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9 *Attorneys for Helios Streaming, LLC,*  
10 *and IdeaHub, Inc.*

11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA  
13 SOUTHERN DIVISION  
14

15 HELIOS STREAMING, LLC, and  
16 IDEA HUB, INC.,

17 Plaintiffs,

18 vs.

19 FANDANGO MEDIA, LLC

20 Defendant.  
21  
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23  
24  
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26  
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) Case No.: 8:21-cv-211

) **FIRST AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT**

) DEMAND FOR JURY TRIAL

1 Plaintiffs Helios Streaming, LLC (“Helios”), and IdeaHub, Inc. (“IdeaHub”)  
2 (collectively “Plaintiffs”), for its First Amended Complaint against Defendant  
3 Fandango Media, LLC, (referred to herein as “Fandango” or “Defendant”), allege the  
4 following:

5 **NATURE OF THE ACTION**

6 1. This is an action for patent infringement arising under the Patent Laws of  
7 the United States, 35 U.S.C. § 1 *et seq.*

8 **THE PARTIES**

9 2. Plaintiff Helios is a limited liability company organized under the laws of  
10 the State of Delaware with a place of business at 9880 Irvine Center Drive, Suite 100,  
11 Irvine, California 92618.

12 3. Plaintiff IdeaHub is a corporation organized under the laws of the  
13 Republic of Korea with a place of business at 2F, 8 Yangjaecheonro-21-gil, Seocho-  
14 gu, Seoul 0674,8 Republic of Korea.

15 4. Upon information and belief, Fandango is a limited liability company  
16 organized under the laws of the Commonwealth of Virginia with a place of business at  
17 407 N. Maple Drive, Third Floor, Beverly Hills, California 90210. Upon information  
18 and belief, Fandango sells, offers to sell, and/or uses products and services throughout  
19 the United States, including in this judicial district, and introduces infringing products  
20 and services into the stream of commerce knowing that they would be sold and/or  
21 used in this judicial district and elsewhere in the United States.

22 **JURISDICTION AND VENUE**

23 5. This is an action for patent infringement arising under the Patent Laws of  
24 the United States, Title 35 of the United States Code.

25 6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and  
26 1338(a).

27 7. Venue is proper in this judicial district under 28 U.S.C. § 1400(b).  
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1 8. This Court has personal jurisdiction over Fandango under the laws of the  
2 State of California, due at least to their substantial business in California and in this  
3 judicial district, directly or through intermediaries, including: (i) at least a portion of  
4 the infringements alleged herein; and (ii) regularly doing or soliciting business,  
5 engaging in other persistent courses of conduct and/or deriving substantial revenue  
6 from goods and services provided to individuals in the State of California. Venue is  
7 also proper in this district because Fandango has a regular and established place of  
8 business in this district. For instance, on information and belief, Fandango maintains  
9 its principal office at 407 N. Maple Drive, Third Floor, Beverly Hills, California  
10 90210.

11 **BACKGROUND**

12 9. This action involves four patents, described in detail in the counts below  
13 (collectively, the “Asserted Patents”).

14 10. U.S. Patent No. 10,356,145 (“the ’145 patent”) claims technologies for  
15 providing adaptive HTTP streaming services using metadata of media content that  
16 were developed in the early 2010s by joint inventors Truong Cong Thang, Jin Young  
17 Lee, Seong Jun Bae, Jung Won Kang, Soon Heung Jung, Sang Taick Park, and Won  
18 Ryu.

19 11. U.S. Patent No. 9,325,558 B2 (“the ’558 patent”) (collectively, with the  
20 ’145 patent, the “Asserted Patents”) claims technologies for providing an adaptive  
21 HTTP streaming service using metadata of the media content provided that were  
22 developed in the early 2010s by inventors Truong Cong Thang, Jin Young Lee, Seong  
23 Jun Bae, Jung Won Kang, Soon Heung Jung, Sang Taick Park, Won Ryu, and Jae  
24 Gon Kim.

25 12. The claimed inventions of the Asserted Patents were mostly invented by  
26 researchers of the Electronics and Telecommunications Research Institute (“ETRI”),  
27 the national leader in Korea in the research and development of information  
28 technologies. Since its inception in 1976, ETRI has developed new technologies in

1 4M DRAM computer memory, CDMA and 4G LTE cellular phone communications,  
2 LCD displays, Video Coding, and Media Transport & Delivery, the latter technology  
3 of which is at issue in this case. ETRI employs over 1,800 research/technical staff, of  
4 whom 94% hold a post-graduate degree and 50% have earned a doctoral degree in  
5 their technological field. Over the last five years, ETRI produced 1,524 SCI papers  
6 and has 467 standard experts, applied for a total of 16,062 patents, has contributed  
7 7,309 proposals that have been adopted by international and domestic standard  
8 organizations (ISO, IEC, ITU, 3GPP, JTC, IEEE etc.). Dr. Truong Cong Thang and  
9 Dr. Jae Gon Kim among the inventors were employees of ETRI and currently  
10 Professors at the University of Aizu, Japan, and Korea Aerospace University,  
11 respectively.

12 13. The Asserted Patents claim technologies fundamental to Dynamic  
13 Adaptive Streaming over HTTP (“DASH”), a media-streaming model for delivering  
14 media content.

15 14. DASH technology has been standardized in the ISO/IEC 23009  
16 standards, which were developed and published by the International Organization for  
17 Standardization (“ISO”) and the International Electrotechnical Commission (“IEC”).

18 15. The claimed inventions of the Asserted Patents have been incorporated  
19 into the standard for dynamic adaptive streaming delivery of MPEG media over  
20 HTTP, ISO/IEC 23009-1:2014, and subsequent versions of this standard (collectively,  
21 these standards are referred to throughout as “MPEG-DASH”).

22 16. MPEG-DASH technologies, including those of the claimed inventions of  
23 the Asserted Patents, facilitate high-quality streaming of media content by breaking  
24 media content—a movie, for example—into smaller parts that are each made available  
25 at a variety of bitrates. As a user plays back downloaded parts of the media content,  
26 the user’s device employs an algorithm to select subsequent media parts with the  
27 highest possible bitrate that can be downloaded in time for playback without causing  
28 delays in the user’s viewing and listening experience.

1           17. The MPEG-DASH standard, including the claimed inventions of the  
2 Asserted Patents, therefore enables high-quality streaming of media content over the  
3 internet delivered from conventional HTTP web servers, which was not previously  
4 possible on a large scale with prior art techniques and devices.

5           18. Between approximately June and August of 2018, Plaintiff IdeaHub  
6 acquired the applications that matured into the Asserted Patents.

7           19. In or about August of 2018, Plaintiff Helios obtained an exclusive license  
8 to the applications that matured into the Asserted Patents.

9           **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 10,356,145**

10           20. The allegations set forth in the foregoing paragraphs 1 through 19 are  
11 incorporated into this First Claim for Relief.

12           21. On July 16, 2019, the '145 Patent was duly and legally issued by the  
13 United States Patent and Trademark Office under the title “Method and Device for  
14 Providing Streaming Content.” A true and correct copy of the '145 patent is attached  
15 as Exhibit 1.

16           22. IdeaHub is the assignee and owner of all right, title, and interest in and to  
17 the '145 patent.

18           23. Helios holds the exclusive right to assert all causes of action arising  
19 under the '145 patent and the right to collect any remedies for infringement of it.

20           24. Upon information and belief, Fandango has and continues to directly  
21 infringe at least claims 1, 2, 11, 12, 13, 14, 15, and 16 and to induce the direct  
22 infringement of at least claims 3, 4, 5, 6, 7, 8, 9, 10, 17, and 18 the '145 patent by  
23 selling, offering to sell, making, using, and/or providing and causing to be used  
24 streaming media content (the “Accused Instrumentalities”), including one or more  
25 videos on demand (“VOD”) such as those available at  
26 <https://www.fandangonow.com/>.

27           25. Upon information and belief, the Accused Instrumentalities perform  
28 methods of providing media content performed by a server or multiple servers,

1 comprising: receiving a request for the media content from a client based on a media  
2 presentation description (MPD) with respect to the media content; and providing a  
3 segment of media content through streaming to the client in response to the request,  
4 wherein the MPD includes one or more periods, wherein the period includes one or  
5 more groups, wherein the group includes one or more representations, wherein the  
6 representation includes one or more segments, wherein the group includes one or  
7 more group elements for each of the groups, and wherein a group element provides a  
8 summary of values of all representations with a group.

9 26. Upon information and belief, the Accused Instrumentalities directly  
10 infringe claim 1 of the '145 patent.

11 27. Upon information and belief, at least one server of the Accused  
12 Instrumentalities receives a request for media content from a client based on a media  
13 presentation description (MPD) with respect to the media content and provides a  
14 segment of media content through streaming to the client in response to the request.  
15 For example, when "The Karate Kid" is selected from the videos available at  
16 <https://www.fandangonow.com/>, at least one server operating on behalf of Fandango  
17 receives a request from the client for a segment of "The Karate Kid" and, in response  
18 to the request, provides a segment of media content through streaming to the client.

19 28. Upon information and belief, the MPD transmitted from at least one  
20 server of the Accused Instrumentalities to a client includes one or more periods, and  
21 each period includes one or more groups. For example, the "dash.mpd" MPD for  
22 "The Karate Kid" includes at least one period that includes two groups: an audio  
23 adaptation set and a video adaptation set.

24 29. Upon information and belief, each group of the Accused Instrumentalities  
25 includes one or more representations. For example, the video adaptation set for "The  
26 Karate Kid" described immediately above includes five video representations.

27 30. Upon information and belief, each of the representations of the Accused  
28 Instrumentalities includes one or more segments. For example, among the five video

1 representations described immediately above for “The Karate Kid,” the video  
2 representation at the 2001K bandwidth includes multiple segments.

3 31. Upon information and belief, each group of the Accused Instrumentalities  
4 includes one or more group elements for each of the groups. For example, the video  
5 adaptation set for “The Karate Kid,” includes one or more group elements, such as  
6 contentType, par, minBandwidth, and maxBandwidth, among others.

7 32. Upon information and belief, a group element of the Accused  
8 Instrumentalities provides a summary of values of all representations within a group.  
9 For example, the element “minBandWidth=‘251000’” within the video adaptation set  
10 for “The Karate Kid” provides a summary of values of all representations within that  
11 video adaptation set; specifically, this minBandWidth element specifies that none of  
12 the bandwidths for the video representations in the video adaptation set fall below  
13 251,000 bps.

14 33. Upon information and belief, the Accused Instrumentalities directly  
15 infringe claim 2 of the ’145 patent.

16 34. Upon information and belief, the Accused Instrumentalities directly  
17 infringe claim 1 of the ’145 patent for the reasons set forth above in paragraphs 27-32.

18 35. Upon information and belief, the Accused Instrumentalities perform the  
19 method of claim 1, wherein the group element includes at least one of (i) an ID of the  
20 group, (ii) a minBandWidth indicating a minimum value among bandwidth attributes  
21 of all representations in the group, (iii) a maxBandwidth indicating a maximum value  
22 among bandwidth attributes of all representations in the group, (iv) a minWidth  
23 indicating a minimum value among width attributes of all representations in the group,  
24 (v) a maxWidth indicating a maximum value among width attributes of all  
25 representations in the group, (vi) a minHeight indicating a minimum value among  
26 height attributes of all representations in the group, (vii) a maxHeight indicating a  
27 maximum value among height attributes of all representations in the group, (viii) a  
28 minFrameRate indicating a minimum value among frame rate attributes of all



1 representations in the group, (ix) a maxFrameRate indicating a maximum value  
2 among frame rate attributes of all representations in the group, (x) a language attribute  
3 indicating the language of all representations in the group, (xi) a mimeType attribute  
4 indicating the mime type for all representation in the group, and (xii) a codec  
5 indicating a codec that is used for all representations in the group. For example, the  
6 video adaptation set of the “dash.mpd” MPD for “The Karate Kid” includes the  
7 following group elements: “id=‘2’,” “minBandwidth=‘251000’,”  
8 “maxBandwidth=‘2001000’,” “maxWidth=‘854’,” “maxHeight=‘480’,”  
9 “mimeType=‘video/mp4’,” and “codecs=‘avc1.42C01E’.”

10 36. Upon information and belief, the Accused Instrumentalities directly  
11 infringe claim 11 of the ’145 patent.

12 37. Upon information and belief, at least one server of the Accused  
13 Instrumentalities receives, from a client, a transmission request message from the  
14 client and transmits, to the client, a specific media presentation description (MPD)  
15 suitable for the client, the specific MPD comprising descriptions of representations of  
16 the content suitable for the client. For example, when “The Karate Kid” is selected  
17 from the videos available at <https://www.fandango.com/> by a client on a personal  
18 computer, at least one server operating on behalf of Fandango receives a request  
19 message from the client for an MPD, and at least one server operating on behalf of  
20 Fandango transmits a specific MPD for “The Karate Kid” of the form “dash.mpd”  
21 suitable for the client, the “dash.mpd” MPD comprising descriptions of  
22 representations of the content suitable for the client, including five video  
23 representations for bandwidths of 251K, 851K, 1201K, 1601K, and 2001K.

24 38. Upon information and belief, at least one server of the Accused  
25 Instrumentalities receives, from the client, a request for content corresponding to a  
26 representation in the specific MPD based on the descriptions of the representations.  
27 For example, after “The Karate Kid” is selected from the videos available at  
28



1 <https://www.fandangonow.com/> by a client on a personal computer, at least one server  
2 operating on behalf of Fandango receives, from the client, a request for content  
3 corresponding to at least one of the five video representations in the specific  
4 “dash.mpd” MPD for “The Karate Kid” for bandwidths of 251K, 851K, 1201K,  
5 1601K, and 2001K.

6 39. Upon information and belief, at least one server of the Accused  
7 Instrumentalities transmits the content corresponding to the selected representation in  
8 the specific MPD to the client. For example, at least one server operating on behalf of  
9 Fandango transmits to the client the content corresponding to the at least one of the  
10 five video representations of the “dash.mpd” MPD for “The Karate Kid” that was  
11 selected.

12 40. Upon information and belief, the specific MPD transmitted from at least  
13 one server of the Accused Instrumentalities to the client includes one or more periods,  
14 and each period includes one or more groups. For example, the “dash.mpd” MPD for  
15 “The Karate Kid” includes at least one period that includes two groups: an audio  
16 adaptation set and a video adaptation set.

17 41. Upon information and belief, each group of the Accused Instrumentalities  
18 includes one or more representations. For example, the video adaptation set for “The  
19 Karate Kid” described immediately above includes five video representations.

20 42. Upon information and belief, each of the representations of the Accused  
21 Instrumentalities includes one or more segments. For example, among the five video  
22 representations described immediately above for “The Karate Kid,” the video  
23 representation at the 2001K bandwidth includes multiple segments.

24 43. Upon information and belief, each group of the specific MPD of the  
25 Accused Instrumentalities includes one or more group elements for each of the  
26 groups. For example, the video adaptation set for “The Karate Kid,” includes one or  
27 more group elements, such as `contentType`, `par`, `minBandwidth`, and `maxBandwidth`,  
28 among others.

1           44. Upon information and belief, the group element of the Accused  
2 Instrumentalities is related to a summary of values of attributes of all representations  
3 within a group. For example, the element “minBandWidth=‘251000’” within the  
4 video adaptation set for “The Karate Kid” provides a summary of values of all  
5 representations within that video adaptation set; specifically, this minBandWidth  
6 element specifies that none of the bandwidths for the video representations in the  
7 video adaptation set fall below 251,000 bps.

8           45. Upon information and belief, the Accused Instrumentalities directly  
9 infringe claim 12 of the ’145 patent.

10           46. Upon information and belief, the Accused Instrumentalities directly  
11 infringe claim 11 of the ’145 patent for the reasons set forth above in paragraphs 37-  
12 44.

13           47. Upon information and belief, the Accused Instrumentalities perform the  
14 method of claim 11, wherein the transmission request message from the client  
15 includes specific attributes of the client including at least one of (i) capability, (ii)  
16 preference, (iii) minBand, (iv) maxBand, (v) averBand, (vi) width, (vii) height, (viii)  
17 framerate, (ix) lang, (x) mime, (xi) a view identifier (ID) of a multi-view video, and  
18 (xii) a complexity and quality of audio or video.

19           48. For example, a client receives a specific MPD from the server suitable  
20 for the client/terminal. The specific “dash.mpd” MPD for “The Karate Kid” is an  
21 MPD utilized when streaming content on the FandangoNow website  
22 (<https://www.fandangonow.com/>) through a personal computer and ‘dts\_aac.mpd’ is  
23 an MPD utilized when streaming the same content on the FandangoNow app through  
24 a mobile Android phone. The two MPDs are different from each other.

25           49. To determine which specific MPD is appropriate, information with  
26 respect to the client must be provided to the server. Referring to the privacy policy on  
27 FandangoNow’s website, it states: “we may automatically collect information that can  
28 be used to recognize you across the devices you use.” Moreover, a list of information

1 of a client, which is collected by the FandangoNow Service, is provided. Such  
2 information relates to the client’s computer or device, device identifiers, information  
3 about the equipment or software, etc.

4 50. Upon information and belief, the Accused Instrumentalities directly  
5 infringe claim 13 of the ’145 patent.

6 51. Upon information and belief, the Accused Instrumentalities directly  
7 infringe claim 11 of the ’145 patent for the reasons set forth above in paragraphs 37-  
8 44.

9 52. Upon information and belief, the Accused Instrumentalities perform the  
10 method of claim 11, wherein the specific MPD is selected among multiple specific  
11 MPDs that are generated in advance. For example, the specific MPD for a personal  
12 computer—“dash.mpd”—and the specific MPD for a mobile Android phone—  
13 "dts\_aac.mpd"—are generated in advance and the client selects among these MPDs.

14 53. Upon information and belief, the Accused Instrumentalities directly  
15 infringe claim 14 of the ’145 patent.

16 54. Upon information and belief, the Accused Instrumentalities directly  
17 infringe claim 11 of the ’145 patent for the reasons set forth above in paragraphs 37-  
18 44.

19 55. Upon information and belief, the Accused Instrumentalities perform the  
20 method of claim 11, wherein the representations in the specific MPD are specific to a  
21 predetermined category of a terminal. For example, the video representations in the  
22 specific “dash.mpd” MPD for “The Karate Kid” are specific to a personal computer,  
23 which is a predetermined category of a terminal.

24 56. Upon information and belief, the Accused Instrumentalities directly  
25 infringe claim 15 of the ’145 patent.

26 57. Upon information and belief, the Accused Instrumentalities directly  
27 infringe claim 14 of the ’145 patent for the reasons set forth above in paragraphs 54-  
28 55.

1           58. Upon information and belief, the Accused Instrumentalities perform the  
2 method of claim 14, wherein the terminal is one of a high-definition television  
3 (HDTV), a personal computer, and a mobile phone. For example, the terminal  
4 described in paragraph 55 above is a personal computer.

5           59. Upon information and belief, the Accused Instrumentalities directly  
6 infringe claim 16 of the '145 patent.

7           60. Upon information and belief, the Accused Instrumentalities directly  
8 infringe claim 14 of the '145 patent for the reasons set forth above in paragraphs 54-  
9 55.

10           61. Upon information and belief, the Accused Instrumentalities perform the  
11 method of claim 14, wherein the group element is related to a summary of values of  
12 attributes of all representations within the group, wherein the attribute of the group  
13 includes at least one of (i) minBandwidth for indicating a minimum value among  
14 bandwidth attributes of all representations in the group, (ii) maxBandwidth for  
15 indicating a maximum value among bandwidth attributes of all representations in a  
16 group, (iii) minWidth for indicating a minimum value among horizontal resolution  
17 attributes of all representations in a group, (iv) maxWidth for indicating a maximum  
18 value among horizontal resolution attributes of all representations in a group, (v)  
19 minHeight for indicating a minimum value among minimum height attributes of all  
20 representations in a group, (vi) maxHeight for indicating a maximum value among  
21 maximum height attributes of all representations in a group, (vii) minFrameRate for  
22 indicating a minimum value among frame rate attributes of all representations in a  
23 group, and (viii) maxFrameRate for indicating a maximum value among frame rate  
24 attributes of all representations in a group. For example, the minBandwidth group  
25 element "minBandwidth='251000'" in the video adaptation set for "The Karate Kid"  
26 provides a summary of values of attributes of all representations within the video  
27 adaptation set; specifically, this minBandWidth element specifies that none of the  
28

1 bandwidths for the video representations in the video adaptation set fall below  
2 251,000 bps.

3 62. Since at least November 13, 2019, Fandango has had actual notice that it  
4 is directly infringing claims 1, 2, 11, 12, 13, 14, 15, and 16 the '145 patent.

5 63. Upon information and belief, the Accused Instrumentalities perform  
6 methods of providing content performed by a client or user, the method comprising:  
7 transmitting a request for the media content to a server based on a MPD of the media  
8 content; receiving a segment of media content through streaming from the server in  
9 response to the request; wherein the MPD includes one or more periods; wherein the  
10 period includes one or more groups; wherein the group includes one or more  
11 representations; wherein the representation includes one or more segments; wherein  
12 the group includes one or more group elements for each of the groups, and; wherein a  
13 group element provides a summary of values of all representations within a group.

14 64. Upon information and belief, the Accused Instrumentalities perform the  
15 method of providing content performed by a client, wherein transmitting, to a server, a  
16 transmission request message from the client; receiving, from the server, a specific  
17 MPD suitable for the client, the specific MPD comprising descriptions of  
18 representations of the content suitable for the client; selecting an appropriate  
19 representation from among the representations in the specific MPD based on the  
20 descriptions of the representations; and requesting the server transmit the content  
21 corresponding to the selected representation, wherein the specific MPD includes one  
22 or more periods, wherein the period includes one or more groups, wherein the group  
23 includes one or more representations, wherein the representation includes one or more  
24 segments, wherein the specific MPD includes one or more group elements for each of  
25 the groups, and wherein the group element is related to a summary of values of  
26 attributes of all representations with the group.  
27  
28

1           65. Upon information and belief, the Accused Instrumentalities perform the  
2 method of providing content performed by a client, comprising transmitting, to a  
3 server, a transmission request message from the client; receiving, from the server, a  
4 specific MPD, the specific MPD comprising a subset of all representations in a  
5 general MPD that are suitable for the client; selecting an appropriate representation  
6 from among the representations in the specific MPD, based on the descriptions of the  
7 representations, and; requesting the server to transmit content corresponding to the  
8 selected representation, wherein the specific MPD includes one or more periods,  
9 wherein the period includes one or more groups, wherein the group includes one or  
10 more representations, wherein the representation includes one or more segments,  
11 wherein the specific MPD includes one or more group elements for each of the  
12 groups, and wherein the group element is related to a summary of values of attributes  
13 of all representations within the group.

14           66. On or about March 29, 2021, Helios sent a notice letter (“Notice Letter”)  
15 to Defendant. The Notice Letter, including its claim chart enclosures, are attached  
16 hereto as Exhibit 2.

17           67. The Notice Letter identified claims 3, 4, 5, 6, 7, 8, 9, 10, 17, and 18 of the  
18 ’145 patent as claims that Defendant was and is inducing its users and customers to  
19 directly infringe.

20           68. The Notice Letter identified ISO/IEC 23009-1 as the MPEG-DASH  
21 standard, and specifically identified sections 4.1, 5.2.1, 5.3.1.1, 5.3.3.2, and A.2 of  
22 ISO/IEC 23009-1 as those to which claims 3 and 4 of the ’145 patent are standard  
23 essential. The Notice Letter also identified the following claims of the ’145 patent as  
24 non-standard essential: 5, 6, 7, 8, 9, 10, 17, and 18.

25           69. The Notice Letter identified Defendant’s “video streaming services  
26 through its website (<https://www.fandangonow.com/>) and apps that are available on  
27 various platforms (*e.g.*, Android devices, Apple TV, web browsers (Chrome, Firefox,  
28

1 MS Edge, etc.), Roku devices, Chromecast devices, LG Smart TV devices,  
2 PlayStation devices, Vizio TV devices, and Xbox devices).”

3 70. Helios attached claim charts to the Notice Letter detailing how  
4 Defendant’s customers and users necessarily and directly infringe claims 3 and 4 of  
5 the ’145 patent by “consuming Fandango's DASH-compliant streaming videos  
6 through Fandango's advertising-supported and subscription-based video streaming  
7 services.”

8 71. Helios also informed Defendant that, with regard to claims 3, 4, 5, 6, 7, 8,  
9 9, 10, 17, and 18 of the ’145 patent, among others: “Fandango encourages customers  
10 to stream its media content—and therefore to necessarily infringe the above claims  
11 and patents, as set forth in the attached exemplary claim charts—by knowingly and  
12 strategically placing ‘Play’ or ‘Watch Now’ buttons with Fandango’s streaming media  
13 content. By coding infringing methods into its streaming media content, and by  
14 encouraging its users to necessarily perform these infringing methods by clicking  
15 ‘Play’ or ‘Watch Now’ buttons, Fandango induces its users' direct infringement of the  
16 above patents and claims.”

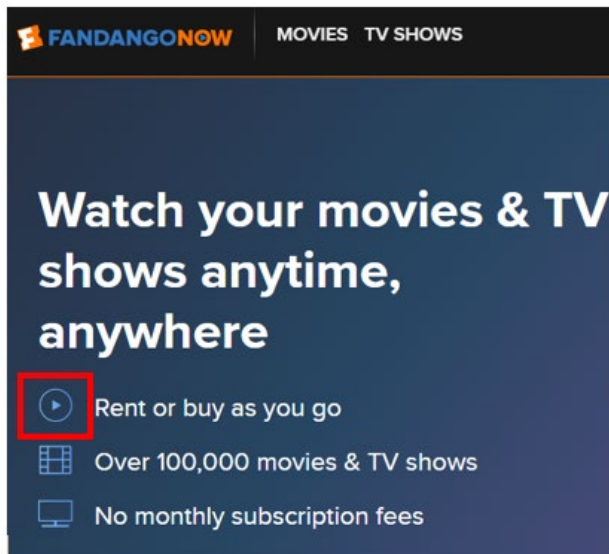
17 72. Based on at least the above facts, those set forth in Exhibit 2, and upon  
18 information and belief, Defendant has induced and continues to induce others to  
19 infringe at least claims 3 and 4 of the ’145 patent under 35 U.S.C. § 271(b) by, among  
20 other things, and with specific intent or willful blindness, actively aiding and abetting  
21 others to infringe, including but not limited to Defendant’s users and customers,  
22 whose use of the Accused Instrumentalities constitutes direct infringement of at least  
23 claims 3, 4, 5, 6, 7, 8, 9, 10, 17, and 18 of the ’145 patent. Defendant has induced and  
24 continues to induce others to infringe at least claims 3, 4, 5, 6, 7, 8, 9, 10, 17, and 18  
25 of the ’145 patent since at least receiving the Notice Letter on or about March 29,  
26 2021.



1           73. In particular, Defendant’s actions that aid and abet others such as their  
2 customers and users to infringe include knowingly providing the Accused  
3 Instrumentalities with materials and/or services that encourage infringing use of the  
4 Accused Instrumentalities, including icons, instructions, or statements that actively  
5 encourage their customers’ or users’ infringing use of the Accused Instrumentalities.

6           74. For example, and as set forth in Exhibit 2, Defendant has and continues  
7 to knowingly and strategically place one-click “Play” or “Watch Now” buttons with  
8 its DASH-enabled VOD content to encourage customers to stream media content,  
9 knowing that such streaming constitutes infringement of the ’145 patent by customers.  
10 The methods of claims 3, 4, 5, 6, 7, 8, 9, 10, 17, and 18 of the ’145 patent are  
11 necessarily performed by the customer’s terminal upon clicking the “Play” or “Watch  
12 Now” buttons, and this constitutes direct infringement as set forth in the claim charts  
13 in Exhibit 2.

14           75. As a further example, Defendant has and continues to actively and  
15 knowingly encourage infringement of the ’145 patent by, in addition to continuing to  
16 provide the “Play” or “Watch Now” buttons mentioned above, instructing users of  
17 Android devices, Apple TV, web browsers (Chrome, Firefox, MS Edge, etc.), Roku  
18 devices, Chromecast devices, LG Smart TV devices, PlayStation devices, Vizio TV  
19 devices, and Xbox devices, and others, to stream Defendant’s DASH-enabled VOD  
20 (Exs. 2-3), which necessarily causes infringing use of the Accused Instrumentalities as  
21 set forth in Exhibit 2.  
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(See <https://www.fandangonow.com/howitworks> (last accessed April 8, 2021).)

76. On information and belief, Defendant has engaged and continues to engage 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 '145 patent and that Defendant's acts are inducing infringement of the '145 patent since at least the time of receiving the Notice Letter on or about March 29, 2021.

77. Alternatively, to the extent Defendant claims it did not have actual knowledge that its acts were inducing infringement of the '145 patent, Defendant was willfully blind to the fact that its acts were inducing the infringement of the '145 patent.

78. Defendant subjectively believed that there was a high probability that the DASH-enabled streaming VOD offered through Defendant's website and apps were infringing or inducing the infringement of the '145 patent. Helios identified the '145 patent as a "Helios Exemplary DASH Standard Essential Patent" within its "DASH portfolio" and clearly identified MPEG-DASH as the relevant industry standard (and applicable sections of the MPEG-DASH standard) to which claims 3 and 4 of the '145 patent pertained. Helios also identified claims 5, 6, 7, 8, 9, 10, 17, and 18 of the '145

1 patent as “Helios Exemplary Non-Standard Patents Related to DASH.” Helios  
2 explicitly informed Defendant that claims 3 and 4 of the ’145 patent were essential to  
3 MPEG-DASH, identified which sections of the MPEG-DASH standard the ’145  
4 patent necessarily covered, and provided evidence that Defendant was utilizing these  
5 sections of the MPEG-DASH standard in providing streaming VOD via its website  
6 and apps. And Defendants knew that if the ’145 patent is standard-essential to  
7 specific sections of MPEG-DASH, and the Accused Instrumentalities utilize those  
8 sections of MPEG-DASH, then the ’145 patent is necessarily being infringed by the  
9 Accused Instrumentalities, which include streaming VOD utilizing MPEG-DASH.

10 79. Moreover, Helios provided Defendant with claim charts explicitly  
11 detailing how the Accused Instrumentalities are used by Defendant’s customers and  
12 users to directly infringe claims 3, 4, 5, 6, 7, 8, 9, 10, 17, and 18 of the ’145 patent.  
13 (*See Exhibit 2.*)

14 80. Despite the facts set forth in paragraph 66-79 above, Defendant actively  
15 and deliberately avoided learning the details of their induced infringement of the ’145  
16 patent. As of the date of this First Amended Complaint, Defendant has not responded  
17 to the Notice Letter, yet Defendant continues to offer the Accused Instrumentalities to  
18 its customers and users and continues to knowingly and actively encourage its  
19 customers and users to infringe the ’145 patent by utilizing the Accused  
20 Instrumentalities.

21 81. On information and belief, the Accused Instrumentalities are used,  
22 marketed, provided to, and/or used by or for each of Defendant’s partners, clients,  
23 customers, and end users across the country and in this District.

24 82. Plaintiffs have been harmed by Fandango’s infringing activities.

25 **COUNT II- INFRINGEMENT OF U.S. PATENT NO. 9,325,558 B2**

26 83. The allegations set forth in the foregoing paragraphs 1 through 82 are  
27 incorporated into this Second Claim for Relief.  
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1           84. On April 26, 2016, the '558 patent was duly and legally issued by the  
2 United States Patent and Trademark Office under the title "Apparatus and Method for  
3 Providing Streaming Contents." A true and correct copy of the '558 patent is attached  
4 as Exhibit 3.

5           85. IdeaHub is the assignee and owner of all right, title, and interest in and to  
6 the '558 patent.

7           86. Helios holds the exclusive right to assert all causes of action arising  
8 under the '558 patent and the right to collect any remedies for infringement of it.

9           87. Upon information and belief, Defendant has and continues to induce the  
10 direct infringement of at least claims 1, 2, 3, 4, and 5 of the '558 patent by selling,  
11 offering to sell, making, using, and/or providing and causing to be used the Accused  
12 Instrumentalities, including one or more videos on demand ("VOD") such as those  
13 available at <https://www.fandangonow.com/>.

14           88. Upon information and belief, a client of the Accused Instrumentalities  
15 provides media content including one or more periods by a method comprising  
16 receiving metadata of the media content from a server, the metadata comprising a  
17 minBufferTime attribute indicating a minimum amount of initially buffered media  
18 content that is required to ensure playout of the media content, the minBufferTime  
19 attribute being defined in segment unit; the metadata is a media presentation  
20 description (MPD) that provides descriptive information that enables a client to select  
21 one or more representations; the client receives the media content from the server,  
22 buffers the received media content by at least the minimum amount, and plays back  
23 the media content; the minBufferTime attribute relates to the one or more periods,  
24 and; the minBufferTime attribute relates to providing a minimum amount of initially  
25 buffered media at a beginning of a media presentation, at a beginning of the one or  
26 more periods of the media presentation, or at any random access point of the media  
27 presentation.  
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1           89. Upon information and belief, the Accused Instrumentalities perform the  
2 method of claim 1, wherein the metadata is the Media Presentation Description of the  
3 media content.

4           90. Upon information and belief, the Accused Instrumentalities perform the  
5 method of claim 1, wherein the minBufferTime attribute indicates the minimum  
6 amount of the initially buffered media content that is required to ensure playout of the  
7 media content when the media content is continuously delivered at or above a value of  
8 a bandwidth attribute of the metadata.

9           91. Upon information and belief, the Accused Instrumentalities perform the  
10 method of claim 1, wherein each of the periods comprises one or more representations  
11 of the media content, each of the representations being a structured collection of one  
12 or more media components within a period, and wherein the bandwidth attribute is an  
13 attribute of each of the representations, and describes a minimum bandwidth of a  
14 hypothetical constant bitrate channel over which each of the representations are able  
15 to be continuously delivered after the client buffers each of the representations for at  
16 least minBufferTime.

17           92. Upon information and belief, the Accused Instrumentalities perform the  
18 method of claim 4, wherein each of the representations comprises one or more  
19 segments.

20           93. On information and belief, the Accused Instrumentalities have been used  
21 to infringe and continue to directly infringe at least claims 1, 2, 3, 4, and 5 of the '558  
22 patent during the pendency of the '558 patent.

23           94. On or about March 29, 2021, Helios sent a notice letter ("Notice Letter")  
24 to Defendant, including claim charts demonstrating Defendant's infringement of the  
25 '558 patent.

26           95. The Notice Letter identified claims 1, 2, 3, 4, and 5 of the '558 patent as  
27 claims that Defendant was and is inducing its users and customers to directly infringe.  
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1           96. The Notice Letter identified ISO/IEC 23009-1 as the MPEG-DASH  
2 standard, and specifically identified sections 4.1-4.3, 5.2.1, 5.3.1.2, 5.3.2.1-5.3.5.2,  
3 5.3.9.1, A.2, A.4, and E.2 of ISO/IEC 23009-1 as those to which claims 1, 2, 3, 4, and  
4 5 of the '558 patent are standard essential.

5           97. The Notice Letter identified Defendant's "video streaming services through  
6 its website (<https://www.fandangonow.com/>) and apps that are available on various  
7 platforms (*e.g.*, Android devices, Apple TV, web browsers (Chrome, Firefox, MS  
8 Edge, etc.), Roku devices, Chromecast devices, LG Smart TV devices, PlayStation  
9 devices, Vizio TV devices, and Xbox devices)."

10           98. Helios attached claim charts to the Notice Letter detailing how  
11 Defendant's customers and users necessarily and directly infringe claims 1, 2, 3, 4,  
12 and 5 of the '558 patent by "consuming Fandango's DASH-compliant streaming  
13 videos through Fandango's advertising-supported and subscription-based video  
14 streaming services."

15           99. Helios informed Defendant that, with regard to claims 1, 2, 3, 4, and 5 of  
16 the '558 patent, among others: "Fandango encourages customers to stream its media  
17 content—and therefore to necessarily infringe the above claims and patents, as set  
18 forth in the attached exemplary claim charts—by knowingly and strategically placing  
19 'Play' or 'Watch Now' buttons with Fandango's streaming media content. By coding  
20 infringing methods into its streaming media content, and by encouraging its users to  
21 necessarily perform these infringing methods by clicking 'Play' or 'Watch Now'  
22 buttons, Fandango induces its users' direct infringement of the above patents and  
23 claims."

24           100. Based on at least the above facts, those set forth in Exhibit 2, and upon  
25 information and belief, Defendant has induced and continues to induce others to  
26 infringe at least claims 1, 2, 3, 4, and 5 of the '558 patent under 35 U.S.C. § 271(b)  
27 by, among other things, and with specific intent or willful blindness, actively aiding  
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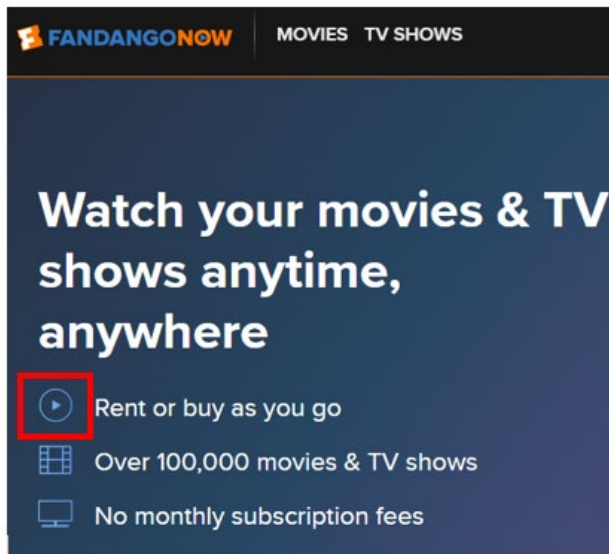
1 and abetting others to infringe, including but not limited to Defendant’s users and  
2 customers, whose use of the Accused Instrumentalities constitutes direct infringement  
3 of at least claims 1, 2, 3, 4, and 5 of the ’558 patent. Defendant has induced and  
4 continues to induce others to infringe at least claims 1, 2, 3, 4, and 5 of the ’558 patent  
5 since at least receiving the Notice Letter on or about March 29, 2021.

6 101. In particular, Defendant’s actions that aid and abet others such as its  
7 customers and users to infringe include knowingly providing the Accused  
8 Instrumentalities with materials and/or services that encourage infringing use of the  
9 Accused Instrumentalities, including icons, instructions, or statements that actively  
10 encourage its customers’ or users’ infringing use of the Accused Instrumentalities.

11 102. For example, and as set forth in Exhibit 2, Defendant has and continues  
12 to knowingly and strategically place one-click “Play” or “Watch Now” buttons with  
13 its DASH-enabled VOD content to encourage customers to stream media content,  
14 knowing that such streaming constitutes infringement of the ’558 patent by customers.  
15 The methods of claims 1, 2, 3, 4, and 5 of the ’558 patent are necessarily performed  
16 by the customer’s terminal upon clicking the “Play” or “Watch Now” buttons, and this  
17 constitutes direct infringement as set forth in the claim charts in Exhibit 2.

18 103. As a further example, Defendant has and continues to actively and  
19 knowingly encourage infringement of the ’558 patent by, in addition to continuing to  
20 provide the “Play” or “Watch Now” buttons mentioned above, instructing users of  
21 Android devices, Apple TV, web browsers (Chrome, Firefox, MS Edge, etc.), Roku  
22 devices, Chromecast devices, LG Smart TV devices, PlayStation devices, Vizio TV  
23 devices, and Xbox devices, and others, to stream Defendant’s DASH-enabled VOD  
24 (Exs. 2-3), which necessarily causes infringing use of the Accused Instrumentalities as  
25 set forth in Exhibit 2.  
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(See <https://www.fandangonow.com/howitworks> (last accessed April 8, 2021).)

104. On information and belief, Defendant has engaged and continues to engage 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 '558 patent and that Defendant's acts are inducing infringement of the '558 patent since at least the time of receiving the Notice Letter on or about March 29, 2021.

105. Alternatively, to the extent Defendant claims it did not have actual knowledge that its acts were inducing infringement of the '558 patent, Defendant was willfully blind to the fact that its acts were inducing the infringement of the '558 patent.

106. Defendant subjectively believed that there was a high probability that the DASH-enabled streaming VOD offered through Defendant's website and apps were infringing or inducing the infringement of the '558 patent. Helios identified the '558 patent as a "Helios Exemplary DASH Standard Essential Patent" within its "DASH portfolio" and clearly identified MPEG-DASH as the standard (and applicable sections of the MPEG-DASH standard) to which the '558 patent pertained. Helios explicitly informed Defendant that the '558 patent is essential to MPEG-DASH,

1 identified which sections of the MPEG-DASH standard the '558 patent necessarily  
2 covered, and provided proof that it knew Defendants were utilizing these sections of  
3 the MPEG-DASH standard in providing streaming VOD via its website and apps.  
4 And Defendants knew that if the '558 patent is standard-essential to specific sections  
5 of MPEG-DASH, and the Accused Instrumentalities utilize those sections of MPEG-  
6 DASH, then that the '558 patent is necessarily being infringed by the Accused  
7 Instrumentalities, which include streaming VOD utilizing those sections of MPEG-  
8 DASH.

9 107. Moreover, Helios provided Defendant with claim charts explicitly  
10 detailing how the Accused Instrumentalities are used by Defendant's customers and  
11 users to directly infringe claims 1, 2, 3, 4, and 5 of the '558 patent. (*See Exhibit 2.*)

12 108. Despite the facts set forth in paragraphs 94-107 above, Defendant  
13 actively and deliberately avoided learning the details of its induced infringement of  
14 the '558 patent. As of the date of this First Amended Complaint, Defendant has not  
15 responded to the Notice Letter.

16 109. On information and belief, the Accused Instrumentalities are used,  
17 marketed, provided to, and/or used by or for each of Defendant's partners, clients,  
18 customers, and end users across the country and in this District.

19 110. Plaintiffs have been harmed by Defendant's infringing activities.

20 **STATEMENT REGARDING FRAND OBLIGATION**

21 111. Plaintiffs contend that, pursuant to relevant ISO and IEC guidelines,  
22 bylaws, and policies, many of the claims of the Asserted Patents are subject to Fair,  
23 Reasonable, and Non-Discriminatory ("FRAND") licensing obligations to willing  
24 licensees.

25 112. To the extent Fandango continues to engage in hold-out behavior and  
26 refuses to willingly take a license under such claims of the Asserted Patents under  
27 FRAND terms, Plaintiffs reserve the right to treat Fandango as an unwilling licensee,  
28

1 such that Plaintiffs would not be bound by any FRAND licensing obligation for  
2 purposes of this action or any license to Fandango. Accordingly, Plaintiffs seek the  
3 maximum available reasonable royalty damages to compensate for Fandango's  
4 infringing activities.

5 **JURY DEMAND**

6 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand  
7 a trial by jury on all issues triable as such.

8 **PRAYER FOR RELIEF**

9 A. WHEREFORE, Plaintiffs demand judgment for itself and against  
10 Fandango as follows:

11 B. An adjudication that Fandango has infringed each of the Asserted  
12 Patents;

13 C. An award of damages to be paid by Fandango adequate to compensate  
14 Plaintiffs for Fandango's past infringement of each of the Asserted Patents, and any  
15 continuing or future infringement through the date such judgment is entered, including  
16 interest, costs, expenses and an accounting of all infringing acts including, but not  
17 limited to, those acts not presented at trial;

18 D. A declaration that this case is exceptional under 35 U.S.C. § 285, and an  
19 award of Plaintiffs' reasonable attorneys' fees; and

20 E. An award to Plaintiffs of such further relief at law or in equity as the  
21 Court deems just and proper.

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Dated: April 16, 2021

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