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7 ROTHSCHILD BROADCAST DISTRIBUTION SYSTEMS, LLC, a Texas limited liability  
8 corporation

9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN FRANCISCO DIVISION**

12 **ROTHSCHILD BROADCAST**  
13 **DISTRIBUTION SYSTEMS, LLC,**

14 Plaintiff,

15 v.

16 **NEST LABS, INC.,**

17 Defendant.

PATENT

Case No. \_\_\_\_\_

**ORIGINAL COMPLAINT FOR**  
**PATENT INFRINGEMENT**  
**AGAINST NEST LABS, INC.**

**DEMAND FOR JURY TRIAL**

18 Plaintiff Rothschild Broadcast Distribution Systems, LLC (“Plaintiff” or “Rothschild  
19 Broadcast Distribution Systems”) files this complaint against Defendant Nest Labs, Inc  
20 (“Defendant” or “Nest labs”) for infringement of U.S. Patent No. 8,856,221 (hereinafter the  
21 “‘221 Patent”) and alleges as follows:

22 **PARTIES**

23 1. Plaintiff is a Texas limited liability company 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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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 4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and  
7 1338(a) (Patents).

8 5. On information and belief, this Court has personal jurisdiction over Defendant because  
9 Defendant has committed, and continues to commit, acts of infringement in this District, has  
10 conducted business in this District, and/or has engaged in continuous and systematic activities in  
11 this District.

12 6. Upon information and belief, Defendant’s instrumentalities that are alleged herein to  
13 infringe were and continue to be used, imported, offered for sale, and/or sold in the District.

14 7. Venue is proper in this District under 28 U.S.C. §1400(b) because acts of infringement  
15 are occurring in this District and Defendant has a regular and established place of business in this  
16 District.

17 **BACKGROUND**

18 8. On October 7, 2014, the United States Patent and Trademark Office (“USPTO”) duly and  
19 legally issued the `221 Patent, entitled “System and Method for Storing Broadcast Content in an  
20 Cloud-Based Computing Environment” after the USPTO completed a full and fair examination.  
21 The `221 Patent is attached as Exhibit A.

22 9. Rothschild Broadcast Distribution Systems is currently the owner of the `221 Patent,  
23 having received all right, title and interest in, and to, the `221 Patent from the previous assignee  
24 of record.

1 10. Rothschild Broadcast Distribution Systems possesses all rights of recovery under the  
2 `221 Patent, including the exclusive right to recover for past, present and future infringement.

3 11. The `221 Patent contains thirteen claims including two independent claims (claims 1 and  
4 7) and eleven dependent claims.

5  
6 **COUNT ONE**  
**(Infringement of United States Patent No. 8,856,221)**

7 12. Plaintiff refers to and incorporates the allegations in Paragraphs 1 - 11, the same as if set  
8 forth herein.

9 13. This cause of action arises under the patent laws of the United States and, in particular  
10 under 35 U.S.C. §§ 271, *et seq.*

11 14. Defendant has knowledge of its infringement of the `221 Patent, at least as of the service  
12 of the present complaint.

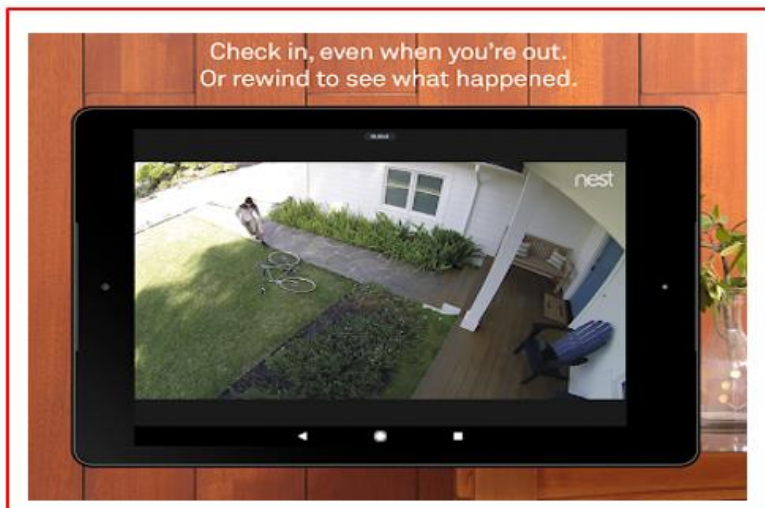
13 15. Upon information and belief, Defendant has infringed and continues to infringe one or  
14 more claims, including at least Claim 1, of the `221 Patent by making, using, importing, selling,  
15 and/or offering for media content storage and delivery systems and services covered by one or  
16 more claims of the `221 Patent.

17 16. Accordingly, Defendant has infringed, and continues to infringe, the `221 Patent in  
18 violation of 35 U.S.C. § 271.

19 17. Defendant sells, offers to sell, and/or uses media content storage and delivery systems  
20 and services, including, without limitation, Nest security cameras together with the Nest system  
21 and Nest app, and any similar products (“Product”), which infringes at least Claim 1 of the `221  
22 Patent.

23 18. The Product practices a method of storing (e.g. cloud storage) media content (e.g. live  
24 and recorded video) and delivering requested media content (e.g. view live footage and recorded  
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1 clips) to a consumer device. Certain aspects of these elements are illustrated in the screen shots  
2 below and/or in screen shots provided in connection with other allegations herein.



12 Source: <https://play.google.com/store/apps/details?id=com.nest.android&hl=en> IN

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

- 15
- Up to 5-, 10-, or 30-day video history (depending on the selected plan)

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

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

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

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

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

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

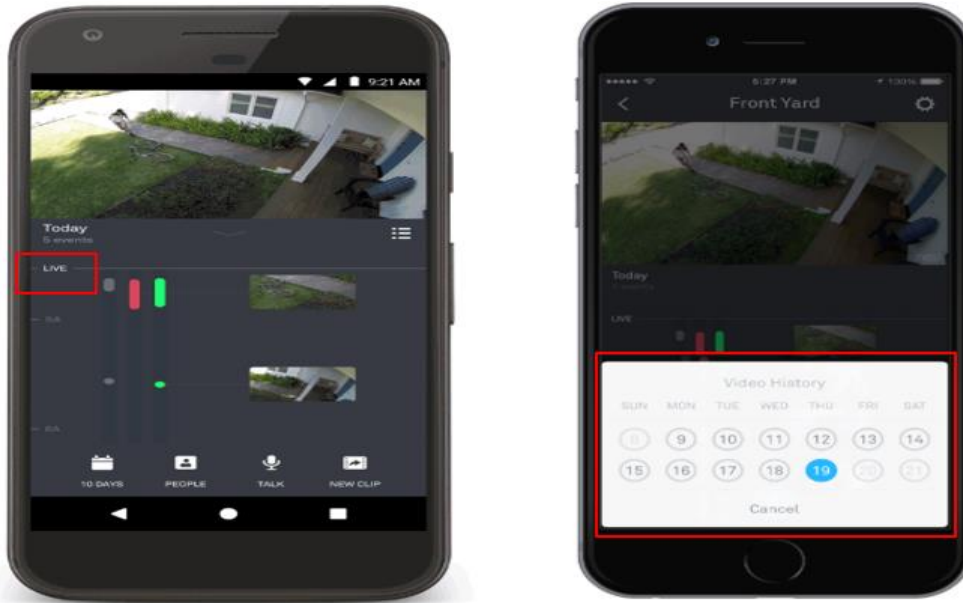
Your account is the key to unlocking all the features of your Nest products. You'll use your account to sign in to the free **Nest app**, which gives you full control of your Nest home and Nest products.

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-or-tablet#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

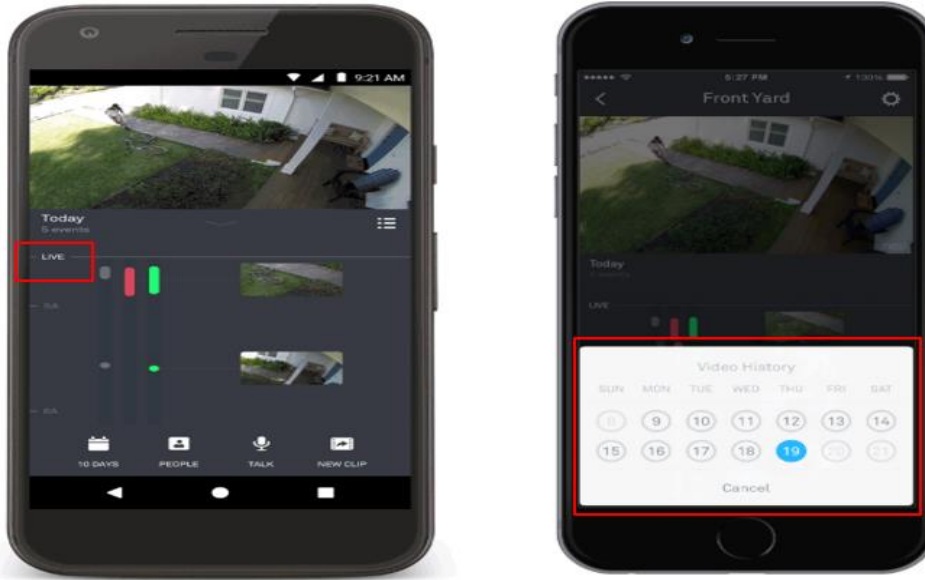
For an added layer of security, we also recommend enabling 2-step verification on your account. Whenever you sign in, you'll need to enter your password as well as a temporary, unique code that's sent to your phone.

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



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



15 Source: <https://nest.com/support/article/How-do-I-watch-my-Video-History-on-my-phone-or-tablet#skipdiffday>

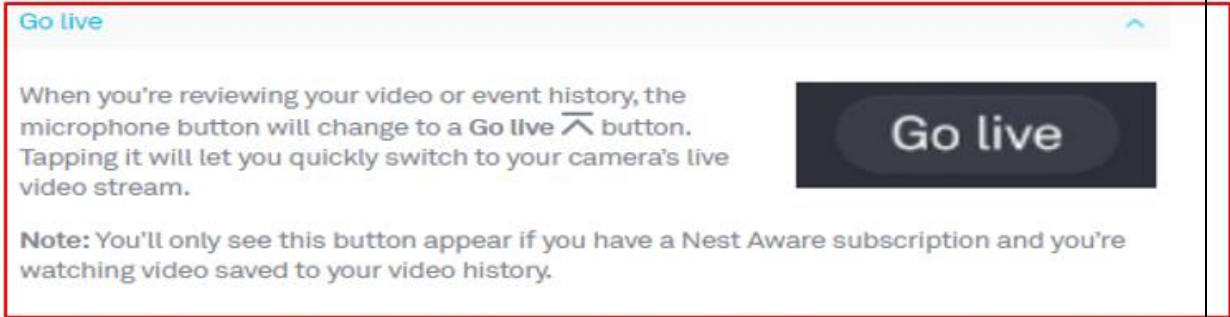
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With **video history**, your camera's video stream is continuously recorded 24/7 and **saved securely and privately in the cloud** so that you never miss a moment. If your Nest camera gets unplugged or stolen, you won't lose any previously recorded video. You can go back in time and see what you missed, save and download clips, and create timelapses.



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

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

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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5-day	10-day	30-day
<b>NEW</b>		
<ul style="list-style-type: none"><li>5-day video history</li><li>24/7 continuous-recording</li><li>Intelligent alerts</li><li>Clips and timelapses</li><li>Activity Zones</li></ul>	<ul style="list-style-type: none"><li>10-day video history</li><li>24/7 continuous-recording</li><li>Intelligent alerts</li><li>Clips and timelapses</li><li>Activity Zones</li></ul>	<ul style="list-style-type: none"><li>30-day video history</li><li>24/7 continuous-recording</li><li>Intelligent alerts</li><li>Clips and timelapses</li><li>Activity Zones</li></ul>
\$5 a month \$50 a year <small>(save \$10)</small>	\$10 a month \$100 a year <small>(save \$20)</small>	\$30 a month \$300 a year <small>(save \$60)</small>

13 Source: <https://nest.com/cameras/nest-aware/>

14 Depending on your **Nest Aware subscription**, video  
15 history keeps video for a certain number of days. Video  
16 history is stored on a rolling basis, so your oldest  
17 recorded video automatically expires to make room for  
18 new video.

18 Source: <https://nest.com/support/article/What-is-Video-History-and-how-does-it-work>

19 • **Video history requires a Nest Aware subscription.**

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

21 **Watching recorded video**

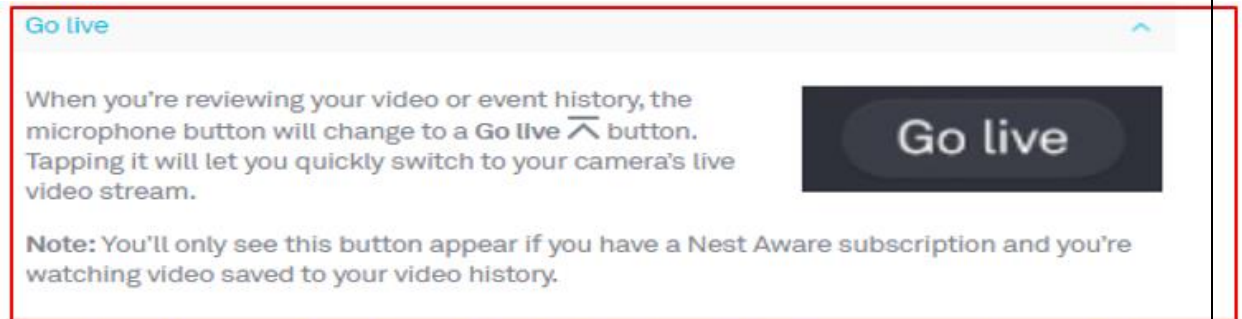
22 Without a Nest Aware subscription, you'll only get to view video history up to 3 hours in the  
23 past. When you purchase a Nest Aware with Video History subscription, your Nest camera  
24 will continuously record video up to 30 days in the past depending on your subscription.

25 Watching your recorded video is as easy as watching live video, and you can view any part of  
26 your recorded video at any time, from anywhere.

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

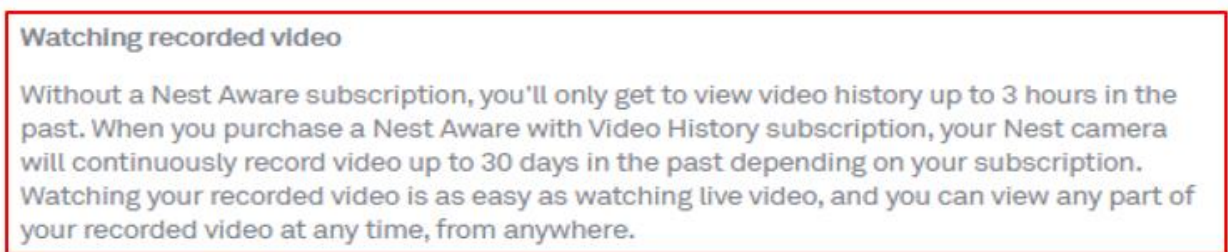
27 24. If a customer requests content (e.g., live streaming of media content), then a processor  
28 within the Product necessarily initiates delivery of the content to the customer's device. The

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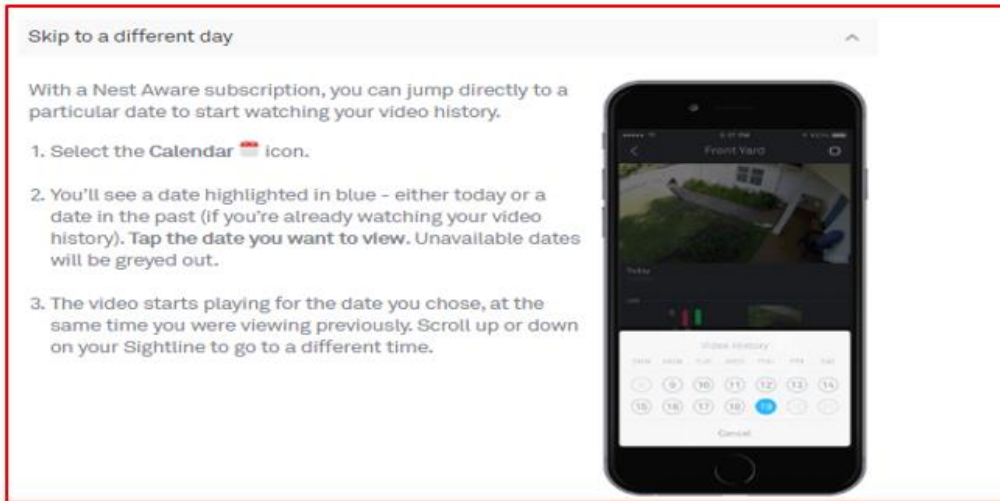


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12 Source: <https://nest.com/support/article/How-do-I-watch-my-Video-History-on-my-phone-or-tablet#go-live>

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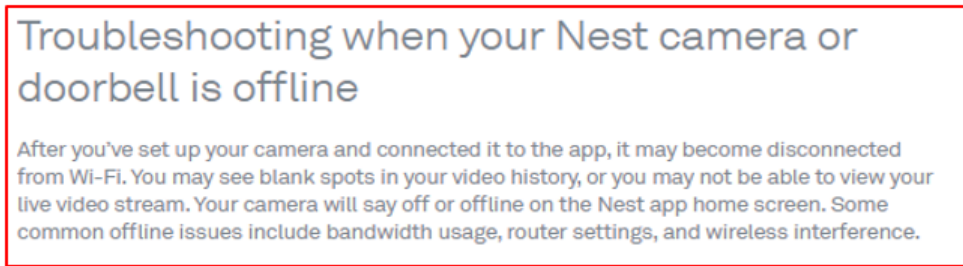


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22 Source: <https://nest.com/support/article/Is-watching-my-Nest-Cam-video-free>



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.



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 29. Defendant's actions complained of herein is causing irreparable harm and monetary  
6 damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and  
7 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.

12 31. The '221 Patent is valid, enforceable, and was duly issued in full compliance with Title 35  
13 of the United States Code.

14 32. A copy of the '221 Patent, titled "System and Method for Storing Broadcast Content in a  
15 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.

20 34. Defendant has committed these acts of literal infringement, or infringement under the  
21 doctrine of equivalents of the '221 Patent, without license or authorization.

22 35. As a result of Defendant's infringement of the '221 Patent, injured Rothschild Broadcast  
23 Distribution Systems has suffered monetary damages and is entitled to a monetary judgment in  
24 an amount adequate to compensate for Defendant's past infringement, together with interests and  
25 costs.  
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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**

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6 38. Rothschild Broadcast Distribution Systems, under Rule 38 of the Federal Rules of Civil  
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;  
11 (b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys,  
12 and all persons in active concert or participation with Defendant who receives notice of the  
13 order from further infringement of United States Patent No. 8,856,221 (or, in the alternative,  
14 awarding Plaintiff running royalty from the time judgment going forward);  
15 (c) Award Plaintiff damages resulting from Defendants infringement in accordance with 35  
16 U.S.C. § 284;  
17 (d) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law  
18 or equity  
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April 9, 2019  
  
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