sup>(1)</sup> United Kingdom		
Ubisoft Toronto Inc. <sup>(1)</sup> Canada	Ubisoft Divertissements Inc./ Ubisoft Entertainment Inc. <sup>(2)</sup> Canada		
	Ubisoft Entertainment Philippines <sup>(4)</sup> Philippines		

50. Defendants jointly control the use and operation of the Uplay application or at a minimum Defendant Ubisoft Entertainment, SA directs and controls the operations of its wholly owned subsidiary, Ubisoft Inc.

### UBISOFT AND THE '966 PATENT

51. These screenshots show the Uplay store that is publicly available via internet browsers and the Uplay computer application.

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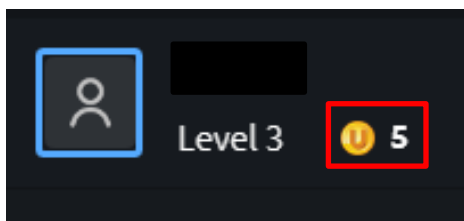
52. Defendants' Uplay service uses a data providing method for delivering data (e.g., a game) to a rewritable record medium (e.g., a user's computer with memory) via a communication

1 line (e.g., WAN, LAN, internet, etc.).

2 53. Defendants' Uplay records second data including identification data of the purchaser  
3 on the rewritable record medium. Such information may include a user's ID, password or other  
4 identifying or authenticating data relating to the user account.

5 54. The second data is retrieved from the rewritable record medium onto a Ubisoft server  
6 (i.e., a data intermediate portion).

7 55. A purchase from the Ubisoft store produces third data including purchase information  
8 on an available purchaser balance. For example, when Ubisoft Club Units are redeemed, the Units  
9 are deducted from the user's account.  
10



15 56. User information is stored on Uplay and used in connection with the purchase process.  
16 Such information includes available balance and information required to affect a purchase  
17 transaction. Purchase information, or third data, is stored on the Ubisoft servers.

18 57. When a purchase is made on Ubisoft, third data is produced and recorded to register  
19 for that purchaser her available balance (e.g., credits or authorized credit sale amount) including  
20 purchase information is recorded onto the rewritable record medium.  
21

22 58. Ubisoft creates logs reflecting purchase transactions, and third data including  
23 purchase information is recorded onto the rewritable record medium.

24 59. Third data including purchase information is registered on Ubisoft servers.

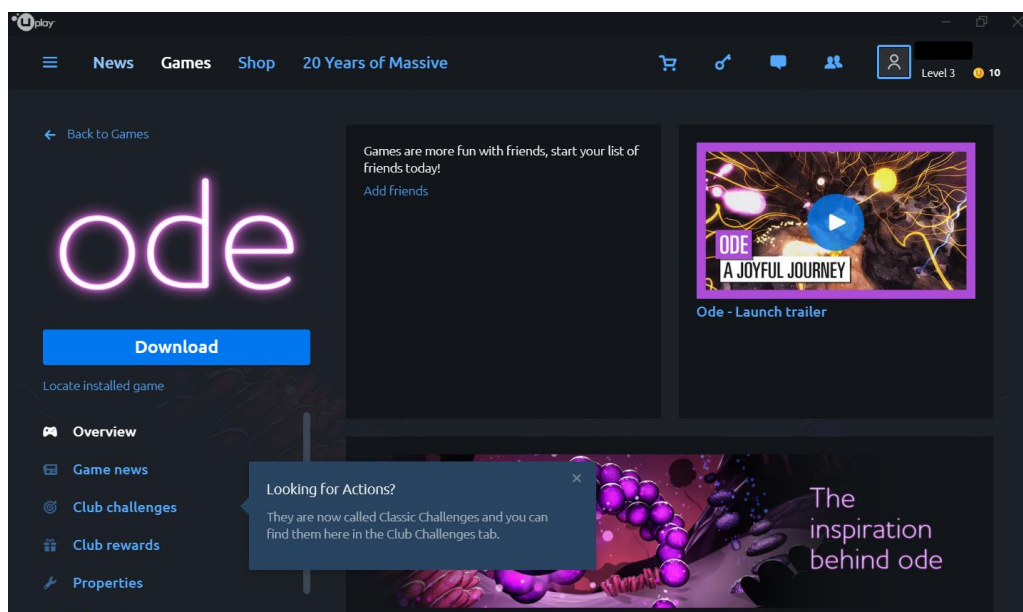
25 60. Purchase history and purchased games are stored on Ubisoft servers.

26 61. On the Ubisoft store, an indication displays to show whether a game is in the user's  
27 library (called "My Games" or "Uplay PC library" on Uplay) and whether a game has been installed.  
28

1           62.     Third data including purchase information associated with purchaser's account is  
2 retrieved from an Ubisoft server when the purchase of first data is requested (e.g., a game).

3           63.     A game can be downloaded when: (i) the username and password entered in the  
4 application match what is stored on the Ubisoft server, and (ii) the application checks that the game  
5 is not already installed.

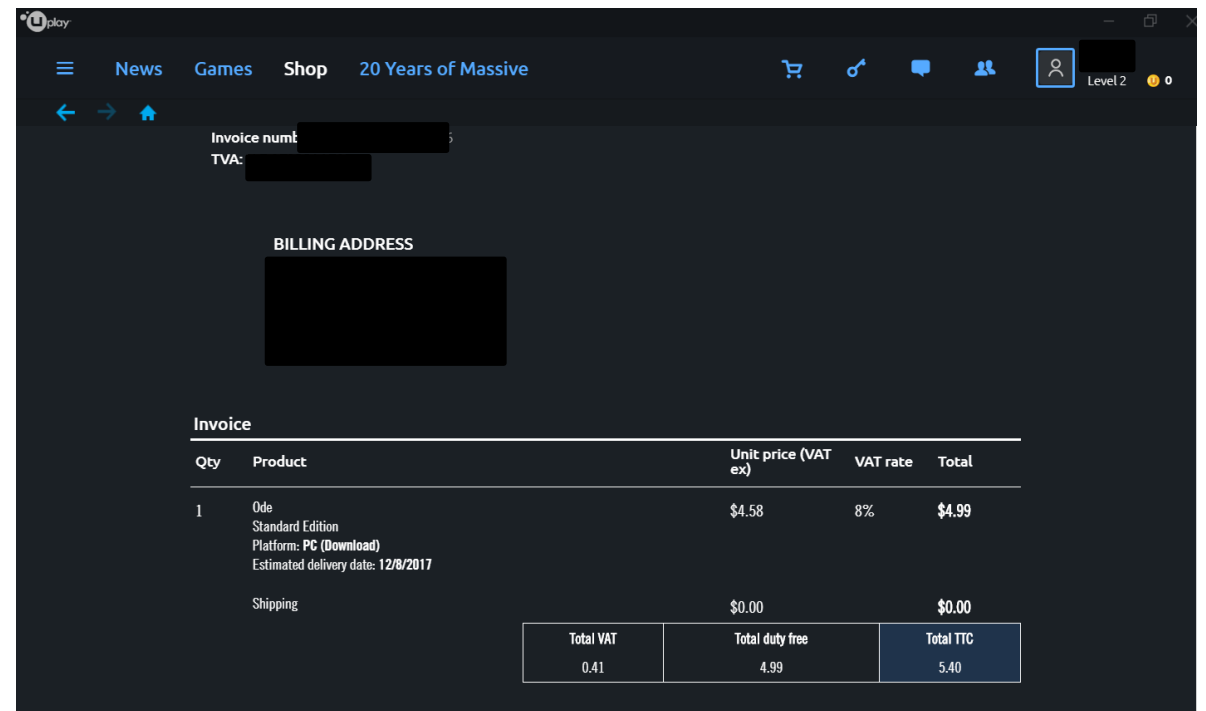
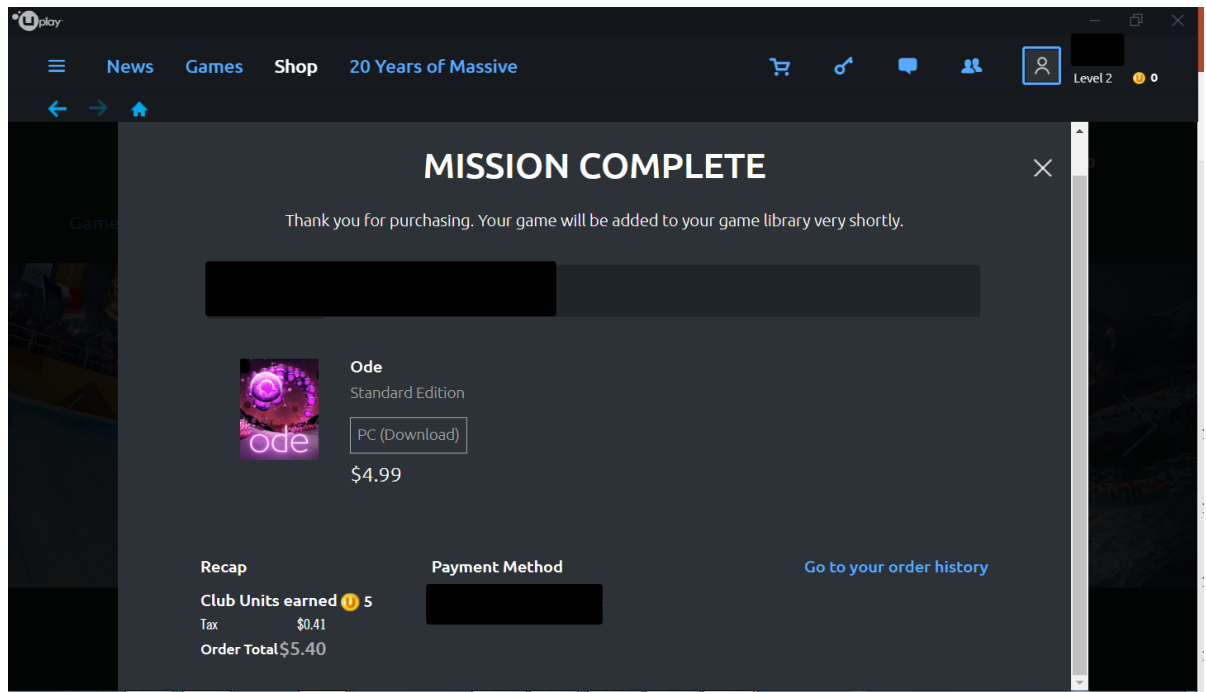
6           64.     Third data including purchase information associated with purchaser's account is  
7 retrieved from Ubisoft server when the purchase of first data is requested (e.g., a game).  
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19           65.     Third data including purchase information associated with purchaser's account is  
20 retrieved from an Ubisoft server when there is a request for the purchase of first data (e.g., a game).

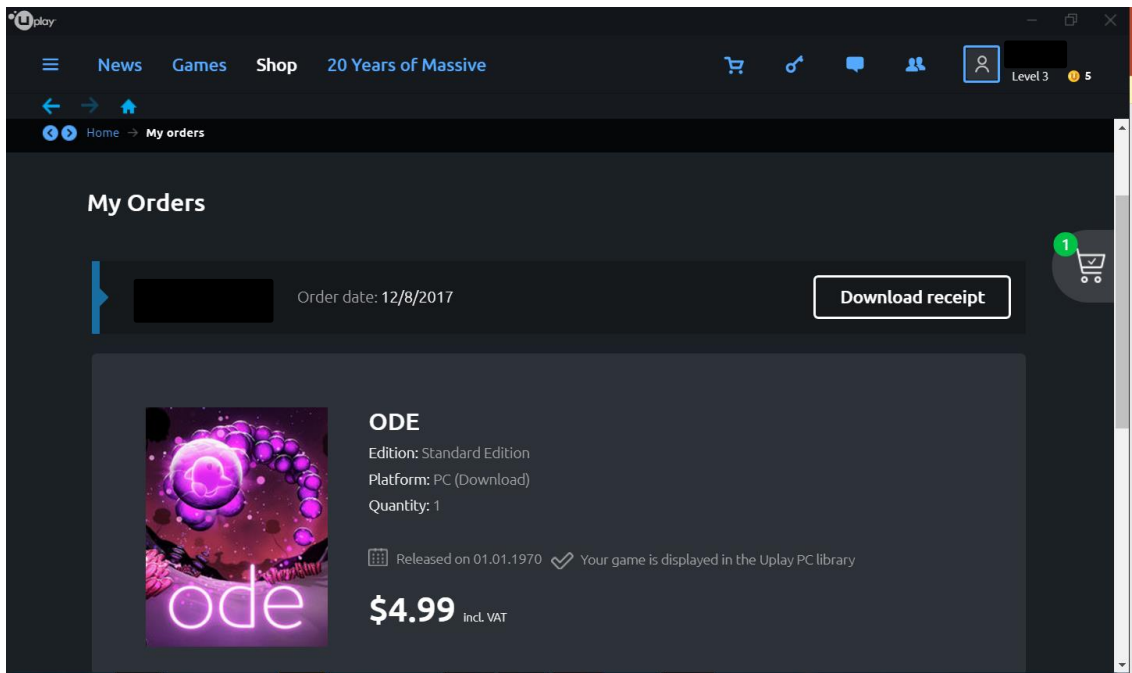
21           66.     An accounting operation is performed that provides the requested first data when  
22 relevant portions of third data are matched. The purchase produces additional third data.

23           67.     An accounting operation occurs during checkout when a purchaser's credit account is  
24 charged or Club Unit credits are used.  
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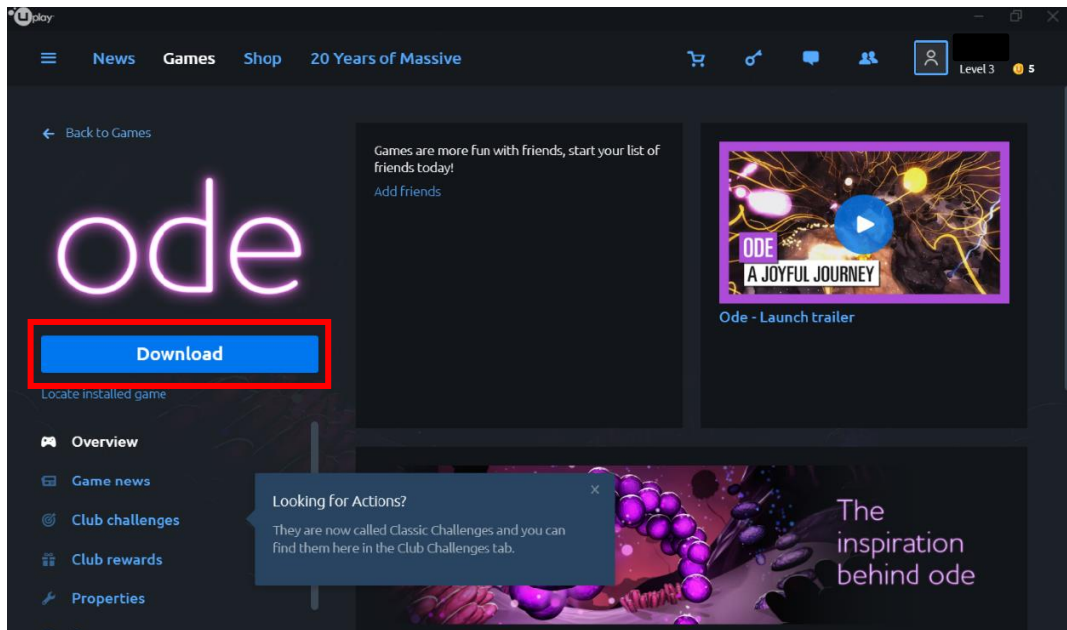
68. The Ubisoft product reflects a user’s purchase information and purchase transaction history.





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12 69. After the purchase transaction, data is recorded onto the rewritable record medium  
13 from a data delivery portion including the first data and additional third data.

14 70. Data can be downloaded only after it is purchased.

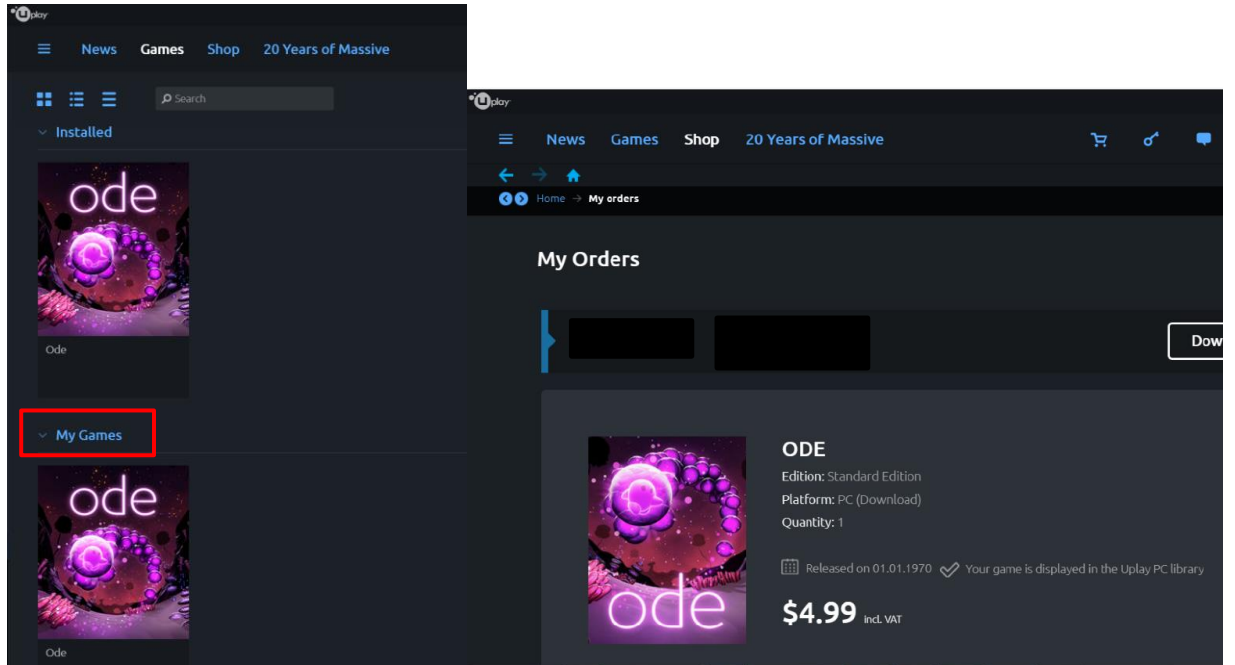


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26 71. After the purchase transaction, data is recorded onto the rewritable record medium  
27 from a data delivery portion including the first data and additional third data.

28 72. Purchase history and the list of purchased games (in the user's "library") are updated



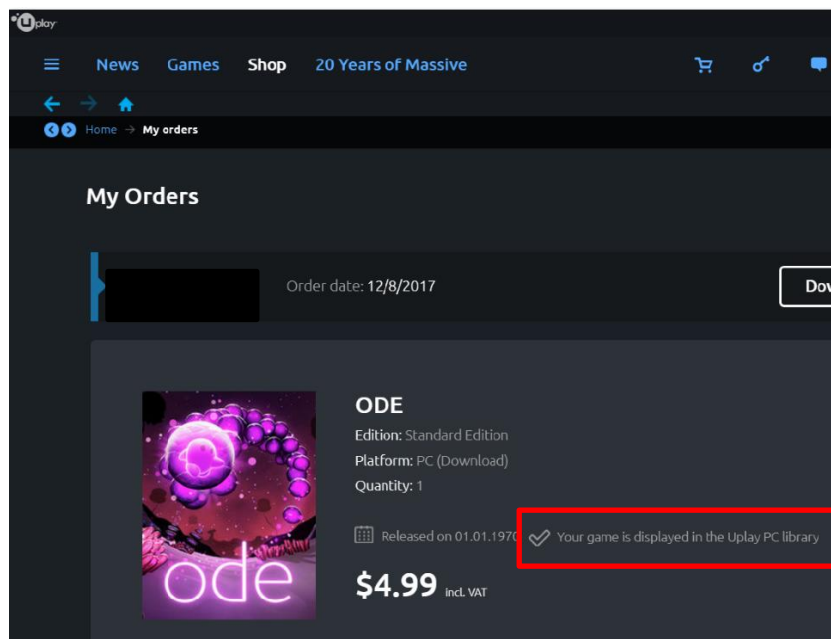
on the rewriteable record medium.



73. After a purchase transaction, additional third data is registered in the data providing system.

74. Purchase history is stored on Ubisoft servers and is accessible on the Uplay application.

75. Each purchase is registered on an Ubisoft store computer.

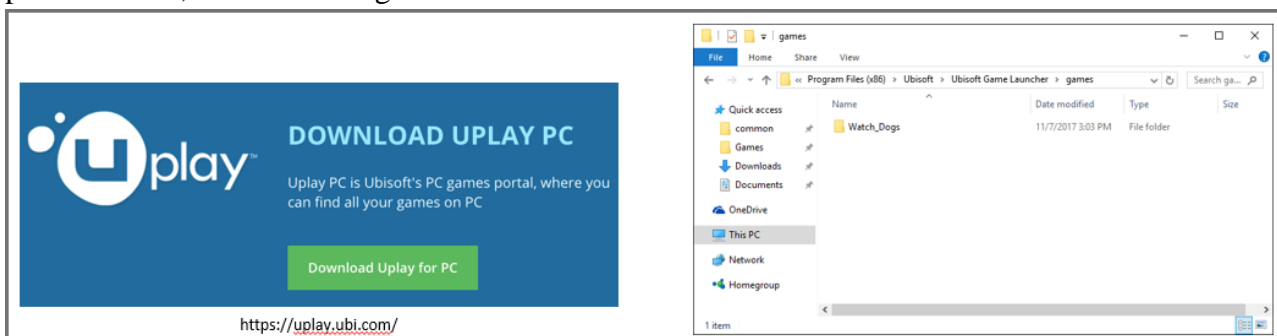


**UBISOFT AND THE '720 PATENT**

1  
2 76. Defendants offer Uplay for download and require a computer having memory with  
3 areas for storing primary data and additional data including purchaser, purchase, and accounting data  
4 for the Uplay application.

5 77. In normal operation when downloaded and installed, the Uplay application provides  
6 primary data area and an additional data area on purchaser rewritable record medium.

7 78. In normal operation Uplay controls, uses, manages, and maintains the primary and  
8 additional data areas for storing software and additional data including purchaser inherent data,  
9 purchase data, and accounting data.



15  
16 79. Games purchased on Ubisoft are stored locally (e.g., in \\Ubisoft\Ubisoft Game  
17 Launcher).

18 80. A list of game purchases corresponding to a user ID is stored on and available from  
19 the Ubisoft Uplay application.

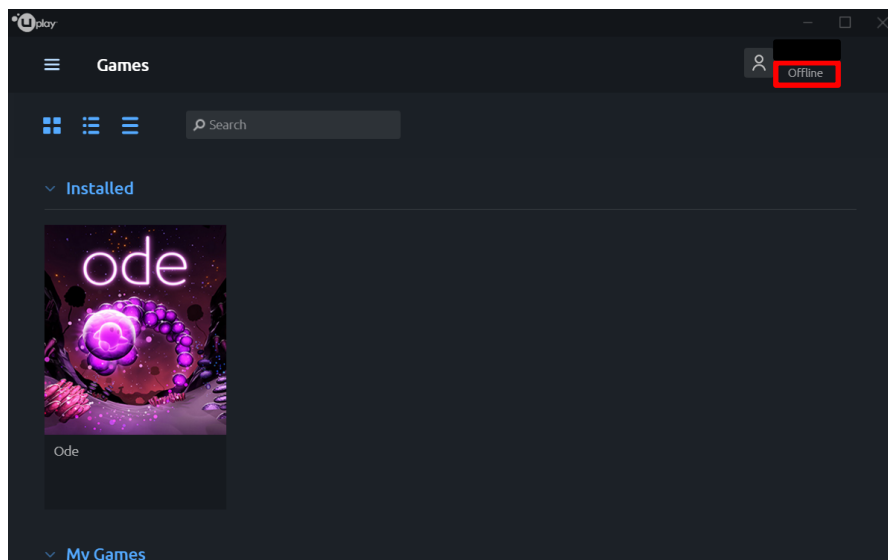
20 81. A list of purchased games on Ubisoft can be accessed in offline mode.

21 82. Historical data is recorded in an Ubisoft server and in the user PC/laptop memory.

22 83. Ubisoft creates logs and other files on the required computer or laptop that record  
23 historical data.

24 84. Primary data requested by a purchaser is delivered from an Ubisoft server to the Uplay  
25 application when the historical data stored in the user computer on the Uplay application is matched  
26 to historical data stored on the Ubisoft server.

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10 85. A game is available to be downloaded from Ubisoft when the username and password  
11 entered match what is stored on the Ubisoft server and the Uplay application checks that the game is  
12 not already installed.

13 86. Ubisoft performs accounting operations for tracking and recording user account  
14 information relating to purchases and download transactions.

15  
16 **COUNT I**  
**(INFRINGEMENT OF U.S. PATENT NO. 6,856,966)**

17 87. Landmark incorporates paragraphs 1 through 86 herein by reference.

18 88. Landmark is the owner, by assignment, of U.S. Patent No. 6,856,966 (the “’966  
19 Patent”) titled “PRODUCT DELIVERY METHODS.”

20 89. A true and correct copy of the ’966 Patent is attached as Exhibit A.

21 90. As the owner of the ’966 Patent, Landmark holds all substantial rights in and under  
22 the ’966 Patent, including the right to grant sublicenses, exclude others, and to enforce, sue, and  
23 recover damages for past and future infringement.

24 91. The United States Patent Office issued the ’966 Patent on February 15, 2005.

25 92. The ’966 Patent is valid, enforceable and was duly issued in full compliance with  
26 Title 35 of the United States Code.  
27  
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1 93. Defendants have practiced and continue to practice one or more claims of the '966  
2 Patent, including at least claims 1, 2, 4, 5, 6 and 7, by making, using, offering for sale, operating,  
3 licensing, selling and/or importing Uplay.

4 94. Defendants are jointly and severally liable for making, using, offering for sale,  
5 licensing, selling and/or importing Uplay.

6 95. Defendants have no consent or authorization to practice the '966 Patent.

7 96. Defendants sell, offer to sell, import, operate and/or use Uplay in the United States.

8 97. Landmark has been damaged as a result of Defendants' infringing conduct.

9 98. Defendants are liable to Landmark in an amount that adequately compensates  
10 Landmark for Defendants' infringement, which compensation can be no less than a reasonable  
11 royalty together with interest and costs as fixed by this Court under 35 U.S.C. § 284.  
12

13 **COUNT II**  
14 **(INFRINGEMENT OF U.S. PATENT NO. 6,018,720)**

15 99. Landmark incorporates paragraphs 1 through 98 herein by reference.

16 100. Landmark is the owner, by assignment, of U.S. Patent No. 6,018,720 (the "'720  
17 Patent"), titled "DATA DELIVERY METHOD AND SYSTEM THEREFOR."

18 101. A true and correct copy of the '720 Patent is attached as Exhibit B.

19 102. As the owner of the '720 Patent, Landmark holds all substantial rights in and under  
20 the '720 Patent, including the right to grant sublicenses, exclude others, and to enforce, sue, and  
21 recover damages for past and future infringement.  
22

23 103. The United States Patent Office issued the '720 Patent on January 25, 2000.

24 104. The '720 Patent is valid, enforceable and was duly issued in full compliance with Title  
25 35 of the United States Code.

26 105. Defendants are practicing and continue to practice one or more claims of the '720  
27 Patent, including at least claim 1, by making, using, licensing, operating, offering for sale, selling  
28

1 and/or importing Uplay.

2 106. Defendants are individually and jointly and severally liable for making, using,  
3 offering for sale, licensing, selling and/or importing Uplay.

4 107. Defendants have no consent or authorization to practice the '720 Patent.

5 108. Defendants sell, offer to sell, import, operate and/or use Uplay in the United States.

6 109. Landmark has been damaged as a result of Defendants' infringing conduct.

7 110. Defendants are thus liable to Landmark in an amount that adequately compensates it  
8 for Defendants' infringement, which compensation can be no less than a reasonable royalty together  
9 with interest and costs as fixed by this Court under 35 U.S.C. § 284.

11 **NOTICE**

12 111. Landmark has complied with the notice requirement of 35 U.S.C. § 287 and does not  
13 currently distribute, sell, offer for sale, or make products embodying the asserted Landmark Patents.

14 **PRAYER FOR RELIEF**

15 Landmark prays for the following relief:

- 16 a. That Defendants be summoned to appear and answer;
- 17 b. That the Court enter an order declaring that Defendants have directly infringed the
- 18 '966 Patent and the '720 Patent;
- 19 c. That the Court grant Landmark judgment against Defendants for all actual,
- 20 consequential, special, punitive, increased, and/or statutory damages, including, if
- 21 necessary, an accounting of all damages; pre and post-judgment interest as
- 22 allowed by law; and reasonable attorney's fees, costs, and expenses incurred in
- 23 this action; and
- 24 d. That Landmark be granted such other and further relief as the Court may deem
- 25 just and proper under the circumstances.
- 26
- 27
- 28

**DEMAND FOR JURY TRIAL**

1 Landmark Networks, LLC demands trial by jury for all issues so triable pursuant to Fed. R.  
2 Civ. P. 38(b) and Civil L.R. 3-6(a).  
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4  
5 Dated: March 6, 2018

By /s/ Marc Belloli

Marc Belloli

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