

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

MG FREESITES LTD,)	
)	
Plaintiff,)	C.A. No.
)	
v.)	
)	JURY TRIAL DEMANDED
SCORPCAST, LLC d/b/a HAULSTARS,)	
)	
Defendant.)	

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff MG Freesites Ltd (“Plaintiff” or “FreeSites”) for its Complaint against ScorpCast, LLC d/b/a HaulStars (“Defendant” or “ScorpCast”), by and through its attorneys, alleges as follows:

NATURE OF THE ACTION

1. This is an action for declaratory judgment of noninfringement arising under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.* and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

2. This declaratory judgment action seeks a determination (a) that the Pornhub website (www.pornhub.com), which is operated by MG Freesites Ltd, does not infringe and has not infringed, either directly or indirectly, under 35 U.S.C. § 271 (or any sub-section thereof) any claim of United States Patent No. 9,965,780 (“the ‘780 Patent”) (attached hereto as Exhibit A), including claims 20, 21, and 25, either literally or under the doctrine of equivalents, (b) that FreeSites has at no time infringed, either directly or indirectly, under 35 U.S.C. § 271 (or any sub-section thereof) any claim of the ‘780 Patent, including claims 20, 21, and 25, willfully or otherwise, either literally or under the doctrine of equivalents, based on FreeSites’s purported making, having made, using, offering for sale, selling, and/or importing of the Pornhub website,

and (c) that FreeSites's content partners have at no time infringed, either directly or indirectly, under 35 U.S.C. § 271 (or any sub-section thereof) any claim of the '780 Patent, including claims 20, 21, and 25, either literally or under the doctrine of equivalents, based on their purported making, having made, using, offering for sale, selling, and/or importing of the Pornhub website.

3. FreeSites also seeks to enjoin ScorpCast and its officers, employees, or agents from (a) alleging that FreeSites or FreeSites's content partners infringe the '780 Patent; (b) taking any action to suggest that FreeSites or FreeSites's content partners require a license from ScorpCast for use of the '780 Patent; or (c) pursuing or continuing to pursue infringement actions against FreeSites or FreeSites's content partners on the basis of FreeSites's or FreeSites's content partners' making, having made, using, offering for sale, selling, and/or importing the Pornhub website.

4. FreeSites seeks this necessary relief because ScorpCast, which purports to own all substantial rights, interest, and title in the '780 Patent, has instituted eighteen (18) co-pending actions in the United States District Court for the Eastern District of Texas against content partners to the Pornhub website, alleging that each content partner infringes at least claims 20, 21, and 25 of the '780 Patent. The complaint filed in each of these actions is attached hereto as Exhibits B-S ("the Co-pending Complaints"). A listing of these actions follows:

- *ScorpCast, LLC d/b/a HaulStars v. All 4 Health SRL*, 2:20-cv-00192 (E.D. Tex.) ("the All 4 Health Action");
- *ScorpCast, LLC d/b/a HaulStars v. Boutique Media*, 2:20-cv-00193 (E.D. Tex.) ("the Boutique Media Action");
- *ScorpCast, LLC d/b/a HaulStars v. FUSEE BVBA*, 2:20-cv-00195 (E.D. Tex.) ("the FUSEE Action");

- *ScorpCast, LLC d/b/a HaulStars v. HMZ Investments Ltd.*, 2:20-cv-00196 (E.D. Tex.) (“the HMZ Investments Action”);
- *ScorpCast, LLC d/b/a HaulStars v. Hot G Vibe*, 2:20-cv-00197 (E.D. Tex.) (“the Hot G Vibe Action”);
- *ScorpCast, LLC d/b/a HaulStars v. KB Productions, LLC*, 2:20-cv-00198 (E.D. Tex.) (“the KB Productions Action”);
- *ScorpCast, LLC d/b/a HaulStars v. Logical Int. BV*, 2:20-cv-00199 (E.D. Tex.) (“the Logical Int. Action”);
- *ScorpCast, LLC d/b/a HaulStars v. Manica Media SL*, 2:20-cv-00200 (E.D. Tex.) (“the Manica Media Action”);
- *ScorpCast, LLC d/b/a HaulStars v. Media Solutions Canarias*, 2:20-cv-00201 (E.D. Tex.) (“the Media Solutions Action”);
- *ScorpCast, LLC d/b/a HaulStars v. Miriskana Limited*, 2:20-cv-00202 (E.D. Tex.) (“the Miriskana Action”);
- *ScorpCast, LLC d/b/a HaulStars v. Oanasun Entertainment SRL*, 2:20-cv-00203 (E.D. Tex.) (“the Oanasun Entertainment Action”);
- *ScorpCast, LLC d/b/a HaulStars v. Panda Hosting Limited*, 2:20-cv-00204 (E.D. Tex.) (“the Panda Hosting Action”);
- *ScorpCast, LLC d/b/a HaulStars v. Pioneer Stream Technologies Ltd.*, 2:20-cv-00205 (E.D. Tex.) (“the Pioneer Stream Action”);
- *ScorpCast, LLC d/b/a HaulStars v. PMG Entertainment Ltd*, 2:20-cv-00206 (E.D. Tex.) (“the PMG Entertainment Action”);

- *ScorpCast, LLC d/b/a HaulStars v. Quicksol GmbH*, 2:20-cv-00207 (E.D. Tex.) (“the Quicksol Action”);
- *ScorpCast, LLC d/b/a HaulStars v. Straplezz, Inc.*, 2:20-cv-00208 (E.D. Tex.) (“the Straplezz Action”);
- *ScorpCast, LLC d/b/a HaulStars v. Webtwo BV*, 2:20-cv-00209 (E.D. Tex.) (“the Webtwo Action”); and
- *ScorpCast, LLC d/b/a HaulStars v. Bravomax Services Limited*, 2:20-cv-00210 (E.D. Tex.) (“the Bravomax Services Action”).

5. In these eighteen (18) co-pending actions, ScorpCast has repeatedly alleged that the Pornhub website, which is operated by MG Freesites Ltd, infringes at least claims 20, 21, and 25 of the ‘780 Patent. Additionally, as shown below, ScorpCast specifically refers to the Pornhub website as the “Accused Instrumentalities” in its infringement allegations in each of the Co-pending Complaints. This establishes at least a reasonable apprehension and potential that ScorpCast could file a lawsuit against FreeSites for infringement of the ‘780 Patent:

24. Pornhub and/or other hub sites, which are video data stores, require their partners (including Defendant) to connect to Pornhub’s and/or other hub sites’ servers using a network interface and the internet. Pornhub and/or other hub sites’ servers have a network interface for connecting to the internet and users. Contained within the Pornhub and/or other hub sites’ servers is programmatic code stored in non-transitory memory that is used by Defendant to create channels for its websites that are displayed within Pornhub and/or other hub sites and used by users of the channels. Pornhub’s and/or other hub sites’ interface enables a navigation event to occur at least in response to a user selecting images and/or text (together “Tags”), which are overlaid over the video, resulting in a navigation event opportunity (together, the “Accused Instrumentalities”). The video offers several navigation event opportunities, by enabling the user to select certain images or text while the video is playing. These are referred to as jump sites.

See ¶24 of each of Exhibits B-S.

6. Further, in pleading its infringement allegations against these content partners, ScorpCast has repeatedly referenced the Pornhub website and alleged that the Pornhub website has “an

infringing system to upload video content.” This further establishes at least a reasonable apprehension and potential that ScorpCast could file a lawsuit against FreeSites for purported infringement of the ‘780 Patent. Below is a summary from each of the eighteen (18) infringement actions filed by ScorpCast of ScorpCast’s references to the Pornhub website and its allegations that the Pornhub website has “an infringing system to upload video content”:

- The All 4 Health Action: A word search of the complaint in this action reveals 27 references to the Pornhub website including, “Defendant maintains at least six channels on Pornhub, each of which uses the infringing system to upload video content.” *See* Exhibit B at ¶41;
- The Boutique Media Action: A word search of the complaint in this action reveals 22 references to the Pornhub website including, “Defendant maintains at least one channel on Pornhub, which uses the infringing system to upload video content.” *See* Exhibit C at ¶42;
- The FUSEE Action: A word search of the complaint in this action reveals 22 references to the Pornhub website including, “Defendant maintains at least one channel on Pornhub, which uses the infringing system to upload video content.” *See* Exhibit D at ¶42;
- The HMZ Investments Action: A word search of the complaint in this action reveals 22 references to the Pornhub website including, “Defendant maintains at least one channel on Pornhub, which uses the infringing system to upload video content.” *See* Exhibit E at ¶42;
- The Hot G Vibe Action: A word search of the complaint in this action reveals 22 references to the Pornhub website including, “Defendant maintains at least one channel on Pornhub, which uses the infringing system to upload video content.” *See* Exhibit F at ¶42;
- The KB Productions Action: A word search of the complaint in this action reveals 29 references to the Pornhub website including, “Defendant maintains at least eight channels

on PornHub, each of which uses the infringing system to upload video content.” *See* Exhibit G at ¶42;

- The Logical Int. Action: A word search of the complaint in this action reveals 22 references to the Pornhub website including, “Defendant maintains at least one channel on PornHub, which uses the infringing system to upload video content.” *See* Exhibit H at ¶42;
- The Manica Media Action: A word search of the complaint in this action reveals 22 references to the Pornhub website including, “Defendant maintains at least one channel on PornHub, which uses the infringing system to upload video content.” *See* Exhibit I at ¶42;
- The Media Solution Action: A word search of the complaint in this action reveals 23 references to the Pornhub website including, “Defendant maintains at least two channels on PornHub, each of which uses the infringing system to upload video content.” *See* Exhibit J at ¶42;
- The Miriskana Action: A word search of the complaint in this action reveals 24 references to the Pornhub website including, “Defendant maintains at least three channels on PornHub, each of which uses the infringing system to upload video content.” *See* Exhibit K at ¶42;
- The Oanasun Entertainment Action: A word search of the complaint in this action reveals 35 references to the Pornhub website including, “Defendant maintains at least sixteen channels on PornHub, each of which uses the infringing system to upload video content.” *See* Exhibit L at ¶42;
- The Panda Hosting Action: A word search of the complaint in this action reveals 22 references to the Pornhub website including, “Defendant maintains at least one channel on

PornHub, which uses the infringing system to upload video content.” *See* Exhibit M at ¶42;

- The Pioneer Stream Action: A word search of the complaint in this action reveals 22 references to the Pornhub website including, “Defendant maintains at least one channel on Pornhub, which uses the infringing system to upload video content.” *See* Exhibit N at ¶42;
- The PMG Entertainment Action: A word search of the complaint in this action reveals 23 references to the Pornhub website including, “Defendant maintains at least two channels on Pornhub, each of which uses the infringing system to upload video content.” *See* Exhibit O at ¶42;
- The Quicksol Action: A word search of the complaint in this action reveals 22 references to the Pornhub website including, “Defendant maintains at least one channel on Pornhub, which uses the infringing system to upload video content.” *See* Exhibit P at ¶42;
- The Straplezz Action: A word search of the complaint in this action reveals 22 references to the Pornhub website including, “Defendant maintains at least one channel on Pornhub, which uses the infringing system to upload video content.” *See* Exhibit Q at ¶42;
- The Webtwo Action: A word search of the complaint in this action reveals 22 references to the Pornhub website including, “Defendant maintains at least one channel on Pornhub, which uses the infringing system to upload video content.” *See* Exhibit R at ¶42; and
- The Bravomax Services Action: A word search of the complaint in this action reveals 23 references to the Pornhub website including, “Defendant maintains at least two channels on Pornhub, each of which uses the infringing system to upload video content.” *See* Exhibit S at ¶42.

7. ScorpCast's allegations have thus cast uncertainty over FreeSites and the Pornhub website, have injured and are injuring FreeSites's business and business relationships, and have created a concrete and immediate justiciable controversy between FreeSites and ScorpCast. Accordingly, FreeSites brings this case to clear its name and that of the Pornhub website.

PARTIES

8. MG Freesites Ltd is a private limited company organized and existing under the laws of the Republic of Cyprus, with a place of business located at 195-197 Old Nicosia-Limassol Road, Block 1 Dali Industrial Zone, Cyprus 2540. MG Freesites Ltd operates the Pornhub website.

9. Upon information and belief, ScorpCast is a limited-liability company formed under the laws of the State of Delaware, registered at Harvard Business Services, Inc., 16192 Coastal Highway, Lewes, Delaware 19958, and with its principal place of business at 3034 S. Durango Drive, Suite 100, Las Vegas, Nevada 89117.

JURISDICTION AND VENUE

10. This Court has subject-matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a) because FreeSites's claims arise under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*, and under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, based on a definite and concrete, real and substantial, justiciable controversy between FreeSites and ScorpCast for declaratory judgment of noninfringement of the '780 Patent.

11. On information and belief, ScorpCast is subject to personal jurisdiction in the District of Delaware because, among other reasons, ScorpCast is organized under the laws of the State of Delaware and ScorpCast has harmed and continues to harm FreeSites in this District, by, among other things, injuring FreeSites's business and business relationships.

12. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b) because ScorpCast is incorporated in the state of Delaware and therefore is a resident of this district.

FACTUAL BACKGROUND

The '780 Patent

13. The '780 Patent is entitled "System and Methods for Providing User Generated Video Reviews." The '780 Patent identifies two purported inventors, Narbeh Avedissian and Nikhil Sreenath, and lists ScorpCast as the applicant. The '780 Patent issued on May 8, 2018.

14. The '780 Patent issued with 28 claims, of which claims 1, 9, and 20 are independent claims and the remaining claims depend therefrom. In the Co-pending Complaints, ScorpCast has alleged infringement of at least independent claim 20 and dependent claims 21 and 25.

15. Independent claim 1 of the '780 Patent recites:

1. A non-transitory computer-readable medium storing executable instructions that when executed by a system including at least one computing device cause the system to perform operations comprising:

receiving, using a network interface, a video file or a link to the video file from a terminal of a first user, wherein said video file from the first user terminal comprises two or more segments, including:

a first segment, including audio and video data, and

a second segment, including audio and video data;

providing a user interface, including a control, to the first user terminal via which the first user can associate a first photographic image with a start time of the first segment of the video file and via which the first user can associate a second photographic image with a start time of the second segment of the video file;

receiving from the first user terminal an association of the first photographic image with the start time of the first segment of the video file, wherein the first photographic image is from a source other than the video file;

storing the first photographic image, the association of the first photographic image with the start time of the first segment of the video file, and a link to a first destination;

receiving from the first user terminal an association of the second photographic with the start time of the second segment of the video file, wherein the second photographic image is from a source other than the video file;

storing the second photographic image, the association of the second photographic image with the start time of the second segment of the video file, and a link to a second destination;

compressing the video file from the first user using at least a first format;

storing multiple copies of the video file from the first user in a backup-enabled video file data store;

providing, using the network interface, a video player to a terminal of a second user to be displayed by the terminal of the second user, the video player configured to enable navigation via photographic images displayed at the same time;

providing, using the network interface, the video file for display via the video player presented on the terminal of a second user;

enabling the video player to play back the video file, wherein the video player is configured to:

play the video file;

display at least the first photographic image at a first location while the video file is played, and at the same time, display the second photographic image at a second location while the video file is played, wherein the first photographic image is from a source other than the video file and the second photographic image is from a source other than the video file;

detect a selection by the second user of the first photographic image at the first location or the second photographic image at the second location, and

in response to a detection of a selection by the second user of the first photographic image or the second photographic image cause navigation to the corresponding destination.

16. Independent claim 9 of the '780 Patent recites:

9. A system, comprising:

at least one processing device;

a network interface configured to communicate over a network with a video data store;

non-transitory memory storing programmatic code that when executed by the at least one processing device, cause the system to perform operations comprising:

receive, over a network using the network interface, a first video;

store an association of a first image not from the first video and/or a first text with a first start time;

store an association of a second image not from the first video and/or a second text with a second start time;

cause the first image and/or the first text to be presented at the first start time, during playback of the of the first video, in or adjacent to a playback area of a video player via a user device;

cause the second image and/or the second text to be presented in place of the first image and/or the first text at the second start time during a playback of the first video in or adjacent to the playback area of the video player via the user device;

enable a corresponding navigation event to occur at least partly in response to a user selecting:

the first image and/or the first text during a playback of the first video, wherein the first image and/or the first text is presented in or adjacent to the playback area; or

the second image and/or the second text during a playback of the first video, wherein the second image and/or the second text is presented in or adjacent to the playback area.

17. Independent claim 20 of the '780 Patent recites:

20. A system, comprising:

at least one processing device;

a network interface configured to communicate over a network with a video data store;

non-transitory memory storing programmatic code that when executed by the at least one processing device, cause the system to perform operations comprising:

provide over a network, using the network interface, to a first user device a user interface that enables a user to associate, with respect to a given video, an image not from the given video and/or text with a user-specified position of the given video;

receive, over the network using the network interface, a first video;

receive, via the user interface that enables a user to associate an image not from the given video and/or text with a user-specified position of the given video, from the first user device an association of a first image and/or a first text with a first start position of the first video;

store the association of the first image and/or a first text with the first start position;

cause the first image and/or the first text to be presented at the first start position, during playback of the of the first video, in or adjacent to a playback area of a video player via a second user device;

enable a corresponding navigation event to occur at least partly in response to a user selecting:

the first image and/or the first text during a playback of the first video, wherein the first image and/or the first text is presented in or adjacent to the playback area.

ScorpCast's Infringement Allegations Against the Pornhub Website

18. In each of the Co-pending Complaints, ScorpCast has identified the Pornhub website as the "Accused Instrumentalities" and has pled the following allegations:

24. Pornhub and/or other hub sites, which are video data stores, require their partners (including Defendant) to connect to Pornhub's and/or other hub sites' servers using a network interface and the internet. Pornhub and/or other hub sites' servers have a network interface for connecting to the internet and users. Contained within the Pornhub and/or other hub sites' servers is programmatic code stored in non-transitory memory that is used by Defendant to create channels for its websites that are displayed within Pornhub and/or other hub sites and used by users of the channels. Pornhub's and/or other hub sites' interface enables a navigation event to occur at least in response to a user selecting images and/or text (together "Tags"), which are overlaid over the video, resulting in a navigation event opportunity (together, the "Accused Instrumentalities"). The video offers several navigation event opportunities, by enabling the user to select certain images or text while the video is playing. These are referred to as jump sites.

25. Defendant posts videos to at least one channel on Pornhub.com and/or other hub sites.

26. Defendant's videos are stored on Pornhub.com and/or other hub sites.

27. Defendant's videos posted on Pornhub.com and/or other hub sites contain a user interface allowing the user to control aspects of the video playback.

28. Defendant's videos posted on Pornhub.com and/or other hub sites contain a slider tool that allows the viewer to move forward through the video.

29. Defendant can customize the slider bar for each video it uploads to Pornhub.com and/or other hub sites.

30. When posting a video to Pornhub.com and/or other hub sites, Defendant has the option to add Tags to the slider bar.

31. The Tags allow a user to jump to specific points in the video.

32. Defendant can add text to the Tag.

33. Defendant controls the content of the Tags, including for example, what text or image appears to the user.

34. Tags are viewable as a video is played.

35. Defendant has at least one video posted to a channel on Pornhub.com and/or other hub sites where Defendant has added a Tag to the slider bar.

36. After uploading a video to Pornhub.com and/or other hub sites, Defendant can select thumbnails that correspond to the video.

See each of Exhibits B-S at ¶¶24-36.

19. None of the Co-pending Complaints identify the portion of the Pornhub website or name any system or service that is part of or associated with the Pornhub website that allegedly infringes any claims of the '780 Patent. Regardless, there is no portion of the Pornhub website or any system or service that is part of or associated with the Pornhub website that infringes any claim of the '780 Patent, including claims 20, 21, and 25.

20. FreeSites believes that the Pornhub website does not infringe the '780 Patent nor has FreeSites or FreeSites's content partners infringed, induced others to infringe or contributed to the infringement by others of the '780 Patent.

COUNT I
(Declaratory Judgment of Noninfringement of the '780 Patent)

21. FreeSites repeats and re-alleges the allegations in Paragraphs 1-20 as though fully set forth here in their entirety.

22. ScorpCast's allegations have cast uncertainty over FreeSites and the Pornhub website, have injured and are injuring FreeSites's business and business relationships, and have created a concrete and immediate justiciable controversy between FreeSites and ScorpCast.

23. The Pornhub website does not infringe any claim of the '780 Patent, including claims 20, 21, and 25, nor has FreeSites or FreeSites's content partners infringed, induced others to infringe or contributed to the infringement by others of any claim of the '780 Patent, including claims 20, 21, and 25.

24. By way of example, claim 1 of the '780 Patent recites "display at least the first photographic image at a first location while the video file is played, and at the same time, *display the second photographic image at a second location while the video file is played*, wherein the first photographic image is from a source other than the video file and *the second photographic image is from a source other than the video file*" (emphases added).

25. The Pornhub website does not infringe claim 1 of the '780 Patent nor has FreeSites or FreeSites's content partners infringed, induced others to infringe or contributed to the infringement by others of claim 1 of the '780 Patent at least because, in the Pornhub website, when the user's mouse pointer is positioned over a video's player bar (such as over an indicator located on the player bar), the thumbnail image that is caused to be displayed above the video's player bar at or near the location of the mouse pointer (in the video playback area) is a video frame taken from the video itself and is not an image not from the video itself. Thus, at least, the Pornhub website does not have the claimed "wherein the first photographic image is from a source other than the video file" or the claimed "the second photographic image is from a source other than the video file" of claim 1 of the '780 Patent.

26. By way of example, claim 9 of the '780 Patent recites “store an association of a first image not from the first video and/or a first text with a first start time; store an association of *a second image not from the first video* and/or a second text with a second start time” (emphases added) and “cause the first image and/or the first text to be presented at the first start time, during playback of the of the first video, in or adjacent to a playback area of a video player via a user device; *cause the second image* and/or the second text *to be presented in place of the first image and/or the first text at the second start time during a playback of the first video* in or adjacent to the playback area of the video player via the user device” (emphases added).

27. The Pornhub website does not infringe claim 9 of the '780 Patent nor has FreeSites or FreeSites's content partners infringed, induced others to infringe or contributed to the infringement by others of claim 9 of the '780 Patent at least because, in the Pornhub website, when the user's mouse pointer is positioned over a video's player bar (such as over an indicator located on the player bar), the thumbnail image that is caused to be displayed above the video's player bar at or near the location of the mouse pointer (in the video playback area) is a video frame taken from the video itself and is not an image not from the video itself. Thus, at least, the Pornhub website does not have the claimed “a first image not from the first video” or the claimed “a second image not from the first video” of claim 9 of the '780 Patent.

28. By way of further example, claim 9 of the '780 Patent recites “enable a corresponding navigation event to occur at least partly **in response to a user selecting: the first image and/or the first text** during a playback of the first video, wherein the first image and/or the first text is presented in or adjacent to the playback area; *or the second image and/or the second text* during a playback of the first video, wherein the second image and/or the second text is presented in or adjacent to the playback area” (emphases added).

29. The Pornhub website does not infringe claim 9 of the '780 Patent nor has FreeSites or FreeSites's content partners infringed, induced others to infringe or contributed to the infringement by others of claim 9 of the '780 Patent at least because, in the Pornhub website, when the user's mouse pointer is positioned over a video's player bar (such as over an indicator located on the player bar), the text description that is displayed above the thumbnail image cannot be selected (the text description above the thumbnail image is not a clickable area of the webpage or video player). Thus, at least, the Pornhub website does not have the claimed "in response to a user selecting: the first image and/or the first text. . . or the second image and/or the second text" of claim 9 of the '780 Patent.

30. By way of example, claim 20 of the '780 Patent recites "receive, via the user interface that enables a user to associate an image not from the given video and/or text with a user-specified position of the given video, from the first user device an association of a first image and/or a first text with a first start position of the first video" (emphasis added) and "cause the first image and/or the first text to be presented at the first start position, during playback of the of the first video, in or adjacent to a playback area of a video player via a second user device" (emphases added).

31. The Pornhub website does not infringe claim 20 of the '780 Patent nor has FreeSites or FreeSites's content partners infringed, induced others to infringe or contributed to the infringement by others of claim 20 of the '780 Patent at least because, in the Pornhub website, when the user's mouse pointer is positioned over a video's player bar (such as over an indicator located on the player bar), the thumbnail image that is caused to be displayed above the video's player bar at or near the location of the mouse pointer (in the video playback area) is a video frame taken from the video itself and is not an image not from the video itself. Thus, at least, the Pornhub website does

not have the claimed “an image not from the given video” or the claimed “first image” of claim 20 of the ‘780 Patent.

32. By way of further example, claim 20 of the ‘780 Patent recites “enable a corresponding navigation event to occur at least partly in response to a user selecting: *the first image and/or the first text* during a playback of the first video, wherein the first image and/or the first text is presented in or adjacent to the playback area” (emphases added).

33. The Pornhub website does not infringe claim 20 of the ‘780 Patent nor has FreeSites or FreeSites’s content partners infringed, induced others to infringe or contributed to the infringement by others of claim 20 of the ‘780 Patent at least because, in the Pornhub website, when the user’s mouse pointer is positioned over a video’s player bar (such as over an indicator located on the player bar), the text description that is displayed above the thumbnail image cannot be selected (the text description above the thumbnail image is not a clickable area of the webpage or video player). Thus, at least, the Pornhub website does not have the claimed “in response to a user selecting: the first image and/or the first text” of claim 20 of the ‘780 Patent.

34. For at least the same reasons that the Pornhub website does not infringe independent claims 1, 9, and 20 of the ‘780 Patent, there is no infringement, direct or indirect, of the dependent claims, of the ‘780 Patent, including claims 2-8, 10-19, and 21-28.

35. FreeSites seeks and is entitled to a declaratory judgment that the Pornhub website does not infringe has not infringed, either directly or indirectly, under 35 U.S.C. § 271 (or any sub-section thereof) any claim of the ‘780 Patent, including claims 20, 21, and 25, either literally or under the doctrine of equivalents.

36. Because the Pornhub website has at no time infringed, either directly or indirectly, under 35 U.S.C. § 271 (or any sub-section thereof) any claim of the ‘780 Patent, including claims 20, 21,

and 25, either literally or under the doctrine of equivalents, FreeSites seeks and is entitled to a declaratory judgment that FreeSites and FreeSites's content partners do not infringe and have not infringed, either directly or indirectly, under 35 U.S.C. § 271 (or any sub-section thereof) any claim of the '780 Patent, including claims 20, 21, and 25, either literally or under the doctrine of equivalents, based on any purported making, having made, using, offering for sale, selling, and/or importing of the Pornhub website.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, FreeSites demands a jury trial on all issues and claims so triable.

REQUEST FOR RELIEF

WHEREFORE, FreeSites respectfully requests the Court to enter judgment in its favor and against ScorpCast and grant the following relief:

1. A declaration that the Pornhub website (www.pornhub.com) does not infringe, either directly or indirectly, under 35 U.S.C. § 271 (or any sub-section thereof) any claim of the '780 Patent, including claims 20, 21, and 25, either literally or under the doctrine of equivalents;
2. A declaration that FreeSites has not infringed and does not infringe, either directly or indirectly, under 35 U.S.C. § 271 (or any sub-section thereof) any claim of the '780 Patent, including claims 20, 21, and 25, either literally or under the doctrine of equivalents, based on FreeSites's purported making, having made, using, offering for sale, selling, and/or importing of the Pornhub website;
3. A declaration that FreeSites has not willfully infringed any claim of the '780 Patent, including claims 20, 21, and 25;

4. A declaration that FreeSites's content partners have not infringed and do not infringe, either directly or indirectly, under 35 U.S.C. § 271 (or any sub-section thereof) any claim of the '780 Patent, including claims 20, 21, and 25, either literally or under the doctrine of equivalents, based on their purported making, having made, using, offering for sale, selling, and/or importing of the Pornhub website;
5. Enjoining ScorpCast and its officers, employees, or agents from (a) alleging that FreeSites or FreeSites's content partners infringe the '780 Patent; (b) taking any action to suggest that FreeSites or FreeSites's content partners require a license from ScorpCast for use of the '780 Patent; or (c) pursuing or continuing to pursue infringement actions against FreeSites or FreeSites's content partners on the basis of FreeSites's or FreeSites's content partners' making, having made, using, offering for sale, selling, and/or importing the Pornhub website;
6. That this case be found exceptional within the meaning of 35 U.S.C. § 285;
7. An award of costs, expenses, and reasonable attorneys' fees incurred in connection with this action; and
8. Such other and further relief as the Court deems just and proper.

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Dated: July 28, 2020

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