

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

COOLTVNETWORK.COM, INC.,

Plaintiff,

v.

KALTURA, INC.,

Defendant.

CIVIL ACTION NO. 1:19-cv-00294

JURY TRIAL DEMANDED

PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff CoolTVNetwork.com, Inc. ("Plaintiff"), by and through its undersigned counsel, files this First Amended Complaint against Defendant Kaltura, Inc. ("Defendant") as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendant's infringement of United States Patent No. 7,162,696 ("the '696 patent") entitled "Method and System for Creating, Using and Modifying Multifunctional Website Hot Spots". A true and correct copy of the '696 patent is attached hereto as Exhibit A. Plaintiff is the owner by assignment of the '696 patent. Plaintiff seeks monetary damages and injunctive relief.

PARTIES

2. Plaintiff is a corporation having a principal place of business located at 17731 N.W. 14th CT. Miami, Florida 33169.

3. Upon information and belief, Defendant is a corporation organized and existing under the laws of the State of Delaware with a principal place of business located at 250 Park Avenue South 10th Floor New York, NY 10003. Defendant can be served with process by serving The Corporation Trust Company, Corporation Trust Center 1209 Orange Street, Wilmington, DE 19801.

JURISDICTION AND VENUE

4. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285.

5. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

6. The Court has personal jurisdiction over Defendant because Defendant is present within or has minimum contacts within the State of Delaware and the District of Delaware; Defendant has purposefully availed itself of the privileges of conducting business in the State of Delaware and in the District of Delaware; Defendant has sought protection and benefit from the laws of the State of Delaware; Defendant regularly conducts business within the State of Delaware and within the District of Delaware; and Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Delaware and in the District of Delaware. Further, this Court has personal jurisdiction over Defendant because it is incorporated in Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

7. More specifically, Defendant, directly and/or through intermediaries, ships, distributes, uses, offers for sale, sells, and/or advertises products and services in the United States, the State of Delaware, and the District of Delaware including but not limited to the Accused Instrumentalities as detailed below. Upon information and belief, Defendant has committed patent infringement in the State of Delaware and in the District of Delaware. Defendant solicits and has solicited customers in the State of Delaware and in the District of Delaware. Defendant has paying customers who are residents of the State of Delaware and the District of Delaware and who each use and have used the Defendant's products and services in the State of Delaware and in the District of Delaware.

8. Venue is proper in the District of Delaware pursuant to 28 U.S.C. §§ 1400(b). On information and belief, Defendant is incorporated in this district and has directly and/or indirectly committed acts of patent infringement in this district.

COUNT I – PATENT INFRINGEMENT

9. Plaintiff refers to and incorporates herein the allegations of Paragraphs 1-8 above.

10. The ‘696 patent was duly and legally issued by the United States Patent and Trademark Office on January 9, 2007 after full and fair examination. Plaintiff is the owner by assignment of the ‘696 patent and possesses all rights of recovery under the ‘696 patent, including the exclusive right to sue for infringement and recover past damages and obtain injunctive relief.

11. Defendant owns, uses, operates, advertises, controls, sells, and otherwise provides systems, methods and apparatus that infringe the ‘696 patent. The ‘696 patent provides, among other things, “a Multifunctional Hot Spot method comprising: defining at least one hot spot by a communication with instructions stored on a tangible retaining medium; accessing at least one of the hot spots from a globally accessible network; performing at least one of a plurality of predetermined functions executed with the selection of each particular hot spot; wherein said hot spots reside on and are accessible from a digital video or audio file; wherein said predetermined functions are selected from a mode control; wherein the mode control comprises a plurality of modes; wherein the plurality of modes comprise a shop mode, a bid mode, an interact mode, an entertainment mode, and a link mode; wherein a specific mode is selected by a user through an expandable graphical user interface bar; wherein said specific mode further toggles based on time stamps in said digital video or digital audio file; wherein said hot spots are visualized by outlines, shading, or illumination or a combination of each, at a predetermined area on the display; wherein said Multifunctional Hot Spot apparatus is made to reside on and is executing on a computing

system; selecting and activating at least one of said predetermined functions by clicking on each particular Multifunctional Hot Spot.”

12. Defendant has been and is now infringing the ‘696 patent in the State of Delaware, in this judicial district, and elsewhere in the United States, by, among other things, directly or through intermediaries, making, using, importing, testing, providing, supplying, distributing, selling, and/or offering for sale systems, methods and apparatus (including, without limitation, the Defendant’s products including Kaltura MediaSpace Video Portal identified herein as the “Accused Instrumentality”) that provide a methods, apparatus and systems for creating, using and modifying multifunctional website hotspots including software that identifies, programs and activates hot spots with a plurality of functions wherein the functions include a shopping mode for selecting and purchasing items on a website or in a video, a digital call mode for facilitating videoconferencing and telephone calls over a globally accessible network, a digital storage area for selecting, retrieving and playing selected digital media files, a bid mode that facilitates audio and video communication during multi-task communication interface for conducting an auction and/or accepting bids, an interact mode for communicating a user with a live streamed digital media file, a link mode for directly linking to pre-identified URL addresses and an entertain mode for retrieving and activating digital media files, wherein the functions are selected based on user inputs or predetermined parameters and are activated by clicking a predetermined hot spot, covered by at least claim 17 of the ‘696 patent to the injury of CoolTVNetwork.com, Inc. Defendant is directly infringing, literally infringing, and/or infringing the ‘696 patent under the doctrine of equivalents. Defendant is thus liable for infringement of the ‘696 patent pursuant to 35 U.S.C. § 271.

13. Defendant has induced and continues to induce infringement of the '696 patent by intending that others use, offer for sale, or sell in the United States, products and/or methods covered by one or more claims of the '696 patent, including, but not limited to, methods, systems, and apparatus for creating, using and modifying multifunctional website hot spots. Defendant provides these products to others, such as customers, resellers and end-use consumers who, in turn, use, offer for sale, or sell in the United States these methods, systems, and apparatus for creating, using and modifying multifunctional website hot spots that infringe one or more claims of the '696 patent.

14. Defendant indirectly infringes the '696 patent by inducing infringement by others, such as resellers, customers and end-use consumers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is a result of the activities performed by the resellers, customers and end-use consumers of the mobile banking functionality, including methods, systems, and apparatus for creating, using and modifying multifunctional website hot spots.

15. Defendant received notice of the '696 patent at least as of the date this lawsuit was filed.

16. Defendant affirmative acts of providing and/or selling the methods, systems, and apparatus for creating, using and modifying multifunctional website hot spots, including manufacturing and distributing, and providing instructions for using the methods, systems, and apparatus for creating, using and modifying multifunctional website hot spots in their normal and customary way to infringe one or more claims of the '696 patent. Defendant performs the acts that constitute induced infringement, and induce actual infringement, with the knowledge of the '696 patent and with the knowledge or willful blindness that the induced acts constitute

infringement.

17. Defendant specifically intends for others, such as resellers, customers and end-use consumers, to directly infringe one or more claims of the '696 patent, or, alternatively, has been willfully blind to the possibility that its inducing acts would cause infringement. By way of example, and not as limitation, Defendant induces such infringement by its affirmative action by, among other things: (a) providing advertising on the benefits of using the Accused Instrumentalities' functionality; (b) providing information regarding how to use the Accused Instrumentalities' functionality; (c) providing instruction on how to use the Accused Instrumentalities' functionality; and (d) providing hardware and/or software components required to infringe the claims of the '696 patent.

18. Accordingly, a reasonable inference is that Defendant specifically intends for others, such as resellers, customers and end-use consumers, to directly infringe one or more claims of the '696 patent in the United States because Defendant has knowledge of the '696 patent at least as of the date this lawsuit was filed and Defendant actually induces others, such as resellers, customers and end-use consumers, to directly infringe the '696 patent by using, selling, and/or distributing, within the United States, methods, systems, and apparatus for creating, using and modifying multifunctional website hot spots.

19. As a result of Defendant acts of infringement, Plaintiff has suffered and will continue to suffer damages in an amount to be proved at trial.

20. Defendant continues advising, encouraging, or otherwise inducing others to use the systems, methods, and apparatus claimed by the '696 patent to the injury of Plaintiff. Since at least the filing date of the Original Complaint, Defendant has had knowledge of the '696 patent, and by continuing the actions described above, has specific intent to induce infringement of the

‘696 patent pursuant to 35 U.S.C. § 271(b), and has further contributed to said infringement of the ‘696 patent by their customers by providing them with the Accused Instrumentalities so that their customers could directly infringe the ‘696 patent.

21. Claim 17 of the ‘696 patent, claims:

A Multifunctional Hot Spot method comprising:




Powerful Video Creation and Enrichment Tools

From easy desktop [video capture](#) to full [lecture capture](#) to streamlined [live broadcast](#), Kaltura makes it easy to create sophisticated rich media from within the system. Once created or [uploaded](#), video can easily be enhanced with [captions](#), [interactive video quizzes](#), chapters, slides, [interactive content](#) that changes based on user actions, video calls to action, advertising, and more. With Kaltura’s [open platform](#), videos are then available in common video formats so you can use your video anywhere, for anything.

Kaltura MediaSpace Video Portal is a market-leading video solution that offers an incredibly flexible environment so you can unify videos from your entire institution, under your branding, with your workflows, and displaying only your content. Best of all, it empowers contributors and moderators from all over the organization, removing bottlenecks to unleash the full power of video.

SOURCE: <https://corp.kaltura.com/products/education/kaltura-mediaspace-video-portal/>



Build choice-based, interactive experiences in minutes directly within Kaltura MediaSpace.

- **Simple media management:** Connect videos, link out to additional content, create calls to action, and more—all without writing any code.
- **Drag-and-drop editing:** Drag-and-drop content to easily arrange and form 'branching' interactive narratives.

Powerful Video Creation and Enrichment Tools

From easy desktop [video capture](#) to full [lecture capture](#) to streamlined [live broadcast](#), Kaltura makes it easy to create sophisticated rich media from within the system. Once created or [uploaded](#), video can easily be enhanced with [captions](#), [interactive video quizzes](#), chapters, slides, [interactive content](#) that changes based on user actions, video calls to action, advertising, and more. With Kaltura’s [open platform](#), videos are then available in common video formats so you can use your video anywhere, for anything.

SOURCE: <https://corp.kaltura.com/products/education/kaltura-mediaspace-video-portal/>

defining at least one hot spot by a communication with instructions stored on a tangible retaining medium;

Kaltura's monetization features contain a comprehensive set of advertising tools, pay-per-view, subscription models, and built-in reports that let you optimize your strategy based on viewer behavior. You can target viewers with ads on live videos or VOD, and across multiple devices such as mobile, PC and set-top-box. With support for a wide range of video ad formats (including all major IAB standards), and integrated plugins for video ad networks, such as Google DoubleClick DART, FreeWheel, Ad Tech, Eye Wonder, AdapTV, Tremor Video and others, managing you can optimize your monetization. The Kaltura Player supports pre-rolls, mid-roll post-rolls, Flash companion ads and HTML companion ads. The Kaltura Player is VAST-compliant, supports custom SWFs, bumper videos, and has plugins for AdapTV, Tremor, and Eyewonder.

SOURCE: [https://oit.colorado.edu/sites/default/files/KMC_User_Manual\(Gemini\).pdf](https://oit.colorado.edu/sites/default/files/KMC_User_Manual(Gemini).pdf)



SOURCE: <http://player.kaltura.com/docs/index.php?path=advertising>

Kaltura player features robust VAST support for prerolls, midrolls, overlays, companions and postrolls



Ad Pods:

This demonstrates the VAST 3.0 support for sequential ads as defined in the VAST 3 spec as **ad pods**. This demo features two prerolls from vast3 adPods schema. It also includes an Overlay ad.



SOURCE: <http://player.kaltura.com/docs/index.php?path=VastAdPods>

Content Interactions Reports

Content Interactions reports display the following data for viewer interaction with your content:

- Plays – The number of times a user clicked "Play"
- Edits – The number of clicks on the "Edit" button
- Shares (Viral) – The number of clicks on the "Share" button
- Downloads – The number of clicks on the "Download" button
- Reports of Abuse – The number of clicks on the "Report" button



SOURCE: https://knowledge.kaltura.com/sites/default/files/Kaltura_MediaSpace_User_Manual_5_69.pdf

Use the Analytics tab to track and display analytical information for bandwidth usage, video content usage and to produce user and community reports. You can extract and analyze data from the publisher level to information for a specific user as well as from account's content level to any specific entry.

This section contains the following topics:

- **Content Reports** - display information about the entire content of the account, for example which is the most viewed video or which videos were 100% play-through.
- **User and Community Reports** - display information about all the end-users of this account, for example who was the excel content contributor.
- **Bandwidth Usage Reports** - provide clear visibility into the resources (storage, bandwidth) used by the publisher or the user.
- **User Level Reports** - displays reports for a specific user (which video was watched in a given time frame and for how long) and per specific content (which users watched the video and for how long).
- **System Reports** - displays information per the OS, browser, or platform used.
- **Live Reports** - displays analytics for live streaming.
- **Exporting Analytics to a CSV File**

SOURCE: <https://knowledge.kaltura.com/creating-and-tracking-analytics-kmc-0>

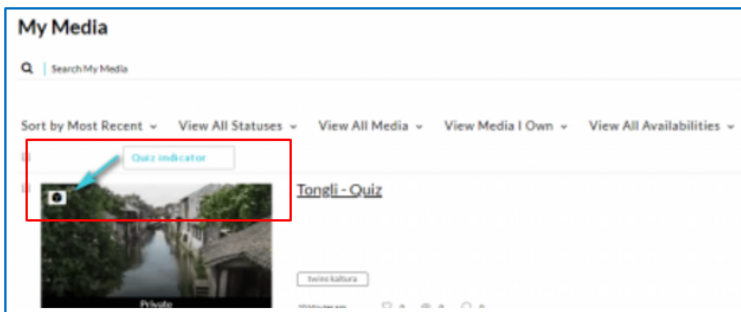
Kaltura Analytics is the tangible retaining medium which is the aggregated database for all the activity of users.

accessing at least one of the hot spots from a globally accessible network;

MediaSpace provide hot spots(hyperlinks) to another video, quiz via internet(from globally accessible network).



SOURCE: <http://player.kaltura.com/docs/index.php?path=advertising>



SOURCE: <https://knowledge.kaltura.com/kaltura-video-editing-tools-quiz-tab>



With MediaSpace you can

- Browse and search public categories and channels
- Upload and publish content
 - Contribute to categories and channels
 - Access and contribute to members-only channels
 - Create playlists
 - Create channels
 - Comment on media
 - Share media

MediaSpace provide hot spots via internet (from globally accessible network).



NOTE: Depending on your MediaSpace role, you may be able to access additional content after you log in. To understand your role, ask your MediaSpace administrator.

You can do the following:

- Display and Filter the content
- Sort the content
- Select a video to play
- View media
- Report abuse
- Like media
- Comment on media
- Search media and cautions

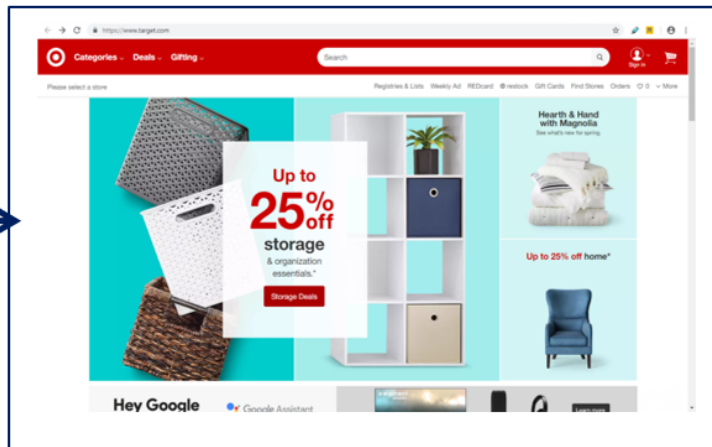
SOURCE: https://knowledge.kaltura.com/sites/default/files/kaltura_MediaSpace_User_Manual_5_19.pdf

performing at least one of a plurality of predetermined functions **executed with the selection of each particular hot spot;**

By clicking on the video (here acting as a hotspot), will be redirected to another link which is associated with it.



SOURCE: <http://player.kaltura.com/docs/index.php?path=VastAdPods>

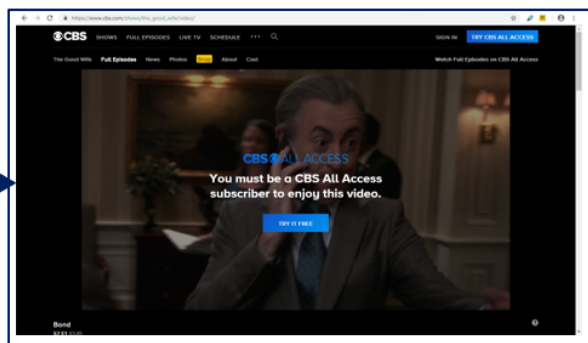


SOURCE: <https://www.target.com/>

By clicking on the visual cue(hotspot) , will be redirected to another link associated with it.

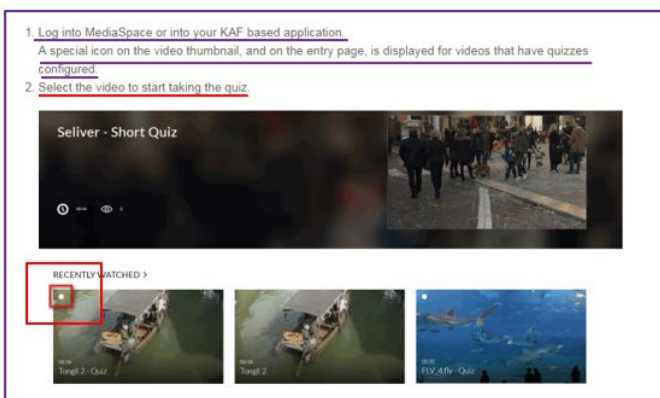


SOURCE: <http://player.kaltura.com/docs/index.php?path=advertising>



SOURCE: https://www.cbs.com/shows/the_good_wife/video/

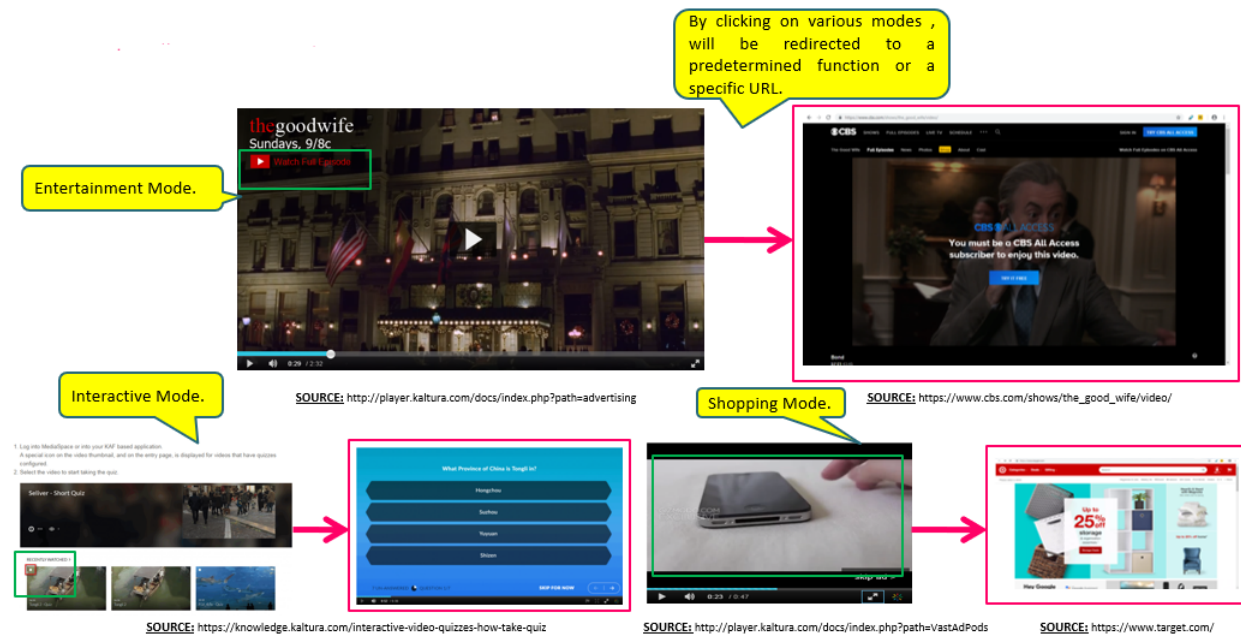
wherein said hot spots reside on and are accessible from a digital video or audio file;



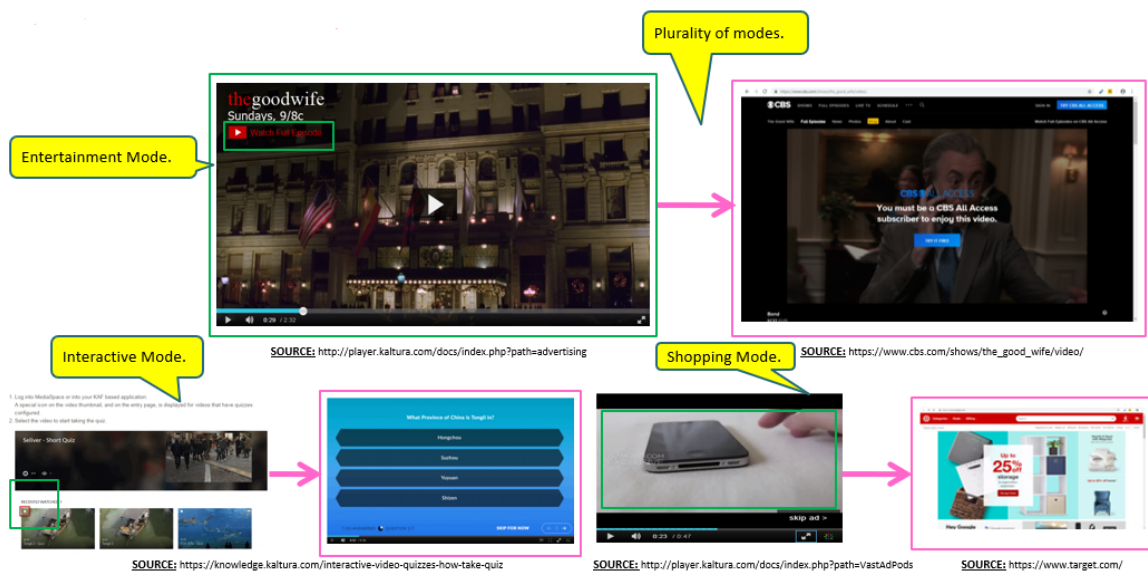
SOURCE: <https://knowledge.kaltura.com/interactive-video-quizzes-how-take-quiz>



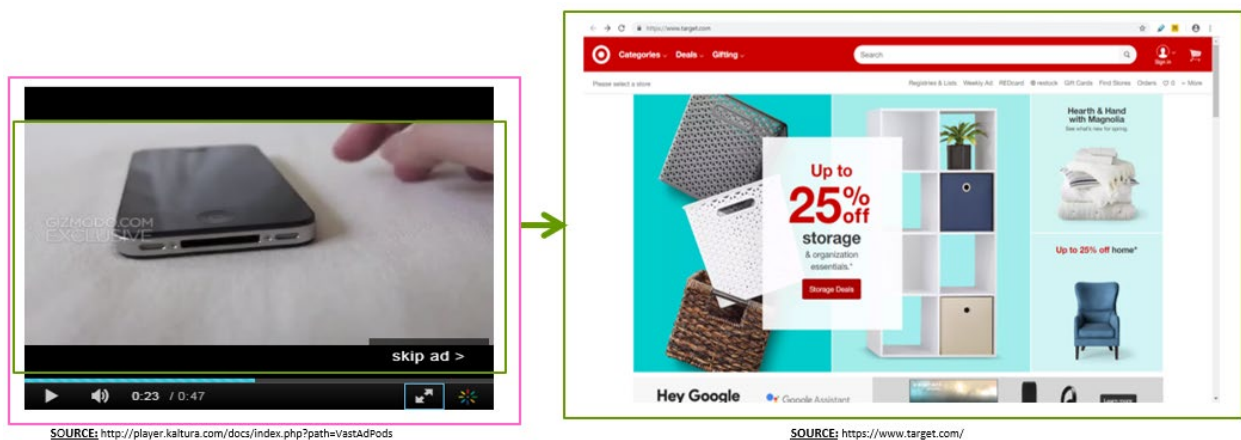
wherein said predetermined functions are selected from a mode control;

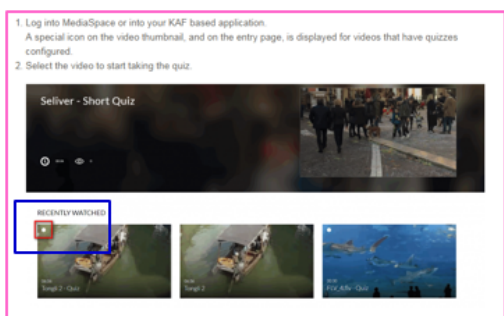


wherein the mode control comprises a plurality of modes;

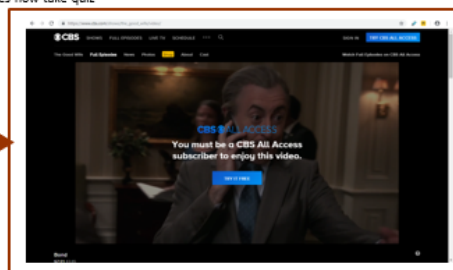


wherein the plurality of modes comprise a shop mode, a bid mode, an interact mode, an entertainment mode, and a link mode;



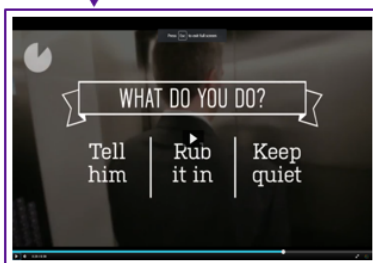
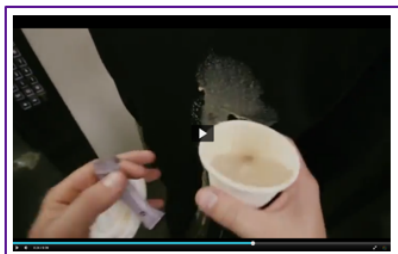


SOURCE: <https://knowledge.kaltura.com/interactive-video-quizzes-how-take-quiz>



SOURCE: <http://player.kaltura.com/docs/index.php?path=advertising>

SOURCE: https://www.cbs.com/shows/the_good_wife/video/



SOURCE: https://corp.kaltura.com/case_studies/interactive-video-example-deloitte/

Create more engaging, interactive, discoverable video

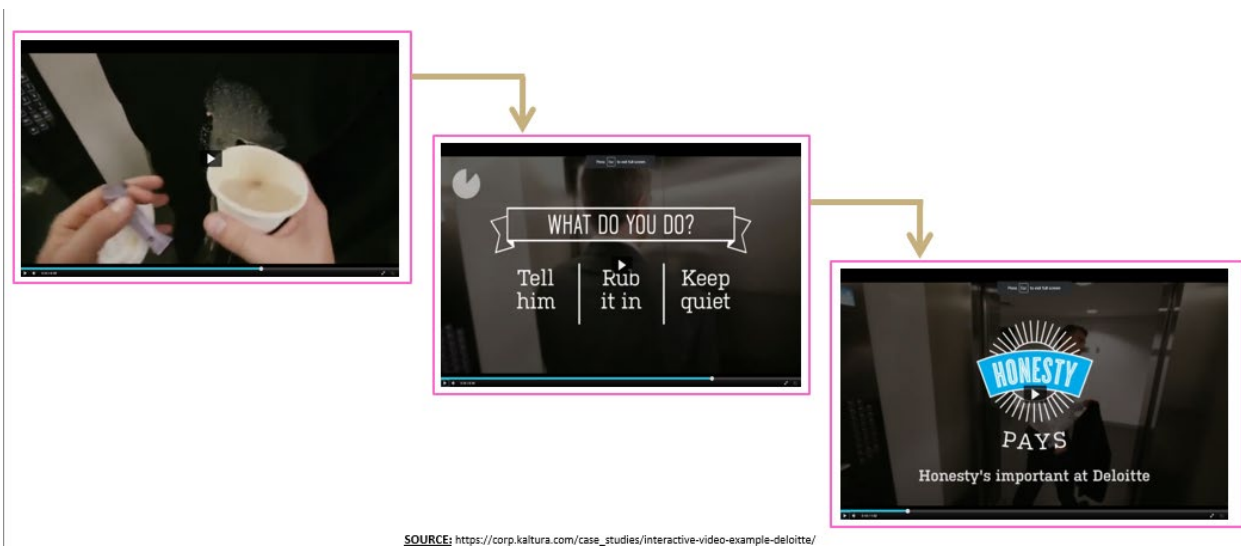
- ✓ Add **captions and translations** for accessibility and discoverability
- ✓ **Search** using captions, searchable slide text, and advanced metadata
- ✓ Add interactive features including **video quizzes, interactive players, interactive video content, chapters, polls, Q&A, calls-to-action, forms**, and more

SOURCE: <https://corp.kaltura.com/products/education/kaltura-video-platform/>

Interactive Features Beyond Polls and Q&A – Most solutions will likely include basic elements of interaction, such as poll and Q&A. To really stand out, you'd want to offer a user experience that goes beyond the basics. Features such as Answer on air help audiences keep up better with Q&A, and make it easier for VOD viewers to follow along. An interactive player lets each audience member focus on what's most important to them, whether it's the slides or the speaker.

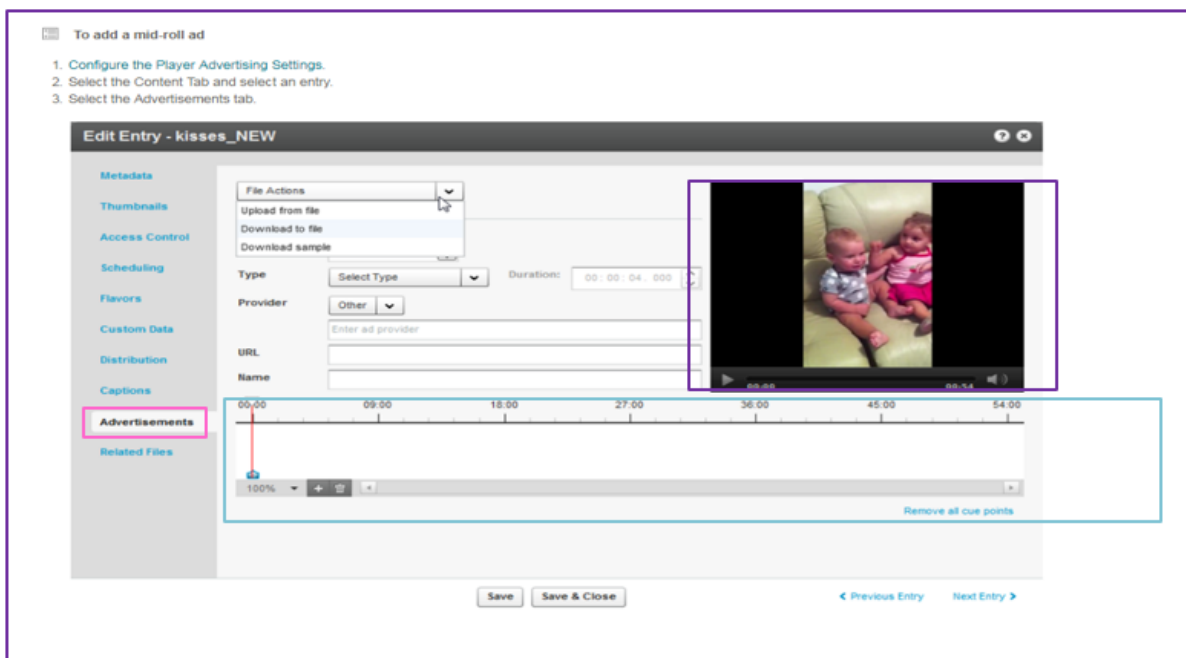
SOURCE: <https://corp.kaltura.com/blog/writing-a-webcasting-rfp-consider-webcastings-hierarchy-of-needs/>

wherein a specific mode is selected by a user through an expandable graphical user interface bar;



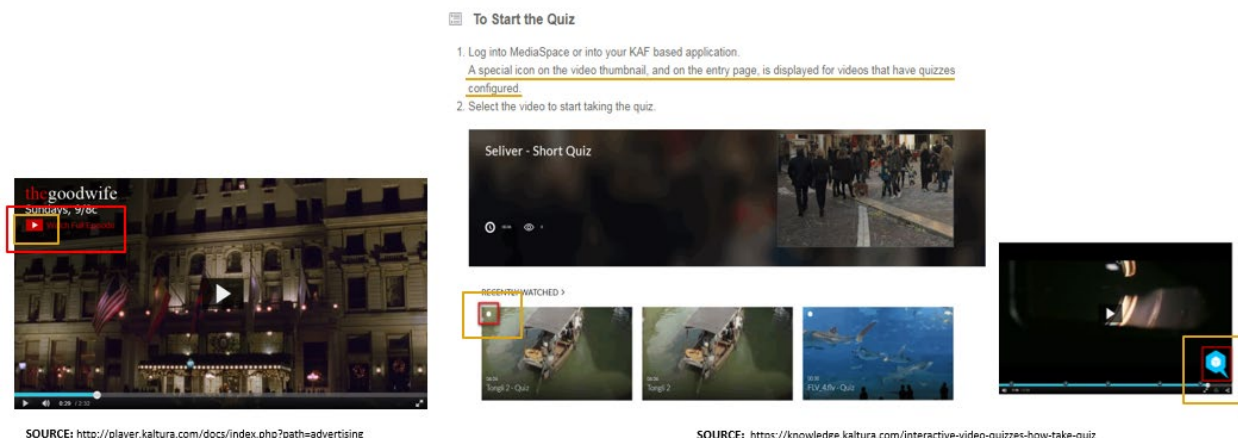
SOURCE: https://corp.kaltura.com/case_studies/interactive-video-example-deloitte/

wherein said specific mode further toggles based on time stamps in said digital video or digital audio file;



SOURCE: <https://knowledge.kaltura.com/faq/how-configure-mid-roll-ads>

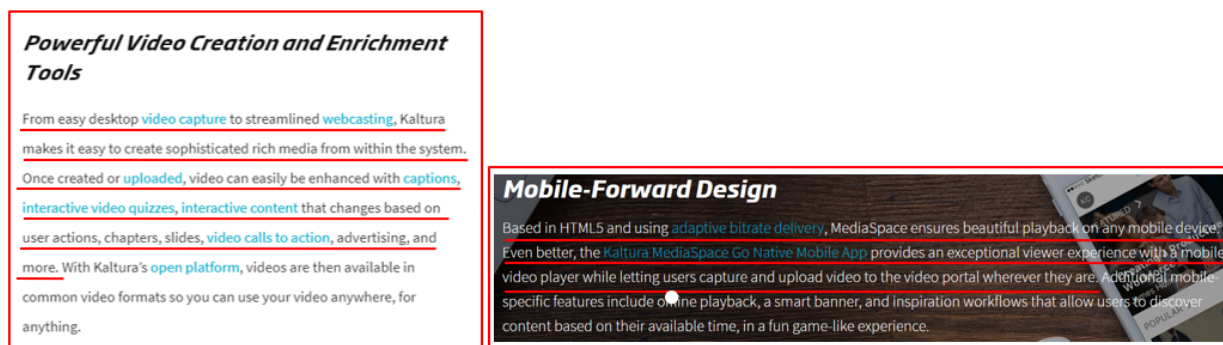
wherein said hot spots are visualized by outlines, shading, or illumination or a combination of each, at a predetermined area on the display;



SOURCE: <http://player.kaltura.com/docs/index.php?path=advertising>

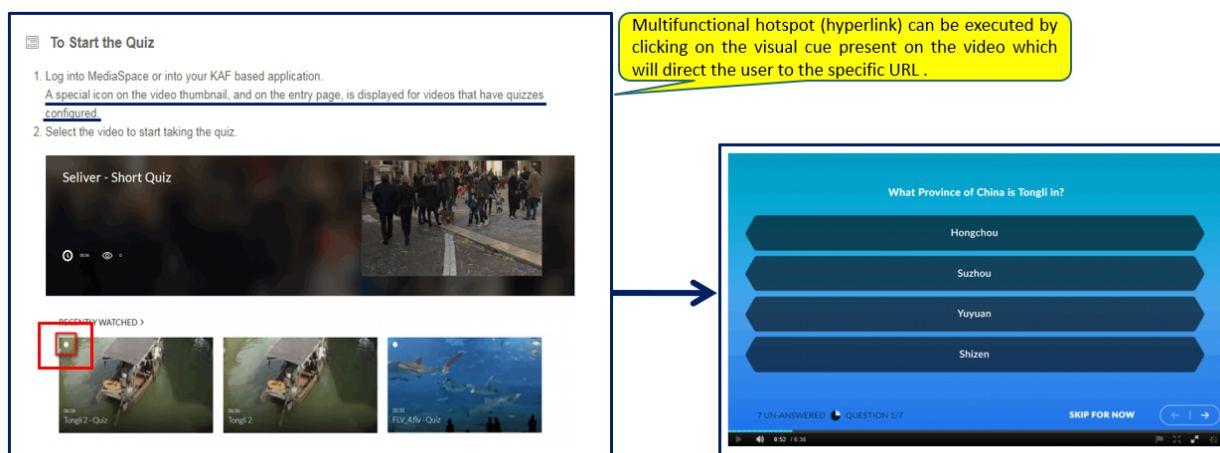
SOURCE: <https://knowledge.kaltura.com/interactive-video-quizzes-how-take-quiz>

wherein said Multifunctional Hot Spot apparatus is made to reside on and is executing on a computing system;



SOURCE: <https://corp.kaltura.com/products/video-for-business/kaltura-mediaspace-video-portal/>

selecting and activating at least one of said predetermined functions by clicking on each particular Multifunctional Hot Spot.



SOURCE: <https://knowledge.kaltura.com/interactive-video-quizzes-how-take-quiz>

22. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

23. To the extent any marking was required by 35 U.S.C. § 287, Plaintiff and all predecessors in interest to the '696 patent complied with all marking requirements under 35 U.S.C. § 287.

24. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of the Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JURY DEMAND

Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Plaintiff respectfully requests that the Court find in its favor and against the Defendant, and that the Court grant Plaintiff the following relief:

- A. a judgment that Defendant directly and/or indirectly infringes one or more claims of the '696 patent;
- B. award Plaintiff damages in an amount adequate to compensate Plaintiff for Defendant's infringing products' infringement of the claims of the '696 patent, but in no event less than a reasonable royalty, and supplemental damages for any continuing post-verdict infringement until entry of the final judgment with an accounting as needed, under 35 U.S.C. § 284;
- C. award Plaintiff pre-judgment interest and post-judgment interest on the damages awarded, including pre-judgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the '696 patent by Defendant to the day a damages judgment is entered, and an award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid, at the maximum rate allowed by law; and an accounting of all damages not presented at trial;
- D. a judgment and order finding this to be an exceptional case and requiring defendant to pay the costs of this action (including all disbursements) and attorneys' fees, pursuant to 35 U.S.C. § 285;
- E. award a compulsory future royalty for the '696 patent; and award such further relief as the Courts deems just and proper.

Dated: May 30, 2019

Respectfully submitted,

DEVLIN LAW FIRM LLC

/s/ Timothy Devlin

Timothy Devlin (No. 4241)

1526 Gilpin Avenue

Wilmington, DE 19806

Phone: (302) 449-9010

Fax: (302) 353-4251

tdevlin@devlinlawfirm.com

Austin Hansley

(Admitted pro hac vice)

Texas Bar No.: 24073081

HANSLEY LAW FIRM, PLLC

13355 Noel Rd. STE 1100

Dallas, Texas 75240

Telephone: (972) 528-9321 Ext. 1000

Facsimile: (972) 370-3559

Email: ahansley@hansleyfirm.com

**ATTORNEYS FOR PLAINTIFF
COOLTVNETWORK.COM, INC.**