## Case 3:19-cv-01913 Document 1 Filed 04/09/19 Page 1 of 14

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3	LARKSPUR, CA 94939-1743 TELEPHONE:(415) 272-8210				
4	Attorneys for Plaintiff				
5	ROTHSCHILD BROADCAST DISTRIBUTION SYSTEMS, LLC, a Texas limited liability				
6	corporation				
7 8	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA				
		SCO DIVISION			
9		PATENT			
<ul><li>10</li><li>11</li></ul>	ROTHSCHILD BROADCAST DISTRIBUTION SYSTEMS, LLC,	Case No			
12	Plaintiff,	ORIGINAL COMPLAINT FOR			
13	V.	PATENT INFRINGEMENT AGAINST NEST LABS, INC.			
14	NEST LABS, INC.,	DEMAND FOR JURY TRIAL			
15	Defendant.				
16	Plaintiff Rothschild Broadcast Distribution Systems, LLC ("Plaintiff" or "Rothschild				
17	Broadcast Distribution Systems") files this complaint against Defendant Nest Labs, Inc				
18	("Defendant" or "Nest labs") for infringement of U.S. Patent No. 8,856,221 (hereinafter the				
19	"`221 Patent") and alleges as follows:				
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22	<u>PARTIES</u>				
23	1. Plaintiff is a Texas limited liability com	npany with an office at 1400 Preston Road, Suite			
24	400, Plano, Texas 75093.				
25	2. On information and belief Defendant	Nest Labs, Inc. ("Nest Labs") is a corporation			
26	organized and existing under the laws of the state of Delaware, with its principal place of				
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28					
	ORIGINAL COMPLAINT FOR PATENT INFRINGEM	1 - ENT			

AGAINST NEST LABS, INC. AND JURY DEMAND

1	business at 3400 Hillview Avenue, Palo Alto, California 94304. Upon information and belief		
2	Defendant mat be served with process at the same address.		
3	JURISDICTION AND VENUE		
4	3. This action arises under the patent laws of the United States, 35 U.S.C. § 271 et seq.		
5	Plaintiff is seeking damages, as well as attorney fees and costs.		
6 7	4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and		
8	1338(a) (Patents).		
9	5. On information and belief, this Court has personal jurisdiction over Defendant because		
10	Defendant has committed, and continues to commit, acts of infringement in this District, has		
11	conducted business in this District, and/or has engaged in continuous and systematic activities in		
12 13	this District.		
14	6. Upon information and belief, Defendant's instrumentalities that are alleged herein to		
15	infringe were and continue to be used, imported, offered for sale, and/or sold in the District.		
16	7. Venue is proper in this District under 28 U.S.C. §1400(b) because acts of infringement		
17	are occurring in this District and Defendant has a regular and established place of business in this		
18	District.		
19	BACKGROUND		
20	8. On October 7, 2014, the United States Patent and Trademark Office ("USPTO") duly and		
21 22	legally issued the `221 Patent, entitled "System and Method for Storing Broadcast Content in an		
23	Cloud-Based Computing Environment" after the USPTO completed a full and fair examination		
24	The '221 Patent is attached as Exhibit A.		
25	9. Rothschild Broadcast Distribution Systems is currently the owner of the `221 Patent.		
26	having received all right, title and interest in, and to, the `221 Patent from the previous assigned		
27	of record.		
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Or rewind to see what happened.

Check in, even when you're out.

Source: https://play.google.com/store/apps/details?id=com.nest.android&hl=en\_IN

Nest Aware is a cloud storage service for your Nest camera or doorbell. With Nest Aware, you'll get a number of extra features including:

. Up to 5-, 10-, or 30-day video history (depending on the selected plan)

Source: https://www.nest-community.com/s/question/0D51W00006EX52oSAD/how-much-is-a-nest-aware-subscription

Nest Aware is Nest's subscription service. It adds both a layer of intelligence and cloud storage to your Nest cameras. There isn't a separate app to access the service;

Source: https://homealarmreport.com/nest-cam-recording-options-nest-aware-and-camio/

A Nest camera doesn't use memory cards to store your video on the camera. Instead, it uploads your video continuously to the cloud. This lets you view live footage on your phone or computer, and if you've subscribed to Nest Aware, your camera will automatically store your continuous video history in the cloud.

Source: https://nest.com/support/article/How-does-Nest-Cam-store-my-recorded-video

19. The defendant's Product necessarily includes at least one server for hosting and storing media content for customers. For example, the Product necessarily includes at least one server (e.g. cloud server) to store recorded security videos.

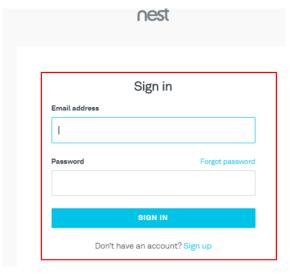
20. The at least one server necessarily includes a first receiver configured to receive a request message including data indicating requested media content (e.g., the server must have infrastructure to receive a request to store recorded security videos or to stream recorded video on a smartphone; additionally, the request message must contain data that identifies the video to be stored or streamed) and a consumer device identifier corresponding to a consumer device (e.g., the user credentials are used to tie a smartphone and user account to particular cameras and the videos they produce). In the accused product, the cloud services (including camera view from cloud) can be accessed from web/mobile application (e.g. Nest app) by signing in with correct credentials. Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.

Your account is the key to unlocking all the features of your Nest products. You'll use your account to sign in to the free Nest app, which gives you full control of your Nest home and Nest products.

You need a working email address and a password to sign in

For an added layer of security, we also recommend enabling 2-step verification on your account. Whenever you sign in, you'll need to enter your password as well as a temporary, unique code that's sent to your phone.

Source: https://nest.com/support/article/Nest-Account-Frequently-Asked-Questions#sign-in-requirements



Source: https://home.nest.com/login/







Source: https://nest.com/support/article/How-do-I-watch-my-Video-History-on-my-phone-ortablet#skipdiffday

21. The Product necessarily includes a processor to determine whether the consumer device identifier corresponds to the registered consumer device (e.g., the server must authenticate a user's credentials to ensure that the credentials match those registered with a security camera which the user would like to access). In the accused product, a user must be a registered user to access Nest cloud services. Certain aspects of these elements are illustrated in the screen shot below and/or in screen shots provided in connection with other allegations herein.

Your account is the key to unlocking all the features of your Nest products. You'll use your account to sign in to the free Nest app, which gives you full control of your Nest home and Nest products.

You need a working email address and a password to sign in

For an added layer of security, we also recommend enabling 2-step verification on your account. Whenever you sign in, you'll need to enter your password as well as a temporary, unique code that's sent to your phone.

Source: https://nest.com/support/article/Nest-Account-Frequently-Asked-Questions#sign-in-requirements

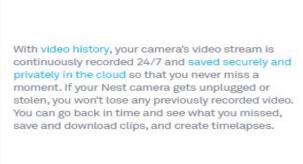
22. The Product provides for both media downloads and/or storage, and media streaming. As per the information available, after successful login, a processor within the Product necessarily

determines whether the request received from a customer is a request for storage (e.g., recording or storing content) or content (e.g., streaming of media content, live view). Certain aspects of these elements are illustrated in the screen shot below and/or in screen shots provided in connection with other allegations herein.





 $Source: \underline{https://nest.com/support/article/How-do-I-watch-my-Video-History-on-my-phone-ortablet \#skipdiffday}$ 





Source: https://nest.com/support/article/What-do-I-get-with-Nest-Aware-for-Nest-Cam#clips-Create

watching video saved to your video history.

When you're reviewing your video or event history, the microphone button will change to a Go live \( \times \) button.

Tapping it will let you quickly switch to your camera's live video stream.

Note: You'll only see this button appear if you have a Nest Aware subscription and you're

Source: https://nest.com/support/article/How-do-I-watch-my-Video-History-on-my-phone-or-tablet#go-live

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23. The server verifies that media content identified in the media (e.g., specific recording from a specific camera) data of the storage request message (e.g., request to record content) is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage (e.g. the server must verify that a particular security camera is adequately connected to the internet as to allow for video recording and storage on the cloud; additionally, a user's ability to store video is limited to a certain amount of memory usage based upon their subscription, thus media content may not be available for storage if a user is already above their memory limit or if he hasn't subscribed to any service). A user can also schedule the recording as per his requirement, only the events happened in between the scheduled time will be eligible to be recorded on the clouds storage. Certain aspects of these elements are illustrated in the screen shot below and/or in screen shots provided in connection with other allegations herein.

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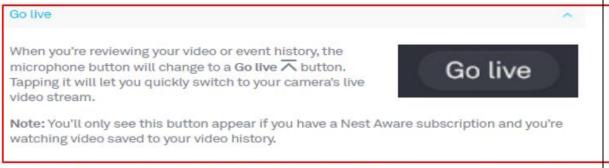
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server will initiate delivery of the requested media content to the consumer device (e.g., stream live camera feed to a smartphone or tablet or desktop computer) if the request message is a content request message (e.g., request for live streaming). Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.



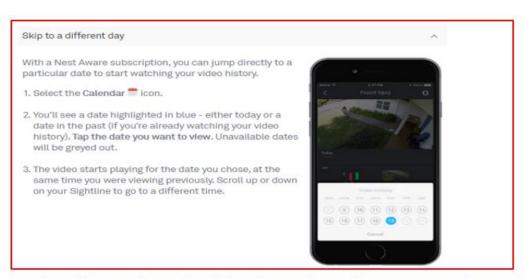
Source: https://nest.com/support/article/How-do-I-watch-my-Video-History-on-my-phone-or-tablet#go-live

25. The media data includes time data that indicates a length of time to store the requested media content (e.g., a user is allowed to store videos for maximum of 30 days as based upon their subscription level). Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.

## Watching recorded video

Without a Nest Aware subscription, you'll only get to view video history up to 3 hours in the past. When you purchase a Nest Aware with Video History subscription, your Nest camera will continuously record video up to 30 days in the past depending on your subscription. Watching your recorded video is as easy as watching live video, and you can view any part of your recorded video at any time, from anywhere.

Source: https://nest.com/support/article/Is-watching-my-Nest-Cam-video-free



Source: https://nest.com/support/article/How-do-I-watch-my-Video-History-on-my-phone-or-tablet#go-live

26. The server must first determine whether the requested media content exists prior to initiating delivery in order to prevent data errors that would result from attempting to transmit media content that does not exist (e.g. the server must verify that a particular security camera is adequately connected to the internet as to allow for video recording and streaming). Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.

## Troubleshooting when your Nest camera or doorbell is offline

After you've set up your camera and connected it to the app, it may become disconnected from Wi-Fi. You may see blank spots in your video history, or you may not be able to view your live video stream. Your camera will say off or offline on the Nest app home screen. Some common offline issues include bandwidth usage, router settings, and wireless interference.

 ${\bf Source: https://nest.com/support/article/Troubleshooting-when-Nest-Cam-disconnects-or-is-offline-in-the-Nest-app\#offline-and-no-reconnect}$ 

Watching live video

After your Nest camera has been set up, you can view live video through the Nest app or on the Web. Your camera will stream live video whenever your camera is on, and you can view live video for free anytime, anywhere.

**Important:** While watching Nest camera's live video is free and does not require a Nest Aware subscription, watching live or recorded video over a 3G or 4G cellular connection will use data from your data plan. Please be aware that there could be additional charges from

Source: https://nest.com/support/article/Is-watching-my-Nest-Cam-video-free

27. After the processor determines whether the requested media content is available, it

1	determines whether there are restrictions associated with the requested media content (e.g.,			
2	subscription level etc.).			
3	28. Defendant's actions complained of herein will continue unless Defendant is enjoined by			
4	this Court.			
5 6	29. Defendant's actions complained of herein is causing irreparable harm and monetary			
7	damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and			
8	restrained by this Court.			
9	30. Upon information and belief, Defendant has induced, and continues to induce infringement			
10	of the '221 Patent through its customers' actions, at least as of the service of the present			
11	complaint.			
<ul><li>12</li><li>13</li></ul>	31. The `221 Patent is valid, enforceable, and was duly issued in full compliance with Title 35			
14	of the United States Code.			
15	32. A copy of the '221 Patent, titled "System and Method for Storing Broadcast Content in a			
16	Cloud-based Computing Environment," is attached hereto as Exhibit A.			
17	33. By engaging in the conduct described herein, Defendant has injured Rothschild Broadcast			
18	Distribution Systems and is thus liable for infringement of the `221 Patent, pursuant to 35 U.S.C.			
19	§ 271.			
<ul><li>20</li><li>21</li></ul>	34. Defendant has committed these acts of literal infringement, or infringement under the			
22	doctrine of equivalents of the `221 Patent, without license or authorization.			
23	35. As a result of Defendant's infringement of the `221 Patent, injured Rothschild Broadcast			
24	Distribution Systems has suffered monetary damages and is entitled to a monetary judgment in			
25	an amount adequate to compensate for Defendant's past infringement, together with interests and			
26	costs.			
27	36. Plaintiff is in compliance with 35 U.S.C. § 287.			
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1	37. As such, injured Rothschild Broadcast Distribution Systems is entitled to compensation for
2	any continuing and/or future infringement of the `221 Patent up until the date that Defendant
3	ceases its infringing activities.
4	DEMAND FOR JURY TRIAL
5	38. Rothschild Broadcast Distribution Systems, under Rule 38 of the Federal Rules of Civil
6 7	Procedure, requests a trial by jury of any issues so triable by right
8	PRAYER FOR RELIEF
9	WHEREFORE, Plaintiff asks the Court to:
10	(a) Enter judgment for Plaintiff on this Complaint on all cases of action asserted herein;
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12	(b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys,
13	and all persons in active concert or participation with Defendant who receives notice of the
14	order from further infringement of United States Patent No. 8,856,221 (or, in the alternative,
15	awarding Plaintiff running royalty from the time judgment going forward);
16	(c) Award Plaintiff damages resulting from Defendants infringement in accordance with 35
17	U.S.C. § 284;
18	(d) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law
19	or equity
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1	April 9, 2019	Ву	/s/Steven A. Nielsen Steven A. Nielsen
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4	(Application for Admission <i>Pro Hac Vice</i> to		E-MAIL: Steve@NielsenPatents.com
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