UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

LUMINATI NETWORKS LTD. Plaintiff, v. TEFINCOM S.A. D/B/A NORDVPN Defendant.	Case No. 2:19-cv-00414-JRG **JURY TRIAL DEMANDED**

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Luminati Networks Ltd. ("Luminati" or "Plaintiff") brings this action under the patent laws of the United States, Title 35 of the United States Code, and makes the following allegations against Tefincom S.A. doing business as NordVPN ("NordVPN" or "Defendant"):

THE PARTIES

1. Plaintiff Luminati is an Israeli company having a principal place of business at 3 Hamahshev St., Netanya 42507, Israel.

2. Upon information and belief, Defendant NordVPN, is a Panamanian corporation, organized under the laws of the Republic of Panama. NordVPN's principal place of business is in Panama City, Republic of Panama.

3. Upon information and belief, Defendant has and continues to use, provide, sell, and offer to sell as well as import into the United States virtual private network ("VPN") services ("Accused Instrumentalities") to customers, including customers located in the United States, where the Accused Instrumentalities include both a proxy server service with servers located

throughout the United States, including Texas, as well as a residential proxy service including such service that is, for example, implemented via NordVPN's "SmartPlay" feature ("SmartPlay") and "NordVPN Extensions" feature ("NordVPN Extensions").Upon information and belief, SmartPlay and NordVPN Extensions include third-party proxy devices located in the United States and Texas under the control of Defendant. https://nordvpn.com/blog/smartplay-explained/ (Exhibit F); https://nordvpn.com/servers/usa/ (Exhibit G); https://medium.com/@derek./how-is-nordvpn-unblocking-disney-6c51045dbc30 (Exhibit H); and https://nordvpn.com/features/proxy-extension/ (Exhibit I).

JURISDICTION AND VENUE

4. This is an action for patent infringement under the patent laws of the United States of America, 35 U.S.C. § 1, *et seq*.

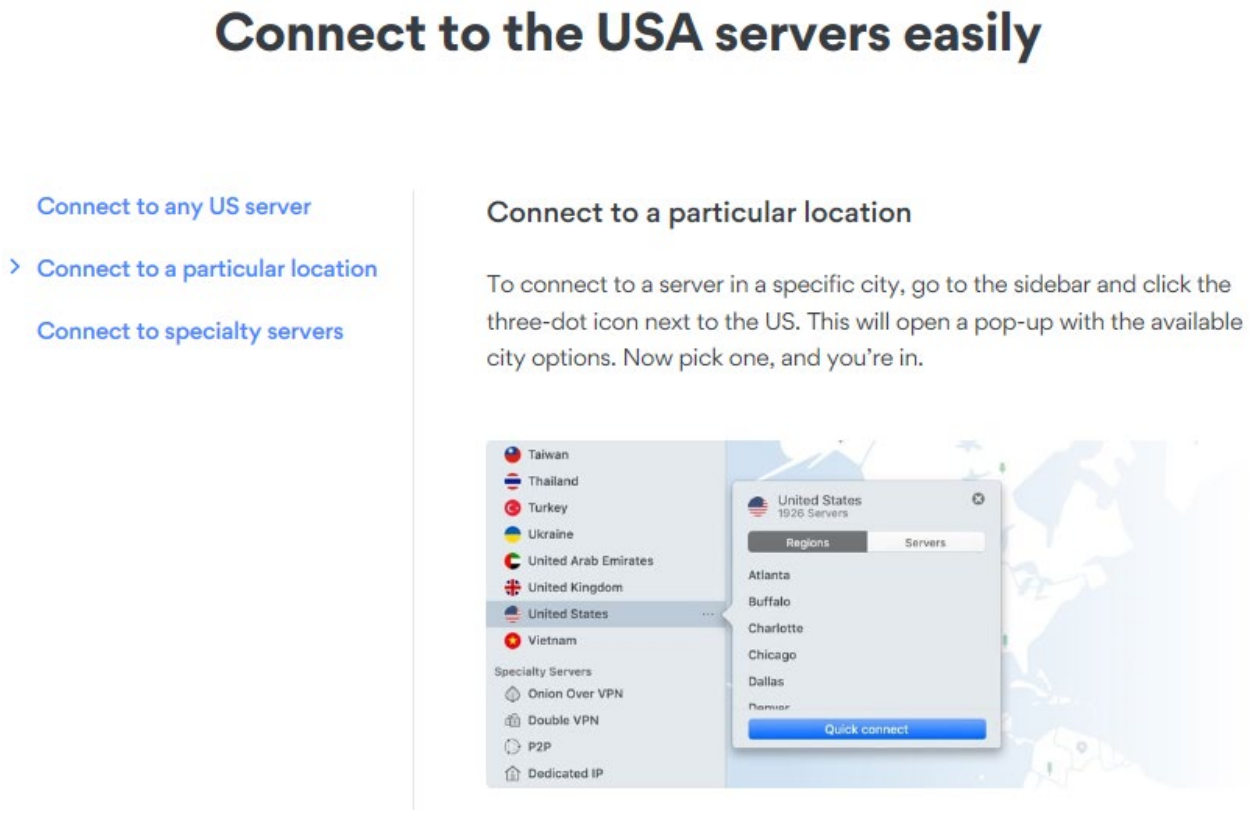
5. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331, 1338, and 1367.

6. This Court has personal jurisdiction over Defendant because it, directly or through its subsidiaries, divisions, groups, distributors, and/or residential proxy partners/suppliers has sufficient minimum contacts with this forum as a result of business conducted within the State of Texas, and/or pursuant to Fed. R. Civ. P. 4(k)(2). On information and belief, Defendant transacts substantial business in the State of Texas, directly or through agents, including: (i) at least a portion of the infringement alleged herein, and (ii) regularly does or solicits business in Texas, engages in other persistent courses of conduct, maintains continuous and systematic contacts within this Judicial District, purposefully avails itself of the privilege of doing business in Texas, and/or derives substantial revenue from services provided in Texas. For example, upon information and belief, Defendant controls software executed on various components located in the United States

and Texas including Defendant's servers, client devices of Defendant's customers ("API") and proxy client devices ("Proxy Software") including, for example, through its third-party partners, which is the subject of infringement alleged herein and is embedded in a number of software applications, with the software placed into the stream of commerce with the knowledge, understanding, and/or intention that they be downloaded and executed by servers and client devices located in the State of Texas. *See e.g.* https://nordvpn.com/servers/usa/ (Exhibit G); https://medium.com/@derek./how-is-nordvpn-unblocking-disney-6c51045dbc30 (Exhibit H); https://nordvpn.com/features/proxy-extension/ (Exhibit I). Upon information and belief, the Proxy Software effectively turns the client devices on which it is installed into residential proxy devices that operate as part of the service of residential proxy systems including the Accused Instrumentalities offered, operated and provided by Defendant. https://medium.com/@derek./how-is-nordvpn-unblocking-disney-6c51045dbc30 (Exhibit H). As a further example, on information and belief, Defendant also has customers and proxy servers located in the United States and the State of Texas that use and are used as part of Defendant's proxy server VPN service which is part of the infringement alleged herein. https://nordvpn.com/servers/usa/ (Exhibit G); https://nordvpn.com/features/proxy-extension/ (Exhibit I).

7. Upon information and belief, Defendant owns or controls servers, including but not limited to servers throughout the United States, including Texas, that are used to implement its proxy server VPN service. *See e.g.* Exhibit G. Defendant touts the use of Proxy Software and their associated residential proxy devices in the United States, as part of the Accused Instrumentalities as shown in the image below. *See e.g.* Exhibit F. Similarly, Defendant's

customers, including upon information and belief customers located in the United States and Texas, also use software including the API to implement the Accused Instrumentalities.



https://nordvpn.com/servers/usa/ (Exhibit G)

8. Upon information and belief, residential proxy devices with Defendant's Proxy Software are located throughout the United States, including Texas. *See e.g.* Exhibits F and H. Defendant touts the use of Proxy Software and their associated residential proxy devices as part of the Accused Instrumentalities as shown in the image below. Exhibit F.

SmartPlay is a NordVPN feature that helps you securely access content that would otherwise be unavailable. It does so by combining the best features of the VPN and Smart DNS technologies. So how does it work?

NordVPN has a huge server network all over the world, but this is not always enough to ensure the best possible experience for our customers. That's why we use SmartPlay technology.

SmartPlay is based on DNS rerouting and uses an additional pool of IP addresses to improve the connection when users try to access certain websites. This technology is not new and is used by almost all major VPN service providers. Here's how it goes:

1. We purchase services that provide pools of IP addresses.
2. There are two types of pools. The first one consists of IPs purchased from ISPs directly. The second one consists of the IPs of people who have **voluntarily downloaded** specific applications on their devices. The sole purpose of these applications is to reward the end user for **voluntarily sharing** part of their bandwidth with various services. Each individual who has the app downloaded **is fully aware of this purpose** and receives a reward for the traffic sent and received through their device.

Exhibit F.

9. Defendant is subject to this Court's jurisdiction because it has committed patent infringement in the State of Texas and this jurisdiction, including for example upon information

and belief through Defendant's control and use of servers and API and Proxy Software installed on residential client devices in the State of Texas. See Exhibits F, H and I.

10. Following *Brunette Machine Works v. Kockum Industries, Inc.*, 406 U.S. 706 1972), venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b) at least because, upon information and belief, Defendant is a foreign entity.

FACTUAL ALLEGATIONS

11. Derry Shribman and Ofer Vilenski are the named inventors of a number of patents, including U.S. Patent Nos. 10,469,614 (Exhibit A, "'614 Patent") issued on April 9, 2019, 10,257,319 (Exhibit B, "'319 Patent") issued on November 5, 2019, U.S. Patent No. 10,484,510 (Exhibit C, "'510 Patent") issued on November 19, 2019, U.S. Patent No. 10,484,511 (Exhibit D, "'511 Patent") issued on November 19, 2019, and U.S. Patent No. 10,637,968 (Exhibit E, "'968 Patent") (collectively the "Asserted Patents") issued on April 28, 2020.

12. The '319, '510, '511, and '968 Patents are divisionals sharing the same specification and are titled "System Providing Faster and More Efficient Data Communication." The '614 Patent shares the same inventors with the '319, '510, '511 and '968 Patents, but has a different specification and is titled "System and Method for Improving Communications by Using Intermediate Nodes." Luminati identifies its patents on its website at https://luminati.io/patent-marking#system-and-method-for-streaming-content-from-multiple-servers.

13. Luminati Networks Ltd., previously known as Luminati Ltd., previously known as Hola Network Ltd. ("Hola"), is the assignee and sole owner of the Asserted Patents and has rights to past damages.

14. Luminati provides multiple proxy services including a residential proxy service and a proxy server service. Luminati provides a cloud service connecting tens of millions of devices

over the Internet through a proxy-based network. Each participating device allows the service to utilize a fraction of that device's idle time for the network. Luminati also offers a proxy server service, which includes a number of proxy servers located around the world. Luminati utilizes these networks to provide proxy-based services to businesses.

15. Since 2014, Luminati has offered proxy-based services relying on its "Residential Proxy Network" that practice one or more claims of the Asserted Patents. Luminati permits its business customers to utilize its residential proxy network to gather data over the Internet using residential proxy devices from various localities as required by the customers. Because each of these residential proxy devices has its own residential IP address, web servers receiving requests from these proxy devices do not recognize such requests as originating from the actual user making the request. Instead, the server identifies the request as coming from a residential device based upon the residential IP address of the proxy device. These residential proxy devices provide businesses with a number of advantages. For example, online retailers may anonymously use these residential proxy devices to gather information from web servers (such as for comparative pricing), businesses may utilize these devices to test their web sites from any city in the world, and cyber security firms may employ these devices to test web sites for malicious code.

16. Prior to and separate from the technology at issue in this case, Hola provided a VPN service called HolaVPN. Between November 2015 and June 2018, Hola had a business relationship with NordVPN as well as a related company called Tesonet, UAB, then branded as "shader" and since reorganized into a series of related companies – Teso Lt UAB, code200 UAB, Oxysales UAB, metacluster UAB and Coretech UAB (collectively, "Tesonet")- which offer a proxy service under the "Oxylabs" brand. In addition to other individuals, Mr. Tomas Okmanas, who also uses the alias Tom Okman, served as a representative for both NordVPN and Tesonet.

17. In November 2016, then Chief Executive Officer of Hola Ofer Vilenski contacted Mr. Okmanas advising Mr. Okmanas of a "software development kit" ("Luminati SDK") developed by Luminati to be embedded in applications for the purpose of allowing residential devices to serve as residential proxy devices in Luminati's residential proxy network when the application is implemented on such device. Mr. Vilenski further proposed to Mr. Okmanas that NordVPN agree to embed the Luminati SDK in its application to support Luminati's residential proxy service, which NordVPN declined to do. However, on information and belief, instead of working with Luminati, Tesonet began to develop a competing residential proxy service by copying to the best of its ability Luminati's residential proxy service and SDK based on information the Tesonet obtained about Luminati's service and SDK, and this was known to NordVPN through its shared management with Tesonet.

18. On May 22, 2017, during a meeting between Ofer Vilenski and Tomas Okmanas, Mr. Vilenski informed Mr. Okmanas that Luminati had become aware Tesonet was taking measures to enter the residential proxy business, that Luminati had patents in this field, and that Mr. Okmanas and his companies including Tesonet should not infringe Luminati's patents by providing residential proxy service. Mr. Vilenski sent an email to Mr. Okmanas that same day confirming the discussion, providing written notice of Luminati patent rights, and confirming that Luminati would send a follow-up letter further identifying Luminati's intellectual property in this field.

19. On June 1, 2017, outside counsel for Hola sent Mr. Okmanas and copied others at Tesonet a letter (Exhibit J) identifying Hola patents covering a proprietary claim scope in the field of peer-to-peer based routing. The identified Hola patents - U.S. Patent Nos. 8,560,604 ("'604 Patent") and 9,241,044 ("'044 Patent") – are in the same patent families with the same substantive

specifications as the Asserted Patents, with the '319,'510, '511 and '968 Patents being divisionals of the '604 Patent and the '614 Patent being a divisional of the '044 Patent.

20. On February 14, 2018, Luminati sent a second letter to Mr. Okmanas, copying others at Tesonet including Darius Bereika, upon information and belief CEO of Tesonet and a co-founder of NordVPN, referencing the June 1, 2017 letter, further informing Mr. Okmanas and Tesonet of Hola's name change to Luminati and the issuance of additional patents in the field of IP VPN services using peer-to-peer technology (Exhibit K). This letter also notified Mr. Okmanas and Tesonet that products and services offered under Tesonet's Oxylabs brand infringed the '044 Patent.

21. On July 19, 2018, prior to the issuance of the Asserted Patents, Luminati filed a complaint for infringement of the '044 Patent and U.S. Patent No. 9,742,866 against Tesonet in a patent infringement action in this Court – case no. 2:18-cv-00299 ("Tesonet Action"). Both Tomas Okmanas and Darius Bereika have been deposed in the Tesonet Action and, upon information and belief, are aware of the Asserted Patents and patent infringement allegations in the complaint filed in the Tesonet Action.

22. Upon information and belief, Defendant offers a VPN service that includes a feature advertised by Defendant as "SmartPlay." Exhibit F. SmartPlay is touted as utilizing residential proxy devices as part of Defendant's VPN service, allowing the use or residential proxy devices as part of the network of the Accused Instrumentalities through the implementation of Proxy Software installed on those devices. *Id*. Upon information and belief, these residential proxies have IP addresses that are assigned from a standard Internet Service Provider (ISP) to a homeowner or other residential or mobile user. *Id*, see also Exhibit F. Upon information and belief, this residential proxy network is used to access content over the Internet, wherein that content is

identified by a content identifier. Upon information and belief, the Proxy Software supports the Accused Instrumentalities. Upon information and belief Defendant has a contractual relationship with one or more partners giving it control over the Proxy Software located on the residential proxy devices as it is used in the network of the Accused Instrumentalities. Exhibit F.

SmartPlay is a NordVPN feature that helps you securely access content that would otherwise be unavailable. It does so by combining the best features of the VPN and Smart DNS technologies. So how does it work?

NordVPN has a huge server network all over the world, but this is not always enough to ensure the best possible experience for our customers. That's why we use SmartPlay technology.

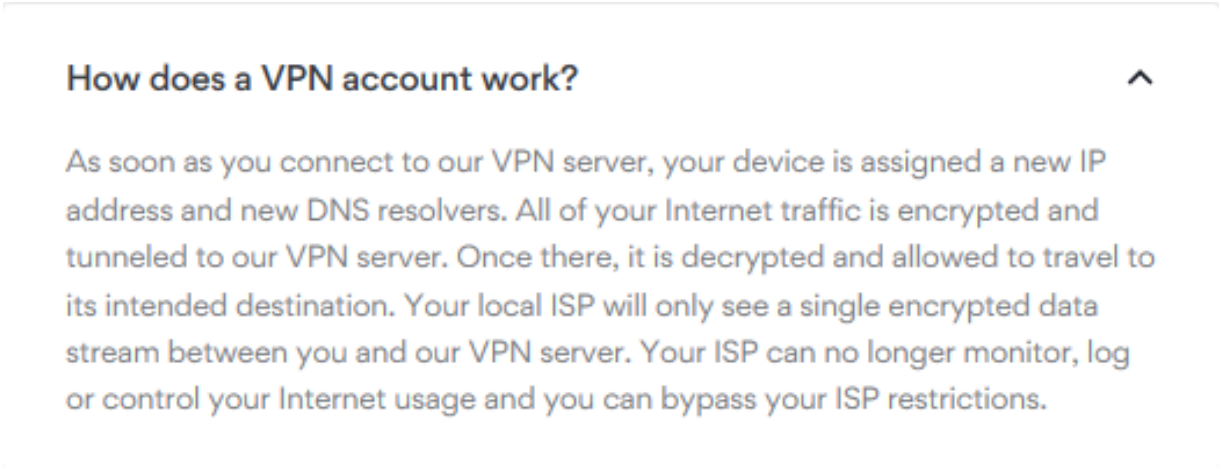
SmartPlay is based on DNS rerouting and uses an additional pool of IP addresses to improve the connection when users try to access certain websites. This technology is not new and is used by almost all major VPN service providers. Here's how it goes:

1. We purchase services that provide pools of IP addresses.
2. There are two types of pools. The first one consists of IPs purchased from ISPs directly. The second one consists of the IPs of people who have **voluntarily downloaded** specific applications on their devices. The sole purpose of these applications is to reward the end user for **voluntarily sharing** part of their bandwidth with various services. Each individual who has the app downloaded **is fully aware of this purpose** and receives a reward for the traffic sent and received through their device.

Exhibit F.

Upon information and belief, these residential proxies include residential proxy devices located in Texas. See Exhibit H.

23. Defendant's VPN service also includes proxy servers are also located throughout the United States, including upon information and belief in Texas. *See e.g.* https://nordvpn.com/servers/usa/ (Exhibit G). Defendant touts the location of its VPN servers around the world and United States. *Id.* Defendant's VPN service includes servers that can conceal the identity of Defendant's customers by assigning an IP address to any request from a customer.



https://nordvpn.com/faq/

24. Upon information and belief, the SmartPlay feature of the Accused Instrumentalities is based upon numerous consumer devices or proxy devices, such as laptops and cell phones, each of which is a client device identifiable over the Internet by an identifier, such as (but not limited to) an IP address. Upon information and belief, these client devices become part of the network through the execution of Proxy Software, such as by implementation of a software development kit ("SDK") that is embedded in software applications downloaded on the client devices. Upon information and belief, these proxy devices are associated with at least an active state and dormant state. Upon information and belief, when the proxy device meets certain criteria, including for example sufficient battery power, sufficient available bandwidth, etc., the proxy device shifts or stays in an active state whereby it makes itself available to serve as a proxy device

in the residential proxy system. However, upon information and belief, when the criteria are not met, such as for example when the device has low battery power or little available bandwidth, it enters a dormant state whereby it does not make itself available for use as a proxy device in the residential proxy service. Upon information and belief, when in the active state these devices send their identifier to a server, such as a dedicated proxy server of the Accused Instrumentalities or server of Defendant's third-party supplier contractually obligated to support the Accused Instrumentalities, which store these identifiers. Upon information and belief, while in the active state, these proxy devices remain available to receive requests submitted through the Accused Instrumentalities and send the requests to a target web server, as well as sending any content received from the target web server to Defendant's requesting customer via an intermediary of the Accused Instrumentalities.

25. Defendant provides a SmartPlay feature through the Accused Instrumentalities allowing a NordVPN customer to utilize residential proxy devices in fetching content over the Internet. Upon information and belief, the Proxy Software installed on the residential proxy devices causes the devices to perform the steps of at least claims 1, 2, 4, 7, 9, 11, 12, 15, 16, 17, and 29 of the '614 Patent, claims 1, 17, 24, 25 and 27 of the '319 Patent, and claims 1, 8, 13, 15, 16, 18, 20, 22, and 23 of the '510 Patent. This Proxy Software is under the control of Defendant, either directly or via Defendant's contractual relationship with its software application partners, including partners integrating Proxy Software in their applications. As this code is under the control of Defendant, Defendant causes each of these steps to also be performed. In addition, given Defendant's contractual relationship with its customers, the customers' utilization of SmartPlay feature of the Accused Instrumentalities also causes each of the claimed steps to be performed.

26. Specifically, upon information and belief, Defendant's SmartPlay feature of the Accused Instrumentalities comprises numerous proxy devices, each of which is a client device such as a laptop or smartphone identifiable by its own identifier, such as (but not limited to) an IP address, with Defendant's Proxy Software operating on that device. Upon information and belief, the proxy devices of the Accused Instrumentalities send its identifier to a server of the Accused Instrumentalities, following the proxy device connecting to the Internet and the proxy devices and server of the Accused Instrumentalities communicate periodically thereafter. Upon information and belief, each proxy device is associated with a first and second state ("first state" or "second state") according to a utilization of a resource, such as for example battery life, bandwidth usage or a threshold value associated with idleness. Upon information and belief, a periodic or continuous determination is made whether the device satisfies a criterion for resource utilization, and based upon that determination, such as for example when a threshold value associated with idleness is above or below that threshold, shifts the proxy device between a first state or second state. Upon information and belief, when the criterion is satisfied and the proxy device is in the first state, the proxy device is responsive to receiving a request from the server of the Accused Instrumentalities. Upon information and belief, the determination of whether the device satisfies a criterion for resource utilization is made on the proxy device. Upon receiving a request, the proxy device performs a task. *See e.g.* Exhibits F and H.

27. Upon information and belief, having received a request from a server of the Accused Instrumentalities, the proxy device is used to fetch content identified by a content identifier over the Internet from a web server, which stores the content. Upon information and belief, the proxy device fetches content by (a) receiving a content identifier from the server of the Accused Instrumentalities; (b) sending the content identifier to the web server; (c) receiving the

content from the web server in response to the sending of the content identifier to the web server; and (d) sending the content to the server of the Accused Instrumentalities. Upon information and belief, the above steps are executed including, for example, on the proxy device by the Proxy Software installed on that device, which can be downloaded on that device from servers on the Internet.

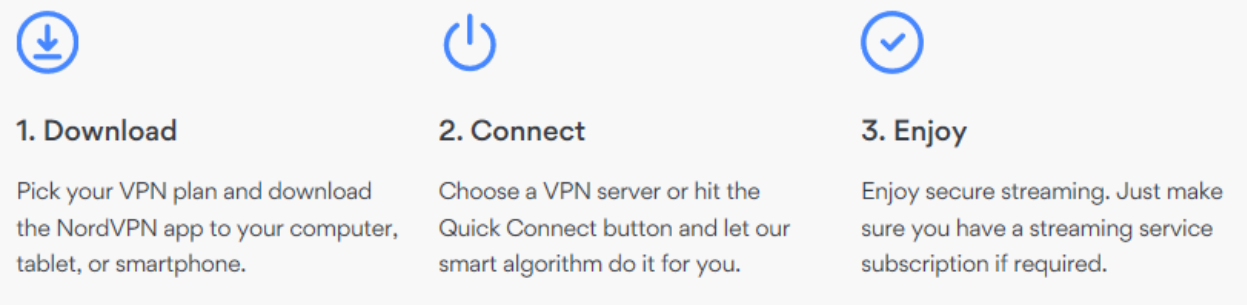
28. Upon information and belief, the content may include a part or whole files, text, numbers, audio, voice, multimedia, video, images, music, computer program, or a part or a whole of a web-site page, including for example content from DisneyPlus. Exhibit H. Upon information and belief, the content may be identified by a uniform resource locator.

29. Upon information and belief, web servers are or include Hypertext Transfer Protocol (HTTP) servers that respond to HTTP requests including both normal HTTP and HTTPS requests, and the proxy device may send an HTTP request comprising the content identifier to the web server. Further, upon information and belief, the proxy device may establish Transmission Control Protocol (TCP) connections with the server of the Accused Instrumentalities and web server, with the content identifier and content sent over the established TCP connections to and from the proxy device. Similarly, upon information and belief, the proxy device may establish a TCP connection with the web server.

30. Upon information and belief, each proxy device stores, operates or uses a client operating system including but not limited to a mobile operating system such as Android version 2.2, 2.3, 4.0, 4.2, 4.4, and Microsoft Windows Phone version 7, 8, and 9.

31. The use of the residential proxy network permits anonymity to NordVPN customers, such as for engaging in activities like as web crawling, without disclosing its identity to the targeted web sites.

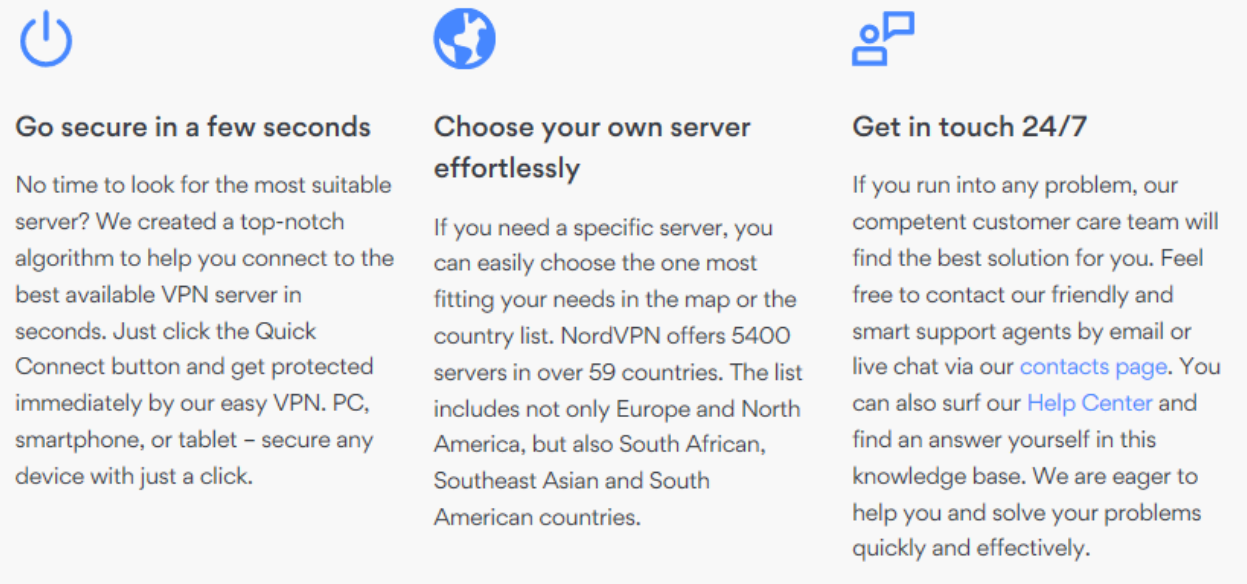
32. Defendant also uses proxy servers to provide its VPN service through the Accused Instrumentalities allowing a NordVPN customer to utilize proxy servers in fetching content over the Internet. Upon information and belief, software ("Server Software") installed on servers of the Accused Instrumentalities causes the servers to perform the steps of at least claims 1, 14, 20, 21, 22, 25, 27, 28, 29 and 30 of the '511 Patent. This code is under the control of Defendant, either directly or via Defendant's contractual relationship with its partners. As this code is under the control of Defendant, Defendant cause each of these steps to also be performed. In addition, given Defendant's contractual relationship with its customers, the customers utilization of the Accused Instrumentalities also causes each of the claimed steps to be performed. Upon information and belief, client devices, including those controlled by Defendant's customers, can use the Accused Instrumentalities to fetch content over the Internet by sending a query to a server of the Accused Instrumentalities. Upon information and belief, this query can comprise a URL corresponding with a webpage, audio and/or video content stored on a web server.



https://nordvpn.com/features/streaming/

33. Upon information and belief, the NordVPN proxy server network of the Accused Instrumentalities is based upon a large number of proxy servers located around the World, including in the United States. *See e.g.* Exhibit H. Upon information and belief, Defendant's proxy servers store a group of IP addresses. Upon information and belief, upon receiving a request for content from a client device, a server of the Accused Instrumentalities can select an IP address

from the group of addresses for sending the request to a web server. As one non-limiting example, a server can select the IP address of proxy server when employing Defendant's double VPN feature.



Go secure in a few seconds

No time to look for the most suitable server? We created a top-notch algorithm to help you connect to the best available VPN server in seconds. Just click the Quick Connect button and get protected immediately by our easy VPN. PC, smartphone, or tablet – secure any device with just a click.

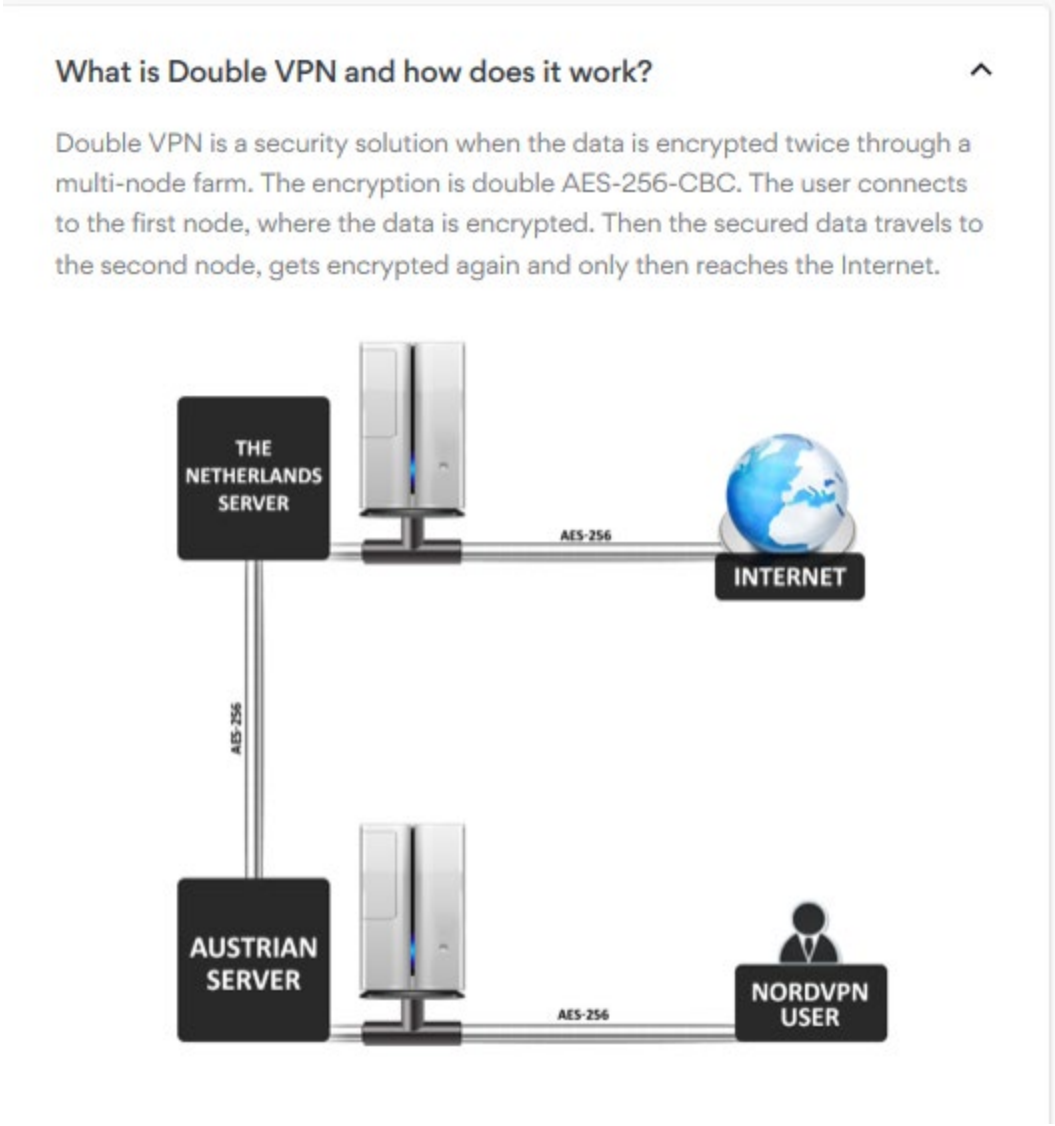
Choose your own server effortlessly

If you need a specific server, you can easily choose the one most fitting your needs in the map or the country list. NordVPN offers 5400 servers in over 59 countries. The list includes not only Europe and North America, but also South African, Southeast Asian and South American countries.

Get in touch 24/7

If you run into any problem, our competent customer care team will find the best solution for you. Feel free to contact our friendly and smart support agents by email or live chat via our contacts page. You can also surf our Help Center and find an answer yourself in this knowledge base. We are eager to help you and solve your problems quickly and effectively.

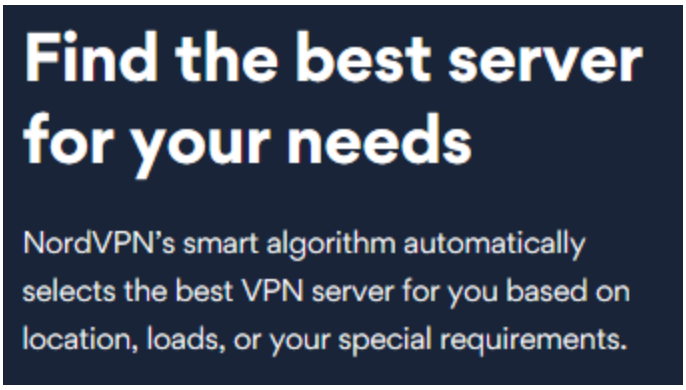
https://nordvpn.com/features/ease-to-use-custom-software/



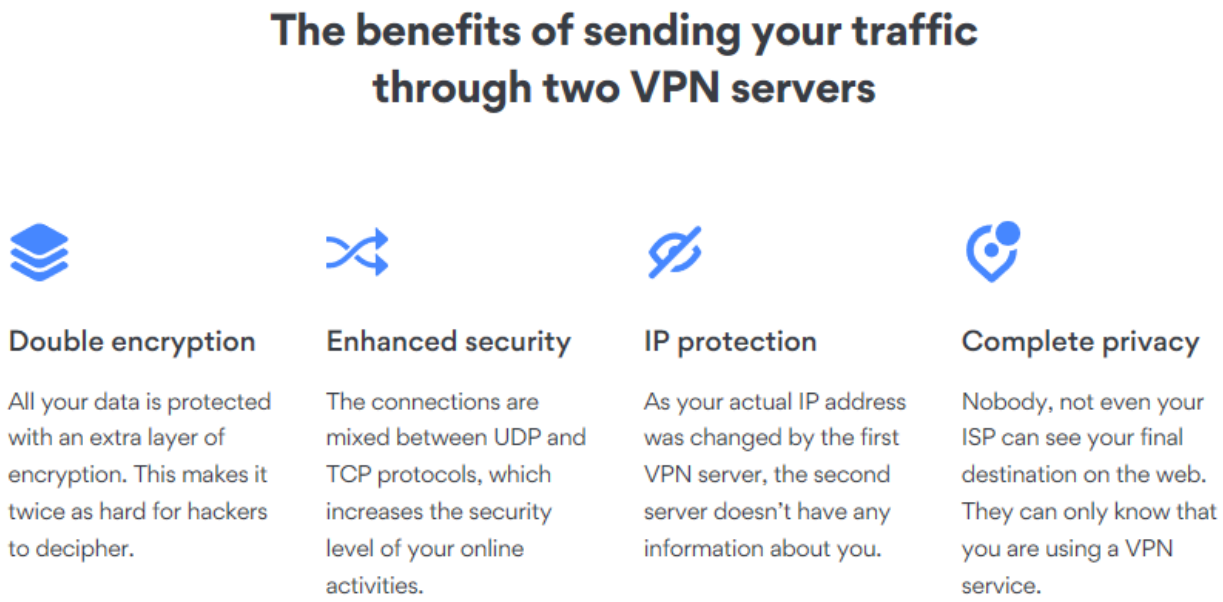
https://nordvpn.com/faq/

34. Upon information and belief, as discussed above, in fetching content for the client device, the server (a) receives a URL from the client device; (b) selects an IP address from a group of IP addresses stored on the server; (c) sends the URL to a web server using the selected IP address; (d) receives the requested content from the web server, which can comprise a web page, audio and/or video content; and (e) sends the content to the client device.

35. Upon information and belief, the selecting by the server of the Accused Instrumentalities may be done by a criterion, such as geography. *See* https://nordvpn.com/servers/.



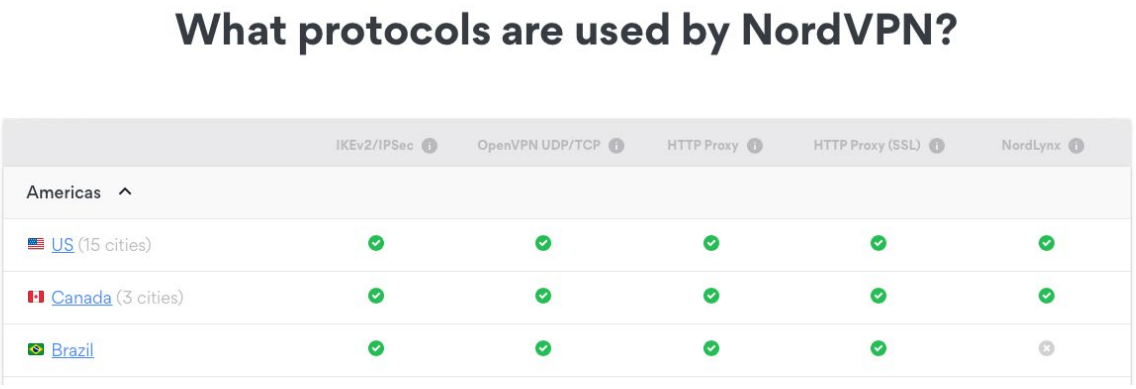
36. Upon information and belief, the client device may be addressed by an IP address, which can be stored on the server.



https://nordvpn.com/features/double-vpn/

37. Upon information and belief, the server of the Accused Instrumentalities is a Transmission Control Protocol/Internet Protocol (TCP/IP) server that communicates on the Internet with client devices based on TCP/IP protocol. Upon information and belief, this server stores, operates or uses a server operating system and uses a software application including instructions to carry out the steps for fetching content as discussed above.

38. Upon information and belief, the web server is a Hypertext Transfer Protocol (HTTP) server responding to HTTP requests and addressed in the Internet using a web server IP address.



https://nordvpn.com/servers/

39. Defendant also uses proxy servers to provide its VPN service through the Accused Instrumentalities allowing a NordVPN customer to utilize the Accused Instrumentalities in fetching content over the Internet. Upon information and belief, Defendant controls their customer client devices through software installed on these devices, including for example, Defendant's "NordVPN extensions" API, causing these devices to perform the steps of at least claims 1, 2, 11, 12, 15, 16, 17, 18, 26, 27 and 28 of the '968 Patent. For example, Defendant instructs its proxy service customers on how they can configure third-party applications including Chrome installed on the client devices to cause these client devices to perform steps of the '968 Patent. *See e.g.* Exhibit I. This code is under the control of Defendant, either directly or via Defendant's contractual relationship with its customers. As this code is under the control of Defendant, Defendant cause each of these steps to also be performed. In addition, given Defendant's contractual relationship with its customers, Defendant induces the customers to utilize the Accused Instrumentalities to cause each of the claimed steps to be performed. Upon information and belief, client devices,

including those controlled by Defendant's customers, can use the Accused Instrumentalities to fetch content over the Internet by sending a query to a server of the Accused Instrumentalities. As discussed above, upon information and belief, this query can comprise a URL corresponding with a webpage, audio and/or video content stored on a web server.

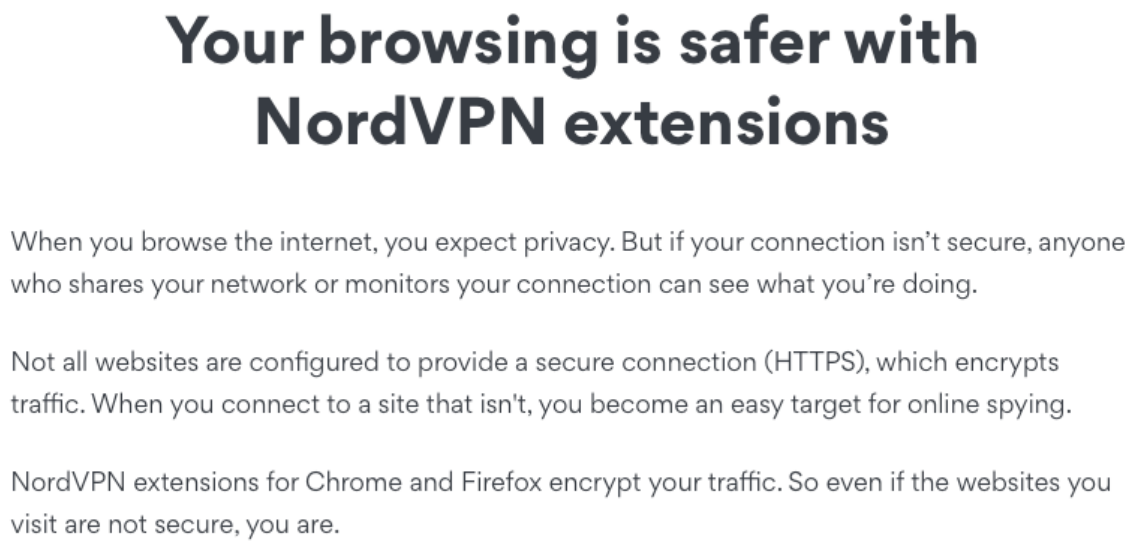


Exhibit I.

40. Upon information and belief, as shown above, the customer client device that fetches content using the proxy service of NordVPN comprises an Hypertext Transfer Protocol (HTTP) or Hypertext Transfer Protocol Secure (HTTPS) client for use with a first web server that is a HTTP or HTTPS server that respectively responds to HTTP or HTTPS requests and stores a first content identified by a first content identifier. Upon information and belief, the client device fetches the content from the first web server using a second server distinct from the first web server and identified in the Internet by a second IP address, and for use with a list of IP addresses. As addressed above, upon information and belief, servers of the Accused Instrumentalities store a list of IP addresses. Upon information and belief, including as described above, the application stored on the client device causes the client device to perform a method that comprises (a) identifying,

by the requesting client device, an HTTP or HTTPS request for the first content; (b) selecting, by the requesting client device, an IP address from the list; (c) sending, by the requesting client device, to the second server using the second IP address over the Internet in response to the identifying and the selecting, the first content identifier and the selected IP address; and (d) receiving, by the requesting client device, over the Internet in response to the sending, from the second server using the selected IP address, the first content. Specifically, as non-limiting examples, the client device may select IP addresses by geographic location or prior use in the case of session IPs.

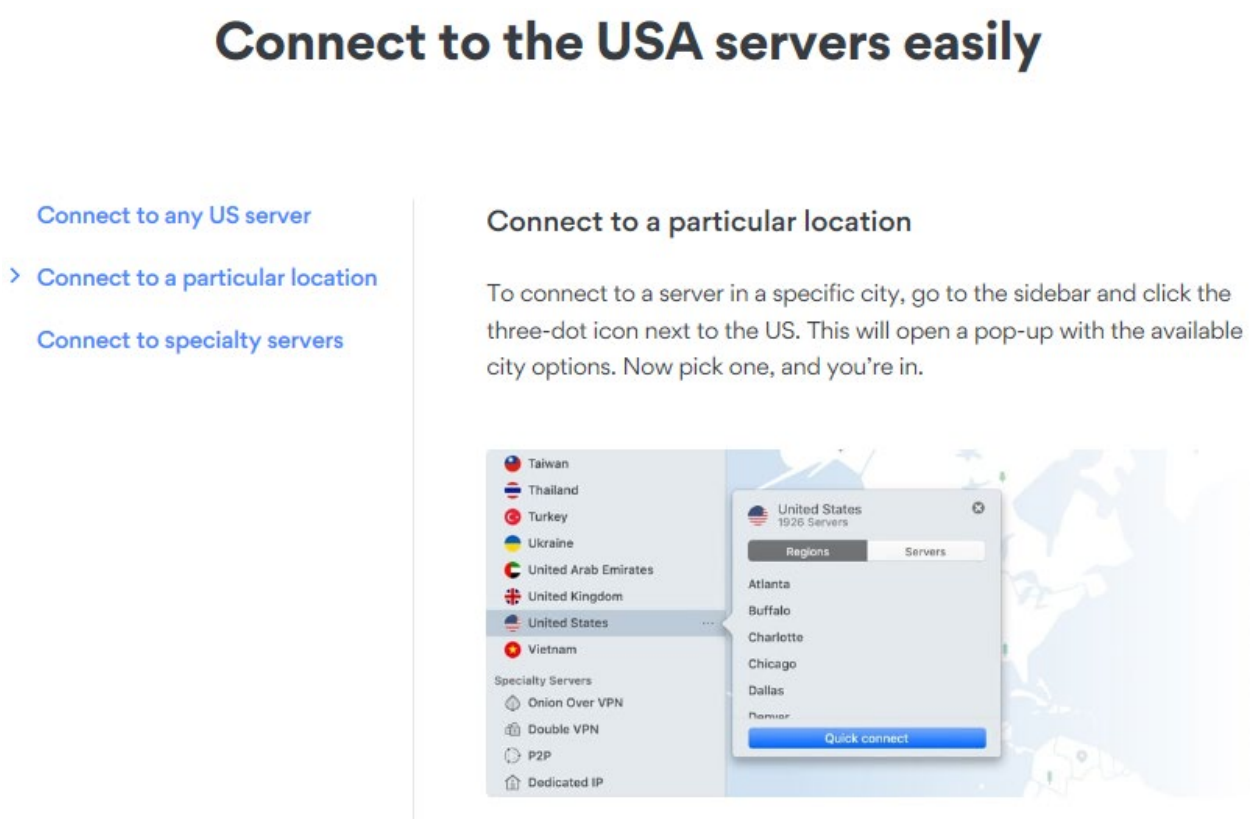
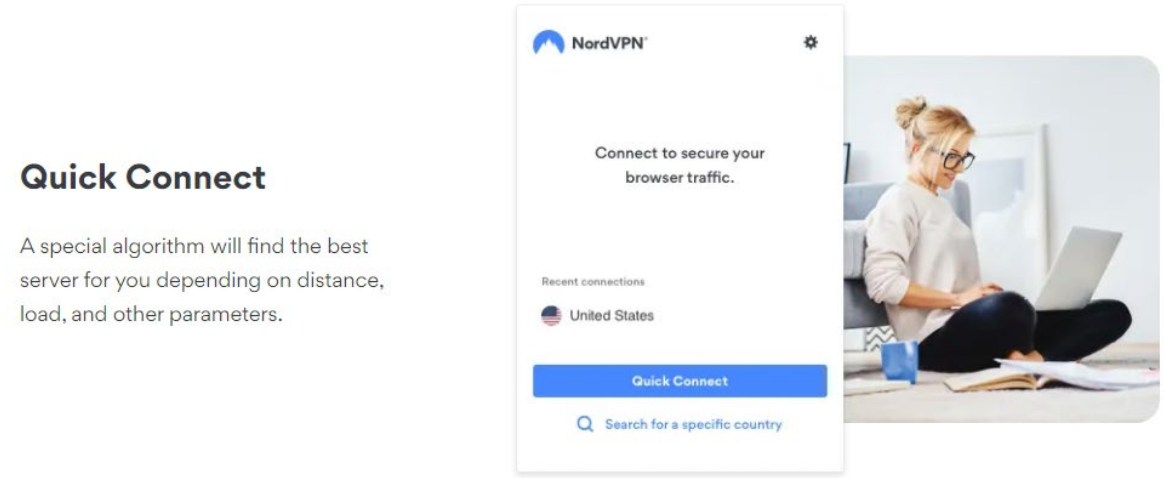
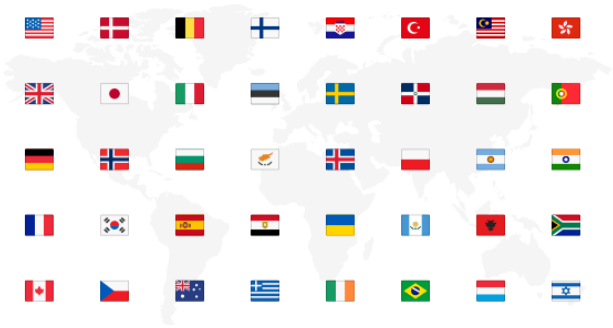


Exhibit G.

41. Upon information and belief, as discussed above, the selecting by the client device of the Accused Instrumentalities may be based for example on the location of the IP address, or prior use of the IP address in the case of session control. Upon information and belief, as discussed

above, each of the IP addresses in the list is associated with a geographical location and the selecting can be based on geographical selection.





Choose a country

Pick the USA, France, Japan, South Africa, Australia, or any other of the 59 countries where NordVPN servers are based.

Extensions

For Chrome and Firefox browsers on your computer.

Secures HTTP traffic on your Chrome or Firefox browser, giving you more flexibility.

Extremely light and fast – supports an almost instant connection to VPN servers. Jump back and forth between different locations.

You cannot choose a particular server within a selected country. However, the algorithm behind it does utilize the full NordVPN network of 5500+ servers.

NordVPN app

For Windows, macOS, Android, iOS, and Linux. Secure 6 devices at the same time.

Encrypts all your internet traffic. It provides maximum security on a system level.

The app is intuitive and easy to use. Since it encrypts all your traffic, connecting to a server may take a couple of seconds.

Choose a particular server from the 5500+ available. Or use Quick connect, and the algorithm will find a server that best suits you at that moment.

Exhibit G.

42. Upon information and belief, the client device includes a web/Internet browser application or an email application and a driver installed on the client device intercepts the request for the first content from the web browser application or email application.

1. Download the NordVPN Chrome extension or Firefox extension.
2. Click on the extension and log in with your NordVPN account.
3. Connect to a VPN server with one click.

Exhibit G.

43. Upon information and belief, the client device is identified by a Media Access Control (MAC) address or a hostname and sends a message to the second server comprising the client device's IP address, MAC address, or hostname.

What is SmartDNS?

SmartDNS is a NordVPN feature that allows you to set up unrestricted access to streaming content on your **smart TV** and **other devices**.

In order to use SmartDNS for VPN, you have to whitelist **your IP address without a VPN** connection - it should be your original ISP IP address. Make sure to whitelist IPv4 IP address, **not IPv6** as we do not support IPv6 yet.

https://support.nordvpn.com/General-info/SmartDNS/1161156142/What-is-SmartDNS.htm

COUNT I
(Infringement of the '614 Patent)

44. Luminati repeats and re-alleges the allegations contained in paragraphs 1-43 of this Complaint as if fully set forth herein.

45. The '614 Patent entitled "System and Method for Improving Internet Communication by Using Intermediate Nodes" was duly and legally issued by the U.S. Patent and Trademark Office on November 5, 2019, from Application No. 16/214,433 filed on December 10,

2018, a continuation of Application No. 16/140,785 which is a continuation of application No. 15/663,762, which is a continuation of application No. 14/930,894, now Pat. No. 9,742,866 ("'866 Patent"), which is a divisional of application No. 14/468,836, now Pat. No. 9,241,044 ("'044 Patent"), all of which claim priority to provisional applications 61/870,815 filed on August 28, 2013. A true and accurate copy of the '614 Patent is attached hereto as Exhibit A.

46. Each and every claim of the '614 Patent is valid and enforceable, and each enjoys a statutory presumption of validity under 35 U.S.C. § 282.

47. Luminati is the sole owner of the '614 Patent and has rights to past damages.

48. Independent Claim 1 of the '614 Patent recites:

A method for use with a resource associated with a criterion in a client device that communicates with a first server over the Internet, the client device is identified in the Internet using a first identifier and is associated with first and second state according to a utilization of the resource, the method comprising:

initiating, by the client device, communication with the first server over the Internet in response to connecting to the Internet, the communication comprises sending, by the client device, the first identifier to the first server over the Internet;

when connected to the Internet, periodically or continuously determining whether the resource utilization satisfies the criterion;

responsive to the determining that the utilization of the resource satisfies the criterion, shifting to the first state or staying in the first state;

responsive to the determining that the utilization of the resource does not satisfy the criterion, shifting to the second state or staying in the second state,

responsive to being in the first state, receiving, by the client device, a request from the first server; and

performing a task, by the client device, in response to the receiving of the request from the first server;

wherein the method is further configured for fetching over the Internet a first content identified by a first content identifier from a web server that is distinct from the first server, and the task comprising:

receiving, by the client device, the first content identifier from the first server;

sending by the client device, the first content identifier to the web server;

receiving, by the client device, the first content from the web server in response to the sending of the first content identifier; and

sending, by the client device, the received first content to the first server.

49. As described above, upon information and belief, the Accused Instrumentalities comprise numerous proxy devices ("client devices"), each of which is a client device identifiable by its own identifier ("first identifier"). Upon information and belief, upon connecting to the Internet, a client device initiates communication with a server ("first server") of the Accused Instrumentalities by sending information over the Internet to the first server, including the first identifier. Upon information and belief, the proxy devices in the Accused Instrumentalities each have a first state and second state. Upon information and belief, the Accused Instrumentalities determines whether the resource utilization of a proxy device satisfies a criterion as per claim 1 of the '614 Patent, and upon determining that the criterion is satisfied shifts the client device to a first state or upon determining that the criterion is not satisfied shifts the client device to a second state.

50. As described above, upon information and belief, when a client device is in the first state it can receive a request from the first server and perform a task in response to receiving this request. The client device can fetch content ("first content"), such as for example a website, identified by a content identifier ("first content identifier"), such as for example a URL, over the Internet from a web server ("web server"), such as (but not limited to) a server hosting a website, that is distinct from the first server. Upon information and belief, the client device can (a) receive the first content identifier from the first server; (b) send the first content identifier to the web server; (c) receive the first content from the web server in response to the sending of the first content identifier; and (d) send the received first content to the first server.

51. The '614 Patent includes a number of dependent claims. In addition to practicing the steps of independent claim 1, upon information and belief as discussed above, Defendant and others using Defendant's Accused Instrumentalities also practice the steps of at least dependent claims 2, 4, 7, 9, 11, 12, 15, 16, 17 and 29, for example.

52. This year and last year, as part of the Tesonet Action, Tesonet has been in litigation with Plaintiff involving assertion of infringement of the '044 and '866 Patents, both of which are related to the '614 Patent. Tesonet and at least NordVPN representative Tomas Okmanas have had actual notice of the '614 Patent since at least the filing of the Complaint and know at least from the Complaint that implementation of the Accused Instrumentalities using residential proxy devices in the United States infringe at least claims 1, 2, 4, 7, 9, 11, 12, 15, 16, 17 and 29 of the '614 Patent.

53. Upon information and belief Defendant sold, offered to sell, used, tested, and imported and continue to sell, offer to sell, use, test, and import the Accused Instrumentalities into the United States. Defendant imports Proxy Software into the United States directly and/or via

Defendant's application partners, which is implemented on devices located in the United States. The Proxy Software enables devices to serve as residential proxy devices for the Accused Instrumentalities and is not used for other commercial services or products. Defendant provides the SmartPlay feature of the Accused Instrumentalities to their customers with the knowledge and intent that the customers' implementation of the service using residential proxies located in the U.S. would infringe the '614 Patent.

54. Defendant has been and is now infringing at least directly, indirectly and/or contributorily, one or more claims including at least claims 1, 2, 4, 7, 9, 11, 12, 15, 16, 17 and 29 of the '614 Patent, both literally and/or under the doctrine of equivalents, by implementing the Accused Instrumentalities using residential proxy devices located in the United States without authority and/or license from Luminati, and Defendant is liable to Luminati under 35 U.S.C. § 271 *et seq*., including but not limited to under Sections 271(a), (b), (c) and/or (g). On information and belief, at least since the service of this Complaint, Defendant has been aware of the Asserted Patents yet has continued to infringe and cause proxies in the United States under Defendant's control to infringe claims of the Asserted Patents and have induced infringement. On further information and belief, Defendant has developed, used, offered to sell and/or sold within the United States and imported into the United States a component of a patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, including as one non-limiting example the Defendant's Proxy Software imported into and implemented in user devices in the United States as well as the API and/or any other instructions provided to Defendant's customers

that result in infringement. On further information and belief, Defendant also imports and sells as well as causes others to use within the United States a product which is made by a process patented in the United States whereby the importation, offer to sell, sale, and/or use of the product occurs during the term of such process patent. Such products may include for example, the set of results sent to customers in the United States as created and assembled by the patented methods of the Asserted Patents.

55. As a result of Defendant's infringement of the '614 Patent, Luminati has suffered and continues to suffer damages. Thus, Luminati is entitled to recover from Defendant the damages Luminati sustained as a result of Defendant's wrongful and infringing acts in an amount no less than its lost profits and/or a reasonable royalty, together with interest and costs fixed by this Court together with increased damages up to three times under 35 U.S.C. § 284.

56. Luminati has suffered damage because of the infringing activities of Defendant, its officers, agents, servants, employees, associates, partners, and other persons who are in active concert or participation therewith, and Luminati will continue to suffer irreparable harm for which there is no adequate remedy at law unless Defendant's infringing activities are preliminarily and permanently enjoined by this Court. Luminati practices the Asserted Patents and, on information and belief, practicing the Asserted Patents is required for a competitive offering of residential proxy services, a technology and market that Luminati created. Non-exclusive examples of such damage include loss of market share, lowered prices and the inability of Luminati to obtain the revenues and profits it would have been able to obtain but for the infringement, lost sales in other services when customers did not purchase residential proxy services from Luminati as a result of the infringement, loss of convoyed sales of other related services that Luminati would have sold but for the infringement, and harm to Luminati's reputation as a result of Defendant's lower quality

and less protected offerings damaging the reputation and perception of the residential proxy service market that relies on the technology of the Asserted Patents.

57. Defendant's infringement of the '614 Patent is and continues to be deliberate and willful because Defendant was and is on notice of the '614 Patent at least as early as the Complaint, yet Defendant continues to infringe the '614 Patent. This case should be deemed an exceptional case under 35 U.S.C. § 285, and if so, Luminati is entitled to recover its attorneys' fees.

COUNT II
(Infringement of the '319 Patent)

58. Luminati repeats and re-alleges the allegations contained in paragraphs 1-57 of this Complaint as if fully set forth herein.

59. The '319 Patent entitled "System Providing Faster and More Efficient Data Communication" was duly and legally issued by the U.S. Patent and Trademark Office on April 9, 2019, from Application No. 15/957,945 filed on April 20, 2018, which is a continuation of application No. 14/025,109, which is a division of application No. 12/836,059, now Pat. No. 8,560,604, all of which claim priority to provisional application 61/249,624 filed on October 8, 2009. A true and accurate copy of the '319 Patent is attached hereto as Exhibit B.

60. Each and every claim of the '319 Patent is valid and enforceable, and each enjoys a statutory presumption of validity under 35 U.S.C. § 282.

61. Luminati is the sole owner of the '319 Patent and has rights to past damages.

62. Claim 1 of the '319 Patent recites:

A method for use with a first client device, for use with a first server that comprises a web server that is a Hypertext Transfer Protocol (HTTP) server that responds to HTTP requests, the first server stores a first content identified by a first content identifier, and for use with a second server, the method by the first client device comprising:

receiving, from the second server, the first content identifier;

sending, to the first server over the Internet, a Hypertext Transfer Protocol (HTTP) request that comprises the first content identifier;

receiving, the first content from the first server over the Internet in response to the sending of the first content identifier; and

sending, the first content by the first client device to the second server, in response to the receiving of the first content identifier.

63. As described in the above paragraphs, upon information and belief, the Accused Instrumentalities comprise numerous proxy devices each of which is a client device ("first client device") and a server of the Accused Instrumentalities ("second server"). An HTTP web server that responds to HTTP requests ("first server") stores content ("first content") identified by an identifier ("first content identifier"), such as for example an HTTP web server storing a webpage identified by a URL address. As described above, a first client device (a) receives a first content identifier from the second server of the Accused Instrumentalities; (b) sends an HTTP request comprising the first content identifier to the first server; (c) receives the first content from the first server over the Internet in response to the sending of the first content identifier; and sends the first content to the second server of the Accused Instrumentalities in response to receiving the first content identifier.

64. The '319 Patent includes a number of dependent claims. In addition to practicing the steps of independent claim 1, upon information and belief as discussed above, Defendant and others using Defendant's Accused Instrumentalities also practice the steps of the following dependent claims 17, 24, 25 and 27, for example.

65. Defendant has had actual notice of the '319 Patent since at least the filing of this Complaint and know at least from this Complaint that implementation of the Accused Instrumentalities using residential proxy devices in the United States would infringe at least claims 1, 17, 24, 25, and 27 of the '319 Patent.

66. Upon information and belief Defendant sold, offered to sell, used, tested, and imported and continue to sell, offer to sell, use, test, and import the Accused Instrumentalities into the United States. Defendant imports Proxy Software into the United States directly and/or via Defendant's application partners, which is implemented on devices located in the United States. The Proxy Software enables devices to serve as residential proxy devices for the Accused Instrumentalities and is not used for other commercial services or products. Defendant provides the SmartPlay feature of the Accused Instrumentalities to their customers with the knowledge and intent that the customers' implementation of the service using residential proxies located in the U.S. would infringe the '319 Patent.

67. Defendant has been and is now infringing at least directly, indirectly and/or contributorily, one or more claims including at least claims 1, 17, 24, 25 and 27 of the '319 Patent, both literally and/or under the doctrine of equivalents, by implementing the Accused Instrumentalities using residential proxy devices located in the United States without authority and/or license from Luminati, and Defendant is liable to Luminati under 35 U.S.C. § 271 *et seq*., including but not limited to under Sections 271(a), (b), (c) and/or (g). On information and belief, at least since the service of this Complaint, Defendant has been aware of the Asserted Patents yet has continued to infringe and cause proxies in the United States under Defendant's control to infringe claims of the Asserted Patents and have induced infringement. On further information and belief, Defendant has developed, used, offered to sell and/or sold within the United States and

imported into the United States a component of a patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, including as one non-limiting example the Defendant's Proxy Software imported into and implemented in user devices in the United States as well as the API and/or any other instructions provided to Defendant's customers that result in infringement. On further information and belief, Defendant also imports and sells as well as causes others to use within the United States a product which is made by a process patented in the United States whereby the importation, offer to sell, sale, and/or use of the product occurs during the term of such process patent. Such products may include for example, the set of results sent to customers in the United States as created and assembled by the patented methods of the Asserted Patents.

68. As a result of Defendant's infringement of the '319 Patent, Luminati has suffered and continues to suffer damages. Thus, Luminati is entitled to recover from Defendant the damages Luminati sustained as a result of Defendant's wrongful and infringing acts in an amount no less than its lost profits and/or a reasonable royalty, together with interest and costs fixed by this Court together with increased damages up to three times under 35 U.S.C. § 284.

69. Luminati has suffered damage because of the infringing activities of Defendant, its officers, agents, servants, employees, associates, partners, and other persons who are in active concert or participation therewith, and Luminati will continue to suffer irreparable harm for which there is no adequate remedy at law unless Defendant's infringing activities are preliminarily and permanently enjoined by this Court. Luminati practices the Asserted Patents and, on information and belief, practicing the Asserted Patents is required for a competitive offering of residential

proxy services, a technology and market that Luminati created. Non-exclusive examples of such damage include loss of market share, lowered prices and the inability of Luminati to obtain the revenues and profits it would have been able to obtain but for the infringement, lost sales in other services when customers did not purchase residential proxy services from Luminati as a result of the infringement, loss of convoyed sales of other related services that Luminati would have sold but for the infringement, and harm to Luminati's reputation as a result of Defendant's lower quality and less protected offerings damaging the reputation and perception of the residential proxy service market that relies on the technology of the Asserted Patents.

70. Defendant's infringement of the '319 Patent is and continues to be deliberate and willful because Defendant was and is on notice of the '319 Patent at least as early as the Complaint, yet Defendant continues to infringe the '319 Patent. This case should be deemed an exceptional case under 35 U.S.C. § 285, and if so, Luminati is entitled to recover its attorneys' fees.

COUNT III
(Infringement of the '510 Patent)

71. Luminati repeats and re-alleges the allegations contained in paragraphs 1-70 of this Complaint as if fully set forth herein.

72. The '510 Patent entitled "System Providing Faster and More Efficient Data Communication" was duly and legally issued by the U.S. Patent and Trademark Office on November 19, 2019, from Application No. 16/278,107 filed on February 17, 2019, a continuation of Application No. 15/957,945, now Pat. No. 10,257,319, which is a continuation of application No. 14/025,109, now Pat. No. 10,069,936, which is a divisional of application No. 12/836,059, now Pat. No. 8,560,604, all of which claim priority to provisional application 61/249,624 filed on October 8, 2009. A true and accurate copy of the '510 Patent is attached hereto as Exhibit C.

73. Each and every claim of the ’510 Patent is valid and enforceable, and each enjoys a statutory presumption of validity under 35 U.S.C. § 282.

74. Luminati is the sole owner of the ’510 Patent and has rights to past damages.

75. Claim 1 of the ’510 Patent recites:

A method for use with a web server that responds to Hypertext Transfer Protocol (HTTP) requests and stores a first content identified by a first content identifier, the method by a first client device comprising:

establishing a Transmission Control Protocol (TCP) connection with a second server;

sending, to the web server over an Internet, the first content identifier;

receiving, the first content from the web server over the Internet in response to the sending of the first content identifier; and

sending the received first content, to the second server over the established TCP connection, in response to the receiving of the first content identifier.

76. As described in the above paragraphs, upon information and belief, the Accused Instrumentalities comprise numerous proxy devices each of which is a client device (“first client device”) and a server of the Accused Instrumentalities (“second server”). A web server that responds to HTTP requests (“web server”) stores content (“first content”) identified by an identifier (“first content identifier”), such as for example an HTTP web server storing a webpage identified by a URL address. As described above, a first client device (a) establishes a TCP connection with a second server; (b) sends the first content identifier to the web server; (c) receives the first content from the web server over the Internet in response to the sending of the first content identifier; and (d) sends the received first content to the second server of the Accused

Instrumentalities over the established TCP connection in response to the receiving of the first content identifier.

77. The ’510 Patent includes a number of dependent claims. In addition to practicing the steps of independent claim 1, upon information and belief as discussed above, Defendant and others using Defendant’s Accused Instrumentalities also practice the steps of the following dependent claims 8, 13, 15, 16, 18, 20, 22, and 23, for example.

78. Defendant has had actual notice of the ’510 Patent since at least the filing of the Complaint and know at least from the Complaint that implementation of the Accused Instrumentalities using residential proxy devices in the United States would infringe at least claims 1, 8, 13, 15, 16, 18, 20, 22 and 23 of the ’510 Patent.

79. Upon information and belief Defendant sold, offered to sell, used, tested, and imported and continue to sell, offer to sell, use, test, and import the Accused Instrumentalities into the United States. Defendant imports Proxy Software into the United States directly and/or via Defendant’s application partners, which is implemented on devices located in the United States. The Proxy Software enables devices to serve as residential proxy devices for the Accused Instrumentalities and is not used for other commercial services or products. Defendant provides the SmartPlay feature of the Accused Instrumentalities to their customers with the knowledge and intent that the customers’ implementation of the service using residential proxies located in the U.S. would infringe the ’510 Patent.

80. Defendant has been and is now infringing at least directly, indirectly and/or contributorily, one or more claims including at least claims 1, 8, 13, 15, 16, 18, 20, 22 and 23 of the ’510 Patent, both literally and/or under the doctrine of equivalents, by implementing the Accused Instrumentalities using residential proxy devices located in the United States without

authority and/or license from Luminati, and Defendant is liable to Luminati under 35 U.S.C. § 271 *et seq*., including but not limited to under Sections 271(a), (b), (c) and/or (g). On information and belief, at least since the service of this Complaint, Defendant has been aware of the Asserted Patents yet has continued to infringe and cause proxies in the United States under Defendant's control to infringe claims of the Asserted Patents and have induced infringement. On further information and belief, Defendant has developed, used, offered to sell and/or sold within the United States and imported into the United States a component of a patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, including as one non-limiting example the Defendant's Proxy Software imported into and implemented in user devices in the United States as well as the API and/or any other instructions provided to Defendant's customers that result in infringement. On further information and belief, Defendant also imports and sells as well as causes others to use within the United States a product which is made by a process patented in the United States whereby the importation, offer to sell, sale, and/or use of the product occurs during the term of such process patent. Such products may include for example, the set of results sent to customers in the United States as created and assembled by the patented methods of the Asserted Patents.

81. As a result of Defendant's infringement of the '510 Patent, Luminati has suffered and continues to suffer damages. Thus, Luminati is entitled to recover from Defendant the damages Luminati sustained as a result of Defendant's wrongful and infringing acts in an amount

no less than its lost profits and/or a reasonable royalty, together with interest and costs fixed by this Court together with increased damages up to three times under 35 U.S.C. § 284.

82. Luminati has suffered damage because of the infringing activities of Defendant, its officers, agents, servants, employees, associates, partners, and other persons who are in active concert or participation therewith, and Luminati will continue to suffer irreparable harm for which there is no adequate remedy at law unless Defendant's infringing activities are preliminarily and permanently enjoined by this Court. Luminati practices the Asserted Patents and, on information and belief, practicing the Asserted Patents is required for a competitive offering of residential proxy services, a technology and market that Luminati created. Non-exclusive examples of such damage include loss of market share, lowered prices and the inability of Luminati to obtain the revenues and profits it would have been able to obtain but for the infringement, lost sales in other services when customers did not purchase residential proxy services from Luminati as a result of the infringement, loss of convoyed sales of other related services that Luminati would have sold but for the infringement, and harm to Luminati's reputation as a result of Defendant's lower quality and less protected offerings damaging the reputation and perception of the residential proxy service market that relies on the technology of the Asserted Patents.

83. Defendant's infringement of the '510 Patent is and continues to be deliberate and willful because Defendant was and is on notice of the '510 Patent at least as early as the Complaint, yet Defendant continues to infringe the '510 Patent. This case should be deemed an exceptional case under 35 U.S.C. § 285, and if so, Luminati is entitled to recover its attorneys' fees.

COUNT IV
(Infringement of the '511 Patent)

84. Luminati repeats and re-alleges the allegations contained in paragraphs 1-83 of this Complaint as if fully set forth herein.

85. The ’511 Patent entitled “System Providing Faster and More Efficient Data Communication” was duly and legally issued by the U.S. Patent and Trademark Office on November 19, 2019, from Application No. 16/278,109 filed on February 17, 2019, a continuation of Application No. 15/957,950, which is a continuation of application No. 14/025,109, which is a divisional of application No. 12/836,059, all of which claim priority to provisional application 61/249,624 filed on October 8, 2009. A true and accurate copy of the ’511 Patent is attached hereto as Exhibit D.

86. Each and every claim of the ’511 Patent is valid and enforceable, and each enjoys a statutory presumption of validity under 35 U.S.C. § 282.

87. All rights, title, and interest in the ’511 Patent have been assigned to Luminati, who is the sole owner of the ’511 Patent and possesses the right to past damages.

88. Independent Claim 1 of the ’511 Patent recites:

> A method for fetching, by a first client device, a first content identified by a first content identifier and stored in a web server, for use with a first server that stores a group of IP addresses, the method by the first server comprising:
>
> receiving, from the first client device, the first content identifier;
>
> selecting, in response to the receiving of the first content identifier from the first client device, an IP address from the group;
>
> sending, in response to the selecting, the first content identifier to the web server using the selected IP address;
>
> receiving, in response to the sending, the first content from the web server; and

sending the received first content to the first client device, wherein the first content comprises a web-page, an audio, or a video content, and wherein the first content identifier comprises a Uniform Resource Locator (URL).

89. As described above, upon information and belief, the proxy server service of the Accused Instrumentalities comprise a server ("first server"), which receives from a client device ("first client device") a URL ("first content identifier") for content comprising a web-page, audio or video content ("first content") stored on a web server. Upon information and belief, the server selects an IP address from a group of IP addresses stored on the server in response to receiving the first content identifier and sends the URL to the web server using the selected IP address. Upon information and belief, the server receives the first content from the web server in response to sending the URL and sends the received first content to the first client device.

90. The '511 Patent includes a number of dependent claims. In addition to practicing the steps of independent claim 1, upon information and belief as discussed above, Defendant and others using Defendant's proxy server service of the Accused Instrumentalities also practice the steps of at least dependent claims 14, 20, 21, 22, 25, 27, 28, 29, and 30, for example.

91. Defendant has had actual notice of the '511 Patent since at least the filing of the Complaint and knows at least from the Complaint that implementation of the Accused Instrumentalities using data servers in the United States infringe at least claims 1, 14, 20, 21, 22, 25, 27, 28, 29, and 30 of the '511 Patent.

92. Upon information and belief Defendant sold, offered to sell, used, tested, and imported and continues to sell, offer to sell, use, test, and import the Accused Instrumentalities into the United States. Defendant imports its software, which is implemented on servers located in the United States. Defendant's Server Software in the Accused Instrumentalities implements the

steps of at least the above claims of the Asserted Patent and is not used for other commercial services or products. Defendant provides the proxy server service of the Accused Instrumentalities to their customers with the knowledge and intent that the customers' implementation of the service using servers located in the U.S. would infringe the '511 Patent.

93. Defendant has been and is now infringing at least directly, indirectly and/or contributorily, one or more claims including at least claims 1, 14, 20, 21, 22, 25, 27, 28, 29, and 30 of the '511 Patent, both literally and/or under the doctrine of equivalents, by implementing the Accused Instrumentalities using proxy servers located in the United States without authority and/or license from Luminati, and Defendant is liable to Luminati under 35 U.S.C. § 271 *et seq*., including but not limited to under Sections 271(a), (b), (c) and/or (g). On information and belief, at least since the service of this Complaint, Defendant has been aware of the Asserted Patents yet has continued to infringe and cause its servers in the United States under Defendant's control to infringe claims of the Asserted Patents and has induced infringement. On further information and belief, Defendant has developed, used, offered to sell and/or sold within the United States and imported into the United States a component of a patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use. On further information and belief, Defendant also imports and sells as well as causing others to use within the United States a product which is made by a process patented in the United States whereby the importation, offer to sell, sale, and/or use of the product occurs during the term of such process patent. Such products may include for example, the set of

results sent to customers in the United States as created and assembled by the patented methods of the Asserted Patents.

94. As a result of Defendant's infringement of the '511 Patent, Luminati has suffered and continues to suffer damages. Thus, Luminati is entitled to recover from Defendant the damages Luminati sustained as a result of Defendant's wrongful and infringing acts in an amount no less than its lost profits and/or a reasonable royalty, together with interest and costs fixed by this Court together with increased damages up to three times under 35 U.S.C. § 284.

95. Luminati has suffered damage because of the infringing activities of Defendant, its officers, agents, servants, employees, associates, partners, and other persons who are in active concert or participation therewith, and Luminati will continue to suffer irreparable harm for which there is no adequate remedy at law unless Defendant's infringing activities are preliminarily and permanently enjoined by this Court. Luminati practices the Asserted Patents. Non-exclusive examples of damage incurred by Luminati as a result of Defendant's infringement include, but are not limited to, lost profits and/or a reasonable royalty, loss of market share, lowered prices and the inability of Luminati to obtain the revenues and profits it would have been able to obtain but for the infringement, lost sales in other services when customers did not purchase data center proxy services from Luminati as a result of the infringement, and loss of convoyed sales of other related services that Luminati would have sold but for the infringement.

96. Defendant's infringement of the '511 Patent is and continues to be deliberate and willful because Defendant was and is on notice of the '511 Patent at least as early as this Complaint, yet Defendant continues to infringe the '511 Patent. This case should be deemed an exceptional case under 35 U.S.C. § 285, and if so, Luminati is entitled to recover its attorneys' fees.

COUNT V
(Infringement of the '968 Patent)

97. Luminati repeats and re-alleges the allegations contained in paragraphs 1-96 of this Complaint as if fully set forth herein.

98. The '968 Patent entitled "System Providing Faster and More Efficient Data Communication" was duly and legally issued by the U.S. Patent and Trademark Office on April 28, 2020, from Application No. 16/396,696 filed on April 28, 2019, a continuation of Application No. 15/957,942, which is a continuation of application No. 14/025,109, which is a divisional of application No. 12/836,059, all of which claim priority to provisional application 61/249,624 filed on October 8, 2009. A true and accurate copy of the '968 Patent is attached hereto as Exhibit E.

99. Each and every claim of the '968 Patent is valid and enforceable, and each enjoys a statutory presumption of validity under 35 U.S.C. § 282.

100. All rights, title, and interest in the '968 Patent have been assigned to Luminati, who is the sole owner of the '968 Patent and possesses the right to past damages.

101. Independent Claim 1 of the '968 Patent recites:

A method for use with a requesting client device that comprises an Hypertext Transfer Protocol (HTTP) or Hypertext Transfer Protocol Secure (HTTPS) client, for use with a first web server that is a HTTP or HTTPS server that respectively responds to HTTP or HTTPS requests and stores a first content identified by a first content identifier, for use with a second server distinct from the first web server and identified in the Internet by a second IP address, and for use with a list of IP addresses, the method comprising:

identifying, by the requesting client device, an HTTP or HTTPS request for the first content;

selecting, by the requesting client device, an IP address from the list;

sending, by the requesting client device, to the second server using the second IP address over the Internet in response to the identifying and the selecting, the first content identifier and the selected IP address; and

receiving, by the requesting client device, over the Internet in response to the sending, from the second server using the selected IP address, the first content.

102. As described above, upon information and belief, the Accused Instrumentalities comprise a Hypertext Transfer Protocol (HTTP) or Hypertext Transfer Protocol Secure (HTTPS) client user device ("requesting client device"), which identifies an HTTP or HTTPS request for first content stored on a web server, selects an IP address from a list of IP addresses, sends a first content identifier and selected IP address to Defendant's server ("second server") over the Internet, and receives in response the first content from the second server, the content comprising a web-page, audio or video content ("first content") stored on a web server.

103. The '968 Patent includes a number of dependent claims. In addition to practicing the steps of independent claim 1, upon information and belief as discussed above, Defendant practices the steps of at least dependent claims 2, 11, 12, 15, 16, 17, 18, 26, 27, and 28.

104. Defendant has actual notice of the '968 Patent since at least the filing of this Amended Complaint and knows at least from this Amended Complaint that implementation of the Accused Instrumentalities using data servers in the United States infringe at least claims 1, 2, 11, 12, 15, 16, 17, 18, 26, 27 and 28 of the '968 Patent.

105. Upon information and belief Defendant sold, offered to sell, used, tested, and imported and continue to sell, offer to sell, use, test, and import the Accused Instrumentalities into the United States. Defendant imports its software, which is implemented on user client devices located in the United States. Defendant' software in the Accused Instrumentalities implements the

steps of at least the above claims of the Asserted Patent and is not used for other commercial services or products. Defendant instructs its customers on how to configure software located on the client devices to implement steps of the asserted '968 Patent claims. Defendant provides the Proxy Service of the Accused Instrumentalities to its customers with the knowledge and intent that the customers' implementation of the service in the U.S. would infringe the '968 Patent.

106. Defendant has been and is now infringing at least directly, indirectly and/or contributorily, one or more claims including at least claims 1, 2, 11, 12, 15, 16, 17, 18, 26, 27 and 28 of the '968 Patent, both literally and/or under the doctrine of equivalents, by implementing the Accused Instrumentalities using user client devices located in the United States without authority and/or license from Luminati, and Defendant is liable to Luminati under 35 U.S.C. § 271 *et seq*., including but not limited to under Sections 271(a), (b), (c) and/or (g). On information and belief, at least since the service of this Amended Complaint, Defendant has been aware of the Asserted Patents yet has continued to infringe and cause its user client devices in the United States under Defendant's control to infringe claims of the Asserted Patents and have induced infringement. On further information and belief, Defendant has developed, used, offered to sell and/or sold within the United States and imported into the United States a component of a patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use. On further information and belief, Defendant also imports and sells as well as causes others to use within the United States a product which is made by a process patented in the United States whereby the importation, offers to sell, sales, and/or uses of the product occurs during the term of such process patent. Such

product may include for example, the set of results sent to customers in the United States as created and assembled by the patented methods of the Asserted Patents.

107. As a result of Defendant's infringement of the '968 Patent, Luminati has suffered and continues to suffer damages. Thus, Luminati is entitled to recover from Defendant the damages Luminati sustained as a result of Defendant's wrongful and infringing acts in an amount no less than its lost profits and/or a reasonable royalty, together with interest and costs fixed by this Court together with increased damages up to three times under 35 U.S.C. § 284.

108. Luminati has suffered damage because of the infringing activities of Defendant, its officers, agents, servants, employees, associates, partners, and other persons who are in active concert or participation therewith, and Luminati will continue to suffer irreparable harm for which there is no adequate remedy at law unless Defendant's infringing activities is preliminarily and permanently enjoined by this Court. Luminati practices the Asserted Patents. Non-exclusive examples of damage incurred by Luminati as a result of Defendant's infringement includes, but is not limited to, lost profits and/or a reasonable royalty, loss of market share, lowered prices and the inability of Luminati to obtain the revenues and profits it would have been able to obtain but for the infringement, lost sales in other services when customers did not purchase Data Center proxy services or static residential proxy services from Luminati as a result of the infringement, and loss of convoyed sales of other related services that Luminati would have sold but for the infringement.

109. Defendant's infringement of the '968 Patent is and continues to be deliberate and willful because Defendant was and is on notice of the '968 Patent at least as early as this Amended Complaint, yet Defendant continues to infringe the '968 Patent. This case should be deemed an exceptional case under 35 U.S.C. § 285, and if so, Luminati is entitled to recover its attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Luminati respectfully requests that this Court enter:

A. A judgment in favor of Luminati that Defendant has and is infringing the Asserted Patents;

B. A judgment declaring Defendant's infringement to be willful;

C. A judgment declaring that this case is exceptional within the meaning of 35 U.S.C. § 285;

D. A permanent injunction enjoining Defendant, its officers, directors, agents, servants, employees, associates, partners including Proxy Software partners and SDK application partners, and other persons who are in active concert or participation with Defendant including the officers, directors, agents, servants, employees and associates of Defendant's partners, from infringing the Asserted Patents and/or such other equitable relief the Court determines is warranted in this case;

E. A judgment and order requiring Defendant to pay to Luminati its damages, enhanced damages, costs, expenses, prejudgment and post-judgment interest, and attorneys' fees, if applicable, for the Defendant's infringement of the Asserted Patents as provided under 35 U.S.C. §284 and/or §285, and an accounting of ongoing post-judgment infringement; and

F. Any and all other relief, at law or in equity that this Court deems just or proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Luminati hereby demands a trial by jury of all issues so triable.

Dated: November 12, 2020

Respectfully submitted,

/s/ Korula T. Cherian

Korula T. Cherian
Robert Harkins
RuyakCherian LLP
1936 University Ave, Suite 350
Berkeley, CA 94702

Amadou Kilkenny Diaw
Corrine Saylor Davis
Ronald Wielkopolski
RuyakCherian LLP
1700 K St. NW, Suite 810
Washington, DC 20006

S. Calvin Capshaw
State Bar No. 03783900
Elizabeth L. DeRieux
State Bar No. 05770585
Capshaw DeRieux, LLP
114 E. Commerce Ave.
Gladewater, TX 75647
Telephone: 903-845-5770
ccapshaw@capshawlaw.com
ederieux@capshawlaw.com

ATTORNEYS FOR PLAINTIFF LUMINATI NETWORKS LTD.