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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

UNILOC 2017 LLC

Plaintiff,

v.

AMERICAN BROADCASTING COMPANIES, INC.

Defendant.

CASE NO. 8:18-CV-02056-JVS-DFM

SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

DEMAND FOR JURY TRIAL

Plaintiff Uniloc 2017 LLC ("Uniloc"), by and through the undersigned counsel, hereby files this Second Amended Complaint and makes the following allegations of patent infringement relating to U.S. Patent No. 8,407,609 against American Broadcasting Companies, Inc. ("ABC") and alleges as follows upon actual knowledge with respect to itself and its own acts and upon information and belief as to all other matters:

NATURE OF THE ACTION

1. This is an action for patent infringement. Uniloc alleges that ABC infringes U.S. Patent No. 8,407,609 (the "'609 patent"), a copy of which is attached hereto as Exhibit A.

2. Uniloc alleges that ABC directly infringes the '609 patent by making, using, offering for sale, selling and/or importing products and services that perform a method for tracking digital media presentations delivered from a first computer system to a user's computer via a network, such as ABC.com. Uniloc seeks damages and other relief for ABC's infringement of the '609 patent.

THE PARTIES

3. Uniloc 2017 LLC is a Delaware corporation having places of business at 1209 Orange Street, Wilmington, Delaware 19801 and 620 Newport Center Drive, Newport Beach, California 92660.

4. Upon information and belief, Defendant American Broadcasting Companies, Inc. ("ABC") is a corporation organized and existing under the laws of the State of Delaware with a principal executive office at 77 West 66th Street, New York, New York 10023. ABC has at least the following place of business in this District: 500 S Buena Vista Street, Burbank, California 91521. ABC can be served with process by serving its registered agent for service of process in the State of California at CSC – Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833-3505.

JURISDICTION AND VENUE

5. This action for patent infringement arises under the Patent Laws of the United States, 35 U.S.C. § 1 et. seq. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1338.

6. This Court has both general and specific jurisdiction over ABC because ABC has committed acts within the Central District of California giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over ABC would not offend traditional notions of fair play and substantial justice. ABC, directly and through subsidiaries, intermediaries (including distributors, retailers, franchisees and others), has committed and continues to commit acts of patent infringement in this District, by, among other things, making, using, testing, selling, licensing, importing and/or offering for sale/license products and services that infringe the '609 patent.

7. Venue is proper in this district and division under 28 U.S.C. §§ 1391(b)-(d) and 1400(b) because ABC has committed acts of infringement in the Central District of California and has at least one regular and established place of business in the Central District of California.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,407,609

8. The allegations of paragraphs 1-7 of this Second Amended Complaint are incorporated by reference as though fully set forth herein.

9. The '609 patent, titled "System and Method For Providing And Tracking The Provision of Audio and Visual Presentations Via A Computer Network," issued on March 26, 2013. A copy of the '609 patent is attached as Exhibit A. The priority date for the '609 patent is August 21, 2008. The inventions of the '609 patent were developed by an inventor at LINQware, Inc.

10. Pursuant to 35 U.S.C. § 282, the '609 patent is presumed valid.

11. Claim 1 of the '609 patent addresses a technological problem

indigenous to webpages and the Internet—tracking digital media presentations that are streamed via the Internet and webpages.

12. Claim 1 of the '609 patent reads as follows:

> 1. A method for tracking digital media presentations delivered from a first computer system to a user's computer via a network comprising:
>
> providing a corresponding web page to the user's computer for each digital media presentation to be delivered using the first computer system;
>
> providing identifier data to the user's computer using the first computer system;
>
> providing an applet to the user's computer for each digital media presentation to be delivered using the first computer system, wherein the applet is operative by the user's computer as a timer;
>
> receiving at least a portion of the identifier data from the user's computer responsively to the timer applet each time a predetermined temporal period elapses using the first computer system; and
>
> storing data indicative of the received at least portion of the identifier data using the first computer system;
>
> wherein each provided webpage causes corresponding digital media presentation data to be streamed from a second computer system distinct from the first computer system directly to the user's computer independent of the first computer system;
>
> wherein the stored data is indicative of an amount of time the digital media presentation data is streamed from the second computer system to the user's computer; and
>
> wherein each stored data is together indicative of a cumulative time the corresponding web page was displayed by the user's computer.

13. At the time of invention of the '609 patent, given the vastness of content on the Internet, it proved "difficult for a user of an Internet enabled

computer to identify and locate content of a particular type and relating to a particular subject." '609 patent at 1:40-55. One way to find relevant content was to use a search engine for specified keywords to return a list of documents where those words are found. '609 patent at 1:56-59.

14. Some of the available search engines at the time of the invention included Yahoo!, Google and search.com. '609 patent at 2:2-5. These are search engines created in the mid to late 1990s that rose to prominence by the early 2000s just prior to the priority date for the '609 patent. The known search engines at the time suffered from drawbacks, however. The search engines at the time typically utilized a webcrawler to provide documents. '609 patent at 1:58-62. An indexer then typically reads the webcrawler provided documents and creates an index based on the words contained in each document. '609 patent at 1:69-62. Each search engine typically uses its own methodology to create indices such that, ideally, only meaningful results are returned for each query. '609 patent at 1:62-64. This is not always true though due to the complex nature and nuances of human language and efforts by document authors or providers to fool or trick the indexer into ranking its documents above those of others. '609 patent at 1:64-2:2.

15. These search engines did not, however, perform tracking of digital media presentations that are streamed from one computer to another and in particular tracking where within the digital media presentation a user may have left off in viewing a presentation. The search engine would only identify the same content as before.

16. In light of the foregoing, there existed a need for webpage and Internet technology for the provision and tracking of digital media presentations to responsively stream the presentation from the same point no matter where the user left off.

17. The claimed invention of claim 1 of the '609 patent provides a

technological solution to the problem faced by the inventor, namely to create a system for providing and tracking digital media presentations using a web page, identifier data and a timer applet originating at a first computer to track and responsively stream a digital media presentation from a second computer that can be viewed by a user at the user's computer.

18. The technological solution is detailed in the specification and claim 1 and provides a method whereby digital media presentations are delivered and tracked from in a manner that departs from convention. First, from the perspective of the provider of digital media presentations, a webpage is provided with digital media presentations that are to be delivered to a user's computer using a first computer system. Identifier data—such as data used for tracking the user's viewing history of the digital media presentations—is also provided to the user's computer. Further, an applet that is operative as a timer is provided to the user's computer for each digital media presentation. Then the provider of the digital media presentation receives a portion of the identifier data responsively to the timer applet each time a predetermined temporal period elapses. The portion of the identifier data is then stored. Each webpage with the digital media presentations causes a digital media presentation data to be streamed to a user's computer using a second computer system and independent of the first computer system. Finally, the stored data is indicative of the amount of time the digital media presentation has been streamed and the cumulative time the webpage for the individual digital media presentations have been displayed. '609 patent at 3:65-14:8, Figs. 1-10, claim 1.

> By way of further non-limiting example, at each expiration of temporal period as determined by the timer applet, such as every 15 seconds, a table entry may be made of the user, the page the user is on, and, to the extent the user is on the same page as was the user upon the last expiration of the timer, the user's total time, to the current time, spent on that same page using database server 32. The user may be identified by, for example, any of a number of known methodologies, such as the

> information the user used to login, the user's IP address, the user's response to an identifying query, or the like.
> In certain embodiments of the present invention, the timer applet may cause data indicative of the total time spent on the web page presenting the presentation that has elapsed. In certain embodiments of the present invention, the timer applet may cause data indicative of another temporal cycle having passed while the web page presents the presentation. In the latter, a value indicative of the number of cycles that have passed in database 32 may be incremented each time the data is received, for example.
> Thus, certain embodiments of the present invention provide the capability to know that a viewer began viewing a particular show at a certain time, and to know when a user began viewing a different page, or show, thereby providing knowledge of how long a particular viewer spent on a particular page. Such knowledge is not conventionally available, and the provision of such knowledge by certain embodiments of the present invention allows for an increasing scale of payments for advertising displayed on a given page correspondent to how long a viewer or viewers remain, or typically remain, on that particular page or like pages. Thus, the tabular tracking of the present invention allows for the knowledge of how long viewer spends on a page, what the viewer was viewing or listening to on the given page, the ads shown while the viewer was viewing or listening, how long the ads were shown, and what ads were shown to the view correspondent to that viewer's identification and/or login.

'609 patent at 13:24-14:8 (emphasis added).

19. Claim 1 of the '609 patent improves the functionality of webpage and Internet technology by creating a system for the provision and tracking of digital media presentations via webpages and responsively streaming the presentations via a second computer system from the same point no matter where the user left off. The claimed invention of claim 1 of '609 patent also was not well-understood, routine or conventional at the time of the invention. Rather, as demonstrated above, the claimed invention was a departure from the conventional ways of providing presentations on the Internet at the time.

20. In light of the foregoing, and the general knowledge of a person of ordinary skill in the art, a person of ordinary skill in the art reading the '609 patent

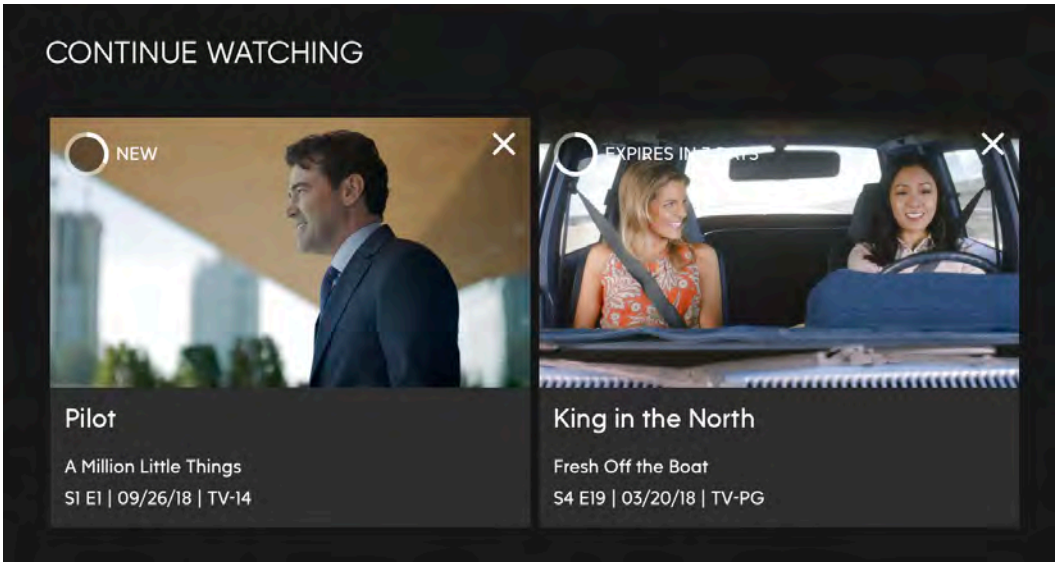
and its claims would understand that the patent's disclosure and claims are drawn to solving a specific, technical problem arising in webpage and Internet technology. Moreover, a person of ordinary skill in the art would understand that the claimed subject matter of the '609 patent presents advancements in the field of webpage and Internet technology by creating a system for the provision and tracking of digital media presentations via webpages using a first computer system and responsively streaming the presentations via a second computer system from the same point no matter where the user left off. A person of ordinary skill in the art would understand that claim 1 of the '609 patent is directed to a method for providing and tracking digital media presentations using a web page, identifier data and a timer applet originating at a first computer system to track and responsively stream a digital media presentation from a second computer system that can be viewed by a user at the user's computer. Moreover, a person of ordinary skill in the art would understand that claim 1 of the '609 patent contains that corresponding inventive concept.

21. Netflix—also a defendant infringing the '609 patent—owns patents that claim subject matter in the same field. For example, on September 26, 2014, more than 6 years after the priority date for the '609 patent, Netflix filed an application entitled "Systems and Methods for Suspended Playback," which matured into U.S. Patent No. 9,917,791 on March 13, 2018 (the "'791 patent"). The '791 patent "suspended playback for efficient resumption [of] media content in digital streaming media playback systems." '791 patent at 1:8-10.

22. Upon information and belief, ABC makes, uses, offers for sale, and/or sells in the United States and/or imports into the United States products and services that perform a method for tracking digital media presentations delivered from a first computer system to a user's computer via a network, such as ABC.com (collectively the "Accused Infringing Devices").

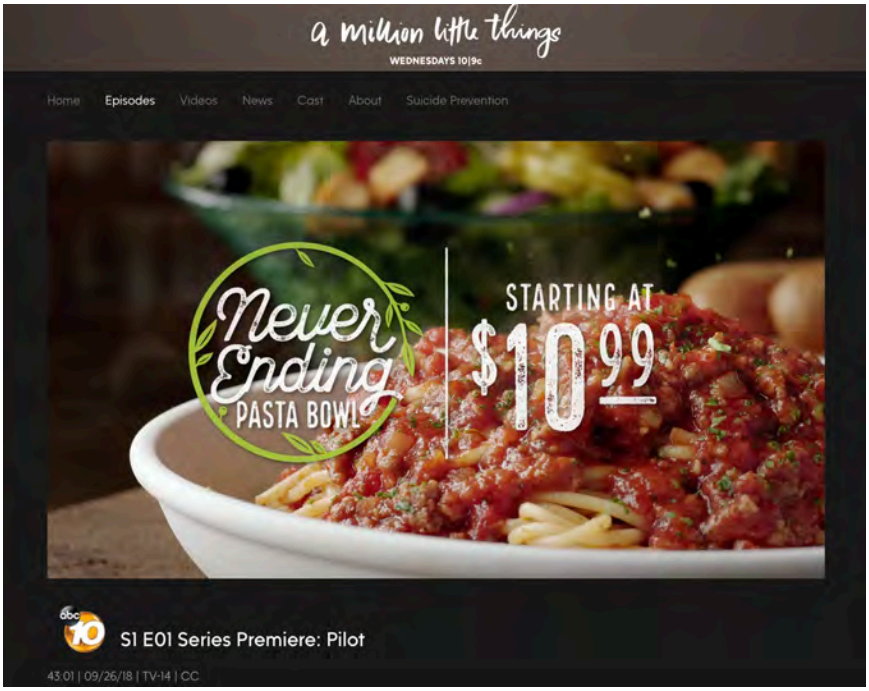
23. Upon information and belief, the Accused Infringing Devices infringe at least claim 1 in the exemplary manner described below.

24. The Accused Infringing Devices track digital media presentations delivered from a first computer system to a user's computer via a network. In particular, among other things, the Accused Infringing Devices identify the TV shows that the user is currently watching and tracks the user's viewing progress.



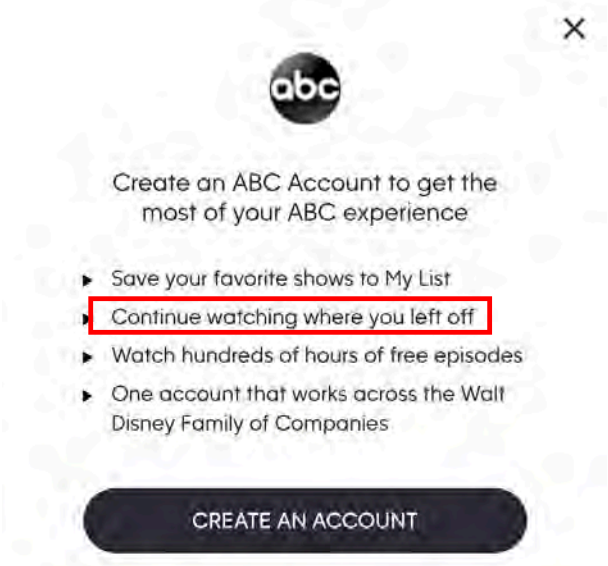
Source: https://abc.go.com/shows/a-million-little-things/episode-guide/season-01/01-series-premiere-pilot

25. The Accused Infringing Devices provide a corresponding web page to the user's computer for each digital media presentation to be delivered using the first computer system. In particular, the webpage located at https://abc.go.com/shows/a-million-little-things/episode-guide/season-01/01-series-premiere-pilot is used to deliver the pilot episode of "A Million Little Things" to the user's computer.



Source: https://abc.go.com/shows/a-million-little-things/episode-guide/season-01/01-series-premiere-pilot

26. The Accused Infringing Devices provide identifier data to the user's computer using the first computer system. The Accused Infringing Devices allow users to create an account, which in turn, allows the Accused Infringing Devices to track the user's viewing history across devices.

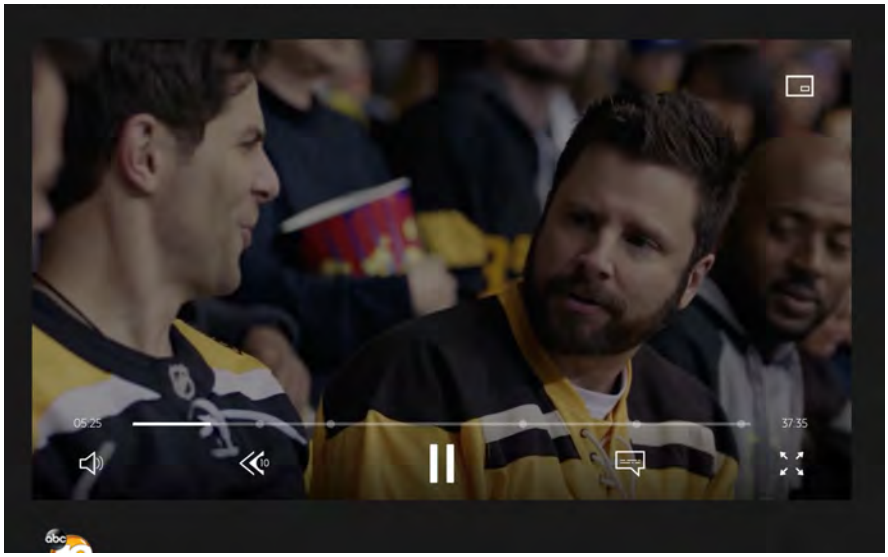


Source: https://abc.go.com/

27. The Accused Infringing Devices provide an applet to the user's computer for each digital media presentation to be delivered using the first computer system. In particular, the Accused Infringing Devices provide a script that keeps track of how much of the presentation the user has watched, thus reflecting the operation of a timer running in the background.

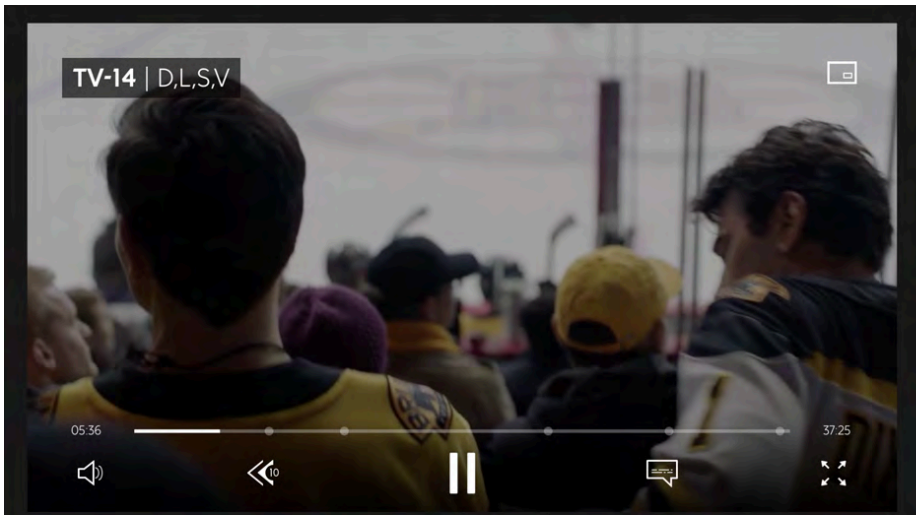
Source: https://abc.go.com/shows/a-million-little-things/episode-guide/season-01/01-series-premiere-pilot

28. The Accused Infringing Devices receive at least a portion of the identifier data from the user's computer responsively to the timer applet each time a predetermined temporal period elapses using the first computer system. The Accused Infringing Devices maintain a viewing history for each user. The viewing history is updated continuously, even the absence of user input such as pressing a pause button or exit button. For example, if the user closes and reopens the webpage to view a particular TV episode, the episode will resume almost exactly at the point where the user closed the webpage. This indicates that the user's computer sends periodic updates at regular intervals to inform the Accused Infringing Devices of the user's current position, thus reflecting the user of a timer. Screenshot a few seconds before closing the browser tab showing the current position as 05:25:



Source: https://abc.go.com/shows/a-million-little-things/episode-guide/season-01/01-series-premiere-pilot

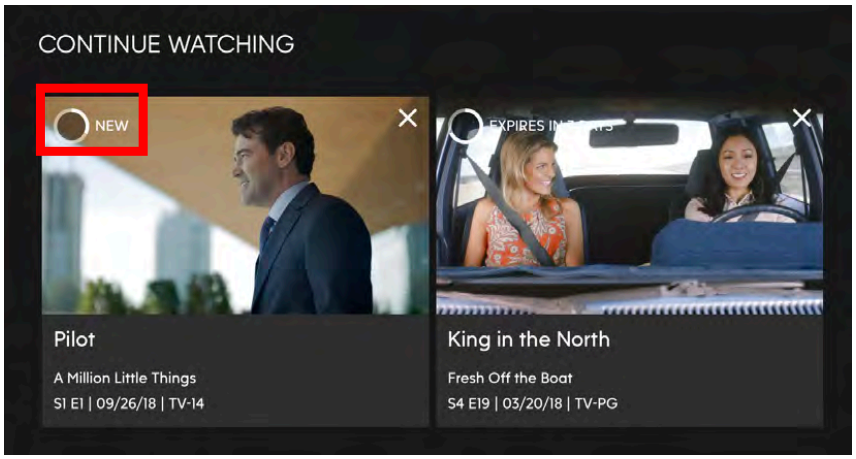
29. Screenshot a few seconds after the webpage was reloaded showing the current position as 05:36:



Source: https://abc.go.com/shows/a-million-little-things/episode-guide/season-01/01-series-premiere-pilot

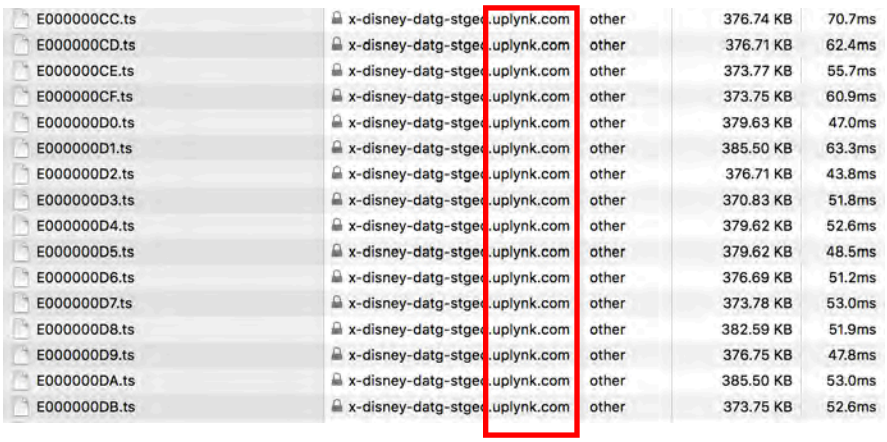
30. The Accused Infringing Devices store data indicative of the received at least portion of the identifier data using the first computer system. The user's viewing history, updated every time a heartbeat is sent, is stored by the Accused Infringing Devices. In particular, the Continue Watching page includes a progress

ring that is updated as the user watches more of a particular episode:



Source: https://abc.go.com/shows/a-million-little-things/episode-guide/season-01/01-series-premiere-pilot

31. Each provided webpage causes corresponding digital media presentation data to be streamed from a second computer system (e.g., the content delivery network, *e.g.*, uplynk.com), distinct from the user's computer independent of the first computer system (*e.g.*, the ABC website).



Source: Screenshot of Safari Developer Tools showing the network requests and responses for webpage above.

32. The stored data is indicative of an amount of time the digital media presentation is streamed from the second computer system to the user's computer. The stored data indicates the duration and position of the user's current position, which indicates the amount of time the presentation has been streamed to the user's

computer by the CDN.

33. Each stored data is together indicative of a cumulative time the corresponding web page was displayed by the user's computer. After the user visits ABC.com and selects a TV show, the player is loaded on the same page. The amount of time the user spends watching the TV show is tracked by ABC and also reflects the amount of time the webpage was displayed by the user's computer.

34. ABC has infringed, and continues to infringe, at least claim 1 of the '609 patent in the United States, by making, using, offering for sale, selling and/or importing the Accused Infringing Devices in violation of 35 U.S.C. § 271(a).

35. Upon information and belief, ABC may have infringed and continues to infringe the '609 patent through other software and devices utilizing the same or reasonably similar functionality, including other versions of the Accused Infringing Devices.

36. ABC's acts of direct infringement have caused and continue to cause damage to Uniloc and Uniloc is entitled to recover damages sustained as a result of ABC's wrongful acts in an amount subject to proof at trial.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Uniloc 2017 respectfully prays that the Court enter judgment in its favor and against ABC as follows:

a. A judgment that ABC has infringed one or more claims of the '609 Patent literally and/or under the doctrine of equivalents;

b. That for each asserted claim this Court judges infringed by ABC this Court award Uniloc its damages pursuant to 35 U.S.C. § 284 and any royalties determined to be appropriate;

c. That this be determined to be an exceptional case under 35 U.S.C. § 285;

d. That this Court award Uniloc prejudgment and post-judgment

interest on its damages;

e. That Uniloc be granted its reasonable attorneys' fees in this action;

f. That this Court award Uniloc its costs; and

g. That this Court award Uniloc such other and further relief as the Court deems proper.

DEMAND FOR JURY TRIAL

Uniloc hereby demands trial by jury on all issues so triable pursuant to Fed. R. Civ. P. 38.

Dated: March 12, 2019

FEINBERG DAY ALBERTI LIM & BELLOLI LLP

By: */s/ M. Elizabeth Day*
M. Elizabeth Day

Attorneys for Plaintiff
Uniloc 2017 LLC