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7 UNITED STATES DISTRICT COURT
 8
 9 NORTHERN DISTRICT OF CALIFORNIA
 10
 11 SAN FRANCISCO DIVISION

11 SOFTWARE RESEARCH, INC.,
 12
 Plaintiff,
 13
 v.
 14 TRICENTIS GmbH, TRICENTIS USA Corp.,
 15 and DOES 1 through 10,
 16
 Defendants.

CASE NO. 3:19-CV-1991
**COMPLAINT FOR PATENT
 INFRINGEMENT**
JURY TRIAL DEMANDED

1 Plaintiff Software Research, Inc. (“SRI”), for its Complaint against Defendants Tricentis
2 GmbH and Tricentis USA Corp. (together, “Tricentis”), as well as Does 1 through 10 (collectively,
3 along with Tricentis, “Defendants”), upon information and belief, states and alleges as follows:

4 **NATURE OF THE ACTION**

5 1. This is a civil action for patent infringement arising under the patent laws of the
6 United States, Title 35 of the United States Code.

7 2. As set forth in more detail below, Defendants have been infringing United States
8 Patent Nos. 7,757,175 (the “’175 Patent”); 8,327,271 (the “’271 Patent”); 8,392,890 (the “’890
9 Patent”); 8,495,585 (the “’585 Patent”); 8,650,493 (the “’493 Patent”), and 8,984,491 (the “’491
10 Patent”) (collectively, the “Patents-in-Suit”), and continue to do so through the present date.

11 **THE PARTIES**

12 3. SRI is a corporation organized and existing under the laws of the State of California
13 with its principal place of business in this District.

14 4. Upon information and belief, Tricentis GmbH is an Austrian corporation with its
15 principal place of business at Leonard-Bernstein-Straße 10, 1220 Vienna, Austria.

16 5. Upon information and belief, Tricentis USA Corp. is a Delaware corporation with its
17 principal place of business at 30 Montgomery St. 6th Floor, Suite 605, Jersey City, NJ 07302, and its
18 principal place of business in California at 2570 W. El Camino Real, Suite 540, Mountain View, CA
19 94040.

20 6. Upon information and belief, Defendants Does 1 through 10 are directors, officers,
21 employees, representatives, and/or agents of Tricentis who participated and/or are currently
22 participating in the use, development, sale, offer for sale, import, offer for import, and/or other
23 commercialization of software offerings that infringe one or more of the Patents-in-Suit. The true
24 identities of Defendants Does 1 through 10 are presently unknown to SRI; SRI will amend its
25 complaint to state such names when they become known to SRI through discovery and/or continued
26 investigation.

27 7. Unless specifically stated otherwise, the acts complained of herein were committed by,
28 on behalf of, and/or for the benefit of Tricentis.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Defendants because (a) they have committed the acts of patent infringement complained of herein, including but not limited to offering for sale or selling infringing products embodying SRI’s patented invention, in this State and this District, and/or (b) they have directed their acts of infringement and the other unlawful acts complained of herein at this State and this District.

10. This Court has personal jurisdiction over Defendants for the additional reason that they have engaged in systematic and continuous contacts with this State and this District by, *inter alia*, regularly conducting and soliciting business in this State and this District, and deriving substantial revenue from products and/or services provided to persons in this State and this District.

11. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part of the acts complained of herein occurred in this District, Defendants transact business in this District, Defendants reside in this District, and/or the property that is the subject of this action is situated in this District.

12. With respect to Tricentis GmbH, venue is proper in this District under 28 U.S.C. § 1391(c)(3) because “a defendant not resident in the United States may be sued in any judicial district.” *Id.*

13. With respect to all Defendants other than Tricentis GmbH, venue is proper in this District under 28 U.S.C. §§ 1391(c)-(d) and 1400(b) because (i) those Defendants reside in this District; and (ii) those Defendants have committed acts of infringement and have a regular and established place of business in this District.

BACKGROUND

14. Defendants develop web application monitoring and scripting tool software products titled, upon information and belief, “Tricentis Tosca” (hereinafter, “Tosca”). *See* <https://www.tricentis.com/products/automate-continuous-testing-tosca/>.

15. Defendants offer for sale and sell Tosca to the public.

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1 16. Defendants use Tosca, including at least in order to test Tosca as part of their
2 development efforts.

3 17. Tosca is a software testing tool used to automate testing of software applications,
4 including web-based applications.

5 18. Tosca includes functionality Defendants refer to as “Tosca XBrowser Engine 3.0.”

6 *See*

7 https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3
8 [.0/xbrowser/xbrowser.htm.](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3)

9 19. Tosca XBrowser Engine 3.0 (“Tosca XBrowser”) “can be used to test web
10 applications.” *Id.*

11 20. Tosca includes functionality Defendants refer to as “Tosca Recorder.” *See*

12 https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recor
13 [der_xscan.htm.](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recor)

14 21. Tosca Recorder (“Tosca Recorder”) “allows you to record controls of your test
15 application.” *Id.*

16 **COUNT I – INFRINGEMENT OF THE ’175 PATENT**

17 22. SRI re-alleges and incorporates the allegations of the preceding paragraphs of this
18 Complaint as if fully set forth herein.

19 23. SRI is the assignee and owner of all right, title, and interest in and to the ’175 Patent,
20 which was issued on July 13, 2010. A true and correct copy of the ’175 Patent is attached hereto as
21 Exhibit A.

22 24. The ’175 Patent addresses an invention for testing websites. This disclosed innovation
23 tests many facets of the website’s experience and operation, including by providing novel approaches
24 to creating, storing, and executing test scripts using website elements as opposed to the previously
25 disclosed use of recording test scripts based upon user actions only.

26 25. SRI has the exclusive right to make, use, sell, and offer to sell any product embodying
27 the ’175 Patent throughout the United States, and to import any product embodying the ’175 Patent
28 into the United States.

1 26. SRI has commercially exploited the '175 Patent by making, marketing, selling, and
2 using products covered by the '175 Patent, including its popular eValid™ software products. SRI
3 continues to commercially exploit the '175 Patent through the present, at least by continuing to
4 provide maintenance and support to users of its popular eValid™ software products.

5 27. Defendants have had knowledge of the '175 Patent, SRI, and SRI's products
6 embodying the inventions claimed in the Patents-in-Suit since at least as early as the filing of this
7 Complaint.

8 28. At all relevant times, SRI provided public notice of the '175 Patent at least by properly
9 marking its products and its website pursuant to 35 U.S.C. § 287(a).

10 29. Defendants have been, and are currently, directly infringing at least claim 11 of the
11 '175 Patent in violation of 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by
12 making, using, selling, offering for sale, and/or importing into the United States certain website
13 testing software, including without limitation Defendants' web application monitoring and scripting
14 tool software products titled, upon information and belief, Tosca and/or other related software
15 products and services offered by Tricentis (Defendants' "Infringing Products"), which, as set forth in
16 documentation available on Tricentis's website, comprise the non-transitory computer readable media
17 disclosed in the '175 Patent—both as maintained in Defendants' files and those of users to whom
18 Defendants offer and sell the Infringing Products—including at least computer program code stored
19 therein for providing a test-enabled web browser for operation on a computing device to test a
20 website hosted by a remote server, the website having at least one webpage (for example, Tosca
21 "automates tests across all layers of modern enterprise architectures—from the API, to web, mobile,
22 and custom/packaged app UIs, to BI and data warehouses," [https://www.tricentis.com/wp-](https://www.tricentis.com/wp-content/uploads/2019/01/20180313_Tricentis-Tosca_Fact_Sheet.pdf)
23 [content/uploads/2019/01/20180313_Tricentis-Tosca_Fact_Sheet.pdf](https://www.tricentis.com/wp-content/uploads/2019/01/20180313_Tricentis-Tosca_Fact_Sheet.pdf); Tosca XBrowser as used with a
24 web browser is a test-enabled web browser that "can be used to test web applications,"
25 https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3
26 [.0/xbrowser/xbrowser.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3); the website, necessarily including at least one webpage, necessarily
27 resides on a remote server; and Tosca utilizes any number of browsers as its "test-enabled browser,"
28 *id.*); web browsing components (for example, Tosca allows a user to browse the web via common

1 web browsing activities, such as opening a website

2 (https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/open_url.htm),

3 clicking on a screen position

4 (https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/html_clickonscreen.htm), and firing events

5 (https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)); a page evaluation component that operates to read, extract, and analyze and confirm the

6 contents of page components, including Document Object Model (DOM) elements with their

7 associated at least one index and their values (for example, Tosca allows for the creation of test scripts, called “TestCases”

8 (https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm) to test websites by recording a user’s interactions with the web page in question

9 (https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm) and allowing the user to play back those test scripts

10 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents); Tosca interrogates the DOM to identify and

11 extract relevant information regarding at least the page elements germane to the script, including each such element’s index and value, and stores those details in the test script

12 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode); these page elements are located based on their

13 DOM indexes

14 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick;

15 https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm;

16 https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm; <https://support.tricentis.com/community/article.do?number=KB0013563>)); a test data component

17 that operates to store facts about the at least one webpage (for example, Tosca’s Verify controls—

1 Verification Mode” “allow[] you to verify controls of your test application,” which necessarily
2 requires the storage of facts about the webpage—these facts are “saved to the according control in the
3 TestCase” against which Tosca validates the web page being rendered
4 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode); a graphical user interface to provide user access
5 to at least said web browsing components and at least one of said page evaluation components and
6 said test data component (Tosca has a graphical user interface that provides access to the web
7 browsing components and both the page evaluation and test data components
8 ([https://documentation.tricentis.com/tosca/1210/en/content/tutorial/creating_test_cases.htm?Highlight=
9 =create%20testcases](https://documentation.tricentis.com/tosca/1210/en/content/tutorial/creating_test_cases.htm?Highlight=create%20testcases))), as disclosed in the ’175 Patent.
10

11 30. Defendants will, on information and belief, continue to directly infringe the ’175
12 Patent unless enjoined.

13 31. To the extent Defendants’ Infringing Products, without more, do not directly infringe
14 at least claim 11 of the ’175 Patent, at least as of the filing of this Complaint, Defendants contribute
15 to infringement of the same under 35 U.S.C. § 271(c) inasmuch as the Infringing Products offered for
16 sale and sold by Defendants are each a component of a patented machine or an apparatus used in
17 practicing a patented process, constituting a material part of SRI’s invention, knowing the same to be
18 especially made or especially adapted for use in infringement of the ’175 Patent. For example, as set
19 forth above, Tosca, when used in its normal and intended usage (pursuant to the instructions set forth
20 on Tricentis’s website), infringes claim 11 of the ’175 Patent. *See supra*, ¶ 29.

21 32. Defendants will, on information and belief, continue to contribute to infringement of
22 the ’175 Patent unless enjoined.
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1 33. Defendants actively encourage their customers to use Defendants’ Infringing Products
 2 in an infringing manner. For example, Defendants’ website is replete with written directions,
 3 screenshots, and videos instructing users on how to use the Infringing Products in an infringing
 4 manner. For example, as set forth above, Defendants’ website regarding Tosca specifically instructs
 5 users of the Infringing Products how to infringe claim 11 of the ’175 patent. *See supra*, ¶ 29.
 6 Defendants’ website also touts the identities of customers who use the Infringing Products, each of
 7 whom is a direct infringer inasmuch as they use the Infringing Products in the infringing manner as
 8 instructed by Defendants:

Meet our customers

At Tricentis, we measure our own success by that of our customers. Learn how we help enterprises deliver the highest quality and user experience in every release.

<p>Vantiv</p> <p>Shortens Test Execution Time & Increases Risk Coverage by 90%</p> <p>Customer Journey</p>	<p>A1 Telekom</p> <p>Adds Continuous Speed with Continuous Testing</p> <p>Customer Journey</p>	<p>Dolby</p> <p>Achieves Risk-based, End-to-End Test Automation</p> <p>Customer Journey</p>
<p>Varian</p> <p>Achieved Quality at Speed in Regulated Environments</p> <p>Customer Journey</p>	<p>Swiss Re</p> <p>Accelerates Time to Market and Improves Efficiency</p> <p>Customer Journey</p>	<p>Allianz</p> <p>Optimizes Time to Value and Reduces Costs</p> <p>Customer Journey</p>
<p>Linde</p> <p>Simplified Testing Across Complex SAP, Salesforce, Web & Mobile Apps</p> <p>Customer Journey</p>	<p>EdgeVerve</p> <p>Accelerating Testing for Scaled Agile</p> <p>Customer Journey</p>	<p>Siemens</p> <p>Mitigates risks for its customized SAP system</p> <p>Case Study</p>
<p>AGL</p> <p>Achieves Risk-based, End to End Test Automation</p> <p>Case Study</p>	<p>SPAR</p> <p>Reinventing Software Testing for the “Digital Tsunami”</p> <p>Case Study</p>	<p>University of the West of England</p> <p>Standardizes Testing and Gains Visibility Across Projects</p> <p>Case Study</p>

1 <https://www.tricentis.com/test-automation-success/>.

2 34. Upon information and belief, and particularly by way of the detailed documentation
3 instructing users on how to use the Infringing Products in an infringing manner (*see supra*, ¶¶ 29, 33),
4 Defendants have encouraged this infringement with knowledge of the '175 Patent and with a specific
5 intent to cause their customers and distributors to infringe.

6 35. Defendants' acts at least as of the filing of this Complaint thus constitute active
7 inducement of patent infringement in violation of 35 U.S.C. § 271(b).

8 36. Defendants will, on information and belief, continue to induce infringement of the
9 '175 Patent unless enjoined.

10 37. Defendants' direct infringement, contributory infringement, and inducement of
11 infringement have irreparably harmed SRI.

12 38. Defendants will, on information and belief, continue to irreparably harm SRI unless
13 enjoined.

14 39. Pursuant to 35 U.S.C. § 284, SRI is entitled to damages adequate to compensate for
15 the infringement but in no event less than a reasonable royalty.

16 40. Defendants' infringement has been and is willful and, pursuant to 35 U.S.C. § 284,
17 SRI is entitled to treble damages. Defendants' willful infringement is based at least on Defendants'
18 knowledge of SRI, its products, and its patents since at least as early as the filing of this Complaint.
19 Defendants have either willfully and wantonly infringed the '175 Patent or have recklessly avoided
20 knowledge of their own infringement, even when faced with knowledge of SRI's own products and
21 the Patents-in-Suit.

22 41. This case is "exceptional" within the meaning of 35 U.S.C. § 285, and SRI is entitled
23 to an award of attorneys' fees.

24 **COUNT II – INFRINGEMENT OF THE '271 PATENT**

25 42. SRI re-alleges and incorporates the allegations of the preceding paragraphs of this
26 Complaint as if fully set forth herein.

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1 43. SRI is the assignee and owner of all right, title, and interest in and to the '271 Patent,
2 which was issued on December 4, 2012. A true and correct copy of the '271 Patent is attached hereto
3 as Exhibit B.

4 44. The '271 Patent addresses an invention for testing websites. This disclosed innovation
5 tests many facets of the website's experience and operation, including by providing novel approaches
6 to creating, storing, and executing test scripts using website elements as opposed to the previously
7 disclosed use of recording test scripts based upon user actions only.

8 45. SRI has the exclusive right to make, use, sell, and offer to sell any product embodying
9 the '271 Patent throughout the United States, and to import any product embodying the '271 Patent
10 into the United States.

11 46. SRI has commercially exploited the '271 Patent by making, marketing, selling, and
12 using products covered by the '271 Patent, including its popular eValid™ software products. SRI
13 continues to commercially exploit the '271 Patent through the present, at least by continuing to
14 provide maintenance and support to users of its popular eValid™ software products.

15 47. Defendants have had knowledge of the '271 Patent, SRI, and SRI's products
16 embodying the inventions claimed in the Patents-in-Suit since at least as early as the filing of this
17 Complaint.

18 48. At all relevant times, SRI provided public notice of the '271 Patent at least by properly
19 marking its products and its website pursuant to 35 U.S.C. § 287(a).

20 49. Defendants have been, and are currently, directly infringing at least claim 1 of the
21 '271 Patent in violation of 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by
22 making, using, selling, offering for sale, and/or importing into the United States Defendants'
23 Infringing Products, which, as set forth in documentation available on Defendants' website, comprise
24 the non-transitory computer readable media disclosed in the '271 Patent—both as maintained in
25 Defendants' files and those of the users to whom Defendants offer and sell the Infringing Products—
26 including at least computer program code stored therein for providing a test-enabled browser for
27 testing a website residing on a network (for example, Tosca “automates tests across all layers of
28 modern enterprise architectures—from the API, to web, mobile, and custom/packaged app UIs, to BI

1 and data warehouses,” [https://www.tricentis.com/wp-content/uploads/2019/01/20180313_Tricentis-](https://www.tricentis.com/wp-content/uploads/2019/01/20180313_Tricentis-Tosca_Fact_Sheet.pdf)
2 [Tosca_Fact_Sheet.pdf](https://www.tricentis.com/wp-content/uploads/2019/01/20180313_Tricentis-Tosca_Fact_Sheet.pdf); Tosca XBrowser as used with a web browser is a test-enabled web browser
3 that “can be used to test web applications,”
4 [https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3.0/xbrowser/xbrowser.htm)
5 [.0/xbrowser/xbrowser.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3.0/xbrowser/xbrowser.htm); the website necessarily resides on a network; and Tosca utilizes any
6 number of browsers as its “test-enabled browser,” *id.*); computer program code for interfacing with
7 web browsing components, the web browsing components including DOM access methods of the
8 web browsing components (for example, Tosca allows a user to browse the web via common web
9 browsing activities, such as opening a website
10 (https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/open_url.htm),
11 clicking on a screen position
12 ([https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/html_clickonscreen](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/html_clickonscreen.htm)
13 [.htm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/html_clickonscreen.htm)), and firing events
14 ([https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
15 [htm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)); and Tosca interrogates the DOM to identify and extract relevant information regarding at least
16 the page elements germane to the script, including each such element’s index and value, and stores
17 those details in the test script
18 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)
19 [e%20testcases#Verifycontrols-VerificationMode](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)); these page elements are located based on their
20 DOM indexes
21 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.h](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick)
22 [tm?Highlight=setdomclick](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick);
23 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
24 [tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm);
25 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
26 [tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm); <https://support.tricentis.com/community/article.do?number=KB0013563>)); computer program
27 code for rendering and examining at least one web page of the website so as to at least extract details
28 of organization and structure of elements of the webpage, and store such details of the web page in a

1 recorded script, such as recorded scripts generated through the testing component of Defendants’
2 Infringing Products (for example, Tosca allows for the creation of test scripts, called “TestCases”
3 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
4 [rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) to test websites by recording a user’s interactions with the web page in question
5 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
6 [rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) and allowing the user to play back those test scripts
7 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?H](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)
8 [ighlight=create%20and%20execute%20testevents](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)); Tosca interrogates the DOM to identify and
9 extract relevant information regarding at least the page elements germane to the script, including each
10 such element’s index and value, and stores those details in the test script
11 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)
12 [e%20testcases#Verifycontrols-VerificationMode](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)); Tosca’s Verify controls—Verification Mode”
13 “allow[] you to verify controls of your test application,” which necessarily requires the storage of
14 facts about the webpage—these facts are “saved to the according control in the TestCase” against
15 which Tosca validates the web page being rendered
16 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)
17 [e%20testcases#Verifycontrols-VerificationMode](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)); these page elements are located based on their
18 DOM indexes
19 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.h](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick)
20 [tm?Highlight=setdomclick](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick);
21 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
22 [tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm);
23 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
24 [tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm); <https://support.tricentis.com/community/article.do?number=KB0013563>)); computer program
25 code for selecting a validation test to be performed (for example, Tosca allows for the creation of test
26 scripts, called “TestCases”
27 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
28 [rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) to test websites by recording a user’s interactions with the web page in question

1 (https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm) and allowing the user to play back those test scripts

2

3 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents); and Tosca’s Verify controls—Verification

4

5 Mode” “allow[] you to verify controls of your test application,” which necessarily requires the

6 storage of facts about the webpage—these facts are “saved to the according control in the TestCase”

7 against which Tosca validates the web page being rendered

8 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode); and computer program code for performing the

9

10 validation test using at least one of the DOM access methods of the web browsing components,

11 wherein during the validation test, the at least one web page is newly rendered and details of

12 organization and structure of elements for the at least one web page as newly rendered are accessed

13 via the at least one of the DOM access methods and compared to the stored details in the recorded

14 script (for example, Tosca allows for the creation of test scripts, called “TestCases”

15 (https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm) to test websites by recording a user’s interactions with the web page in question

16

17 (https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm) and allowing the user to play back those test scripts

18

19 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents); Tosca interrogates the DOM to identify and

20

21 extract relevant information regarding at least the page elements germane to the script, including each

22 such element’s index and value, and stores those details in the test script

23 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode); Tosca’s Verify controls—Verification Mode”

24

25 “allow[] you to verify controls of your test application,” which necessarily requires the storage of

26 facts about the webpage—these facts are “saved to the according control in the TestCase” against

27 which Tosca validates the web page being rendered

28 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)

1 [e%20testcases#Verifycontrols-VerificationMode](#)); and these page elements are located based on their
 2 DOM indexes
 3 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.h](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick)
 4 [tm?Highlight=setdomclick](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm);
 5 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
 6 [tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm);
 7 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
 8 [tm](https://support.tricentis.com/community/article.do?number=KB0013563); <https://support.tricentis.com/community/article.do?number=KB0013563>)), as disclosed in the
 9 '271 Patent.

10 50. Defendants will, on information and belief, continue to directly infringe the '271
 11 Patent unless enjoined.

12 51. To the extent Defendants' Infringing Products, without more, do not directly infringe
 13 at least claim 1 of the '271 Patent, at least as of the filing of this Complaint, Defendants contribute to
 14 infringement of the same under 35 U.S.C. § 271(c) inasmuch as the Infringing Products offered for
 15 sale and sold by Defendants are each a component of a patented machine or an apparatus used in
 16 practicing a patented process, constituting a material part of SRI's invention, knowing the same to be
 17 especially made or especially adapted for use in infringement of the '271 Patent. For example, as set
 18 forth above, Tosca, when used in its normal and intended usage (pursuant to the instructions set forth
 19 on Tricentis's website), infringes claim 1 of the '271 Patent. *See supra*, ¶ 49.

20 52. Defendants will, on information and belief, continue to contribute to infringement of
 21 the '271 Patent unless enjoined.

22 53. Defendants actively encourage their customers to use Defendants' Infringing Products
 23 in an infringing manner. For example, Defendants' website is replete with written directions,
 24 screenshots, and videos instructing users on how to use the Infringing Products in an infringing
 25 manner. For example, as set forth above, Defendants' website regarding Tosca specifically instructs
 26 users of the Infringing Products how to infringe claim 1 of the '271 patent. *See supra*, ¶ 49.

27 Defendants' website also touts the identities of customers who use the Infringing Products, each of
 28

1 whom is a direct infringer inasmuch as they use the Infringing Products in the infringing manner as
2 instructed by Defendants:

Meet our customers

At Tricentis, we measure our own success by that of our customers. Learn how we help enterprises deliver the highest quality and user experience in every release.

Vantiv Shortens Test Execution Time & Increases Risk Coverage by 90% Customer Journey	A1 Telekom Adds Continuous Speed with Continuous Testing Customer Journey	Dolby Achieves Risk-based, End-to-End Test Automation Customer Journey
Varian Achieved Quality at Speed in Regulated Environments Customer Journey	Swiss Re Accelerates Time to Market and Improves Efficiency Customer Journey	Allianz Optimizes Time to Value and Reduces Costs Customer Journey
Linde Simplified Testing Across Complex SAP, Salesforce, Web & Mobile Apps Customer Journey	EdgeVerve Accelerating Testing for Scaled Agile Customer Journey	Siemens Mitigates risks for its customized SAP system Case Study
AGL Achieves Risk-based, End to End Test Automation Case Study	SPAR Reinventing Software Testing for the "Digital Tsunami" Case Study	University of the West of England Standardizes Testing and Gains Visibility Across Projects Case Study

3 <https://www.tricentis.com/test-automation-success/>.

4 54. Upon information and belief, and particularly by way of the detailed documentation
5 instructing users on how to use the Infringing Products in an infringing manner (*see supra*, ¶¶ 49, 53),
6 Defendants have encouraged this infringement with knowledge of the '271 Patent and with a specific
7 intent to cause their customers and distributors to infringe.
8

1 55. Defendants' acts at least as of the filing of this Complaint thus constitute active
2 inducement of patent infringement in violation of 35 U.S.C. § 271(b).

3 56. Defendants will, on information and belief, continue to induce infringement of the
4 '271 Patent unless enjoined.

5 57. Defendants' direct infringement, contributory infringement, and inducement of
6 infringement have irreparably harmed SRI.

7 58. Defendants will, on information and belief, continue to irreparably harm SRI unless
8 enjoined.

9 59. Pursuant to 35 U.S.C. § 284, SRI is entitled to damages adequate to compensate for
10 the infringement but in no event less than a reasonable royalty.

11 60. Defendants' infringement has been and is willful and, pursuant to 35 U.S.C. § 284,
12 SRI is entitled to treble damages. Defendants' willful infringement is based at least on Defendants'
13 knowledge of SRI, its products, and its patents since at least as early as the filing of this Complaint.
14 Defendants have either willfully and wantonly infringed the '271 Patent or have recklessly avoided
15 knowledge of their own infringement, even when faced with knowledge of SRI's own products and
16 the Patents-in-Suit.

17 61. This case is "exceptional" within the meaning of 35 U.S.C. § 285, and SRI is entitled
18 to an award of attorneys' fees.

19 **COUNT III – INFRINGEMENT OF THE '890 PATENT**

20 62. SRI re-alleges and incorporates the allegations of the preceding paragraphs of this
21 Complaint as if fully set forth herein.

22 63. SRI is the assignee and owner of all right, title, and interest in and to the '890 Patent,
23 which was issued on March 5, 2013. A true and correct copy of the '890 Patent is attached hereto as
24 Exhibit C.

25 64. The '890 Patent addresses an invention for testing websites. The disclosed innovation
26 tests many facets of the website's experience and operation, including by providing novel approaches
27 to creating, storing, and executing test scripts capable of accurately testing Asynchronous Javascript
28 and XML ("AJAX") web page elements.

1 65. SRI has the exclusive right to make, use, sell, and offer to sell any product embodying
2 the '890 Patent throughout the United States, and to import any product embodying the '890 Patent
3 into the United States.

4 66. SRI has commercially exploited the '890 Patent by making, marketing, selling, and
5 using products covered by the '890 Patent, including its popular eValid™ software products. SRI
6 continues to commercially exploit the '890 Patent through the present, at least by continuing to
7 provide maintenance and support to users of its popular eValid™ software products.

8 67. Defendants have had knowledge of the '890 Patent, SRI, and SRI's products
9 embodying the inventions claimed in the Patents-in-Suit since at least as early as the filing of this
10 Complaint.

11 68. At all relevant times, SRI provided public notice of the '890 Patent by properly
12 marking its products and its website pursuant to 35 U.S.C. § 287(a).

13 69. Defendants have been, and are currently, directly infringing at least claim 1 of the
14 '890 Patent in violation of 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by
15 making, using, selling, offering for sale, and/or importing into the United States Defendants'
16 Infringing Products, which, as set forth in documentation available on Defendants' website, comprise
17 the non-transitory computer readable media disclosed in the '890 Patent—both as maintained in
18 Defendants' files and those of the users to whom Defendants offer and sell the Infringing Products—
19 including at least computer program code stored therein for providing a test-enabled web browser,
20 said medium comprising computer program code for providing web browsing capabilities (for
21 example, Tosca “automates tests across all layers of modern enterprise architectures—from the API,
22 to web, mobile, and custom/package app UIs, to BI and data warehouses,”

23 https://www.tricentis.com/wp-content/uploads/2019/01/20180313_Tricentis-Tosca_Fact_Sheet.pdf;
24 Tosca XBrowser as used with a web browser is a test-enabled web browser that “can be used to test
25 web applications,”

26 https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3
27 [.0/xbrowser/xbrowser.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3); Tosca utilizes any number of browsers as its “test-enabled browser,” *id.*;
28 and Tosca allows a user to browse the web via common web browsing activities, such as opening a

1 website

2 (https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/open_url.htm),

3 clicking on a screen position

4 ([https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/html_clickonscreen](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/html_clickonscreen.htm)
5 [.htm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/html_clickonscreen.htm)), and firing events

6 ([https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
7 [htm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm))); computer program code for testing capabilities of a website hosted by a server and accessible

8 to the computer via a network wherein the computer program code for testing capabilities of the

9 website includes at least computer program code configured to receive a synchronization check from

10 a user using the test enabled browser, to insert the synchronization check into a test script for testing

11 at least one webpage of the website (for example, Tosca allows for the creation of test scripts, called

12 “TestCases”

13 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
14 [rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) to test websites by recording a user’s interactions with the web page in question

15 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
16 [rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) and allowing the user to play back those test scripts

17 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?H](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)
18 [ighlight=create%20and%20execute%20testevents](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)); Tosca interrogates the DOM to identify and

19 extract relevant information regarding at least the page elements germane to the script, including each
20 such element’s index and value, and stores those details in the test script

21 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)
22 [e%20testcases#Verifycontrols-VerificationMode](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)); Tosca’s Verify controls—Verification Mode”

23 “allow[] you to verify controls of your test application,” which necessarily requires the storage of

24 facts about the webpage—these facts are “saved to the according control in the TestCase” against

25 which Tosca validates the web page being rendered

26 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)
27 [e%20testcases#Verifycontrols-VerificationMode](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)); these page elements are located based on their

28 DOM indexes

1 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.h](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick)
2 [tm?Highlight=setdomclick;](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
3 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
4 [tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm);
5 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
6 [tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm); <https://support.tricentis.com/community/article.do?number=KB0013563>); and Tosca allows for
7 the testing of content dynamically generated by AJAX programming including using, for example, its
8 various “Wait for statuslabel,” “WaitOn,” or similar technologies or other related functions to
9 synchronize playback and allow for testing of content dynamically generated by AJAX programming
10 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Hig](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Highlight=wait)
11 [hlight=wait](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Highlight=wait);
12 [https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=waiton)
13 [waiton](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=waiton))), the test script being separate from the at least one webpage being tested (for example,
14 Tosca’s TestCases are stored and accessed separately from the webpage itself
15 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=recor](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=recorder)
16 [der](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=recorder))), the at least one webpage being tested including AJAX programming, and to automatically
17 synchronize playback of the test script using at least the synchronization check to maintain the test
18 enabled browser's state with respect to the AJAX programming by means of the synchronization
19 check in the test script to a Document Object Model (DOM) associated with the at least one webpage
20 of the website (for example, Tosca allows for the creation of test scripts, called “TestCases”
21 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
22 [rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) to test websites by recording a user’s interactions with the web page in question
23 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
24 [rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) and allowing the user to play back those test scripts
25 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?H](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)
26 [ighlight=create%20and%20execute%20testevents](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)); Tosca interrogates the DOM to identify and
27 extract relevant information regarding at least the page elements germane to the script, including each
28 such element’s index and value, and stores those details in the test script

1 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode); Tosca’s Verify controls—Verification Mode”
2
3 “allow[] you to verify controls of your test application,” which necessarily requires the storage of
4 facts about the webpage—these facts are “saved to the according control in the TestCase” against
5 which Tosca validates the web page being rendered
6 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode); these page elements are located based on their
7 DOM indexes
8 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick;
9
10 https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm;
11
12 https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm;
13
14 <https://support.tricentis.com/community/article.do?number=KB0013563>); and Tosca allows for
15 the testing of content dynamically generated by AJAX programming including using, for example, its
16 various “Wait for statuslabel,” “WaitOn,” or similar technologies or other related functions to
17 synchronize playback and allow for testing of content dynamically generated by AJAX programming
18 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Highlight=wait;
19
20 https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=waiton)); wherein the synchronization check in the test script and web browsing activities provided
21 by the web browsing capabilities are able to separately access the DOM associated with the at least
22 one webpage of the website (for example, Tosca’s TestCases are stored and accessed separately from
23 the webpage itself
24 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=recorder)); wherein the synchronization check is inserted into the test script as at least one command, and
25
26 the at least one command operates, when executed, to: find a current index of at least one DOM
27 element of the at least one webpage based on a specified property name and/or property value; and (i)

1 synchronize playback and allow for testing of content dynamically generated by AJAX programming
2 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?High](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Highlight=wait;)
3 [light=wait;](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Highlight=wait;)
4 [https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=waiton)
5 [waiton](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=waiton))), as disclosed in the '890 Patent.

6 70. Defendants will, on information and belief, continue to directly infringe the '890
7 Patent unless enjoined.

8 71. To the extent Defendants' Infringing Products, without more, do not directly infringe
9 at least claim 1 of the '890 Patent, at least as of the filing of this Complaint, Defendants contribute to
10 infringement of the same under 35 U.S.C. § 271(c) inasmuch as the Infringing Products offered for
11 sale and sold by Defendants are each a component of a patented machine or an apparatus used in
12 practicing a patented process, constituting a material part of SRI's invention, knowing the same to be
13 especially made or especially adapted for use in infringement of the '890 Patent. For example, as set
14 forth above, Tosca, when used in its normal and intended usage (pursuant to the instructions set forth
15 on Tricentis's website), infringes claim a of the '890 Patent. *See supra*, ¶ 69.

16 72. Defendants will, on information and belief, continue to contribute to infringement of
17 the '890 Patent unless enjoined.

18 73. Defendants actively encourage their customers to use Defendants' Infringing Products
19 in an infringing manner. For example, Defendants' website is replete with written directions,
20 screenshots, and videos instructing users on how to use the Infringing Products in an infringing
21 manner. For example, as set forth above, Defendants' website regarding Tosca specifically instructs
22 users of the Infringing Products how to infringe claim 1 of the '890 patent. *See supra*, ¶ 69.
23 Defendants' website also touts the identities of customers who use the Infringing Products, each of
24 whom is a direct infringer inasmuch as they use the Infringing Products in the infringing manner as
25 instructed by Defendants:

Meet our customers

At Tricentis, we measure our own success by that of our customers. Learn how we help enterprises deliver the highest quality and user experience in every release.

<p>Vantiv</p> <p>Shortens Test Execution Time & Increases Risk Coverage by 90%</p> <p>Customer Journey</p>	<p>A1 Telekom</p> <p>Adds Continuous Speed with Continuous Testing</p> <p>Customer Journey</p>	<p>Dolby</p> <p>Achieves Risk-based, End-to-End Test Automation</p> <p>Customer Journey</p>
<p>Varian</p> <p>Achieved Quality at Speed in Regulated Environments</p> <p>Customer Journey</p>	<p>Swiss Re</p> <p>Accelerates Time to Market and Improves Efficiency</p> <p>Customer Journey</p>	<p>Allianz</p> <p>Optimizes Time to Value and Reduces Costs</p> <p>Customer Journey</p>
<p>Linde</p> <p>Simplified Testing Across Complex SAP, Salesforce, Web & Mobile Apps</p> <p>Customer Journey</p>	<p>EdgeVerve</p> <p>Accelerating Testing for Scaled Agile</p> <p>Customer Journey</p>	<p>Siemens</p> <p>Mitigates risks for its customized SAP system</p> <p>Case Study</p>
<p>AGL</p> <p>Achieves Risk-based, End to End Test Automation</p> <p>Case Study</p>	<p>SPAR</p> <p>Reinventing Software Testing for the "Digital Tsunami"</p> <p>Case Study</p>	<p>University of the West of England</p> <p>Standardizes Testing and Gains Visibility Across Projects</p> <p>Case Study</p>

<https://www.tricentis.com/test-automation-success/>.

74. Upon information and belief, and particularly by way of the detailed documentation instructing users on how to use the Infringing Products in an infringing manner (*see supra*, ¶¶ 69, 73), Defendants have encouraged this infringement with knowledge of the '890 Patent and with a specific intent to cause their customers and distributors to infringe.

75. Defendants' acts at least as of the filing of this Complaint thus constitute active inducement of patent infringement in violation of 35 U.S.C. § 271(b).

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1 76. Defendants will, on information and belief, continue to induce infringement of the
2 '890 Patent unless enjoined.

3 77. Defendants' direct infringement, contributory infringement, and inducement of
4 infringement have irreparably harmed SRI.

5 78. Defendants will, on information and belief, continue to irreparably harm SRI unless
6 enjoined.

7 79. Pursuant to 35 U.S.C. § 284, SRI is entitled to damages adequate to compensate for
8 the infringement but in no event less than a reasonable royalty.

9 80. Defendants' infringement has been and is willful and, pursuant to 35 U.S.C. § 284,
10 SRI is entitled to treble damages. Defendants' willful infringement is based at least on Defendants'
11 knowledge of SRI, its products, and its patents since at least as early as the filing of this Complaint.
12 Defendants have either willfully and wantonly infringed the '890 Patent or have recklessly avoided
13 knowledge of their own infringement, even when faced with knowledge of SRI's own products and
14 the Patents-in-Suit.

15 81. This case is "exceptional" within the meaning of 35 U.S.C. § 285, and SRI is entitled
16 to an award of attorneys' fees.

17 **COUNT IV – INFRINGEMENT OF THE '585 PATENT**

18 82. SRI re-alleges and incorporates the allegations of the preceding paragraphs of this
19 Complaint as if fully set forth herein.

20 83. SRI is the assignee and owner of all right, title, and interest in and to the '585 Patent,
21 which was issued on July 23, 2013. A true and correct copy of the '585 Patent is attached hereto as
22 Exhibit D.

23 84. The '585 Patent addresses an invention for testing websites. The disclosed innovation
24 tests many facets of the website's experience and operation, including by providing novel approaches
25 to creating, storing, and executing test scripts capable of accurately testing AJAX web page elements.

26 85. SRI has the exclusive right to make, use, sell, and offer to sell any product embodying
27 the '585 Patent throughout the United States, and to import any product embodying the '585 Patent
28 into the United States.

1 86. SRI has commercially exploited the '585 Patent by making, marketing, selling, and
2 using products covered by the '585 Patent, including its popular eValid™ software products. SRI
3 continues to commercially exploit the '585 Patent through the present, at least by continuing to
4 provide maintenance and support to users of its popular eValid™ software products.

5 87. Defendants have had knowledge of the '585 Patent, SRI, and SRI's products
6 embodying the inventions claimed in the Patents-in-Suit since at least as early as the filing of this
7 Complaint.

8 88. At all relevant times, SRI provided public notice of the '585 Patent by properly
9 marking its products and its website pursuant to 35 U.S.C. § 287(a).

10 89. Defendants have been, and are currently, directly infringing at least claim 1 of the
11 '585 Patent in violation of 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by
12 making, using, selling, offering for sale, and/or importing into the United States Defendants'
13 Infringing Products, which, as set forth in documentation available on Defendants' website, comprise
14 the non-transitory computer readable media disclosed in the '585 Patent—both as maintained in
15 Defendants' files and those of the users to whom Defendants offer and sell the Infringing Products—
16 including at least computer program code for providing a test enabled web browser, said medium
17 comprising computer program code for providing web browsing capabilities (for example, Tosca
18 “automates tests across all layers of modern enterprise architectures—from the API, to web, mobile,
19 and custom/packaged app UIs, to BI and data warehouses,” [https://www.tricentis.com/wp-](https://www.tricentis.com/wp-content/uploads/2019/01/20180313_Tricentis-Tosca_Fact_Sheet.pdf)
20 [content/uploads/2019/01/20180313_Tricentis-Tosca_Fact_Sheet.pdf](https://www.tricentis.com/wp-content/uploads/2019/01/20180313_Tricentis-Tosca_Fact_Sheet.pdf); Tosca XBrowser as used with a
21 web browser is a test-enabled web browser that “can be used to test web applications,”
22 [https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3.0/xbrowser/xbrowser.htm)
23 [.0/xbrowser/xbrowser.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3.0/xbrowser/xbrowser.htm); Tosca utilizes any number of browsers as its “test-enabled browser,” *id.*;
24 and Tosca allows a user to browse the web via common web browsing activities, such as opening a
25 website
26 (https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/open_url.htm),
27 clicking on a screen position
28 (https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/html_clickonscreen)

1 [.htm](#)), and firing events

2 (https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.

3 [htm](#))); computer program code for testing capabilities of a website hosted by a server and accessible

4 to a computer via a network wherein the computer program code for testing capabilities of the

5 website includes computer program code configured to receive a synchronization check from a user

6 using the test enabled web browser, to insert the synchronization check into a test script for testing at

7 least one webpage of the website (for example, Tosca allows for the creation of test scripts, called

8 “TestCases”

9 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)

10 [rder_xscan.htm](#)) to test websites by recording a user’s interactions with the web page in question

11 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)

12 [rder_xscan.htm](#)) and allowing the user to play back those test scripts

13 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?H](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)

14 [ighlight=create%20and%20execute%20testevents](#)); Tosca interrogates the DOM to identify and

15 extract relevant information regarding at least the page elements germane to the script, including each

16 such element’s index and value, and stores those details in the test script

17 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)

18 [e%20testcases#Verifycontrols-VerificationMode](#)); Tosca’s Verify controls—Verification Mode”

19 “allow[] you to verify controls of your test application,” which necessarily requires the storage of

20 facts about the webpage—these facts are “saved to the according control in the TestCase” against

21 which Tosca validates the web page being rendered

22 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)

23 [e%20testcases#Verifycontrols-VerificationMode](#)); these page elements are located based on their

24 DOM indexes

25 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.h](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick)

26 [tm?Highlight=setdomclick](#);

27 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)

28 [tm](#);

1 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
2 [tm; https://support.tricentis.com/community/article.do?number=KB0013563](https://support.tricentis.com/community/article.do?number=KB0013563)); and Tosca allows for
3 the testing of content dynamically generated by AJAX programming including using, for example, its
4 various “Wait for statuslabel,” “WaitOn,” or similar technologies or other related functions to
5 synchronize playback and allow for testing of content dynamically generated by AJAX programming
6 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Hig](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Highlight=wait)
7 [highlight=wait](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Highlight=wait);
8 [https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=waiton)
9 [waiton](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=waiton))), the test script being separate from the at least one webpage being tested (for example,
10 Tosca’s TestCases are stored and accessed separately from the webpage itself
11 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=recor](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=recorder)
12 [der](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=recorder))), the at least one webpage being tested including AJAX programming, and to automatically
13 synchronize playback of the test script using at least the synchronization check to maintain the test
14 enabled browser’s state with respect to the AJAX programming by means of the synchronization
15 check in the test script to a DOM associated with the website (for example, Tosca allows for the
16 creation of test scripts, called “TestCases”
17 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
18 [rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) to test websites by recording a user’s interactions with the web page in question
19 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
20 [rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) and allowing the user to play back those test scripts
21 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?H](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)
22 [ighlight=create%20and%20execute%20testevents](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)); Tosca interrogates the DOM to identify and
23 extract relevant information regarding at least the page elements germane to the script, including each
24 such element’s index and value, and stores those details in the test script
25 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)
26 [e%20testcases#Verifycontrols-VerificationMode](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)); Tosca’s Verify controls—Verification Mode”
27 “allow[] you to verify controls of your test application,” which necessarily requires the storage of
28 facts about the webpage—these facts are “saved to the according control in the TestCase” against

1 which Tosca validates the web page being rendered

2 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode); these page elements are located based on their

4 DOM indexes

5 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick;

7 https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm;

9 https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm;

10 <https://support.tricentis.com/community/article.do?number=KB0013563>); and Tosca allows for

11 the testing of content dynamically generated by AJAX programming including using, for example, its

12 various “Wait for statuslabel,” “WaitOn,” or similar technologies or other related functions to

13 synchronize playback and allow for testing of content dynamically generated by AJAX programming

14 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Highlight=wait;

16 https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=waiton)); wherein the synchronization check in the test script and web browsing activities provided

18 by the web browsing capabilities are able to separately access the DOM associated with the at least

19 one webpage of the website (for example, Tosca’s TestCases are stored and accessed separately from

20 the webpage itself

21 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=recorder)); and wherein the synchronization check is inserted into the test script as at least one command,

23 and the at least one command operates, when executed, to find a current index of at least one DOM

24 element of the at least one webpage based on a specified property name and/or property value, and (i)

25 submit a named event to the at least one DOM element of the at least one webpage having the current

26 index, or (ii) insert or verify a value in the at least one DOM element of the at least one webpage

27 having the current index (for example, Tosca allows for the creation of test scripts, called

28 “TestCases”

1 (https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm) to test websites by recording a user’s interactions with the web page in question

2

3 (https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm) and allowing the user to play back those test scripts

4

5 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents); Tosca interrogates the DOM to identify and

6

7 extract relevant information regarding at least the page elements germane to the script, including each

8 such element’s index and value, and stores those details in the test script

9 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode); Tosca’s Verify controls—Verification Mode”

10

11 “allow[] you to verify controls of your test application,” which necessarily requires the storage of

12 facts about the webpage—these facts are “saved to the according control in the TestCase” against

13 which Tosca validates the web page being rendered

14 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode); these page elements are located based on their

15

16 DOM indexes

17 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick;

18

19 https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm;

20

21 https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm;

22 <https://support.tricentis.com/community/article.do?number=KB0013563>); and Tosca allows for

23 the testing of content dynamically generated by AJAX programming including using, for example, its

24 various “Wait for statuslabel,” “WaitOn,” or similar technologies or other related functions to

25 synchronize playback and allow for testing of content dynamically generated by AJAX programming

26 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Highlight=wait;

27

28

1 [https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=waiton)
2 [waiton](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=waiton))), as disclosed in the '585 Patent.

3 90. Defendants will, on information and belief, continue to directly infringe the '585
4 Patent unless enjoined.

5 91. To the extent Defendants' Infringing Products, without more, do not directly infringe
6 at least claim 1 of the '585 Patent, at least as of the filing of this Complaint, Defendants contribute to
7 infringement of the same under 35 U.S.C. § 271(c) inasmuch as the Infringing Products offered for
8 sale and sold by Defendants are each a component of a patented machine or an apparatus used in
9 practicing a patented process, constituting a material part of SRI's invention, knowing the same to be
10 especially made or especially adapted for use in infringement of the '585 Patent. For example, as set
11 forth above, Tosca, when used in its normal and intended usage (pursuant to the instructions set forth
12 on Tricentis's website), infringes claim 1 of the '585 Patent. *See supra*, ¶ 89.

13 92. Defendants will, on information and belief, continue to contribute to infringement of
14 the '585 Patent unless enjoined.

15 93. Defendants actively encourage their customers to use Defendants' Infringing Products
16 in an infringing manner. For example, Defendants' website is replete with written directions,
17 screenshots, and videos instructing users on how to use the Infringing Products in an infringing
18 manner. For example, as set forth above, Defendants' website regarding Tosca specifically instructs
19 users of the Infringing Products how to infringe claim 1 of the '585 patent. *See supra*, ¶ 89.

20 Defendants' website also touts the identities of customers who use the Infringing Products, each of
21 whom is a direct infringer inasmuch as they use the Infringing Products in the infringing manner as
22 instructed by Defendants:

Meet our customers

At Tricentis, we measure our own success by that of our customers. Learn how we help enterprises deliver the highest quality and user experience in every release.

Vantiv Shortens Test Execution Time & Increases Risk Coverage by 90% Customer Journey	A1 Telekom Adds Continuous Speed with Continuous Testing Customer Journey	Dolby Achieves Risk-based, End-to-End Test Automation Customer Journey
Varian Achieved Quality at Speed in Regulated Environments Customer Journey	Swiss Re Accelerates Time to Market and Improves Efficiency Customer Journey	Allianz Optimizes Time to Value and Reduces Costs Customer Journey
Linde Simplified Testing Across Complex SAP, Salesforce, Web & Mobile Apps Customer Journey	EdgeVerve Accelerating Testing for Scaled Agile Customer Journey	Siemens Mitigates risks for its customized SAP system Case Study
AGL Achieves Risk-based, End to End Test Automation Case Study	SPAR Reinventing Software Testing for the "Digital Tsunami" Case Study	University of the West of England Standardizes Testing and Gains Visibility Across Projects Case Study

<https://www.tricentis.com/test-automation-success/>.

94. Upon information and belief, and particularly by way of the detailed documentation instructing users on how to use the Infringing Products in an infringing manner (*see supra*, ¶¶ 89, 93), Defendants have encouraged this infringement with knowledge of the '585 Patent and with a specific intent to cause their customers and distributors to infringe.

95. Defendants' acts at least as of the filing of this Complaint thus constitute active inducement of patent infringement in violation of 35 U.S.C. § 271(b).

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1 96. Defendants will, on information and belief, continue to induce infringement of the
2 '585 Patent unless enjoined.

3 97. Defendants' direct infringement, contributory infringement, and inducement of
4 infringement have irreparably harmed SRI.

5 98. Defendants will, on information and belief, continue to irreparably harm SRI unless
6 enjoined.

7 99. Pursuant to 35 U.S.C. § 284, SRI is entitled to damages adequate to compensate for
8 the infringement but in no event less than a reasonable royalty.

9 100. Defendants' infringement has been and is willful and, pursuant to 35 U.S.C. § 284,
10 SRI is entitled to treble damages. Defendants' willful infringement is based at least on Defendants'
11 knowledge of SRI, its products, and its patents since at least as early as the filing of this Complaint.
12 Defendants have either willfully and wantonly infringed the '585 Patent or have recklessly avoided
13 knowledge of their own infringement, even when faced with knowledge of SRI's own products and
14 the Patents-in-Suit.

15 101. This case is "exceptional" within the meaning of 35 U.S.C. § 285, and SRI is entitled
16 to an award of attorneys' fees.

17 **COUNT V – INFRINGEMENT OF THE '493 PATENT**

18 102. SRI re-alleges and incorporates the allegations of the preceding paragraphs of this
19 Complaint as if fully set forth herein.

20 103. SRI is the assignee and owner of all right, title, and interest in and to the '493 Patent,
21 which was issued on February 11, 2014. A true and correct copy of the '493 Patent is attached hereto
22 as Exhibit E.

23 104. The '493 Patent addresses an invention for testing websites. The disclosed innovation
24 tests many facets of the website's experience and operation, including by providing novel approaches
25 to creating, storing, and executing test scripts using website elements as opposed to the previously
26 disclosed use of recording test scripts based upon user actions only.

27
28

1 105. SRI has the exclusive right to make, use, sell, and offer to sell any product embodying
2 the '493 Patent throughout the United States, and to import any product embodying the '493 Patent
3 into the United States.

4 106. SRI has commercially exploited the '493 Patent by making, marketing, selling, and
5 using products covered by the '493 Patent, including its popular eValid™ software products. SRI
6 continues to commercially exploit the '493 Patent through the present, at least by continuing to
7 provide maintenance and support to users of its popular eValid™ software products.

8 107. Defendants have had knowledge of the '493 Patent, SRI, and SRI's products
9 embodying the inventions claimed in the Patents-in-Suit since at least as early as the filing of this
10 Complaint.

11 108. At all relevant times, SRI provided public notice of the '493 Patent by properly
12 marking its products and its website under 35 U.S.C. § 287(a).

13 109. Defendants have been, and are currently, directly infringing at least claim 1 of the
14 '493 Patent in violation of 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by
15 making, using, selling, offering for sale, and/or importing into the United States Defendants'
16 Infringing Products, which, as set forth in documentation available on Defendants' website, comprise
17 the non-transitory computer readable media disclosed in the '493 Patent—both as maintained in
18 Defendants' files and those of the users to whom Defendants offer and sell the Infringing Products—
19 including at least computer program code stored therein for providing a test-enabled browser for
20 testing a website residing on a network (for example, Tosca “automates tests across all layers of
21 modern enterprise architectures—from the API, to web, mobile, and custom/packaged app UIs, to BI
22 and data warehouses,” [https://www.tricentis.com/wp-content/uploads/2019/01/20180313_Tricentis-
23 Tosca_Fact_Sheet.pdf](https://www.tricentis.com/wp-content/uploads/2019/01/20180313_Tricentis-Tosca_Fact_Sheet.pdf); Tosca XBrowser as used with a web browser is a test-enabled web browser
24 that “can be used to test web applications,”
25 [https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3
27 .0/xbrowser/xbrowser.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3
26 .0/xbrowser/xbrowser.htm); the website necessarily resides on a network; and Tosca utilizes any
28 number of browsers as its “test-enabled browser,” *id.*), said medium comprising computer program
code for interfacing with web browsing components, the web browsing components including DOM

1 access methods, computer program code for accessing a website to be tested (for example, Tosca
2 allows a user to browse the web via common web browsing activities, such as opening a website
3 (https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/open_url.htm),
4 clicking on a screen position
5 (https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/html_clickonscreen
6 [.htm](#)), and firing events
7 (https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls
8 [.htm](#)); and Tosca interrogates the DOM to identify and extract relevant information regarding at least
9 the page elements germane to the script, including each such element's index and value, and stores
10 those details in the test script
11 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat
12 e%20testcases#Verifycontrols-VerificationMode](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)); these page elements are located based on their
13 DOM indexes
14 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.h
15 tm?Highlight=setdomclick](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick);
16 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h
17 tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm);
18 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h
19 tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm); <https://support.tricentis.com/community/article.do?number=KB0013563>)); computer program
20 code for rendering and examining at least one web page of the website so as to extract details of
21 elements of the web page, and store the details of the web page in a recorded script, such as recorded
22 scripts generated through the testing component of the Infringing Products (for example, Tosca
23 allows for the creation of test scripts, called "TestCases"
24 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco
25 rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) to test websites by recording a user's interactions with the web page in question
26 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco
27 rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) and allowing the user to play back those test scripts
28 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?H

1 [highlight=create%20and%20execute%20testevents](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20and%20execute%20testevents)); Tosca interrogates the DOM to identify and
2 extract relevant information regarding at least the page elements germane to the script, including each
3 such element’s index and value, and stores those details in the test script
4 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)
5 [e%20testcases#Verifycontrols-VerificationMode](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)); Tosca’s Verify controls—Verification Mode”
6 “allow[] you to verify controls of your test application,” which necessarily requires the storage of
7 facts about the webpage—these facts are “saved to the according control in the TestCase” against
8 which Tosca validates the web page being rendered
9 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)
10 [e%20testcases#Verifycontrols-VerificationMode](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)); these page elements are located based on their
11 DOM indexes
12 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.h](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick)
13 [tm?Highlight=setdomclick](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick);
14 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
15 [tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm);
16 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
17 [tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm); <https://support.tricentis.com/community/article.do?number=KB0013563>)); computer program
18 code for selecting a validation test to be performed (for example, Tosca allows for the creation of test
19 scripts, called “TestCases”
20 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
21 [rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) to test websites by recording a user’s interactions with the web page in question
22 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
23 [rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) and allowing the user to play back those test scripts
24 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?H](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)
25 [ighlight=create%20and%20execute%20testevents](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)); and Tosca’s Verify controls—Verification
26 Mode” “allow[] you to verify controls of your test application,” which necessarily requires the
27 storage of facts about the webpage—these facts are “saved to the according control in the TestCase”
28 against which Tosca validates the web page being rendered

1 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode); and computer program code for performing the
 2 validation test using at least one of the DOM access methods of the web browsing components,
 3 wherein during the validation test, the at least one web page is newly rendered and details of elements
 4 for the at least one web page as newly rendered are accessed via the at least one of the DOM access
 5 methods and compared to the stored details in the recorded script (for example, Tosca allows for the
 6 creation of test scripts, called “TestCases”

7 (https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
 8 (https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
 9 to test websites by recording a user’s interactions with the web page in question
 10 (https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
 11 and allowing the user to play back those test scripts

12 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents); Tosca interrogates the DOM to identify and
 13 extract relevant information regarding at least the page elements germane to the script, including each
 14 such element’s index and value, and stores those details in the test script

15 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode); Tosca’s Verify controls—Verification Mode”
 16 “allow[] you to verify controls of your test application,” which necessarily requires the storage of
 17 facts about the webpage—these facts are “saved to the according control in the TestCase” against
 18 which Tosca validates the web page being rendered

19 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode); and these page elements are located based on their
 20 DOM indexes

21 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick);

22 (https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm);

23 (https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm);

singer bea^{LLP}

1 [tm; https://support.tricentis.com/community/article.do?number=KB0013563](https://support.tricentis.com/community/article.do?number=KB0013563))), as disclosed in the
2 '493 Patent.

3 110. Defendants will, on information and belief, continue to directly infringe the '493
4 Patent unless enjoined.

5 111. To the extent Defendants' Infringing Products, without more, do not directly infringe
6 at least claim 1 of the '493 Patent, at least as of the filing of this Complaint, Defendants contribute to
7 infringement of the same under 35 U.S.C. § 271(c) inasmuch as the Infringing Products offered for
8 sale and sold by Defendants are each a component of a patented machine or an apparatus used in
9 practicing a patented process, constituting a material part of SRI's invention, knowing the same to be
10 especially made or especially adapted for use in infringement of the '493 Patent. For example, as set
11 forth above, Tosca, when used in its normal and intended usage (pursuant to the instructions set forth
12 on Tricentis's website), infringes claim 1 of the '493 Patent. *See supra*, ¶ 109.

13 112. Defendants will, on information and belief, continue to contribute to infringement of
14 the '493 Patent unless enjoined.

15 113. Defendants actively encourage their customers to use Defendants' Infringing Products
16 in an infringing manner. For example, Defendants' website is replete with written directions,
17 screenshots, and videos instructing users on how to use the Infringing Products in an infringing
18 manner. For example, as set forth above, Defendants' website regarding Tosca specifically instructs
19 users of the Infringing Products how to infringe claim 1 of the '493 patent. *See supra*, ¶ 109.

20 Defendants' website also touts the identities of customers who use the Infringing Products, each of
21 whom is a direct infringer inasmuch as they use the Infringing Products in the infringing manner as
22 instructed by Defendants:

23
24
25
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Meet our customers

At Tricentis, we measure our own success by that of our customers. Learn how we help enterprises deliver the highest quality and user experience in every release.

<p>Vantiv</p> <p>Shortens Test Execution Time & Increases Risk Coverage by 90%</p> <p>Customer Journey</p>	<p>A1 Telekom</p> <p>Adds Continuous Speed with Continuous Testing</p> <p>Customer Journey</p>	<p>Dolby</p> <p>Achieves Risk-based, End-to-End Test Automation</p> <p>Customer Journey</p>
<p>Varian</p> <p>Achieved Quality at Speed in Regulated Environments</p> <p>Customer Journey</p>	<p>Swiss Re</p> <p>Accelerates Time to Market and Improves Efficiency</p> <p>Customer Journey</p>	<p>Allianz</p> <p>Optimizes Time to Value and Reduces Costs</p> <p>Customer Journey</p>
<p>Linde</p> <p>Simplified Testing Across Complex SAP, Salesforce, Web & Mobile Apps</p> <p>Customer Journey</p>	<p>EdgeVerve</p> <p>Accelerating Testing for Scaled Agile</p> <p>Customer Journey</p>	<p>Siemens</p> <p>Mitigates risks for its customized SAP system</p> <p>Case Study</p>
<p>AGL</p> <p>Achieves Risk-based, End to End Test Automation</p> <p>Case Study</p>	<p>SPAR</p> <p>Reinventing Software Testing for the "Digital Tsunami"</p> <p>Case Study</p>	<p>University of the West of England</p> <p>Standardizes Testing and Gains Visibility Across Projects</p> <p>Case Study</p>

<https://www.tricentis.com/test-automation-success/>.

114. Upon information and belief, and particularly by way of the detailed documentation instructing users on how to use the Infringing Products in an infringing manner (*see supra*, ¶¶ 109, 113), Defendants have encouraged this infringement with knowledge of the '493 Patent and with a specific intent to cause their customers and distributors to infringe.

115. Defendants' acts at least as of the filing of this Complaint thus constitute active inducement of patent infringement in violation of 35 U.S.C. § 271(b).

singer bea^{LLP}

1 116. Defendants will, on information and belief, continue to induce infringement of the
2 '493 Patent unless enjoined.

3 117. Defendants' direct infringement, contributory infringement, and inducement of
4 infringement have irreparably harmed SRI.

5 118. Defendants will, on information and belief, continue to irreparably harm SRI unless
6 enjoined.

7 119. Pursuant to 35 U.S.C. § 284, SRI is entitled to damages adequate to compensate for
8 the infringement but in no event less than a reasonable royalty.

9 120. Defendants' infringement has been and is willful and, pursuant to 35 U.S.C. § 284,
10 SRI is entitled to treble damages. Defendants' willful infringement is based at least on Defendants'
11 knowledge of SRI, its products, and its patents since at least as early as the filing of this Complaint.
12 Defendants have either willfully and wantonly infringed the '493 Patent or have recklessly avoided
13 knowledge of their own infringement, even when faced with knowledge of SRI's own products and
14 patents.

15 121. This case is "exceptional" within the meaning of 35 U.S.C. § 285, and SRI is entitled
16 to an award of attorneys' fees.

17 **COUNT VI – INFRINGEMENT OF THE '491 PATENT**

18 122. SRI re-alleges and incorporates the allegations of the preceding paragraphs of this
19 Complaint as if fully set forth herein.

20 123. SRI is the assignee and owner of all right, title, and interest in and to the '491 Patent,
21 which was issued on March 17, 2015. A true and correct copy of the '491 Patent is attached hereto as
22 Exhibit F.

23 124. The '491 Patent addresses an invention for testing websites. The disclosed innovation
24 tests many facets of the website's experience and operation, including by providing novel approaches
25 to creating, storing, and executing test scripts using website elements as opposed to the previously
26 disclosed use of recording test scripts based upon user actions only.

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28

1 125. SRI has the exclusive right to make, use, sell, and offer to sell any product embodying
2 the '491 Patent throughout the United States, and to import any product embodying the '491 Patent
3 into the United States.

4 126. SRI has commercially exploited the '491 Patent by making, marketing, selling, and
5 using products covered by the '491 Patent, including its popular eValid™ software products. SRI
6 continues to commercially exploit the '491 Patent through the present, at least by continuing to
7 provide maintenance and support to users of its popular eValid™ software products.

8 127. Defendants have had knowledge of the '491 Patent, SRI, and SRI's products
9 embodying the inventions claimed in the Patents-in-Suit since at least as early as the filing of this
10 Complaint.

11 128. At all relevant times, SRI provided public notice of the '491 Patent by properly
12 marking its products and its website pursuant to 35 U.S.C. § 287(a).

13 129. Defendants have been, and are currently, directly infringing at least claim 1 of the
14 '491 Patent in violation of 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by
15 making, using, selling, offering for sale, and/or importing into the United States Defendants'
16 Infringing Products, which, as set forth in documentation available on Defendants' website, comprise
17 the non-transitory computer readable media disclosed in the '491 Patent—both as maintained in
18 Defendants' files and those of the users to whom Defendants offer and sell the Infringing Products—
19 including at least computer program code for providing a test enabled web browser, said medium
20 comprising computer program code for testing capabilities of a website hosted by a server and
21 accessible to the computer via a network (for example, Tosca “automates tests across all layers of
22 modern enterprise architectures—from the API, to web, mobile, and custom/packaged app UIs, to BI
23 and data warehouses,” [https://www.tricentis.com/wp-content/uploads/2019/01/20180313_Tricentis-
24 Tosca_Fact_Sheet.pdf](https://www.tricentis.com/wp-content/uploads/2019/01/20180313_Tricentis-Tosca_Fact_Sheet.pdf); Tosca XBrowser as used with a web browser is a test-enabled web browser
25 that “can be used to test web applications,”
26 [https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3
27 .0/xbrowser/xbrowser.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=engines_3); the website necessarily includes a website and is hosted by a server and
28 accessible to the computer via a network; Tosca utilizes any number of browsers as its “test-enabled

1 browser,” *id.*; and Tosca allows a user to browse the web via common web browsing activities, such
2 as opening a website
3 (https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/open_url.htm),
4 clicking on a screen position
5 ([https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/html_clickonscreen](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/html_clickonscreen.htm)
6 [.htm](#)), and firing events
7 ([https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
8 [htm](#)); wherein the computer program code for testing capabilities of the website provides playback of
9 one or more test scripts, such as those generated via the testing component of the Infringing Products,
10 the one or more test scripts being separate from the website (for example, Tosca allows for the
11 creation of test scripts, called “TestCases”
12 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
13 [rder_xscan.htm](#)) to test websites by recording a user’s interactions with the web page in question
14 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
15 [rder_xscan.htm](#)) and allowing the user to play back those test scripts
16 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?H](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)
17 [ighlight=create%20and%20execute%20testevents](#)); and Tosca’s TestCases are stored and accessed
18 separately from the webpage itself
19 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=recor](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=recorder)
20 [der](#))); wherein the computer program code for testing capabilities is configured to keep track of
21 specific DOM element property name and/or values within a webpage of the website being tested to
22 provide support for playback of one or more test scripts that were recorded from and/or are played
23 back via the test enabled web browser (for example, Tosca allows for the creation of test scripts,
24 called “TestCases”
25 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
26 [rder_xscan.htm](#)) to test websites by recording a user’s interactions with the web page in question
27 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
28 [rder_xscan.htm](#)) and allowing the user to play back those test scripts

1 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?H](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)
2 [ighlight=create%20and%20execute%20testevents](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)); Tosca interrogates the DOM to identify and
3 extract relevant information regarding at least the page elements germane to the script, including each
4 such element's index and value, and stores those details in the test script
5 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)
6 [e%20testcases#Verifycontrols-VerificationMode](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)); Tosca's Verify controls—Verification Mode”
7 “allow[] you to verify controls of your test application,” which necessarily requires the storage of
8 facts about the webpage—these facts are “saved to the according control in the TestCase” against
9 which Tosca validates the web page being rendered
10 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)
11 [e%20testcases#Verifycontrols-VerificationMode](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)); these page elements are located based on their
12 DOM indexes
13 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.h](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick)
14 [tm?Highlight=setdomclick](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick);
15 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
16 [tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm);
17 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
18 [tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm); <https://support.tricentis.com/community/article.do?number=KB0013563>)); wherein the use of the
19 named DOM element property values provides support for synchronizing playback of the one or
20 more test scripts (for example, Tosca allows for the creation of test scripts, called “TestCases”
21 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
22 [rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) to test websites by recording a user's interactions with the web page in question
23 ([https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/reco](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)
24 [rder_xscan.htm](https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm)) and allowing the user to play back those test scripts
25 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?H](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)
26 [ighlight=create%20and%20execute%20testevents](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)); Tosca interrogates the DOM to identify and
27 extract relevant information regarding at least the page elements germane to the script, including each
28 such element's index and value, and stores those details in the test script

1 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode); Tosca’s Verify controls—Verification Mode”
 2
 3 “allow[] you to verify controls of your test application,” which necessarily requires the storage of
 4 facts about the webpage—these facts are “saved to the according control in the TestCase” against
 5 which Tosca validates the web page being rendered
 6 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode); these page elements are located based on their
 7 DOM indexes
 8 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick;
 9
 10 https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm;
 11
 12 https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm;
 13
 14 <https://support.tricentis.com/community/article.do?number=KB0013563>); and Tosca allows for
 15 the testing of content dynamically generated by AJAX programming including using, for example, its
 16 various “Wait for statuslabel,” “WaitOn,” or similar technologies or other related functions to
 17 synchronize playback and allow for testing of content dynamically generated by AJAX programming
 18 (https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Highlight=wait;
 19
 20 https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=waiton)); wherein at least one or more test scripts operate, when performed, to find a current index of
 21 at least one DOM element of the webpage based on a specified property name and/or property value,
 22 and insert or verify a name and/or value in the at least one DOM element of the webpage having the
 23 current index (for example, Tosca allows for the creation of test scripts, called “TestCases”
 24 (https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm) to test websites by recording a user’s interactions with the web page in question
 25 (https://support.tricentis.com/community/manuals_detail.do?lang=en&version=12.1.0&url=tbox/recorder_xscan.htm) and allowing the user to play back those test scripts
 26
 27
 28

1 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?H](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)
2 [ighlight=create%20and%20execute%20testevents](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/creating_events.htm?Highlight=create%20and%20execute%20testevents)); Tosca interrogates the DOM to identify and
3 extract relevant information regarding at least the page elements germane to the script, including each
4 such element's index and value, and stores those details in the test script
5 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)
6 [e%20testcases#Verifycontrols-VerificationMode](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)); Tosca's Verify controls—Verification Mode”
7 “allow[] you to verify controls of your test application,” which necessarily requires the storage of
8 facts about the webpage—these facts are “saved to the according control in the TestCase” against
9 which Tosca validates the web page being rendered
10 ([https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=creat](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)
11 [e%20testcases#Verifycontrols-VerificationMode](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=create%20testcases#Verifycontrols-VerificationMode)); these page elements are located based on their
12 DOM indexes
13 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.h](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick)
14 [tm?Highlight=setdomclick](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/wizard_settings_html.htm?Highlight=setdomclick);
15 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
16 [tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm);
17 [https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.h](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm)
18 [tm](https://documentation.tricentis.com/tosca/1210/en/content/engines_3.0/xbrowser/xbrowser_controls.htm); <https://support.tricentis.com/community/article.do?number=KB0013563>); and Tosca allows for
19 the testing of content dynamically generated by AJAX programming including using, for example, its
20 various “Wait for statuslabel,” “WaitOn,” or similar technologies or other related functions to
21 synchronize playback and allow for testing of content dynamically generated by AJAX programming
22 ([https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Hig](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Highlight=wait)
23 [hlight=wait](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/settings_html.htm?Highlight=wait);
24 [https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=waiton)
25 [waiton](https://documentation.tricentis.com/tosca/1210/en/content/tosca_commander/waiton.htm?Highlight=waiton))); and wherein the computer code for testing capabilities of the website performs the one or
26 more test scripts using one or more programmatic processes that are separate from the web page of
27 the website being tested (for example, Tosca's TestCases are stored and accessed separately from the
28 webpage itself

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1 (https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=recor
2 [der](https://documentation.tricentis.com/tosca/1210/en/content/tbox/recorder_xscan.htm?Highlight=recor))), as disclosed in the '491 Patent.

3 130. Defendants will, on information and belief, continue to directly infringe the '491
4 Patent unless enjoined.

5 131. To the extent Defendants' Infringing Products, without more, do not directly infringe
6 at least claim 1 of the '491 Patent, at least as of the filing of this Complaint, Defendants contribute to
7 infringement of the same under 35 U.S.C. § 271(c) inasmuch as the Infringing Products offered for
8 sale and sold by Defendants are each a component of a patented machine or an apparatus used in
9 practicing a patented process, constituting a material part of SRI's invention, knowing the same to be
10 especially made or especially adapted for use in infringement of the '491 Patent. For example, as set
11 forth above, Tosca, when used in its normal and intended usage (pursuant to the instructions set forth
12 on Tricentis's website), infringes claim 1 of the '491 Patent. *See supra*, ¶ 129.

13 132. Defendants will, on information and belief, continue to contribute to infringement of
14 the '491 Patent unless enjoined.

15 133. Defendants actively encourage their customers to use Defendants' Infringing Products
16 in an infringing manner. For example, Defendants' website is replete with written directions,
17 screenshots, and videos instructing users on how to use the Infringing Products in an infringing
18 manner. For example, as set forth above, Defendants' website Tosca specifically instructs users of
19 the Infringing Products how to infringe claim 1 of the '491 patent. *See supra*, ¶ 129. Defendants'
20 website also touts the identities of customers who use the Infringing Products, each of whom is a
21 direct infringer inasmuch as they use the Infringing Products in the infringing manner as instructed by
22 Defendants:

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Meet our customers

At Tricentis, we measure our own success by that of our customers. Learn how we help enterprises deliver the highest quality and user experience in every release.

<p>Vantiv</p> <p>Shortens Test Execution Time & Increases Risk Coverage by 90%</p> <p>Customer Journey</p>	<p>A1 Telekom</p> <p>Adds Continuous Speed with Continuous Testing</p> <p>Customer Journey</p>	<p>Dolby</p> <p>Achieves Risk-based, End-to-End Test Automation</p> <p>Customer Journey</p>
<p>Varian</p> <p>Achieved Quality at Speed in Regulated Environments</p> <p>Customer Journey</p>	<p>Swiss Re</p> <p>Accelerates Time to Market and Improves Efficiency</p> <p>Customer Journey</p>	<p>Allianz</p> <p>Optimizes Time to Value and Reduces Costs</p> <p>Customer Journey</p>
<p>Linde</p> <p>Simplified Testing Across Complex SAP, Salesforce, Web & Mobile Apps</p> <p>Customer Journey</p>	<p>EdgeVerve</p> <p>Accelerating Testing for Scaled Agile</p> <p>Customer Journey</p>	<p>Siemens</p> <p>Mitigates risks for its customized SAP system</p> <p>Case Study</p>
<p>AGL</p> <p>Achieves Risk-based, End to End Test Automation</p> <p>Case Study</p>	<p>SPAR</p> <p>Reinventing Software Testing for the "Digital Tsunami"</p> <p>Case Study</p>	<p>University of the West of England</p> <p>Standardizes Testing and Gains Visibility Across Projects</p> <p>Case Study</p>

<https://www.tricentis.com/test-automation-success/>.

134. Upon information and belief, and particularly by way of the detailed documentation instructing users on how to use the Infringing Products in an infringing manner (*see supra*, ¶¶ 129, 133), Defendants have encouraged this infringement with knowledge of the '491 Patent and with a specific intent to cause their customers and distributors to infringe.

135. Defendants' acts at least as of the filing of this Complaint thus constitute active inducement of patent infringement in violation of 35 U.S.C. § 271(b).

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1 136. Defendants will, on information and belief, continue to induce infringement of the
2 '491 Patent unless enjoined.

3 137. Defendants' direct infringement, contributory infringement, and inducement of
4 infringement have irreparably harmed SRI.

5 138. Defendants will, on information and belief, continue to irreparably harm SRI unless
6 enjoined.

7 139. Pursuant to 35 U.S.C. § 284, SRI is entitled to damages adequate to compensate for
8 the infringement but in no event less than a reasonable royalty.

9 140. Defendants' infringement has been and is willful and, pursuant to 35 U.S.C. § 284,
10 SRI is entitled to treble damages. Defendants' willful infringement is based at least on Defendants'
11 knowledge of SRI, its products, and its patents since at least as early as the filing of this Complaint.
12 Defendants have either willfully and wantonly infringed the '491 Patent or have recklessly avoided
13 knowledge of their own infringement, even when faced with knowledge of SRI's own products and
14 patents.

15 141. This case is "exceptional" within the meaning of 35 U.S.C. § 285, and SRI is entitled
16 to an award of attorneys' fees.

17 **DEMAND FOR JURY TRIAL**

18 SRI hereby demands a trial by jury of all issues so triable under Federal Rule of Civil
19 Procedure 38(b).

20 **PRAYER FOR RELIEF**

21 WHEREFORE, SRI respectfully requests that this Court:

- 22 A. Find that United States Patent No. 7,757,175 is valid and enforceable against
23 Defendants;
24 B. Find that Defendants have infringed and are infringing United States Patent No.
25 7,757,175;
26 C. Permanently enjoin Defendants, their officers, agents, servants, employees, and those
27 persons acting in active concert or in participation therewith from infringing United
28 States Patent No. 7,757,175;

- 1 D. Award SRI damages sufficient to compensate it for Defendants' past and future
2 infringement of United States Patent No. 7,757,175, together with costs and
3 prejudgment interest, pursuant to 35 U.S.C. § 284;
- 4 E. Find that United States Patent No. 8,327,271 is valid and enforceable against
5 Defendants;
- 6 F. Find that Defendants have infringed and are infringing United States Patent No.
7 8,327,271;
- 8 G. Permanently enjoin Defendants, their officers, agents, servants, employees, and those
9 persons acting in active concert or in participation therewith from infringing United
10 States Patent No. 8,327,271;
- 11 H. Award SRI damages sufficient to compensate it for Defendants' past and future
12 infringement of United States Patent No. 8,327,271, together with costs and
13 prejudgment interest, pursuant to 35 U.S.C. § 284;
- 14 I. Find that United States Patent No. 8,392,890 is valid and enforceable against
15 Defendants;
- 16 J. Find that Defendants have infringed and are infringing United States Patent No.
17 8,392,890;
- 18 K. Permanently enjoin Defendants, their officers, agents, servants, employees, and those
19 persons acting in active concert or in participation therewith from infringing United
20 States Patent No. 8,392,890;
- 21 L. Award SRI damages sufficient to compensate it for Defendants' past and future
22 infringement of United States Patent No. 8,392,890, together with costs and
23 prejudgment interest, pursuant to 35 U.S.C. § 284;
- 24 M. Find that United States Patent No. 8,495,585 is valid and enforceable against
25 Defendants;
- 26 N. Find that Defendants have infringed and are infringing United States Patent No.
27 8,495,585;
- 28

- 1 O. Permanently enjoin Defendants, their officers, agents, servants, employees, and those
2 persons acting in active concert or in participation therewith from infringing United
3 States Patent No. 8,495,585;
- 4 P. Award SRI damages sufficient to compensate it for Defendants' past and future
5 infringement of United States Patent No. 8,495,585, together with costs and
6 prejudgment interest, pursuant to 35 U.S.C. § 284;
- 7 Q. Find that United States Patent No. 8,650,493 is valid and enforceable against
8 Defendants;
- 9 R. Find that Defendants have infringed and are infringing United States Patent No.
10 8,650,493;
- 11 S. Permanently enjoin Defendants, their officers, agents, servants, employees, and those
12 persons acting in active concert or in participation therewith from infringing United
13 States Patent No. 8,650,493;
- 14 T. Award SRI damages sufficient to compensate it for Defendants' past and future
15 infringement of United States Patent No. 8,650,493, together with costs and
16 prejudgment interest, pursuant to 35 U.S.C. § 284;
- 17 U. Find that United States Patent No. 8,984,491 is valid and enforceable against
18 Defendants;
- 19 V. Find that Defendants have infringed and are infringing United States Patent No.
20 8,984,491;
- 21 W. Permanently enjoin Defendants, their officers, agents, servants, employees, and those
22 persons acting in active concert or in participation therewith from infringing United
23 States Patent No. 8,984,491;
- 24 X. Award SRI damages sufficient to compensate it for Defendants' past and future
25 infringement of United States Patent No. 8,984,491, together with costs and
26 prejudgment interest, pursuant to 35 U.S.C. § 284;
- 27 Y. Order an accounting of damages from Defendants' infringement;
- 28

- 1 Z. Award SRI enhanced damages, up to and including trebling SRI's damages, pursuant
2 to 35 U.S.C. § 284, for Defendants' willful infringement of the Patents-in-Suit;
3 AA. Award SRI its reasonable attorney fees and costs of suit pursuant to 35 U.S.C. § 285
4 due to the exceptional nature of this case, or as otherwise permitted by law;
5 BB. Award SRI post-judgment interest pursuant to 28 U.S.C. § 1961; and
6 CC. Award SRI such other or additional relief as the Court deems just and proper.
7

8 Date: April 12, 2019

Respectfully submitted,

SINGER BEA LLP

9
10
11 By:  _____

Benjamin L. Singer

Evan Budaj

Attorneys for Plaintiff Software Research, Inc.

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