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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EXPRESS MOBILE, INC.,

    Plaintiff,

    v.

WIX.COM, LTD,
AND WIX.COM, INC.,

    Defendant.

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Case No. 3:19-cv-06559-RS

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

JURY TRIAL DEMANDED

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FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Express Mobile, Inc. ("Express Mobile" or "Plaintiff"), by its attorneys, demands a trial by jury on all issues so triable and for its Complaint against Wix.com, Ltd. and Wix.com, Inc. (collectively, "Wix" or "Defendant") alleges the following:

NATURE OF THE ACTION

1.   This action arises under 35 U.S.C. § 271 for Wix's infringement of Express Mobile's United States Patent Nos. 6,546,397 ("the '397 patent"), 7,594,168 ("the '168 patent"), 9,063,755 ("the '755 patent"), 9,471,287 ("the '287 patent"), and 9,928,044 ("the '044 patent") (collectively the "Patents-In-Suit").

THE PARTIES

2.   Plaintiff Express Mobile, Inc. is an inventor-owned corporation organized under the laws of the State of Delaware with a place of business at 38 Washington Street, Novato, CA 94947.

3.   Upon information and belief, Wix.com, Ltd. is an Israeli corporation with a principal place of business at 40 Namal Tel Aviv St., Tel Aviv, Israel 6350671.

4.   Upon information and belief, Wix.com Inc. is a corporation organized and existing under the laws of Delaware, and is a resident of this District with a place of business at 500 Terry Francois Blvd., San Francisco, CA 94158. *See, e.g.*, https://www.wix.com/jobs/locations/san-francisco/. Wix.com Inc. may be served through its registered agent for service in California, The Corporation Trust Company, 818 West Seventh Street, Suite 930, Los Angeles, CA 90017.

5.   Upon information and belief, Wix provides website building, hosting, and marketing services to millions of customers, including both businesses and individuals.

JURISDICTION AND VENUE

6.   This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7.   On information and belief, jurisdiction and venue for this action are proper in the Northern District of California.

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8.   This Court has personal jurisdiction over Defendant because it has purposefully availed itself of the rights and benefits of the laws of this State and this Judicial District. On information and belief, Defendant resides in the Northern District of California by maintaining a regular and established place of business at 500 Terry Francois Blvd., San Francisco CA 94158. This Court also has personal jurisdiction over Defendant because it has done and is doing substantial business in this Judicial District, both generally and, on information and belief, with respect to the allegations in this complaint, including Defendant's one or more acts of infringement in this Judicial District.

9.   Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b) and (c) and § 1400(b). Defendant has committed acts of infringement through sales of its website builder in the Northern District of California and has a regular and established place of business in this district. Wix's office in San Francisco is a physical place in the district, it is an established location where Wix's business has been carried out for several years, and Wix publicly advertises its presence in the district. *See In Re Cray, Inc.*, 871 F.3d 1355, 1360-61 (Fed. Cir. 2017).

THE PATENTS-IN-SUIT

10.   Plaintiff is the lawful owner of all rights, title, and interest in United States Patent No. 6,546,397 entitled "Browser Based Web Site Generation Tool and Run Time Engine," including the right to sue and to recover for infringement thereof. The '397 patent was duly and legally issued on April 8, 2003, naming Steven H. Rempell as the inventor. A true and correct copy of the '397 patent is attached as Exhibit A.

11.   The inventions of the '397 patent solve technical problems related to website creation and generation. For example, the inventions enable the creation of websites through browser-based visual editing tools such as selectable settings panels which describe website elements, with one or more settings corresponding to commands. These features are exclusively implemented utilizing computer technology including a virtual machine.

12.   The claims of the '397 patent do not merely recite the performance of some pre-Internet business practice on the Internet. Instead, the claims of the '397 patent recite inventive

1   concepts that are rooted in computerized website creation technology, and overcome problems

2   specifically arising in the realm of computerized website creation technologies.

3   13.   The claims of the '397 patent recite inventions that are not merely the routine or

4   conventional use of website creation systems and methods. Instead, the inventions teach a

5   browser-based website creation system and method in which the user-selected settings

6   representing website elements are stored in a database, and in which said stored information is

7   retrieved to generate said website.

8   14.   The technology claimed in the '397 patent does not preempt all ways of using

9   website or web page authoring tools nor any other well-known prior art technology.

10   15.   Accordingly, each claim of the '397 patent recites a combination of elements

11   sufficient to ensure that the claim amounts to significantly more than a patent on an ineligible

12   concept.

13   16.   In Case No. 3:18-CV-04679-RS, a case filed in the Northern District of

14   California, the defendant in that action, Code and Theory LLC. brought a Motion to Dismiss

15   Plaintiff's Complaint asserting that the '397 patent and U.S. Patent No. 7,594,168 (asserted in

16   Count II below) are not subject matter eligible under 35 U.S.C. § 101 as a matter of law. (Case

17   No. 3:18-CV-04679-RS Dkt.35). Subsequent briefing included Plaintiff Express Mobile, Inc.'s

18   Opposition to Defendant Code and Theory LLC's Motion to Dismiss Plaintiff's Complaint (Case

19   No. 3:18-CV-04679-RS Dkt.40), and Motion to Dismiss Plaintiff's Complaint [sic] (Case No.

20   3:18-CV-04679-RS Dkt.41). Each of those filings is incorporated by reference into this

21   Complaint.

22   17.   In C.A. 2:17-00128, a case filed in the Eastern District of Texas, the defendant in

23   that action, KTree Computer Solutions brought a Motion for Judgment on the Pleadings asserting

24   that the '397 patent and U.S. Patent No. 7,594,168 (asserted in Count II below) were invalid as

25   claiming abstract subject matter under 35 U.S.C. § 101. (C.A. 2:17-00128 Dkt. 9.) Subsequent

26   briefing included Plaintiff's Response and related Declarations and Exhibits (C.A. 2:17-00128

27   Dkt. 17, 22-24), KTree's Reply (C.A. 2:17-00128 Dkt. 25), and Plaintiff's Sur-Reply and related

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1   Declarations and Exhibits (C.A. 2:17-00128 Dkt. 26-27). Each of those filings is incorporated

2   by reference into this Complaint.

3   18.   After a consideration of the respective pleadings, Magistrate Judge Payne

4   recommended denial of KTree's motion, without prejudice, holding that "the claims appear to

5   address a problem particular to the internet: dynamically generating websites and displaying web

6   pages based on stored user-selected settings" and further stating "the asserted claims do not bear

7   all of the hallmarks of claims that have been invalidated on the pleadings by other courts in the

8   past. For example, the claims are not merely do-it-on-a-computer claims." (Dkt. 29, attached as

9   Exhibit F.) No objection was filed to the Magistrate Judge's report and recommendation and the

10 decision therefore became final.

11   19.   In Case No. 3:18-CV-04688-RS, a case filed in the Northern District of

12 California, the defendant in that action, Pantheon Systems, Inc. brought a Motion to Dismiss

13 Counts I and II of Plaintiff's First Amended Complaint asserting that the '397 patent and U.S.

14 Patent No. 7,594,168 (asserted in Count II below) were directed to the abstract idea of creating

15 and displaying webpages based upon information from a user with no further inventive concept

16 and purportedly ineligible for patenting under 35 U.S.C. § 101 ("§ 101"). (Case No. 3:18-CV-

17 04688-RS Dkt.26) Subsequent briefing included Plaintiff's Answering Brief in Opposition of

18 Defendant's Motion to Dismiss (Case No. 3:18-CV-04688-RS Dkt.32), and Reply in Support of

19 Defendant's Motion to Dismiss Counts I and II of Plaintiff's First Amended Complaint (Case

20 No. 3:18-CV-04688-RS Dkt.34). Each of those filings is incorporated by reference into this

21 Complaint.

22   20.   After a motion hearing and a consideration of the respective pleadings, Hon.

23 Richard Seeborg denied both motions holding that "it simply cannot be said on the present

24 record that the claims are drawn so broadly as to be divorced from the potentially patent-eligible

25 purported technological improvements described in the specification" and further stating "The

26 patents here are directed at a purportedly revolutionary technological solution to a technological

27 problem—how to create webpages for the internet in a manner that permits "what you see is

28 what you get" editing, and a number of other alleged improvements over the then-existing

methodologies." (Case No. 3:18-CV-04679-RS Dkt.45; Case No. 3:18-CV-04688-RS Dkt.40; attached as Exhibit G.)

21.   Plaintiff is the lawful owner of all rights, title, and interest in United States Patent No. 7,594,168 entitled "Browser Based Web Site Generation Tool and Run Time Engine," including the right to sue and to recover for infringement thereof. The '168 patent was duly and legally issued on September 22, 2009, naming Steven H. Rempell as the inventor. A true and correct copy of the '168 patent is attached as Exhibit B.

22.   The inventions of the '168 patent solve technical problems related to website creation and generation. For example, the inventions enable the creation of websites through browser-based build tools and a user interface. These features are exclusively implemented utilizing computer technology.

23.   The claims of the '168 patent do not merely recite the performance of some pre-Internet business practice on the Internet. Instead, the claims of the '168 patent recite inventive concepts that are rooted in computerized website creation technology, and overcome problems specifically arising in the realm of computerized website creation technologies.

24.   The claims of the '168 patent recite inventions that are not merely the routine or conventional use of website creation systems and methods. Instead, the inventions teach a browser-based website creation system including a server comprising a build engine configured to create and apply styles to, for example, a website with web pages comprised of objects.

25.   The technology claimed in the '168 patent does not preempt all ways of using website or web page authoring tools nor any other well-known or prior art technology.

26.   Accordingly, each claim of the '168 patent recites a combination of elements sufficient to ensure that the claim amounts to significantly more than a patent on an ineligible concept.

27.   Plaintiff is the lawful owner of all rights, title, and interest in United States Patent No. 9,063,755 entitled "Systems and methods for presenting information on mobile devices," including the right to sue and to recover for infringement thereof. The '755 patent was duly and

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legally issued on June 23, 2015, naming Steven H. Rempell, David Chrobak and Ken Brown as the inventors. A true and correct copy of the '755 patent is attached as Exhibit C.

28.   The inventions of the '755 patent solve technical problems related to a system for generating code to provide content on a display of a device. For example, the inventions of the '755 patent produce and deliver code in the form of players and applications to devices. The players and applications then display information received from a web service. These features are exclusively implemented utilizing computer technology.

29.   The claims of the '755 patent do not merely recite the performance of some pre-Internet business practice on the Internet. Instead, the claims of the '755 patent recite inventive concepts that are rooted in the computerized generation of content on a display of a device, such as a mobile device, and overcome problems specifically arising in the realm of computerized content generation and display technologies.

30.   The claims of the '755 patent recite inventions that are not merely the routine or conventional use of systems and methods for the computerized generation of content on a display of a device. Instead, the inventions feature systems for use with devices and methods of using the systems with authoring tools to produce Players specific to each device and Applications that are device independent.

31.   The technology claimed in the '755 patent does not preempt all ways for the computerized generation of code for a display of a device nor any other well-known or prior art technology.

32.   Accordingly, each claim of the '755 patent recites a combination of elements sufficient to ensure that the claim amounts to significantly more than a patent on an ineligible concept.

33.   Plaintiff is the lawful owner of all rights, title, and interest in United States Patent No. 9,471,287 entitled "Systems and Methods for Integrating Widgets on Mobile Devices," including the right to sue and to recover for infringement thereof. The '287 patent was duly and legally issued on October 18, 2016, naming Steven H. Rempell, David Chrobak and Ken Brown as the inventors. A true and correct copy of the '287 patent is attached as Exhibit D.

34.   The inventions of the '287 patent solve technical problems related to generating content on a display of a device, such as the display of a mobile device. For example, the inventions of the '287 patent define a User Interface ("UI") object, either selected by a user or selected automatically, for display on the device. The inventions of the '287 patent also produce and deliver code in the form of players and applications to devices. The players and applications then display information received from a web service. These features are exclusively implemented utilizing computer technology.

35.   The claims of the '287 patent do not merely recite the performance of some pre-Internet business practice on the Internet. Instead, the claims of the '287 patent recite inventive concepts that are rooted in the computerized generation of content on a display of a device, such as a mobile device, and overcome problems specifically arising in the realm of computerized display content generation technologies.

36.   The claims of the '287 patent recite inventions that are not merely the routine or conventional use of systems and methods for the computerized generation of content on a display of a device. Instead, the inventions feature systems for use with devices and methods of using the systems with authoring tools to produce Players specific to each device and Applications that are device independent.

37.   The technology claimed in the '287 patent does not preempt all ways for the computerized generation of content on a display of a device nor any other well-known or prior art technology.

38.   Accordingly, each claim of the '287 patent recites a combination of elements sufficient to ensure that the claim amounts to significantly more than a patent on an ineligible concept.

39.   Plaintiff is the lawful owner of all rights, title, and interest in United States Patent No. 9,928,044 entitled "Systems and Methods for Programming Mobile Devices," including the right to sue and to recover for infringement thereof. The '044 patent was duly and legally issued on March 27, 2018, naming Steven H. Rempell, David Chrobak and Ken Brown as the inventors. A true and correct copy of the '044 patent is attached as Exhibit E.

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FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT   CASE NO. 3:19-CV-06559-RS

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40.   The inventions of the '044 patent solve technical problems related to generating and distributing programming to mobile devices over a network. For example, the inventions of the '044 patent define a User Interface ("UI") object, either selected by a user or selected automatically, for display on the device. The inventions of the '044 patent also produce and deliver code in the form of players and applications which include web page views. The players and applications then display information received from a web service. These features are exclusively implemented utilizing computer technology.

41.   The claims of the '044 patent do not merely recite the performance of some pre-Internet business practice on the Internet. Instead, the claims of the '044 patent recite inventive concepts that are rooted in the computerized generation of content on a display of a device, such as a mobile device, and overcome problems specifically arising in the realm of computerized display content generation technologies.

42.   The claims of the '044 patent recite inventions that are not merely the routine or conventional use of systems and methods for the computerized generation of content on a display of a device. Instead, the inventions feature systems for use with devices and methods of using the systems with authoring tools to generate and distribute application and player code that generate displays on a device, such as a mobile device, utilizing information stored in databases and retrieved from web services.

43.   The technology claimed in the '044 patent does not preempt all ways for the computerized generation and distribution of programming to a device nor any other well-known or prior art technology.

44.   Accordingly, each claim of the '044 patent recites a combination of elements sufficient to ensure that the claim amounts to significantly more than a patent on an ineligible concept.

BACKGROUND

45.   Plaintiff Express Mobile is a leader in the business of developing mobile app and web site design and creation platforms, and has intellectual property including U.S. patents relating to certain tools useful in the field. Express Mobile is managed by individuals with many

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FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT   CASE NO. 3:19-CV-06559-RS

1 years of technology and business experience. The CEO of Express Mobile, Steve Rempell, is the

2 inventor of Express Mobile's patent portfolio. Mr. Rempell has over 50 years' experience in

3 technology companies, with much of that work focused on web-based technologies and

4 applications.

5   46.   Defendant Wix is a well-known company that provides website building, hosting,

6 and marketing services to businesses as well as individuals. Wix has grown rapidly and now

7 generates billions of dollars of revenue per year.

8   47.   Using the technology claimed by the Patents-In-Suit, Wix's Website Builder and

9 Wix Editor (the "Accused Instrumentalities") build, host, and market websites for Wix's

10 customers by letting the customers select settings representing website elements, storing these

11 settings in a database, and retrieving stored information to generate websites. The Accused

12 Instrumentalities also generate code in the form of players and applications that can interact with

13 web services to provide content for display on users' devices.

14   48.   The Accused Instrumentalities enable a user to produce a website through a

15 browser on the user's computer that interacts with the server facility and platform hosted by Wix.

16 That website is then viewable by other users with a browser, including Microsoft Internet

17 Explorer and Edge, Mozilla Firefox, Apple Safari, and Google Chrome. All of these well-known

18 modern browsers rely on engines that fit the definition of a virtual machine, which interprets and

19 executes JavaScript, HTML, CSS, and other code, to render web pages on a computer. These

20 engines include, but are not limited to, JavaScript engines such as Chrome V8 (Chrome),

21 SpiderMonkey (Firefox), JavaScriptCore (Safari), and Chakra (Edge), as well as browser engines

22 such as Webkit (Safari), Gecko (Safari), and Blink (Chrome).

23   **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,546,397**

24   49.   Plaintiff incorporates by reference the allegations contained in paragraphs 1 to 48

25 above.

26   50.   Defendant Wix has manufactured, used, offered for sale, or sold browser-based

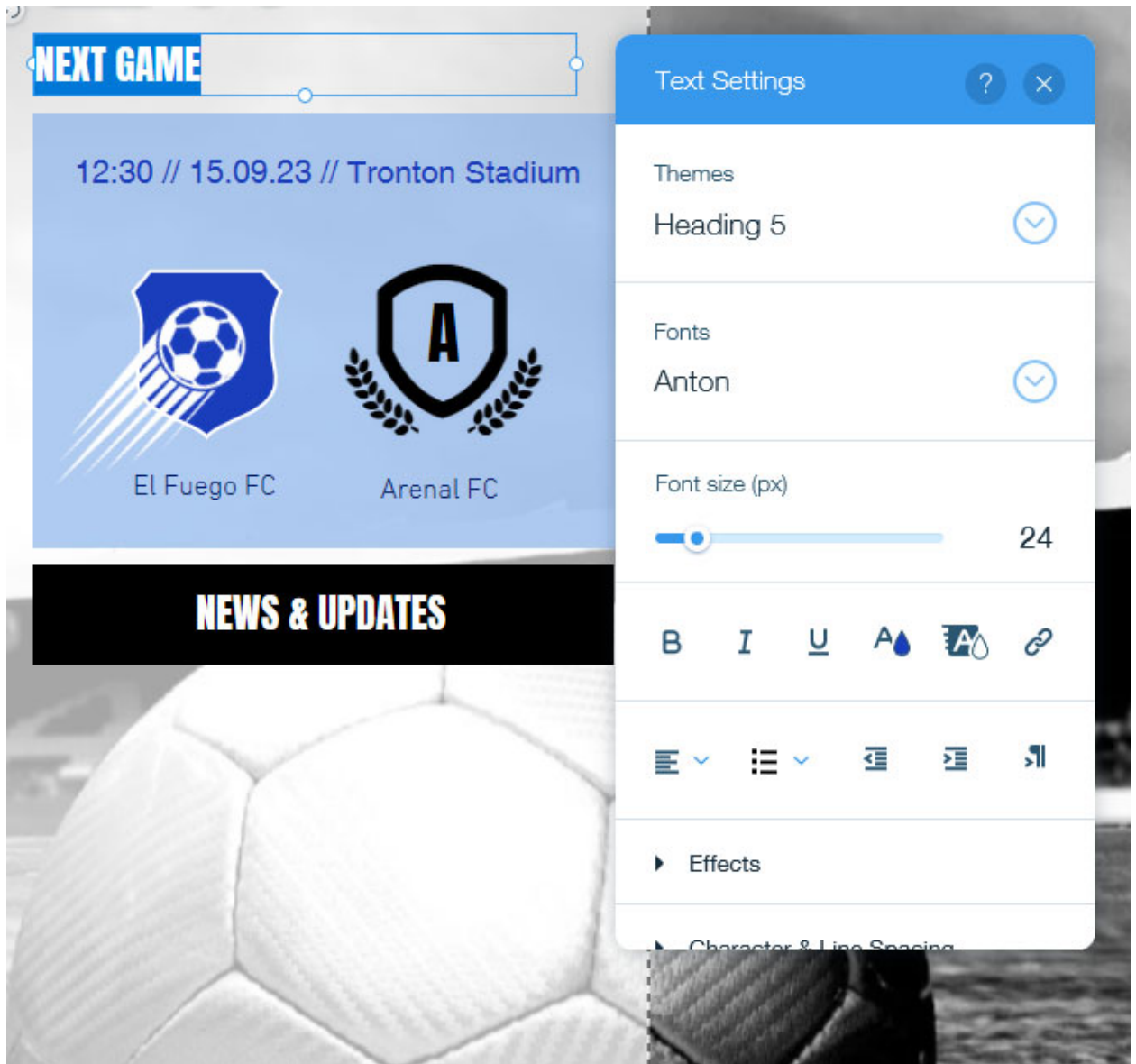27 website building tools that infringe, either literally or under the doctrine of equivalents, one or

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FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT   CASE NO. 3:19-CV-06559-RS

1   more claims of the '397 patent in violation of 35 U.S.C. § 271(a). Defendant's infringement will

2   continue unless enjoined by this Court.

3   51.   On information and belief, Wix has and continues to directly infringe at least

4   claim 1 of the '397 patent through its Accused Instrumentalities that provide browser-based

5   website authoring tools in which the user-selected settings representing website elements are

6   stored in a database, and in which said stored information is retrieved to generate said website.

7   52.   For example, Wix infringes at least claim 1 of the '397 patent by presenting a

8   viewable menu having a user selectable panel of settings (e.g., font size) describing elements on

9   a web site, said panel of settings being presented through a browser on a computer adapted to

10 accept one or more of said selectable settings in said panel as inputs therefrom, and where at

11 least one of said user selectable settings in said panel corresponds to commands to said virtual

12 machine.

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53.   The user selectable settings correspond to commands to the virtual machine. For example, in the viewable menu above, one of the user selected settings is the font size of the tagline "NEXT GAME." That setting corresponds to the commands to a virtual machine (e.g., font-size) to display the text in the selected size (e.g., 24px) or some other sizes.

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◢ <h5 class="font_5" style="font-size:24px;">
    <span style="font-size:24px;">NEXT GAME</span>
  </h5>
```

54.   The Accused Instrumentalities generate a display (e.g., preview) in accordance with one or more user selected settings substantially contemporaneously with the selection thereof. For example, as shown below when the font-size is changed from 24px to 64px in the

panel of settings, Wix's Website Builder generates the display substantially contemporaneously with the selection.
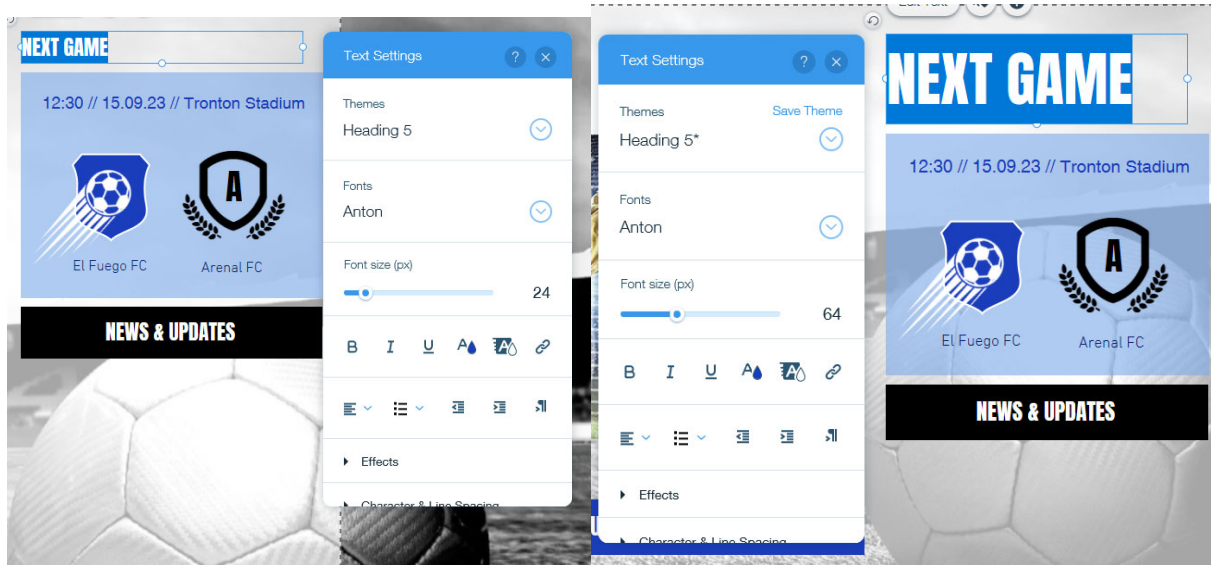
55.   On information and belief, the Accused Instrumentalities use a database to store information representative of the user selected settings. For example, the presence of a database (or databases) in Wix's Website Builder is evidenced by, among other things, the saving of the user selectable settings formatted in JavaScript Object Notation (JSON) to the backend server. As seen below, shortly after a user selects a new text size for the tagline "NEXT GAME" Wix's Website Builder processes and saves the settings formatted in JSON. JSON is a data format frequently used to store and query databases. *See, e.g.*, https://www.infoworld.com/article/3222851/what-is-json-javascript-object-notation-explained.html. Other user selected settings stored include theme, cover image, accent, alignment, font, logo, among others.

56.   The Accused Instrumentalities generate a website by retrieving information representative of user selected settings stored in Wix's database. For example, Wix's Website Builder generates the website below including the tagline "WELCOME TO OUR FANSITE" by retrieving the user selected font size setting from a database.
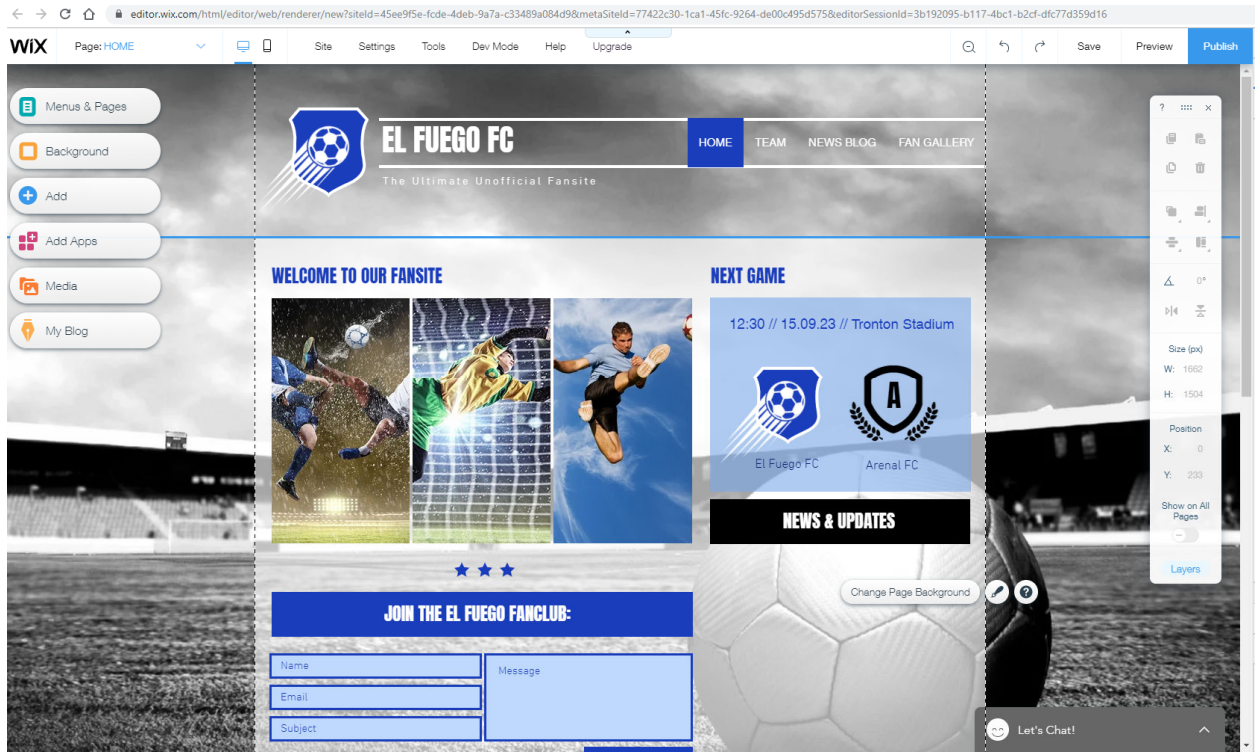
57.   The Accused Instrumentalities build one or more web pages of the website from the information in the database and at least one run time file. For example, Wix's Website Builder builds the web page shown above using information from the database (e.g., tagline, font size) and a number of run time files, including HTML, JavaScript, and other code files.

58.   At run time, the at least one run time file utilizes information stored in the database to generate the HTML, CSS, and JavaScript code for one or more displayed web pages. The HTML, CSS, JavaScript code represents virtual machine commands that is interpreted and executed by the applicable browser engine, which comprises an abstract machine that is not built in hardware but is emulated in software, to render the web page display. In the exemplary screenshot below, at least one run time file in Wix's Website Builder generates HTML, CSS, and JavaScript code corresponding to the displayed web page shown above.

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59.   The presence of the above referenced elements is demonstrated, by way of

example, by reference to publicly available information. *See, e.g.*,

https://support.wix.com/en/article/building-a-website-for-free;

https://www.wix.com/website/templates; https://support.wix.com/en/;

https://support.wix.com/en/the-wix-editor/editor-basics; https://support.wix.com/en/the-wix-

editor/editor-basics; https://support.wix.com/en/article/using-the-editor-menus;

https://support.wix.com/en/article/arranging-the-content-on-your-sites-pages;

https://support.wix.com/en/the-wix-editor/text; https://support.wix.com/en/the-wix-editor/image;

https://support.wix.com/en/the-wix-editor/video; https://support.wix.com/en/the-wix-

editor/social; https://support.wix.com/en/the-wix-editor/pro-gallery;

https://support.wix.com/en/the-wix-editor/strips-columns; https://support.wix.com/en/the-wix-

editor/lists-grids-1471254; https://support.wix.com/en/the-wix-editor/button;

https://support.wix.com/en/the-wix-editor/slideshows; https://support.wix.com/en/the-wix-

editor/save-publish-and-upgrade; https://support.wix.com/en/the-wix-editor/lightbox;

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https://support.wix.com/en/the-wix-editor/hover-box; https://support.wix.com/en/article/adding-and-setting-up-google-maps.

60.   On information and belief, Wix was made aware of the '397 patent and its infringement thereof at least as early as December 20, 2018 when Plaintiff provided notice of Defendant's infringement of the '397 patent.

61.   Upon information and belief, since at least the time Defendant received notice, Defendant have induced and continues to induce others to infringe at least one claim of the '397 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to Defendant's partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '397 patent.

62.   In particular, Defendant's actions that aid and abet others such as customers, clients, partners, developers, and end users to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities. Defendant actively encourages the adoption of the Accused Instrumentalities and provides support sites for the vast network of developers working with the Accused Instrumentalities, emphasizing the user-friendly nature of their website builder and explaining that "[w]ith the world's most innovative drag and drop website builder, you can design any website you want," and that "[t]he Wix Editor is the platform you use to build and edit your website. It is packed full of features to help you[] create a stunning and functional website." (*See, e.g.,* https://support.wix.com/en/article/getting-started-with-the-wix-editor; https://www.wix.com/features/main). On information and belief, Defendant has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Defendant has had actual knowledge of the '397 patent and knowledge that their acts were inducing infringement of the '397 patent since at least the date Defendant received notice that such activities infringed the '397 patent.

63.   Upon information and belief, Defendant is liable as contributory infringers of the '397 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United

1 States website or web page authoring tools to be especially made or adapted for use in an

2 infringement of the '397 patent. The Accused Instrumentalities are a material component for use

3 in practicing the '397 patent and are specifically made and are not a staple article of commerce

4 suitable for substantial non-infringing use.

5   64.   Upon information and belief, since the date of its receipt of notice, Defendant's

6 infringement of the '397 patent has been willful.

7   65.   Express Mobile has been harmed by Defendant's infringing activities.

8   66.   Defendant's infringement has damaged and continues to damage and injure

9 Plaintiff. Plaintiff's injury is irreparable and will continue unless and until Defendant is enjoined

10 by this Court from further infringement.

11   **COUNT II – INFRINGEMENT OF U.S. PATENT NO. 7,594,168**

12   67.   Plaintiff incorporates by reference the allegations contained in paragraphs 1 to 66

13 above.

14   68.   Defendant Wix has manufactured, used, offered for sale, or sold browser-based

15 website building tools that infringe, either literally or under the doctrine of equivalents, one or

16 more claims of the '168 patent in violation of 35 U.S.C. § 271(a). Defendant's infringement will

17 continue unless enjoined by this Court.

18   69.   On information and belief, Wix has and continues to directly infringe at least

19 claim 1 of the '168 patent through its Accused Instrumentalities that provide browser-based

20 website authoring tools in which the user-selected settings representing website elements are

21 stored in a database, and in which said stored information is retrieved to assemble said website.

22   70.   For example, Wix infringes at least claim 1 of the '168 patent by providing a

23 system for assembling a web site comprising a server comprising a build engine configured

24 practice each limitation of claim 1 through a combination of features. As shown in the exemplary

25 screenshot below, the Accused Instrumentalities comprise Wix's Website Builder's editor as part

26 of a system for assembling a web site hosted on Wix's server.

27

28

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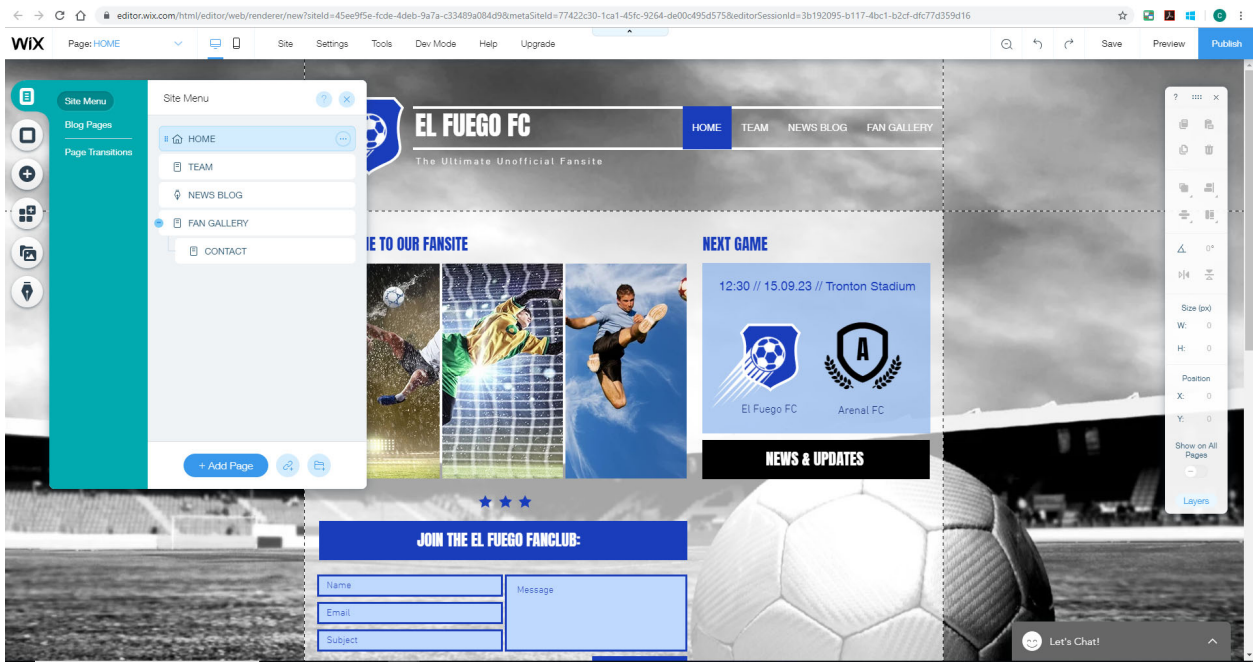
71.   The Accused Instrumentalities are configured to accept user input to create a website comprising a plurality of web pages, where each web page comprising a plurality of objects, such as a Page Background, Text Boxes, Images, and Input Fields. For example, as shown in the screenshot below, the Wix Website Builder's editor is configured to accept user input (e.g., selection of font size) for text boxes displayed on the website.
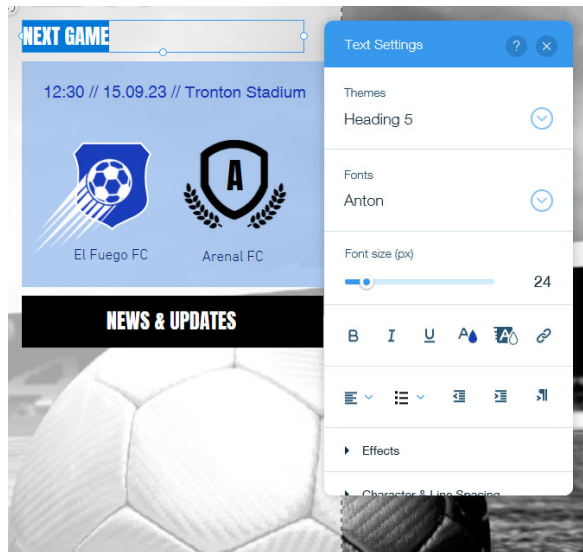
72.   The Accused Instrumentalities' build engine is configured to accept user input to associate a style with objects of the plurality of web pages. As shown in the screenshots below, by using Wix's Website Builder's editor (including the "Wix Pro Gallery" feature), a user can

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input fields to associate a style with an object or series of objects. Additionally, the at least one

button object or at least one image object is associated with a style that includes values defining

transformations and time lines for the at least one button object or at least one image object.

Buttons and images created using Wix's Website Builder editor and the Wix Pro Gallery have

associated styles, such as Layout, Settings, and Design. The buttons and images that can be

selected from the Wix Pro Gallery further include transformations and time lines definitions that

affect the appearance and behavior of the buttons or images as a sequence of changes. For

example, images in a photo gallery are associated with scroll animation styles through CSS as

shown in the screenshots below. By selecting a combination of options within the Wix Pro

Gallery settings, a user can associate transformations and time lines of the gallery images.
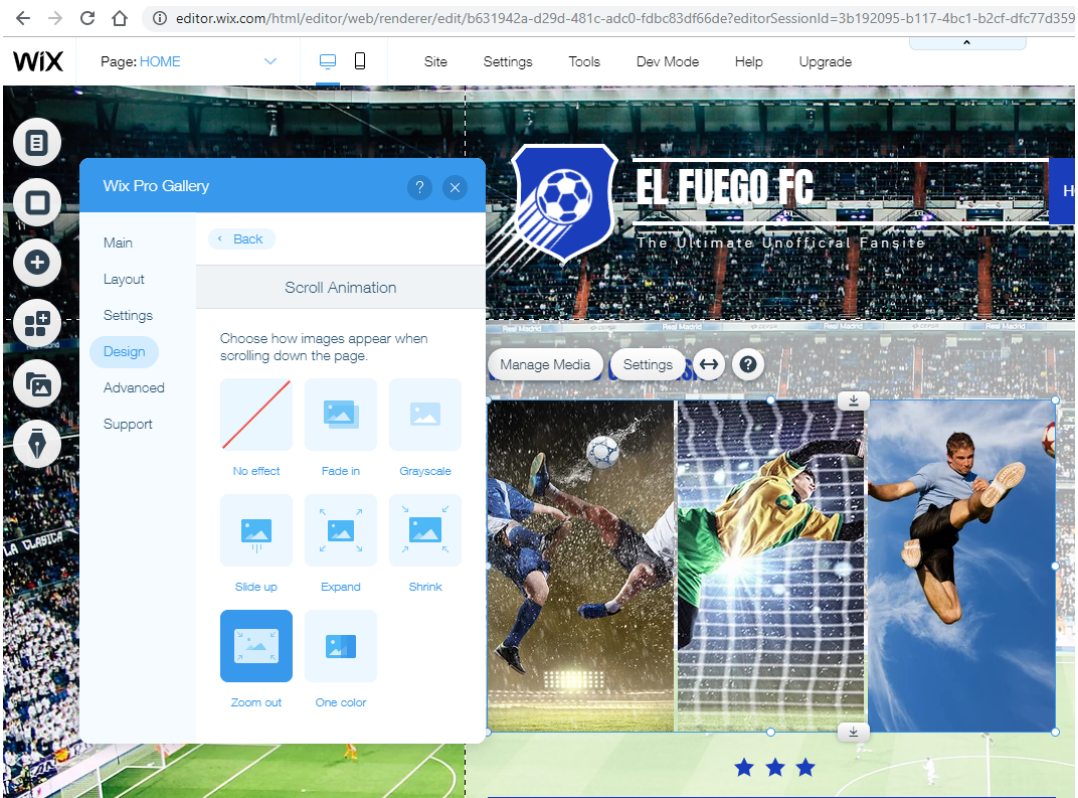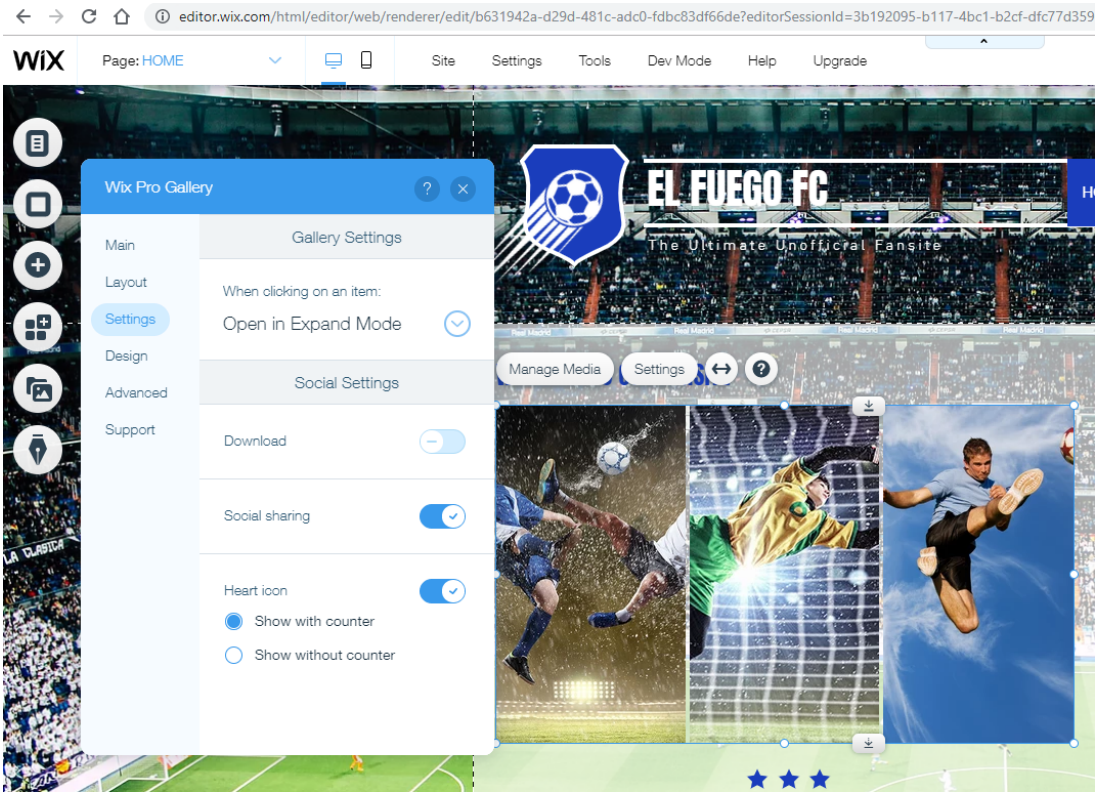
73.   Each Accused Instrumentalities' web page is defined entirely by each of the plurality of objects (e.g., sections, images, text, and buttons) comprising that web page and the style (e.g., Accent, color, font-size) associated with the object.

74.   The Accused Instrumentalities are configured to produce a database with a multidimensional array comprising the objects that comprise the web site including data defining, for each object, the object style, an object number, and an indication of the web page that each object is part of. For example, Wix's Website Builder saves information about each user's website, including information representative of the user selected settings in a database. Wix's databases include multi-dimensional arrays containing the information and settings describing each user's Wix website identifiable by indices. Wix further stores the Header, Footer, sections, and associated settings of each user's website's web pages. Wix's Website Builder's ability to later retrieve the object data to generate web pages that correctly associate the objects with the web page they are in and using the user-selected settings reflects that Wix's databases include data records defining these objects and associated settings, database record identifiers, and data associating these objects with their corresponding web pages.
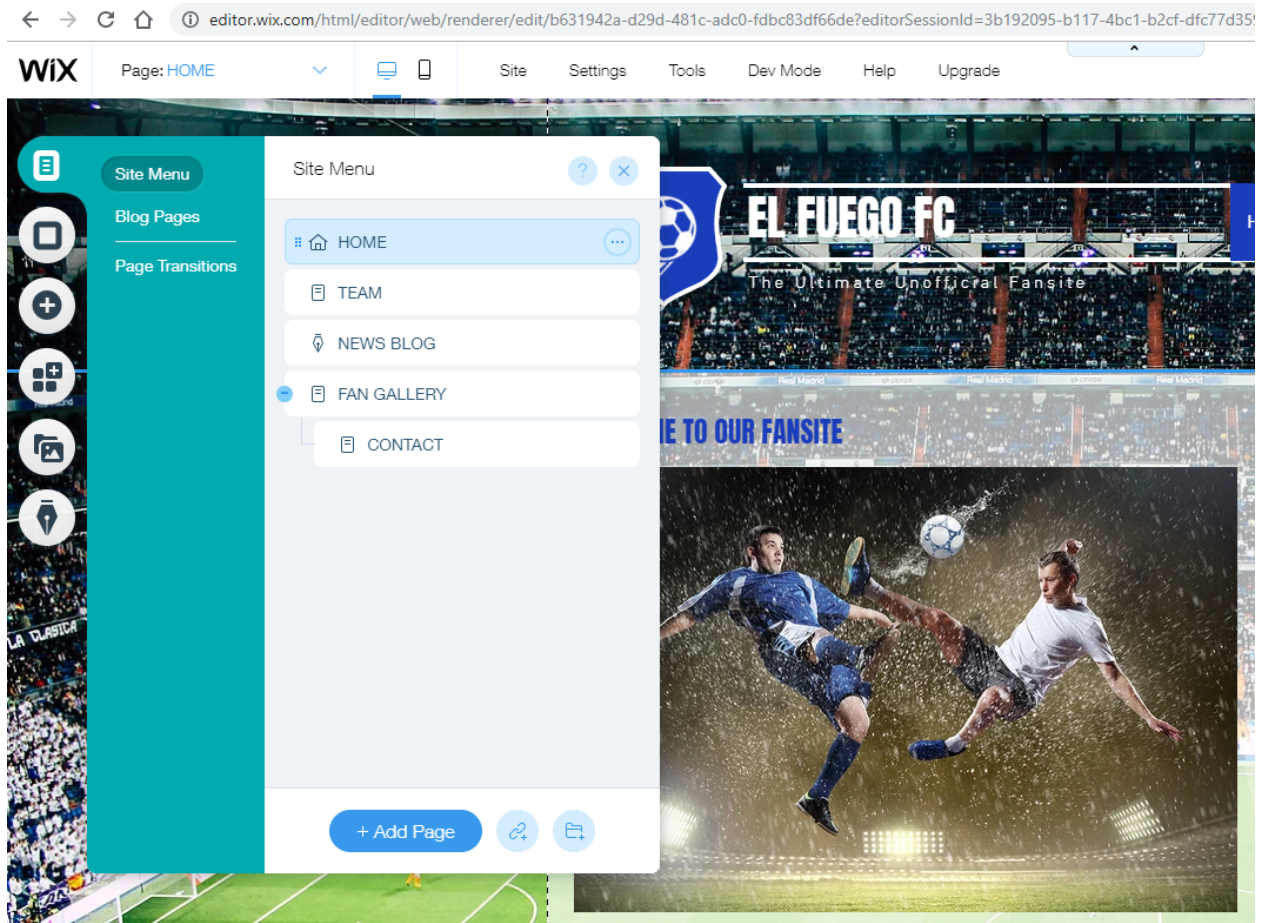
75.   On information and belief, the Accused Instrumentalities use a database to store objects and style data. For example, the presence of a database (or databases) in Wix's Website Builder is evidenced by, among other things, the saving of the user selectable settings formatted in JavaScript Object Notation (JSON) to the backend server. As seen below, shortly after a user selects a new text size for the tagline "Helping you design success!" Wix's Website Builder processes and saves the settings formatted in JSON. JSON is a data format frequently used to store and query databases. *See, e.g.*, https://www.infoworld.com/article/3222851/what-is-json-javascript-object-notation-explained.html. Other user selected settings stored include theme, cover image, accent, alignment, font, logo, among others.
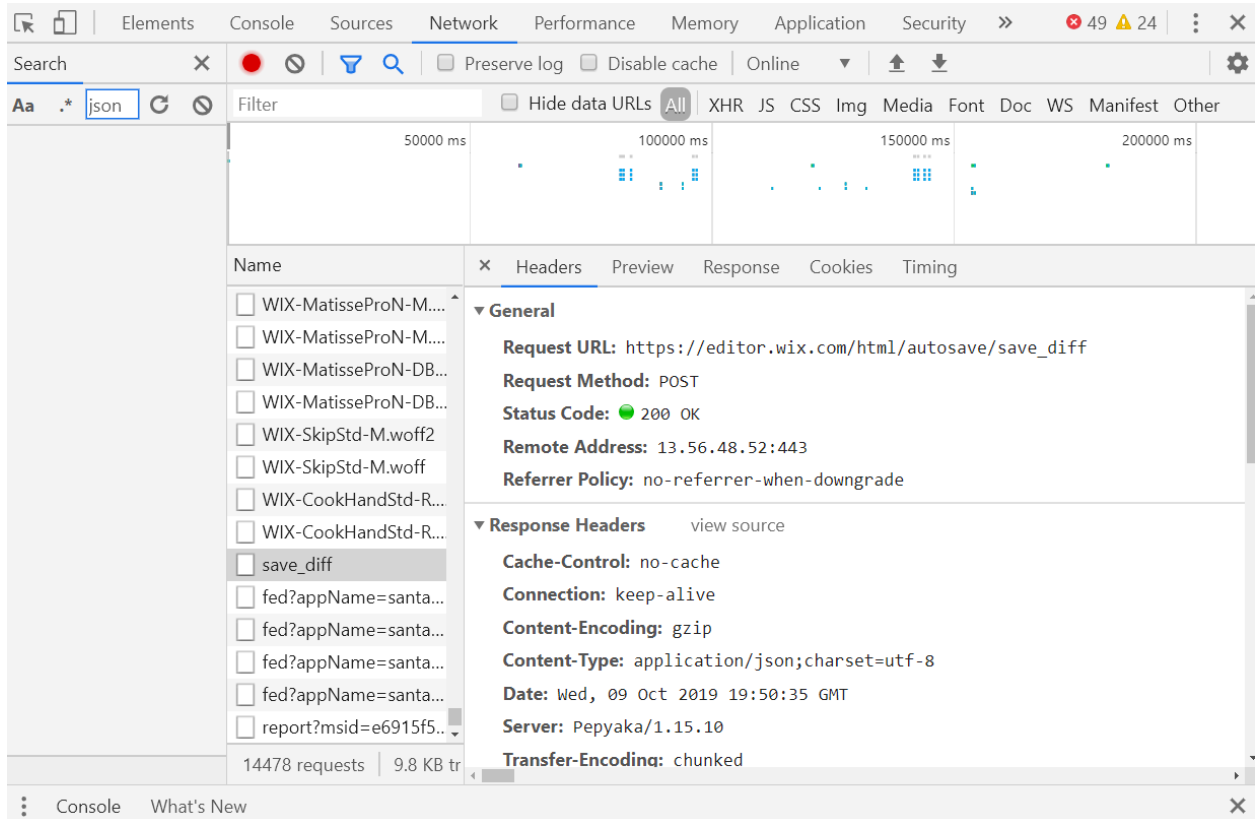
76.   The Accused Instrumentalities are configured to provide the database to a server accessible to web browser. For example, Wix's Website Builder provides the database for its users' websites to a server accessible over the Internet by web browsers. Wix's servers host websites for its users over the Internet that include the web pages created using Accused Instrumentalities. These websites are accessible to website visitors through a web browser.

77.   The Accused Instrumentalities are configured to provide the database wherein the database is produced such that a web browser with access to a runtime engine is configured .to generate the web-site from the objects and style data extracted from the provided database. Wix's servers use the database of object and style data to send files to website visitors that allow the visitor's web browser to generate the website from the data in the database. The visitor's web browser has access to runtime engine files that facilitate retrieval of the objects and style data from Wix's databases.

78.   The Accused Instrumentalities generate a website by retrieving information representative of user selected settings stored in Wix's database. For example, Wix's Website

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1   Builder generates the website below including the tagline "WELCOME TO OUR FANSITE" by

2   retrieving the user selected font size setting from a database.

3
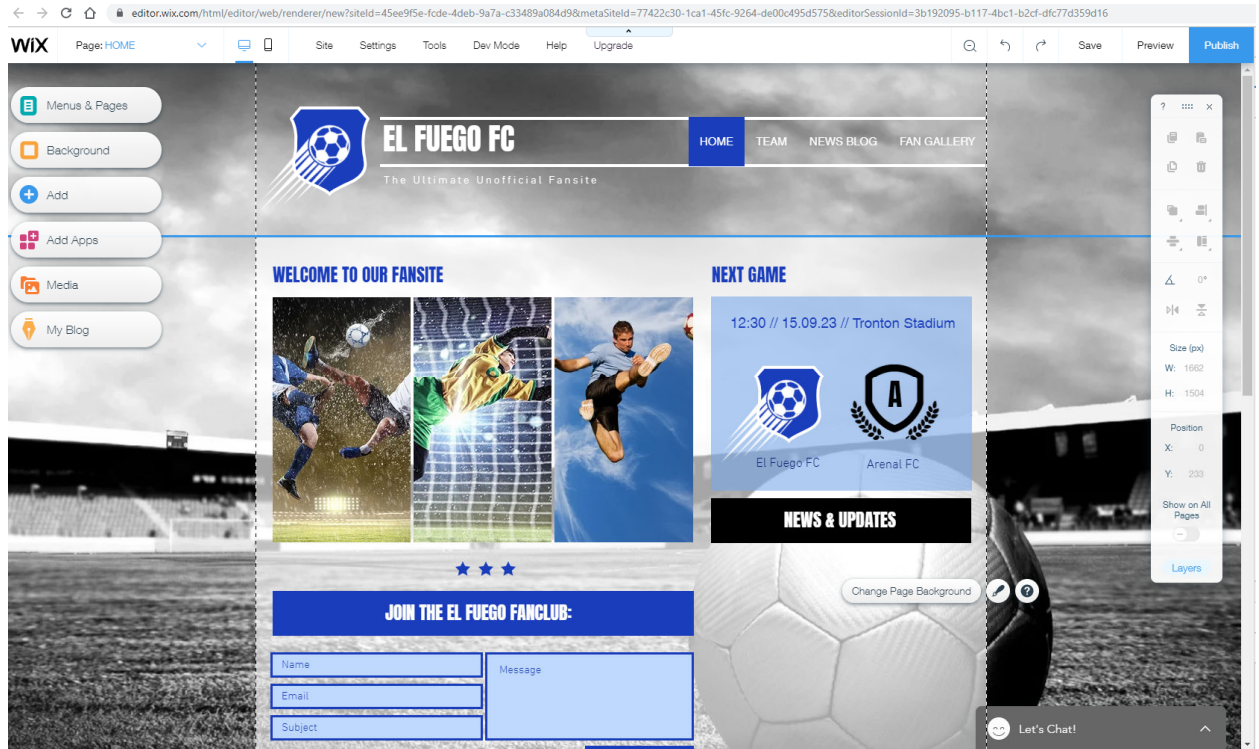
15   79.   The presence of the above referenced elements is demonstrated, by way of

16   example, by reference to publicly available information. *See, e.g.*,

17   https://support.wix.com/en/article/building-a-website-for-free;

18   https://www.wix.com/website/templates; https://support.wix.com/en/;

19   https://support.wix.com/en/the-wix-editor/editor-basics; https://support.wix.com/en/the-wix-

20   editor/editor-basics; https://support.wix.com/en/article/using-the-editor-menus;

21   https://support.wix.com/en/article/arranging-the-content-on-your-sites-pages;

22   https://support.wix.com/en/the-wix-editor/text; https://support.wix.com/en/the-wix-editor/image;

23   https://support.wix.com/en/the-wix-editor/video; https://support.wix.com/en/the-wix-

24   editor/social; https://support.wix.com/en/the-wix-editor/pro-gallery;

25   https://support.wix.com/en/the-wix-editor/strips-columns; https://support.wix.com/en/the-wix-

26   editor/lists-grids-1471254; https://support.wix.com/en/the-wix-editor/button;

27   https://support.wix.com/en/the-wix-editor/slideshows; https://support.wix.com/en/the-wix-

28   editor/save-publish-and-upgrade; https://support.wix.com/en/the-wix-editor/lightbox;

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https://support.wix.com/en/the-wix-editor/hover-box; https://support.wix.com/en/article/adding-and-setting-up-google-maps.

80.   On information and belief, Wix was made aware of the '168 patent and its infringement thereof at least as early as December 20, 2018 when Plaintiff provided notice of Defendant's infringement of the '168 patent.

81.   Upon information and belief, since at least the time Defendant received notice, Defendant has induced and continues to induce others to infringe at least one claim of the '168 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to Defendant's partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '168 patent.

82.   In particular, Defendant's actions that aid and abet others such as customers, clients, partners, developers, and end users to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities. Defendant actively encourages the adoption of the Accused Instrumentalities and provide support sites for the vast network of developers working with the Accused Instrumentalities, emphasizing the user-friendly nature of their website builder and explaining that "[w]ith the world's most innovative drag and drop website builder, you can design any website you want," and that "[t]he Wix Editor is the platform you use to build and edit your website. It is packed full of features to help you[] create a stunning and functional website." (*See, e.g.,* https://support.wix.com/en/article/getting-started-with-the-wix-editor; https://www.wix.com/features/main). On information and belief, Defendant has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Defendant has had actual knowledge of the '168 patent and knowledge that their acts were inducing infringement of the '168 patent since at least the date Defendant received notice that such activities infringed the '168 patent.

83.   Upon information and belief, Defendant is liable as contributory infringers of the '168 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United

States website or web page authoring tools to be especially made or adapted for use in an infringement of the '168 patent. The Accused Instrumentalities are a material component for use in practicing the '168 patent and are specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

84.   Upon information and belief, since the date of its receipt of notice, Defendant's infringement of the '168 patent has been willful.

85.   Express Mobile has been harmed by Defendant's infringing activities.

86.   Defendant's infringement has damaged and continues to damage and injure Plaintiff. Plaintiff's injury is irreparable and will continue unless and until Defendant is enjoined by this Court from further infringement.

COUNT III – INFRINGEMENT OF U.S. PATENT NO. 9,063,755

87.   Plaintiff incorporates by reference the allegations contained in paragraphs 1 to 86 above.

88.   Defendant has manufactured, used, offered for sale, or sold programming generation and distribution tools that infringe, either literally or under the doctrine of equivalents, one or more claims of the '755 patent in violation of 35 U.S.C. § 271(a). Defendant's infringement will continue unless enjoined by this Court.

89.   On information and belief, Defendant has and continues to directly infringe at least claim 12 of the '755 patent by practicing each claim limitation for displaying content on a display of a device utilizing a registry of one or more web components related to inputs and outputs of a web service.

90.   For example, Wix's Website Builder stores a registry of symbolic names required to evoke a web component (e.g., map, video, etc.) and address of a web service (e.g., Google Maps, YouTube video, etc.).
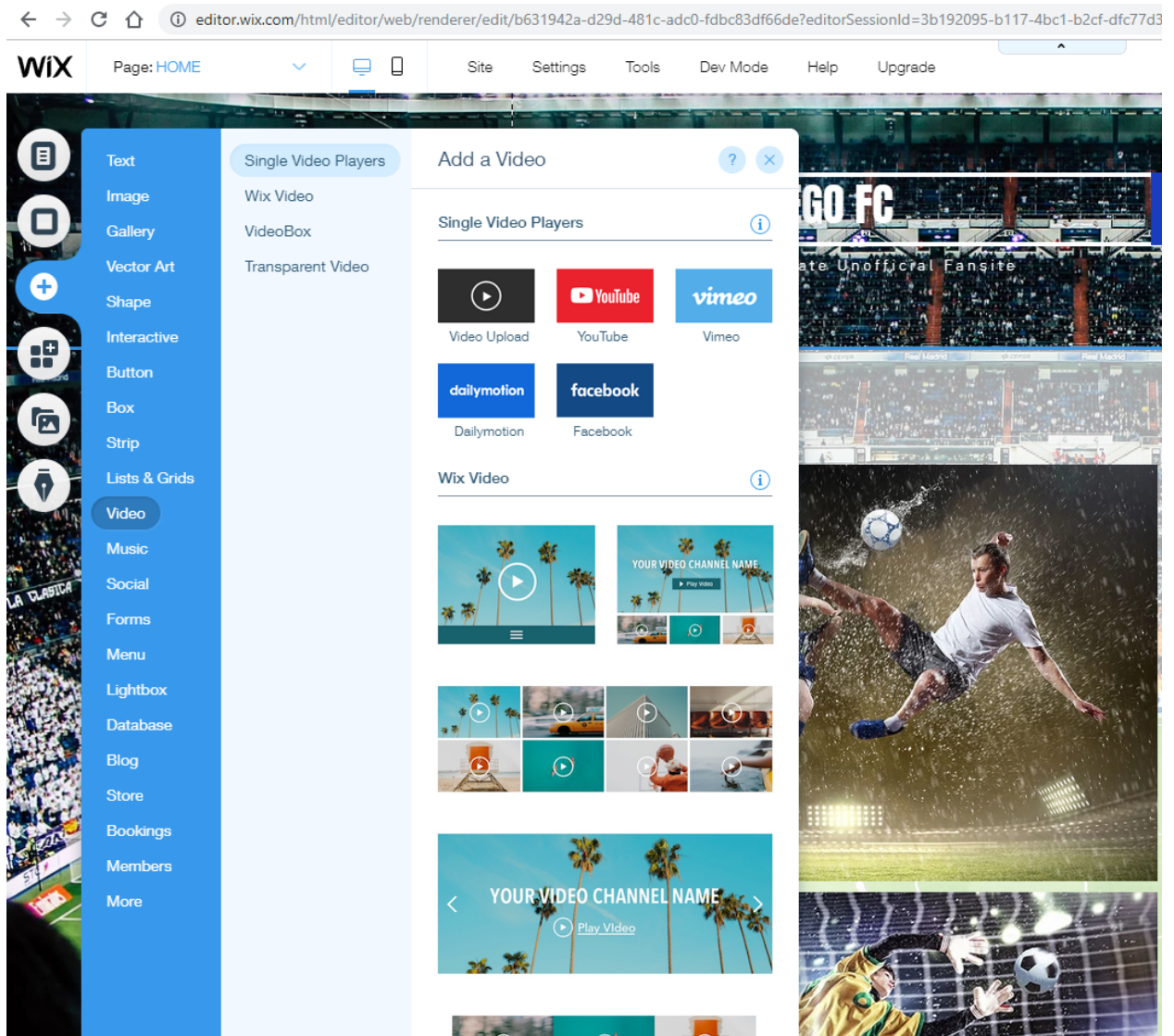
91.   The Accused Instrumentalities include the ability to select web components for display on a web page. Users can add content to their website accessible by symbolic names. This content includes web components that relate to inputs and outputs of web services over the Internet. For example, Wix's Website Builder integrates with third-party web services such as Google Maps, YouTube, Vimeo, Facebook, Instagram, among others, integrate with payment providers like PayPal, and integrate with additional web services such as Appointments & Services, Calendar, among others. For example, a user can add map images to their website provided from a Google Maps web service.

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92.   Wix's Website Builder also stores an address of the web service. For example, the exemplary screenshot below shows that Wix stores the web address of the Google Maps web service for retrieving map content. When the embedded Google Map is clicked by the user, a request is made to a web address located at https://maps.googleapis.com
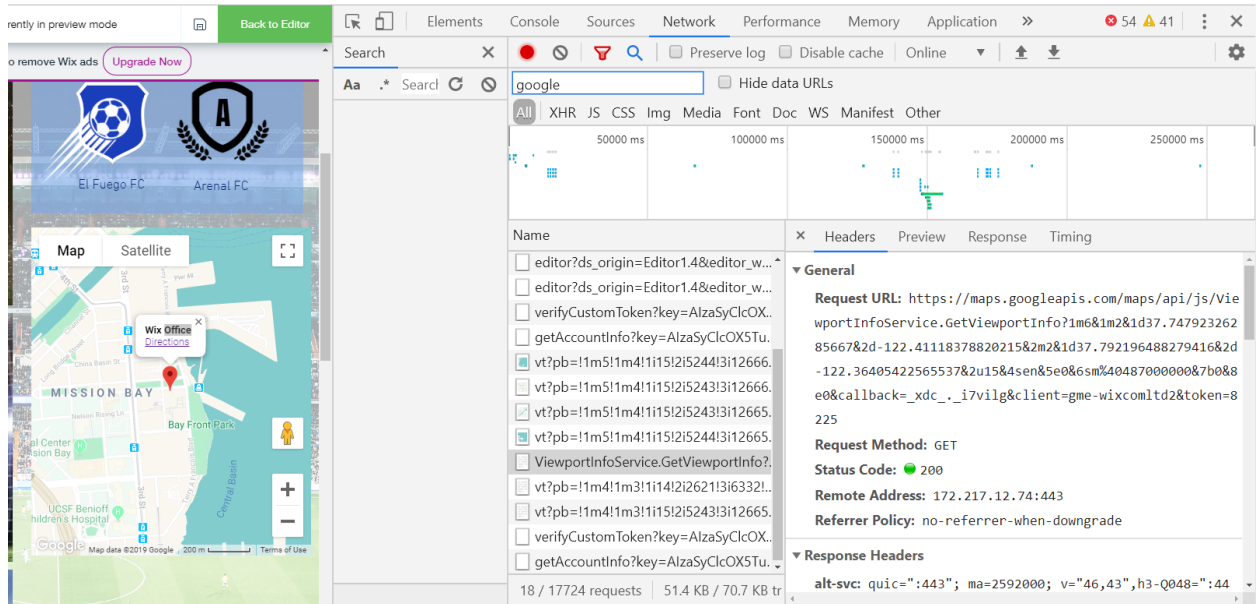
93.   The Accused Instrumentalities allow Wix users to define UI objects on their website. For example, Wix users select, using the Website Builder editor, content to be placed on their websites, such as text, input fields, buttons, images, and divs. The UI objects correspond to the web components included in the computer memory described above. For example, Wix's Website Builder editor allows users to define content on their website for maps and videos. These UI objects correspond to the map and video web components. These web components include both inputs from and outputs to corresponding web services.

94.   The Accused Instrumentalities select the symbolic names described above. For example, Wix's Website Builder is configured to generate a Google Maps object upon a user's request. The selected symbolic name for the map web component is associated with the UI object.

95.   The Accused Instrumentalities produce an application including the selected symbolic name of the defined UI object, where the application is a device-independent code. For example, the Google Maps object that can be incorporated into a website is built from at least a portion of the information in Wix's databases. The settings selected by the user that are stored in Wix's databases are used to build the user's web pages reflecting those settings.

96.   The Accused Instrumentalities produce a player, where the player is a device-dependent code. In order for a site to display on different devices through a browser or through

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1   responsive capabilities, there is device dependent code. *See, e.g., X Commerce, Inc. v Express*

2   *Mobile, Inc.*, Case No 17-cv-02605-RS, NDCA, DKT 79-5.

3   97.   The Accused Instrumentalities provide the application and player to the device

4   and executed on the device and when the application and player are provided to the device and

5   executed on the device, and when the user of the device provides one or more input values

6   associated with an input symbolic name to an input of the defined UI object, the device provides

7   the user provided one or more input values and corresponding input symbolic name to the web

8   service. Wix makes its customers' websites accessible to website visitors' devices. The website

9   visitors connect to the website on their own devices which are supplied the application and

10 player code described above. The website visitors are then able to provide input values (e.g.,

11 typed text, mouse clicks, button clicks, touches, swipes, etc.) to an input of the defined UI object

12 associated with an input symbolic name. The website provided by Wix is designed such that

13 when a website visitor provides input as described above, this input is provided to the web

14 service. For example, when a website visitor clicks buttons, types text, touches a touch screen,

15 or swipes the screen, these inputs are transmitted along with a corresponding input symbolic

16 name to the web service through an HTTP request protocol, such as a POST or GET method call,

17 over the Internet.

18   98.   The web service utilizes the input symbolic name and the user provided one or

19 more input values for generating one or more output values having an associated output symbolic

20 name. Based on the received input from a website visitor as described above, the web service

21 generates an output to send to the visitor's browser. For example, when a website visitor clicks

22 zoom in, zoom out, or drag a map, the Google Maps web service receives an indication of the

23 click (input), and in response generates output values such as map data and result codes, and

24 associated symbolic name.

25   99.   The player receives the output symbolic name and corresponding one or more

26 output values and provides instructions for the display of the device to present an output value in

27 the defined UI object. The player, described above, receives the output values such as map data

28 and result codes, and associated symbolic name in an HTTP response from the web service. The

1 player then presents the received output values for display in the UI object. For example, an

2 output of the Google Maps map web service includes the actual updated map images that are

3 then presented within the visitor's browser.

4   100.   The presence of the above referenced elements is demonstrated, by way of

5 example, by reference to publicly available information. *See, e.g.*,

6 https://support.wix.com/en/article/building-a-website-for-free;

7 https://www.wix.com/website/templates; https://support.wix.com/en/;

8 https://support.wix.com/en/the-wix-editor/editor-basics; https://support.wix.com/en/the-wix-

9 editor/editor-basics; https://support.wix.com/en/article/using-the-editor-menus;

10 https://support.wix.com/en/article/arranging-the-content-on-your-sites-pages;

11 https://support.wix.com/en/the-wix-editor/text; https://support.wix.com/en/the-wix-editor/image;

12 https://support.wix.com/en/the-wix-editor/video; https://support.wix.com/en/the-wix-

13 editor/social; https://support.wix.com/en/the-wix-editor/pro-gallery;

14 https://support.wix.com/en/the-wix-editor/strips-columns; https://support.wix.com/en/the-wix-

15 editor/lists-grids-1471254; https://support.wix.com/en/the-wix-editor/button;

16 https://support.wix.com/en/the-wix-editor/slideshows; https://support.wix.com/en/the-wix-

17 editor/save-publish-and-upgrade; https://support.wix.com/en/the-wix-editor/lightbox;

18 https://support.wix.com/en/the-wix-editor/hover-box; https://support.wix.com/en/article/adding-

19 and-setting-up-google-maps.

20   101.   On information and belief, Accused Instrumentalities are used, marketed,

21 provided to, and/or used by or for Defendant's partners, clients, customers and end users across

22 the country and in this district.

23   102.   On information and belief, Defendant was made aware of the '755 patent and its

24 infringement thereof at least since December 20, 2018 when Plaintiff provided notice of

25 Defendant's infringement of the '755 patent. Furthermore, Defendant has been aware of the

26 '755 patent and its infringement thereof since at least since the filing of the complaint.

27   103.   Upon information and belief, since at least the time Defendant received notice,

28 Defendant has induced and continue to induce others to infringe at least one claim of the '755

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1   patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful

2   blindness, actively aiding and abetting others to infringe, including but not limited to

3   Defendant's partners, clients, customers, and end users, whose use of the Accused

4   Instrumentalities constitutes direct infringement of at least one claim of the '755 patent.

5   104.   In particular, Defendant's actions that aid and abet others such as customers,

6   clients, partners, developers, and end users to infringe include advertising and distributing the

7   Accused Instrumentalities and providing instruction materials, training, and services regarding

8   the Accused Instrumentalities. Defendant actively encourages the adoption of the Accused

9   Instrumentalities and provides support sites for the vast network of developers working with the

10   Accused Instrumentalities. On information and belief, Defendant has engaged in such actions

11   with specific intent to cause infringement or with willful blindness to the resulting infringement

12   because Defendant has had actual knowledge of the '755 patent and knowledge that their acts

13   were inducing infringement of the '755 patent since at least the date Defendant received notice

14   that such activities infringed the '755 patent.

15   105.   Upon information and belief, Defendant is liable as contributory infringers of the

16   '755 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United

17   States website or web page authoring tools to be especially made or adapted for use in an

18   infringement of the '755 patent. The Accused Instrumentalities are a material component for use

19   in practicing the '755 patent and are specifically made and are not a staple article of commerce

20   suitable for substantial non-infringing use.

21   106.   Upon information and belief, since the date of its receipt of notice, Defendant's

22   infringement of the '755 patent has been willful.

23   107.   Express Mobile has been harmed by Defendant's infringing activities.

24   108.   Defendant's infringement has damaged and continues to damage and injure

25   Plaintiff. Plaintiff's injury is irreparable and will continue unless and until Defendant is enjoined

26   by this Court from further infringement.

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COUNT IV – INFRINGEMENT OF U.S. PATENT NO. 9,471,287

109. Plaintiff incorporates by reference the allegations contained in paragraphs 1 to 108 above.

110. Defendant has manufactured, used, offered for sale, or sold programming generation and distribution tools that infringe, either literally or under the doctrine of equivalents, one or more claims of the '287 patent in violation of 35 U.S.C. § 271(a). Defendant's infringement will continue unless enjoined by this Court.

111. On information and belief, Defendant has and continues to directly infringe at least claim 15 of the '287 patent by practicing each claim limitation for displaying content on a display of a device having a player.

112. Upon information and belief, Defendant has and continues to directly infringe at least claim 15 of the '287 patent by a system and method which includes a registry and an authoring tool or Player configured to define a User Interface ("UI") object for display on the device, where the UI object corresponds to a web component. Each UI object is either: 1) selected by a user or 2) automatically selected by the system as a preferred UI object corresponding to a symbolic name of the web component and used to produce an Application, where the Application is a device-independent code and a Player, where the Player is a device-dependent code. The Application and Player enable 1) the device to provide one or more input values and corresponding input symbolic name to the web service and 2) the web service to utilize the input symbolic name and the user provided one or more input values to generate one or more output values having an associated output symbolic name, while 3) the Player receives the output symbolic name and corresponding one or more output values and provides instructions for the display of the device to present an output value in the defined UI object (the "Accused Instrumentalities"). The Accused Instrumentalities include the Wix Website Builder that enables the functionality described above.

113. Claim 15 of the '287 patent recites a method of displaying content on a display of a device having a Player, where the Player is a device-dependent code, the method comprising: defining a user interface (UI) object for presentation on the display, where the UI object

corresponds to a web component included in a registry of one or more web components selected from a group consisting of an input of a web service and an output of the web service, where each web component includes a plurality of symbolic names of inputs and outputs associated with each web service, and where the registry includes: a) symbolic names required for evoking one or more web components each related to a set of inputs and outputs of the web service obtainable over a network, where the symbolic names are character strings that do not contain either a persistent address or pointer to an output value accessible to the web service, and b) an address of the web service, and where each defined UI object is either:1) selected by a user of an authoring tool; 2) automatically selected by a system as a preferred UI object corresponding to a symbolic name of the web component selected by the user of the authoring tool.
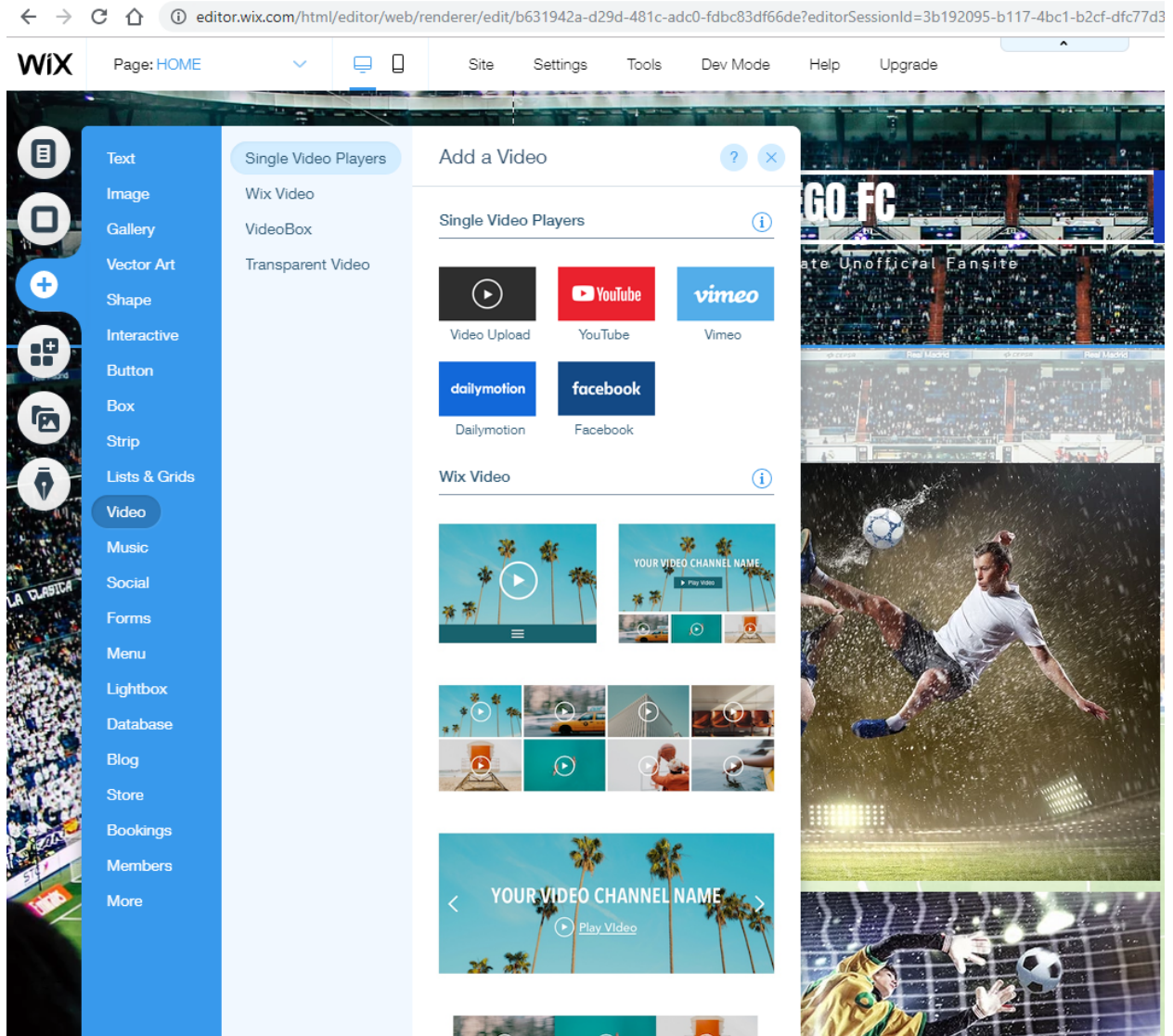
114.   The Accused Instrumentalities include a player, where the player is a device-dependent code. In order for a site to display on different devices through a browser or through responsive capabilities, there is device dependent code. *See, e.g., X Commerce, Inc. v Express Mobile, Inc.*, Case No 17-cv-02605-RS, NDCA, DKT 79-5.

115.   The Accused Instrumentalities allow Wix users to define UI objects on their website. For example, Wix users select, using the Website Builder editor, content to be placed on their websites, such as text, input fields, buttons, images, and divs. The UI objects correspond to the web components included in the computer memory described above. For example, Wix's Website Builder editor allows users to define content on their website for maps and videos. These UI objects correspond to the map and video web components. These web components include both inputs from and outputs to corresponding web services.

116.   The Accused Instrumentalities store a registry of symbolic names required to evoke a web component (e.g., map, video, etc.) and address of a web service (e.g., Google Maps, YouTube video, etc.).

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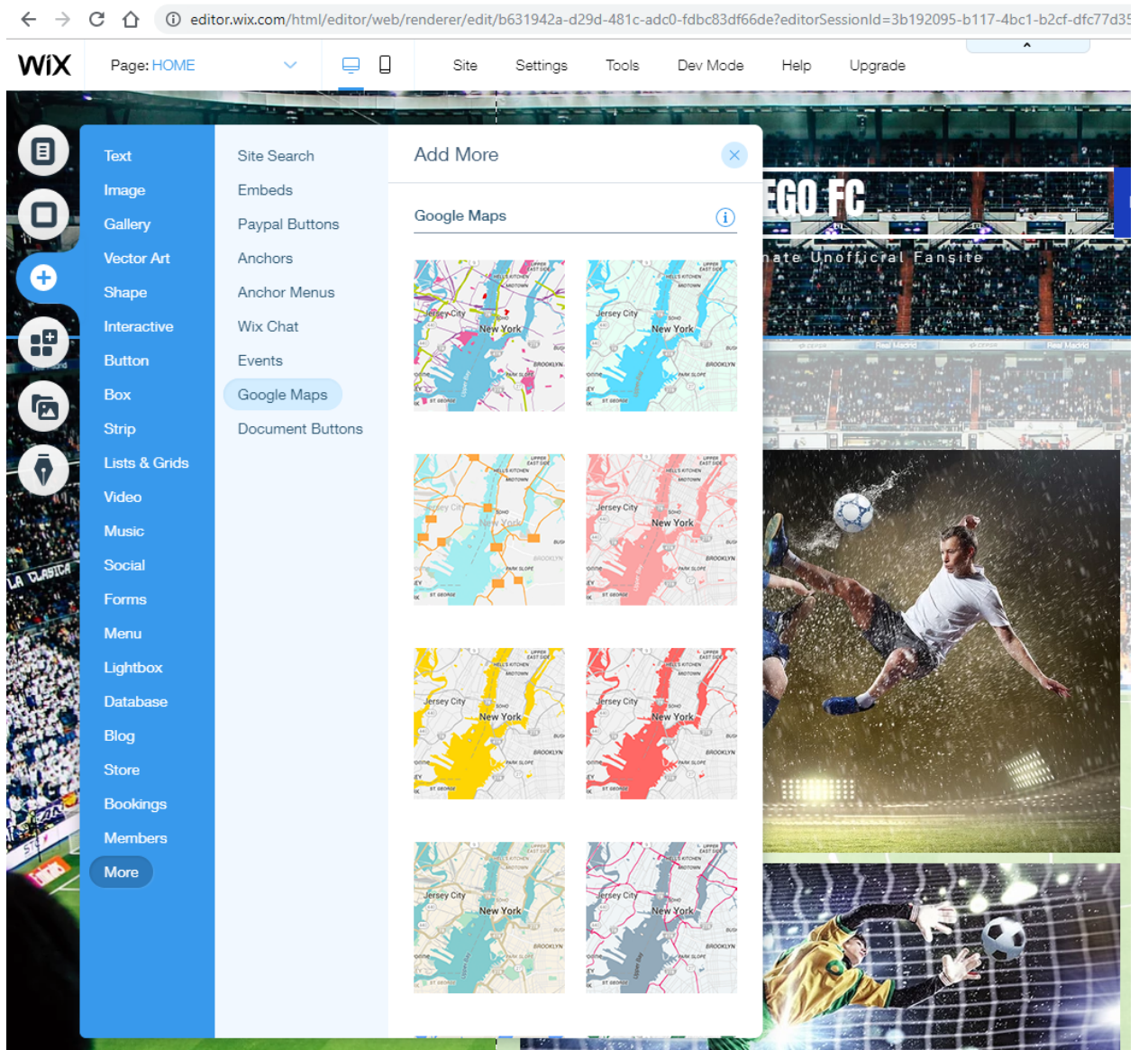One Market Plaza, Spear Tower, Suite 3900
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117.   The Accused Instrumentalities include the ability to select web components for display on a web page. Users can add content to their website accessible by symbolic names. This content includes web components that relate to inputs and outputs of web services over the Internet. For example, Wix's Website Builder integrates with third-party web services such as Google Maps, YouTube, Vimeo, Facebook, Instagram, among others, integrate with payment providers like PayPal, and integrate with additional web services such as Appointments & Services, Calendar, among others. For example, a user can add map images to their website provided from a Google Maps web service.

118.   Wix's Website Builder also stores an address of the web service. For example, the exemplary screenshot below shows that Wix stores the web address of the Google Maps web service for retrieving map content. When the embedded Google Map is clicked by the user, a request is made to a web address located at https://maps.googleapis.com

119.   Each defined UI object is automatically selected by the Accused Instrumentalities as the preferred UI object corresponding to the symbolic name of the web component selected by the user of the authoring tool. For example, a "div" is automatically selected by the Accused Instrumentalities as the preferred UI object for the map web component.
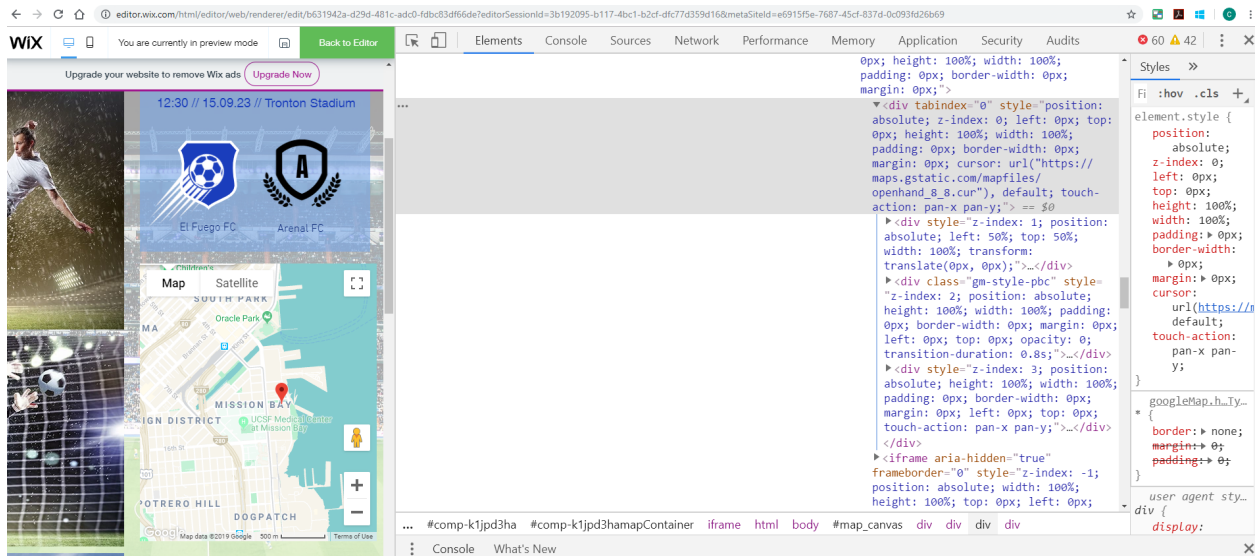

120.   The Accused Instrumentalities select the symbolic names described above. For example, Wix's Website Builder is configured to generate a map section that includes a map upon a user's request.

121.   The Accused Instrumentalities associate the selected symbolic name with defined UI object, where the selected symbolic name is only available to UI objects that support the

defined data format associated with that symbolic name. For example, the selected symbolic name for the map web component is only available to the UI object that supports the defined data associated with that symbolic name and is not available in the UI object for other sections of the web page.

122.   The Accused Instrumentalities produce an application including the selected symbolic name of the defined UI object, where the application is a device-independent code. For example, the map section is built from at least a portion of the information in Wix's databases. The settings selected by the user that are stored in Wix's databases are used to build the user's web pages reflecting those settings.

123.   The Accused Instrumentalities provide the application and player to the device and executed on the device and when the application and player are provided to the device and executed on the device, and when the user of the device provides one or more input values associated with an input symbolic name to an input of the defined UI object, the device provides the user provided one or more input values and corresponding input symbolic name to the web service. Wix makes its customers' websites accessible to website visitors' devices. The website visitors connect to the website on their own devices which are supplied the application and player code described above. The website visitors are then able to provide input values (e.g., typed text, mouse clicks, button clicks, touches, swipes, etc.) to an input of the defined UI object associated with an input symbolic name. The website provided by Wix is designed such that when a website visitor provides input as described above, this input is provided to the web service. For example, when a website visitor clicks buttons, types text, touches a touch screen, or swipes the screen, these inputs are transmitted along with a corresponding input symbolic name to the web service through an HTTP request protocol, such as a POST or GET method call, over the Internet.

124.   The web service utilizes the input symbolic name and the user provided one or more input values for generating one or more output values having an associated output symbolic name. Based on the received input from a website visitor as described above, the web service generates an output to send to the visitor's browser. For example, when a website visitor clicks

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1 zoom in, zoom out, or drag a map, the Google Maps web service receives an indication of the

2 click (input), and in response generates output values such as map data and result codes, and

3 associated symbolic name.

4   125.   The player receives the output symbolic name and corresponding one or more

5 output values and provides instructions for the display of the device to present an output value in

6 the defined UI object. The player, described above, receives the output values such as map data

7 and result codes, and associated symbolic name in an HTTP response from the web service. The

8 player then presents the received output values for display in the UI object. For example, an

9 output of the Google Maps web service includes the actual updated map images that are then

10 presented within the visitor's browser.

11   126.   The presence of the above referenced elements is demonstrated, by way of

12 example, by reference to publicly available information. *See, e.g.*,

13 https://support.wix.com/en/article/building-a-website-for-free;

14 https://www.wix.com/website/templates; https://support.wix.com/en/;

15 https://support.wix.com/en/the-wix-editor/editor-basics; https://support.wix.com/en/the-wix-

16 editor/editor-basics; https://support.wix.com/en/article/using-the-editor-menus;

17 https://support.wix.com/en/article/arranging-the-content-on-your-sites-pages;

18 https://support.wix.com/en/the-wix-editor/text; https://support.wix.com/en/the-wix-editor/image;

19 https://support.wix.com/en/the-wix-editor/video; https://support.wix.com/en/the-wix-

20 editor/social; https://support.wix.com/en/the-wix-editor/pro-gallery;

21 https://support.wix.com/en/the-wix-editor/strips-columns; https://support.wix.com/en/the-wix-

22 editor/lists-grids-1471254; https://support.wix.com/en/the-wix-editor/button;

23 https://support.wix.com/en/the-wix-editor/slideshows; https://support.wix.com/en/the-wix-

24 editor/save-publish-and-upgrade; https://support.wix.com/en/the-wix-editor/lightbox;

25 https://support.wix.com/en/the-wix-editor/hover-box; https://support.wix.com/en/article/adding-

26 and-setting-up-google-maps.

27   127.   On information and belief, Defendant was made aware of the '287 patent and its

28 infringement thereof at least as early as December 20, 2018 when Plaintiff provided notice of

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1   Defendant infringement of the '287 patent. Furthermore, Defendant has been aware of the '287

2   patent and its infringement thereof since at least since the filing of the complaint.

3   128.   Upon information and belief, since at least the time Defendant received notice,

4   Defendant has induced and continue to induce others to infringe at least one claim of the '287

5   patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful

6   blindness, actively aiding and abetting others to infringe, including but not limited to

7   Defendant's partners, clients, customers, and end users, whose use of the Accused

8   Instrumentalities constitutes direct infringement of at least one claim of the '287 patent.

9   129.   In particular, Defendant's actions that aid and abet others such as customers,

10   clients, partners, developers, and end users to infringe include advertising and distributing the

11   Accused Instrumentalities and providing instruction materials, training, and services regarding

12   the Accused Instrumentalities. Defendant actively encourages the adoption of the Accused

13   Instrumentalities and provides support sites for the vast network of developers working with the

14   Accused Instrumentalities. On information and belief, Defendant has engaged in such actions

15   with specific intent to cause infringement or with willful blindness to the resulting infringement

16   because Defendant has had actual knowledge of the '287 patent and knowledge that their acts

17   were inducing infringement of the '287 patent since at least the date Defendant received notice

18   that such activities infringed the '287 patent.

19   130.   Upon information and belief, Defendant is liable as a contributory infringer of the

20   '287 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United

21   States website or web page authoring tools to be especially made or adapted for use in an

22   infringement of the '287 patent. The Accused Instrumentalities are a material component for use

23   in practicing the '287 patent and are specifically made and are not a staple article of commerce

24   suitable for substantial non-infringing use.

25   131.   Upon information and belief, since the date of its receipt of notice, Defendant's

26   infringement of the '287 patent has been willful.

27   132.   Express Mobile has been harmed by Defendant's infringing activities.

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1   133.   Defendant's infringement has damaged and continues to damage and injure

2   Plaintiff. Plaintiff's injury is irreparable and will continue unless and until Defendant is enjoined

3   by this Court from further infringement.

4   **COUNT V – INFRINGEMENT OF U.S. PATENT NO. 9,928,044**

5   134.   Plaintiff incorporates by reference the allegations contained in paragraphs 1 to

6   133 above.

7   135.   Upon information and belief, Defendant has and continues to directly infringe at

8   least claim 15 of the '044 patent by a method which includes a computer memory and an

9   authoring tool. The computer memory stores symbolic names required for evoking a web

10   component related to a web service and an address of the web service. The authoring tool is

11   configured to define a User Interface ("UI") object for display on the device, where the UI object

12   corresponds to a web component. Each UI object is either: 1) selected by a user or 2)

13   automatically selected by the system as a preferred UI object corresponding to a symbolic name

14   of the web component. The information representative of the UI object and related settings are

15   stored in a database. An application is built consisting web page views. The application and a

16   player are provided to a device and enables the device to provide one or more input values and

17   corresponding input symbolic name to the web service and the web service to utilize the input

18   symbolic name and the user provided one or more input values to generate one or more output

19   values having an associated output symbolic name, while the player receives the output symbolic

20   name and corresponding one or more output values and provide instructions for the display of

21   the device to present an output value in the defined UI object. (The "Accused Instrumentalities").

22   The Accused Instrumentalities include the Wix Website Builder that enables the functionality

23   described above.

24   136.   Claim 15 of the '044 patent recites a method of displaying content on a display of

25   a device having a Player, where the Player is a device-dependent code, the method comprising:

26   defining a user interface (UI) object for presentation on the display, where the UI object

27   corresponds to a web component included in a registry of one or more web components selected

28   from a group consisting of an input of a web service and an output of the web service, where

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each web component includes a plurality of symbolic names of inputs and outputs associated with each web service, and where the registry includes: a) symbolic names required for evoking one or more web components each related to a set of inputs and outputs of the web service obtainable over a network, where the symbolic names are character strings that do not contain either a persistent address or pointer to an output value accessible to the web service, and b) an address of the web service, and where each defined UI object is either:1) selected by a user of an authoring tool; 2) automatically selected by a system as a preferred UI object corresponding to a symbolic name of the web component selected by the user of the authoring tool.

137.   Defendant Wix has manufactured, used, offered for sale, or sold programming generation and distribution tools that infringe, either literally or under the doctrine of equivalents, one or more claims of the '044 patent in violation of 35 U.S.C. § 271(a). Defendant's infringement will continue unless enjoined by this Court.

138.   On information and belief, Wix has and continues to directly infringe at least claim 15 of the '044 patent by practicing each claim limitation for displaying content on a display of a device having a player and non-volatile memory storing symbolic names required for evoking one or more web components each related to inputs and outputs of a web service.

139.   For example, Wix's Website Builder stores a registry of symbolic names required to evoke a web component (e.g., map, video, etc.) and address of a web service (e.g., Google Maps, YouTube video, etc.).
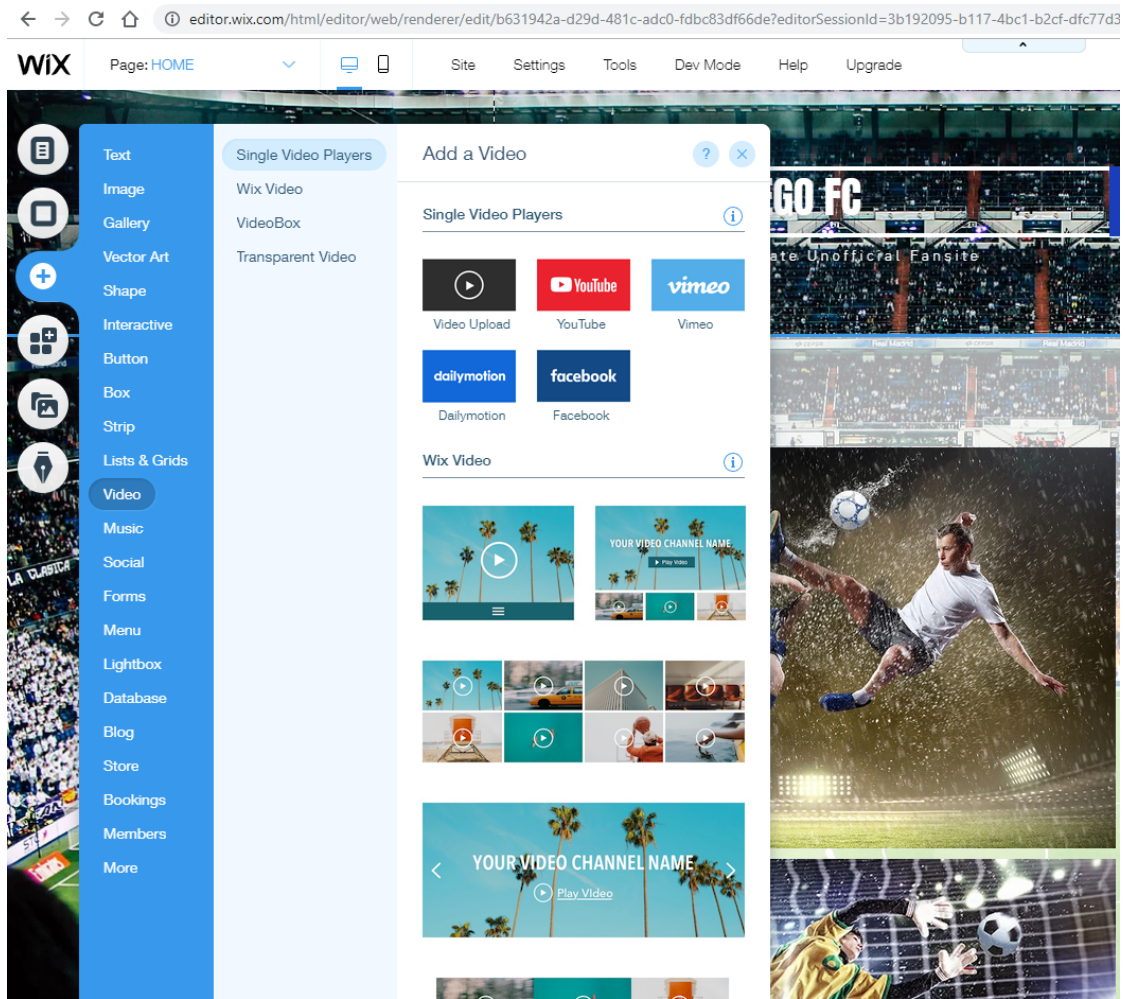
140.   The Accused Instrumentalities include the ability to select web components for display on a web page. Users can add content to their website accessible by symbolic names. This content includes web components that relate to inputs and outputs of web services over the Internet. For example, Wix's Website Builder integrates with third-party web services such as Google Maps, YouTube, Vimeo, Facebook, Instagram, among others, integrate with payment providers like PayPal, and integrate with additional web services such as Appointments & Services, Calendar, among others. For example, a user can add map sections to their website provided from a Google Maps web service.

141.   Furthermore, each symbolic name has an associated data format class type corresponding to a subclass of defined UI objects, such as buttons, text fields, images, and videos, that supports the data format type of the symbolic name, and has a preferred UI object, such as a map display area for a map. For example, Wix's Website Builder's map web

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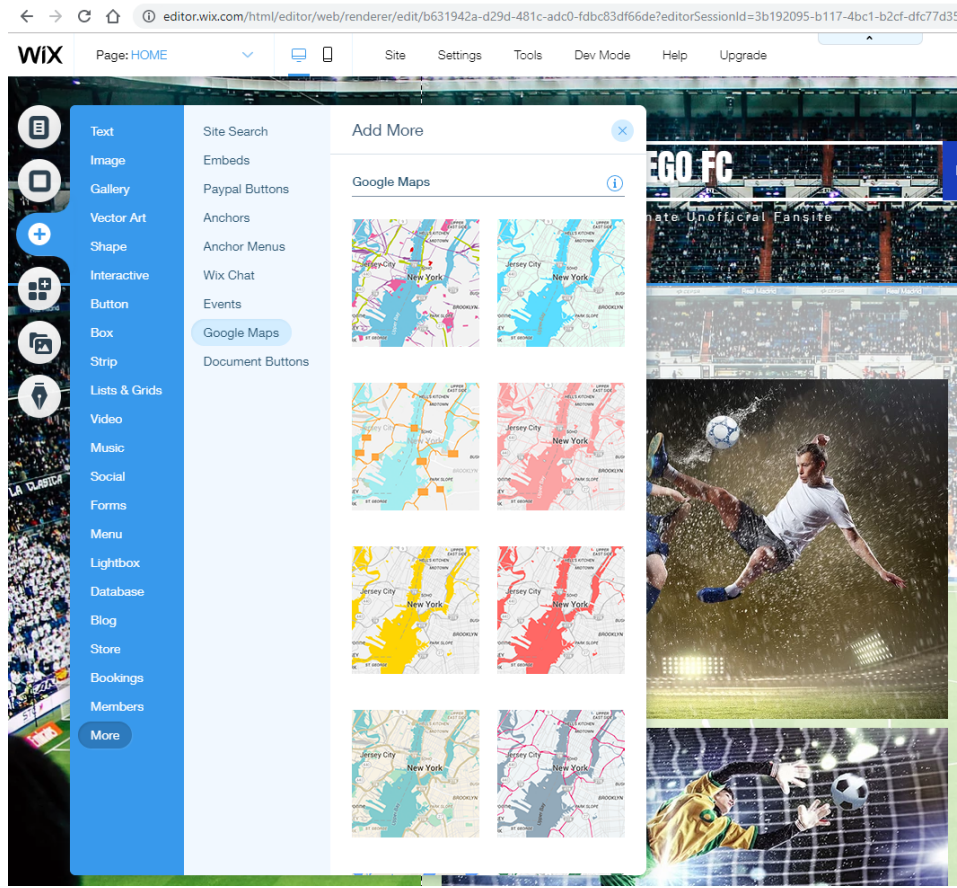San Francisco, CA 94105

component relates to a set of inputs and outputs of the Google Maps API, which is obtainable

over a network (e.g., Internet). Google Maps is a location data platform for mobile and web

applications, supplying location features like maps, search, and navigation. *See, e.g.*,

https://developers.google.com/maps/documentation/. As shown below, Wix promotes the use of

Google Maps "to allow your site visitors to find your location," for example.
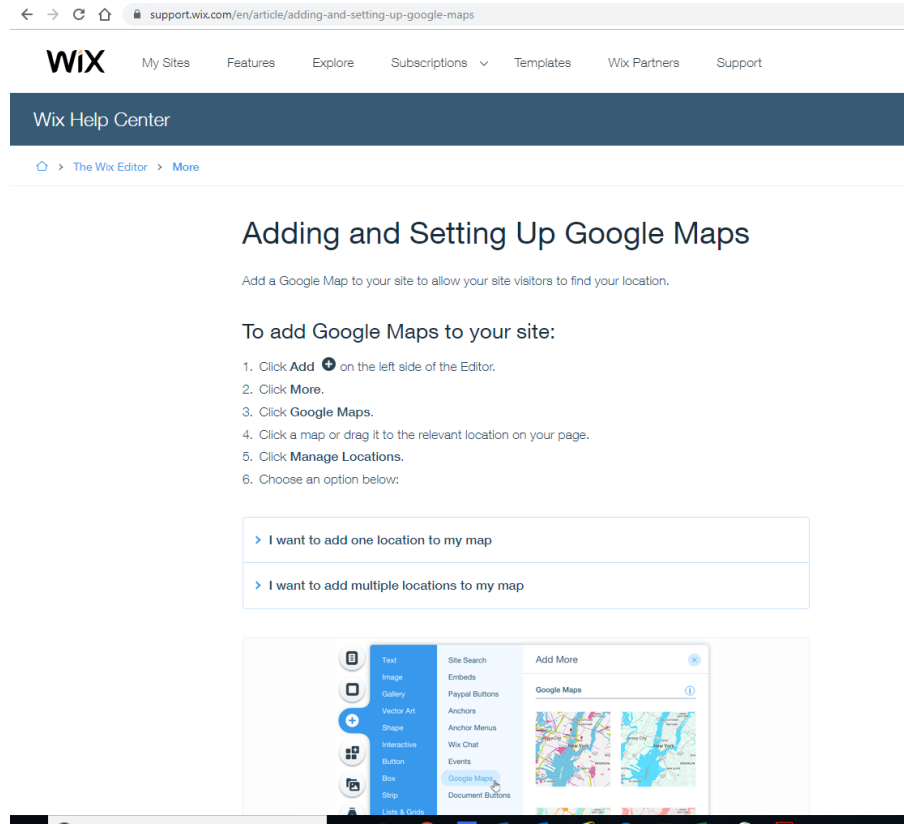
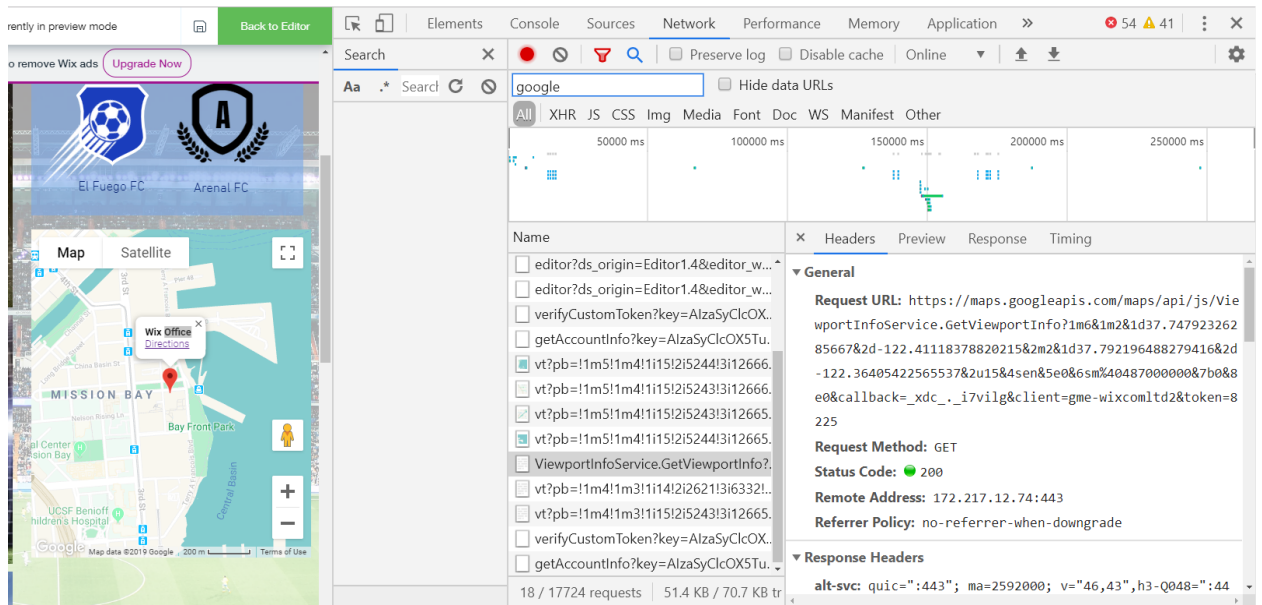https://support.wix.com/en/article/adding-and-setting-up-google-maps (shown below).

142.   Wix's Website Builder also stores an address of the web service. For example, the exemplary screenshot below shows that Wix stores the web address of the Google Maps web service for retrieving map content. When the embedded Google Map is clicked by the user, a request is made to a web address located at https://maps.googleapis.com

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143.   The Accused Instrumentalities allow a Wix user to define UI objects on their website. For example, Wix users select, using the Website Builder editor, content to be placed on their websites, such as text, input fields, buttons, images, and divs. The UI objects correspond to the web components included in the computer memory described above. For example, Wix's Website Builder editor allows users to define content on their website for maps and videos. These UI objects correspond to the map and video web components. These web components include both inputs from and outputs to corresponding web services.

144.   Each defined UI object is automatically selected by the Accused Instrumentalities as the preferred UI object corresponding to the symbolic name of the web component selected by the user of the authoring tool. For example, a "div" is automatically selected by the Accused Instrumentalities as the preferred UI object for the map web component.
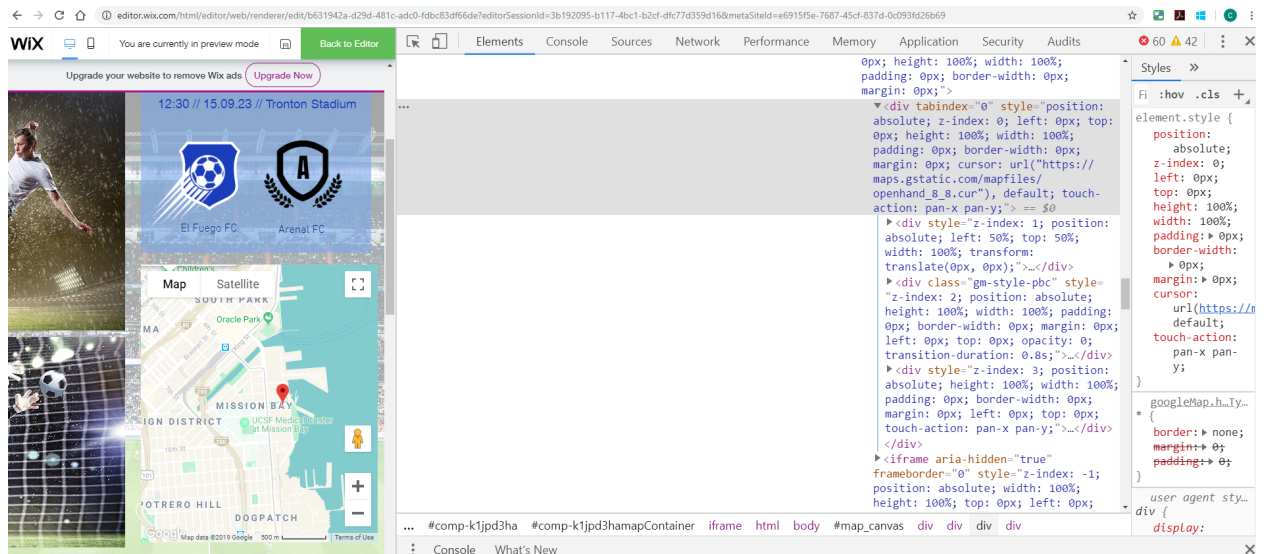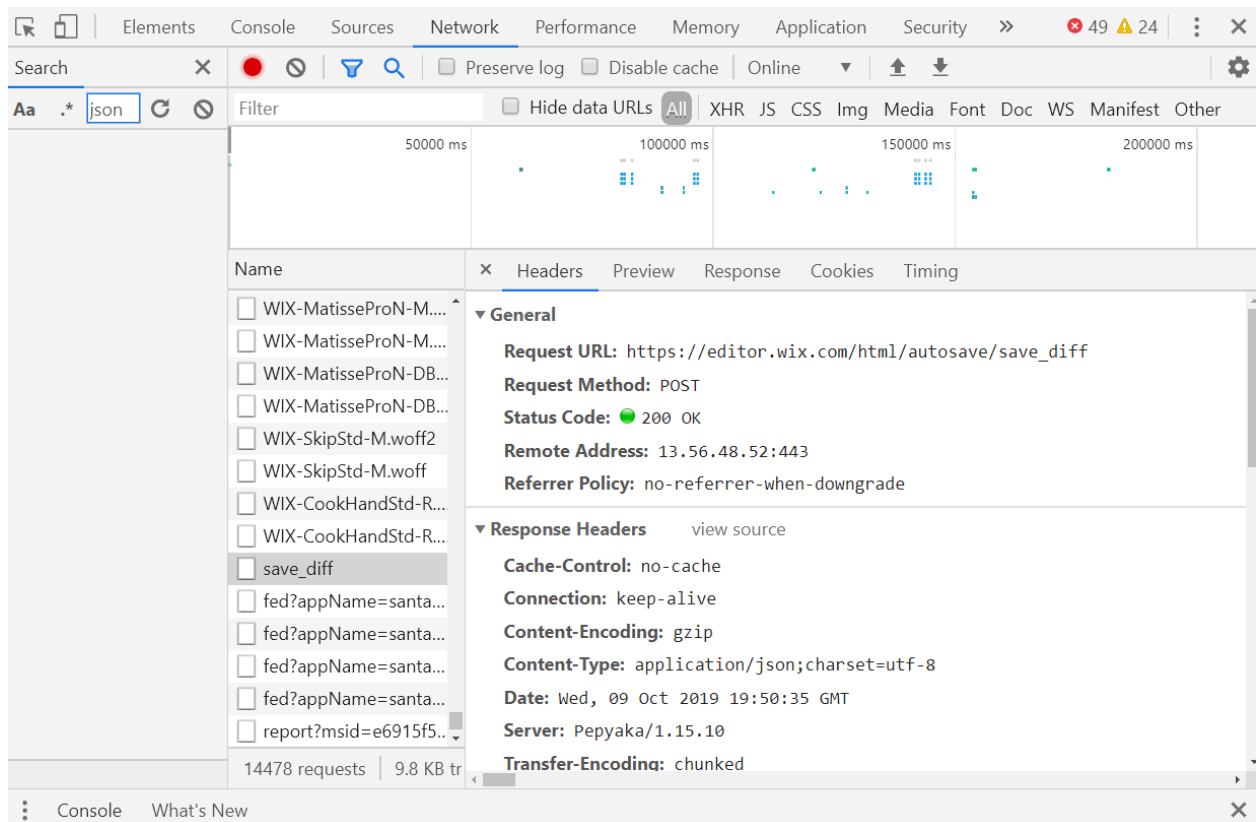

145.   The Accused Instrumentalities select the symbolic names described above. For example, Wix's Website Builder is configured to generate a map section that includes a map when a user selects to add a map section to their website.

146.   The Accused Instrumentalities associate the selected symbolic name with defined UI object, where the selected symbolic name is only available to UI objects that support the defined data format associated with that symbolic name. For example, the selected symbolic name for the map web component is only available to the UI object that support the defined data

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1 associated with that symbolic name and is not available in the UI object for other sections of the

2 web page.

3   147.   The Accused Instrumentalities store information representative of said defined UI

4 object and related settings in a database. For example, the presence of a database (or databases)

5 in Wix's Website Builder is evidenced by, among other things, the saving of the user selectable

6 settings formatted in JavaScript Object Notation (JSON) to the backend server. As seen below,

7 shortly after a user selects a new text size for the tagline "NEXT GAME" Wix's Website Builder

8 processes and saves the settings formatted in JSON. JSON is a data format frequently used to

9 store and query databases. *See, e.g.*, https://www.infoworld.com/article/3222851/what-is-json-

10 javascript-object-notation-explained.html. Other user selected settings stored include theme,

11 cover image, accent, alignment, font, logo, among others.

25   148.   The Accused Instrumentalities build an application consisting of one or more web

26 page views from at least a portion of said database utilizing at least one player. For example, the

27 map section is built from at least a portion of the information in Wix's databases. The settings

1   selected by the user that are stored in Wix's databases are used to build the user's web pages

2   reflecting those settings.

3   149.   The Accused Instrumentalities include a player that utilizes information stored in

4   said database to generate for the display of at least a portion of said one or more web pages. For

5   example, player code, such as HTML and JavaScript code, provided by Wix utilizes the

6   information stored in the database for generating at least a portion of a user's web pages on a

7   browser by the browser's engine(s). The below exemplary screenshot of a web page built by

8   Wix's Website Builder shows the utilizing information stored in said database to generate for the

9   display of at least a portion of said one or more web pages.

10
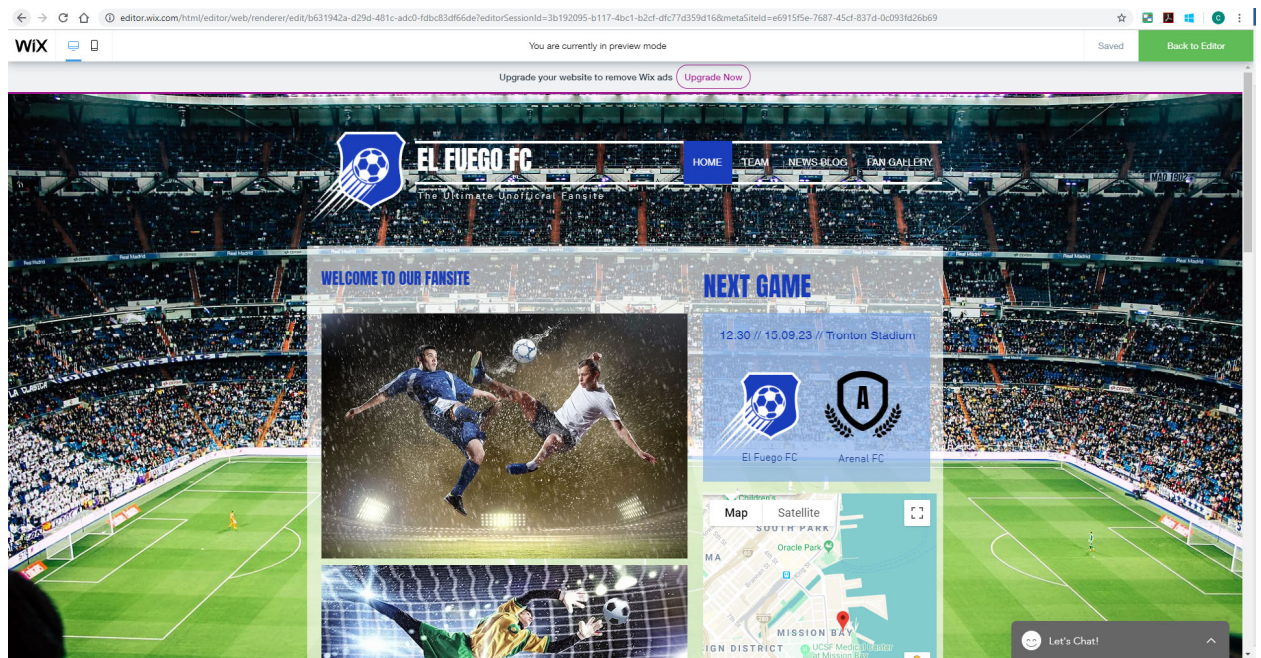
21   150.   The Accused Instrumentalities provide the application and player to the device

22   and executed on the device and when the application and player are provided to the device and

23   executed on the device, and when the user of the device provides one or more input values

24   associated with an input symbolic name to an input of the defined UI object, the device provides

25   the user provided one or more input values and corresponding input symbolic name to the web

26   service. Wix makes its customers' websites accessible to website visitors' devices. The website

27   visitors connect to the website on their own devices which are supplied the application and

28   player code described above. The website visitors are then able to provide input values (e.g.,

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typed text, mouse clicks, button clicks, touches, swipes, etc.) to an input of the defined UI object associated with an input symbolic name. The website provided by Wix is designed such that when a website visitor provides input as described above, this input is provided to the web service. For example, when a website visitor clicks buttons, types text, touches a touch screen, or swipes the screen, these inputs are transmitted along with a corresponding input symbolic name to the web service through an HTTP request protocol, such as a POST or GET method call, over the Internet.

151.   The web service utilizes the input symbolic name and the user provided one or more input values for generating one or more output values having an associated output symbolic name. Based on the received input from a website visitor as described above, the web service generates an output to send to the visitor's browser. For example, when a website visitor clicks zoom in, zoom out, or drag a map, the Google Maps map web service receives an indication of the click (input), and in response generates output values such as map data and result codes, and associated symbolic name.

152.   The player receives the output symbolic name and corresponding one or more output values and provides instructions for the display of the device to present an output value in the defined UI object. The player, described above, receives the output values such as map data and result codes, and associated symbolic name in an HTTP response from the web service. The player then presents the received output values for display in the UI object. For example, an output of the Google Maps map web service includes the actual updated map images that are then presented within the visitor's browser.

153.   The presence of the above referenced elements is demonstrated, by way of example, by reference to publicly available information. *See, e.g.*, https://support.wix.com/en/article/building-a-website-for-free; https://www.wix.com/website/templates; https://support.wix.com/en/; https://support.wix.com/en/the-wix-editor/editor-basics; https://support.wix.com/en/the-wix-editor/editor-basics; https://support.wix.com/en/article/using-the-editor-menus; https://support.wix.com/en/article/arranging-the-content-on-your-sites-pages;

1   https://support.wix.com/en/the-wix-editor/text; https://support.wix.com/en/the-wix-editor/image;

2   https://support.wix.com/en/the-wix-editor/video; https://support.wix.com/en/the-wix-

3   editor/social; https://support.wix.com/en/the-wix-editor/pro-gallery;

4   https://support.wix.com/en/the-wix-editor/strips-columns; https://support.wix.com/en/the-wix-

5   editor/lists-grids-1471254; https://support.wix.com/en/the-wix-editor/button;

6   https://support.wix.com/en/the-wix-editor/slideshows; https://support.wix.com/en/the-wix-

7   editor/save-publish-and-upgrade; https://support.wix.com/en/the-wix-editor/lightbox;

8   https://support.wix.com/en/the-wix-editor/hover-box; https://support.wix.com/en/article/adding-

9   and-setting-up-google-maps.

10   154.   On information and belief, Accused Instrumentalities are used, marketed,

11   provided to, and/or used by or for Defendant's partners, clients, customers and end users across

12   the country and in this district.

13   155.   On information and belief, Defendant was made aware of the '044 patent and its

14   infringement thereof at least as early as December 20, 2018 when Plaintiff provided notice of

15   Defendant's infringement of the '755 and '287 patents, which are related to the '044 patent.

16   Furthermore, Defendant has been aware of the '044 patent and its infringement thereof since at

17   least since the filing of the complaint.

18   156.   Upon information and belief, since at least the time Defendant received notice,

19   Defendant has induced and continue to induce others to infringe at least one claim of the '044

20   patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful

21   blindness, actively aiding and abetting others to infringe, including but not limited to

22   Defendant's partners, clients, customers, and end users, whose use of the Accused

23   Instrumentalities constitutes direct infringement of at least one claim of the '044 patent.

24   157.   In particular, Defendant's actions that aid and abet others such as customers,

25   clients, partners, developers, and end users to infringe include advertising and distributing the

26   Accused Instrumentalities and providing instruction materials, training, and services regarding

27   the Accused Instrumentalities. Defendant actively encourages the adoption of the Accused

28   Instrumentalities and provides support sites for the vast network of developers working with the

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Accused Instrumentalities. On information and belief, Defendant has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Defendant has had actual knowledge of the '044 patent and knowledge that their acts were inducing infringement of the '044 patent since at least the date Defendant received notice that such activities infringed the '044 patent.

158.   Upon information and belief, Defendant is liable as a contributory infringer of the '044 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States website or web page authoring tools to be especially made or adapted for use in an infringement of the '044 patent. The Accused Instrumentalities are a material component for use in practicing the '044 patent and are specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

159.   Upon information and belief, since the date of its receipt of notice, Defendant's infringement of the '044 patent has been willful.

160.   Express Mobile has been harmed by Defendant's infringing activities.

161.   Defendant's infringement has damaged and continues to damage and injure Plaintiff. Plaintiff's injury is irreparable and will continue unless and until Defendant is enjoined by this Court from further infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that the Court enter judgment for Plaintiff and against Defendant as follows:

A.   That U.S. Patent Nos. 6,546,397, 7,594,168, 9,063,755, 9,471,287 and 9,928,044 be judged valid, enforceable, and infringed by Defendant;

B.   That the Court preliminarily and permanently enjoin Defendant, its officers, partners, agents, servants, employees, parents, subsidiaries, divisions, affiliate corporations, joint ventures, other related business entities and all other persons acting in concert, participation, or in privity with them, and their successors and assigns, from any commercial manufacture, use, offer to sell, or sale within the United States, or importation into the United States of the Accused Instrumentalities and any product

1   that infringes the '397, '168, '755, '287, and/or '044 patents prior to the expiration of

2   the '397, '168, '755, '287, and/or '044;

3   C. That Plaintiff be awarded judgment against Defendant for damages together with

4   interests and costs fixed by the Court including an accounting of all infringements

5   and/or damages not presented at trial;

6   D. That the Court determine that Defendant's infringement of the '397, '168, '755, '287,

7   and '044 patents has been willful, and award treble damages to Plaintiff pursuant to

8   35 U.S.C. § 284;

9   E. That the Court declare this an exceptional case and award Plaintiff its attorneys' fees,

10   as provided by 35 U.S.C. § 285;

11   F. That Plaintiff be awarded costs and expenses in this action;

12   G. That Plaintiff be awarded pre- and post-judgment interest on its damages; and

13   H. That Plaintiff be awarded such other and further relief as this Court may deem just

14   and proper.

JURY DEMAND

16   Plaintiff respectfully requests a jury trial on all issues so triable.

18   Respectfully submitted,

19   DATED: October 28, 2020   STEPTOE & JOHNSON LLP

20   By: */s/ James R. Nuttall*

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