**IN THE UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF TEXAS**
**MARSHALL DIVISION**

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| **MONUMENT PEAK VENTURES, LLC,** | § | |
| | § | |
| **Plaintiff,** | § | |
| | § | **Case No. 2:22-cv-00360** |
| **v.** | § | |
| | § | **JURY TRIAL DEMANDED** |
| **CANVA PTY LTD,** | § | |
| | § | |
| **Defendant.** | § | |

**PLAINTIFF'S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Monument Peak Ventures, LLC ("MPV" or "Plaintiff") files this Original Complaint against Canva Pty Ltd, ("CANVA" or "Defendant") for infringement of U.S. Patent No. 7,032,182 ("the '182 Patent"), U.S. Patent No. 7,092,573 ("the '573 Patent"), U.S. Patent No. 7,212,668 ("the '668 Patent"), U.S. Patent No. 7,533,129 ("the '129 Patent"), U.S. Patent No. 8,028,246 ("the '246 Patent"), U.S. Patent No. 8,640,042 ("the '042 Patent"), U.S. Patent No. 9,848,158 ("the '158 Patent"), U.S. Patent No. 10,425,612 ("the '612 Patent"), and U.S. Patent No. 10,728,490 ("the '490 Patent") (collectively, "the Asserted Patents").

**THE PARTIES**

1. Monument Peak Ventures, LLC ("MPV") is a Texas limited liability company with its principal place of business in Allen, Texas.

2. Upon information and belief, Canva Pty Ltd is an Australian company with headquarters in Surry Hills, New South Wales, Australia may be served with process via its agent, alter ego, and representative in the United States, Canva US, Inc. at its principal place of business at 200 E 6th Street, Suite 200, Austin, TX 78701.

3. Canva Pty Ltd. may also be served with process in Surry Hills, New South Wales, Australia pursuant to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

4. CANVA's business operation primarily involves providing a graphics design and publishing platform that allows its users to create professional-quality designs such as flyers, slide presentations, posters, cover photos and other graphics for social media accounts, or brochures for small businesses. Users create their designs using the "Canva Design Tool," an application program used to design and modify video content using a graphical user interface ("GUI") allowing users to create designs by, for example, providing stock templates and photos for users to create a visual design, annotate photo information for photos (i.e., "picture information in a picture") in a photo database, resize photos, and determine the overall layout of a visual design. The Canva Design Tool may be downloaded as an "Application" to be used on various platforms such as the "Canva Mobile Application" available for iOS and Android smart phones, the "Canva.com Application" for online use available at www.canva.com, and the "Canva Desktop Application" for use on a computer desktop via, e.g., a web browser. CANVA uses a drag-and-drop format and provides access to photographs, graphics, and fonts. The tools can be used for both web and print media design and graphics.

5. Prior to the filing of the Complaint, MPV repeatedly attempted to engage Defendant and/or its agents in licensing discussions related to the Asserted Patents. Defendant's past and continuing sales of its devices i) willfully infringe the Asserted Patents and ii) impermissibly take the significant benefits of MPV's patented technologies without fair compensation to MPV.

## JURISDICTION AND VENUE

6. This action arises under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others.

7. This Court has federal subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the patent laws of the United States, 35 U.S.C. §§ 271 et seq.

8. This Court has general and specific personal jurisdiction over CANVA pursuant to due process and/or the Texas Long Arm Statute because, inter alia, (i) Defendant has done and continues to do business in Texas and (ii) Defendant has, directly and through intermediaries, committed and continues to commit acts of patent infringement in the State of Texas, including making, using, offering to sell, and/or selling accused products in Texas, and/or importing accused products into Texas, including by Internet sales and sales via retail and wholesale stores, inducing others to commit regular acts of patent infringement in Texas, and/or committing a least a portion of any other infringements alleged herein. Defendant has placed, and is continuing to place, infringing products into the stream of commerce, via an established distribution channel, with the knowledge and/or understanding that such products are sold in Texas, including in this District. Defendant has derived substantial revenues from its infringing acts occurring within Texas and within this District. Defendant has substantial business in this State and judicial district, including: (A) at least part of its infringing activities alleged herein; and (B) regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from infringing goods offered for sale, sold, and imported, and services provided to Texas residents vicariously through and/or in concert with its alter egos, intermediaries, agents, distributors, importers, customers, subsidiaries, and/or consumers.

9. Personal jurisdiction is proper because Defendant has committed acts of infringement in this District. This Court has personal jurisdiction over Defendant because, *inter alia*, this action arises from activities Defendant purposefully directed towards the State of Texas and this District.

10. Exercising personal jurisdiction over Defendant in this District would not be unreasonable given Defendant's contacts in this District, the interest in this District of resolving disputes related to products sold herein, and the harm that would occur to MPV.

11. In addition, Defendant has knowingly induced and continues to knowingly induce infringement within this District by advertising, marketing, offering for sale and/or selling devices including with infringing functionality within this District, to consumers, customers, manufacturers, distributors, resellers, partners, and/or end users, and providing instructions, user manuals, advertising, and/or marketing materials which facilitate, direct or encourage the use of infringing functionality with knowledge thereof.

12. This Court has personal jurisdiction over Defendant because it has continuous and systematic business contacts with the State of Texas. Defendant, directly and through subsidiaries or intermediaries (including distributors, retailers, and licensing partners), conduct business extensively throughout Texas, by shipping distributing, making, using, offering for sale, selling, licensing, transmitting (including through its website and mobile applications) its products and services in the state of Texas and the Eastern District of Texas. Further, Defendant has purposefully placed its products into the stream of commerce with the intention and expectation that they will be purchased and used by consumers in this state and this district. Defendant has sold and offered to sell, and continues to sell and offer to sell its infringing products within this district and has committed regular acts of direct and indirect infringement in this district.

Defendant's contacts with the State of Texas and this district are so pervasive such that this Court's exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

13. In the alternative, the Court has personal jurisdiction over Defendant under Federal Rule of Civil Procedure 4(k)(2), because the claims for patent infringement in this action arise under federal law and if Defendant is not subject to the jurisdiction of the courts of general jurisdiction of any state, exercising jurisdiction over Defendant is consistent with the U.S. Constitution. *See Synthes (U.S.A.) v. G.M. Dos Reis Jr. Ind. Com de Equip. Medico*, 563 F.3d 1285, 1293 (Fed. Cir. 2009).

14. Venue is proper under 28 U.S.C. § 1391(c)(3) and *In re HTC Corp.*, 889 F.3d 1349 (Fed. Cir. 2018) because Defendant Canva Pty Ltd is a foreign corporation and is not a resident of the United States, and thus may be sued in any judicial district, including this one, pursuant to 28 U.S.C. § 1391(c)(3). *See In re HTC Corp.*, 889 F.3d 1349, 1357 (Fed. Cir. 2018) ("The Court's recent decision in *TC Heartland* does not alter" the alien-venue rule.).

15. On information and belief, Canva Pty Ltd. maintains a corporate presence in the United States through its agent, alter ego, and U.S. subsidiary Canva US Inc. Further, Canva Pty Ltd. operates in agency with others, including its U.S.-based subsidiaries, to provide a distribution channel of infringing products within this District and the U.S. nationally. Canva Pty Ltd., itself and between and amongst its agents and foreign and U.S.-based subsidiaries, purposefully direct the Accused Products into established distribution channels within this District and the U.S. nationally.

16. For example, Defendant maintains several U.S. Trademarks under its name including U.S. Trademark Reg. No. 6289744, which was registered on March 9, 2021 and lists the mark's first use in commerce as June 28, 2017. As proof of the mark's use in the United States,

Defendant included specimens from its website, canva.com. On the same websites, Defendant boasts its presence in 190 countries, including the United States. It further boasts its workforce of more than 2000 employees, including those employed in the United States. Similarly, Defendant's LinkedIn presence describes its headquarters in Australia, and encompasses its employees throughout the world, including the United States. https://www.linkedin.com/company/canva/about/. On information and belief, Defendant's global "VP of Sales and Success" was stationed in Texas. *See* https://www.canva.com/newsroom/news/author/jeitel/. Defendant describes its own direction and control of its presence in the United States as one "team" of many throughout the world. https://www.canva.com/newsroom/news/celebrating-100-US-canvanauts/. It further boasts (despite other statements to the contrary) that it does not maintain an "official headquarters" with its international "teams" operating interdependently. *Id.* Defendant further states, through its global head of Sales and Success, that its employees "work[] across the globe".[1]

## THE ASSERTED PATENTS

### U.S. Patent No. 7,032,182

17. The '182 Patent is titled "Graphical User Interface Adapted to Allow Scene Content Annotation of Groups of Pictures in a Picture Database to Promote Efficient Database Browsing." The inventions claimed in the '182 Patent generally relate to a novel method for annotating picture information of digital pictures in a picture database via a graphical user interface (GUI) that promotes efficient picture browsing and is attached as Exhibit A.

18. The '182 Patent lawfully issued on April 18, 2006, from United States Patent Application Serial No. 09/745,028 filed on December 20, 2000. The '182 Patent expired on May

[1] https://www.bizjournals.com/austin/inno/stories/news/2020/06/26/q-a-with-john-eitel-why-canva-picked-austin-for.html.

21, 2022, however Plaintiff seeks damages for past infringement for "six years prior to the filing of the complaint" as provided for under 35 U.S.C. § 286.

19. The claims of the '182 Patent are directed to a technical solution for a technical problem and patent possess specific limitations for a specific improvement. For example, the specification of the '182 Patent discloses shortcomings in the prior art and then explains the technical way the inventions claimed in the '182 Patent resolve or overcome those shortcomings. *See, e.g.*, '182 Patent, 1:15-2:17.

20. Each claim of the '182 Patent is presumed valid and is directed to patent eligible subject matter under 35 U.S.C. § 101. *See McRO, Inc. v. Bandai Namco Games Am. Inc.,* 837 F.3d 1299, 1316 (Fed. Cir. 2016) (providing abbreviated analysis under § 101 for "clear improvements" in computer-related technology). The technologies claimed in the '182 Patent disclose a specific manner of displaying a limited set of information to the user resulting in an improved user interface for electronic devices. '182 Patent, 1:64-2:17. For example, Claim 1 requires (1) generating a user-friendly display with picture indicia representing captured pictures, (2) providing a single presentation of an information entry area for receiving information once about the group of pictures (3) accepting customized metadata being input on-screen at one time by said user to the information entry area, said metadata characterizing said group of pictures and automatically associating the accepted customized metadata with each of the pictures of the group.

21. The specification confirms that the claims are directed to an improvement in the functioning of the electronic device, describing that the present invention is "a graphical user interface that allows users to easily and meaningfully augment picture database information in a manner which leads to an improvement in the picture database browsability." '182 Patent, 1:57-60. This provides the advantage of more efficiently browsing images in a picture database. Further,

the specification makes clear that the claim elements as an ordered combination were not well understood, routine, or conventional as it states that at the time of the invention, finding particular pictures of interest in a large picture database was challenging and inefficient. '182 Patent, 1:27-60. This led to a need that was satisfied by the claimed method which provides the advantage of more efficiently browsing images in a picture database and thus showing an inventive concept. *Id*.

**U.S. Patent No. 7,092,573**

22. The '573 Patent is titled "Method and System for Selectively Applying Enhancement to an Image." The inventions claimed in the '573 Patent generally relate to digital image processing and, more particularly, to a method for determining the amount of enhancement applied to an image based on subject matter in the image." The '573 Patent is attached as Exhibit B.

23. The '573 Patent lawfully issued on August 15, 2006, and stems from United States Application No. 10/016,601 filed December 10, 2001.

24. The claims of the '573 Patent are directed to a technical solution for a technical problem and patent possess specific limitations for a specific improvement. For example, the specification of the '573 Patent discloses shortcomings in the prior art and then explains the technical way the inventions claimed in the '573 Patent resolve or overcome those shortcomings. *See, e.g.*, '573 Patent, 1:13-2:38.

25. For instance, the '573 Patent specification states that, at the time of the invention, conventional methods for enhancing images (e.g., sharpening an image) "may result in undesirable removal of details in grass lawn, textured fabric, or animal hair" and that in conventional systems "the amount of sharpening, or any other type of enhancement, needs to be adjusted individually for each scene by a human operator, an expensive process" and that a further "drawback of the conventional approach is that the amount of sharpening cannot be adjusted easily on a region by

region basis within the same image, resulting in having to apply an amount of enhancement that is a trade-off between different amounts required by different subject matters or objects in the scene." '573 Patent, 1:21-42. This led to a need for an improved system for determining the types and amounts of enhancement for a particular image, whereby the local quality (e.g., sharpness and color) of the image can be improved." '573 Patent, 2:33-37.

26. Each claim of the '573 Patent is presumed valid and is directed to patent eligible subject matter under 35 U.S.C. § 101 and the technologies claimed in the '573 Patent disclose improvements based on controlling image enhancement which are clear improvements in the computer-related technology of digital image enhancement. *See McRO, Inc. v. Bandai Namco Games Am. Inc.,* 837 F.3d 1299, 1316 (Fed. Cir. 2016).

27. For example, Claim 1 of the '573 Patent is directed to a specific method for processing a digital image. The method requires (1) "applying a subject matter detector to the digital image to produce a belief map of values indicating the degree of belief that pixels in the digital image belong to target subject matter, said values defining a plurality of belief regions;" (2) "determining the sizes of each of said belief regions in said belief map;" and (3) "enhancing the digital image, said enhancing varying pixel by pixel in accordance with both the degree of belief and the size of the respective said belief region." Based on these limitations, the claims provide limiting detail that confines the claim to a concrete solution to an identified problem. These claim elements as an ordered combination were not well-understood, routine, and conventional at the time of the invention.

28. The specification of the '573 Patent also makes clear that the technologies claimed in the '573 Patent consist of features and functions that were not, alone or in combination, considered well-understood by, and routine, generic, and conventional to skilled artisans in the

industry at the time of invention stating that conventional methods for enhancing images was unpredictable, where "the quality of the resulting image often varies depending on the image content" such as "removal of details" like "texture. . ." '573 Patent, 1:21-42. This led to a need that was satisfied by the claimed method, for example, "determining the types and amounts of enhancement for a particular image, whereby the local quality (e.g., sharpness and color) of the image can be improved depending on detecting different objects or subject matters contained within the image." *Id.* at 2:33-37.

**U.S. Patent No. 7,212,668**

29. The '668 Patent is titled "Digital Image Processing System and Method for Emphasizing a Main Subject of an Image." The inventions claimed in the '668 Patent generally relate to processing of images made up of pixels, and more particularly to processing image pixels to emphasize the main subject of the image. The '668 Patent is attached as Exhibit C.

30. The '668 Patent lawfully issued on May 1, 2007, and stems from United States Application No. 09/642,533 filed August 18, 2000. The '668 Patent expired on July 13, 2022; however Plaintiff seeks damages for past infringement for "six years prior to the filing of the complaint" as provided for under 35 U.S.C. § 286.

31. The claims of the '668 Patent are directed to a technical solution for a technical problem and patent possess specific limitations for a specific improvement. For example, the specification of the '668 Patent discloses shortcomings in the prior art and then explains the technical way the inventions claimed in the '668 Patent resolve or overcome those shortcomings. *See, e.g.*, '668 Patent, 1:13-3:22.

32. For instance, the '668 Patent specification states that, at the time of the invention it was known to "manually identify the main subject of an individual image or frame of a motion

picture, and then to manipulate the color values to obtain a desired emphasizing effect." '668 Patent, 1:15-29. This manual process was used in effects such as "blurring the background or changing the background to black and white have been used" but such processes were "very labor intensive and hence costly to implement. Yet, the effect is so desirable that motion picture producers are willing to invest the expense to produce images having these effects." '668 Patent, 1:15-29. Also, the "labor intensive manual effort that is needed [in creating similar effects] greatly limits the use of such techniques." '668 Patent, 1:30-42. This led to a need for an improved system for "an automated method of processing an image having pixels to emphasize a main subject in the image." '668 Patent, 1:43-45.

33. Each claim of the '668 Patent is presumed valid and is directed to patent eligible subject matter under 35 U.S.C. § 101 and the technologies claimed in the '668 Patent disclose clear improvements in the computer-related technology of digital image enhancement. *See McRO, Inc. v. Bandai Namco Games Am. Inc.,* 837 F.3d 1299, 1316 (Fed. Cir. 2016).

34. For example, Claim 1 of the '668 Patent is directed to a specific method for modifying a digital image, emphasizing a main subject by (1) "automatically identifying the main subject of the image, and" (2) "automatically altering pixel values of said image to emphasize said main subject, said altering following said identifying;" and (3) "said altering follows any and all identifying of said main subject and wherein said identifying further comprises: segmenting said image into a plurality of regions; and generating a plurality of belief values, each said belief value being associated with one of a plurality of regions of the image, said belief values each being related to the probability that the associated region is a main subject of the image, to provide a main subject belief map." Based on these limitations, the claims provide limiting detail that confines the claim to a concrete solution to an identified problem. These claim elements as an

ordered combination were not well-understood, routine, and conventional at the time of the invention.

35. The specification of the '668 Patent also makes clear that the technologies claimed in the '668 Patent consist of features and functions that were not, alone or in combination, considered well-understood by, and routine, generic, and conventional to skilled artisans in the industry at the time of invention stating that "[c]onventional wisdom in the field of computer vision, which reflects how a human observer would perform such tasks as main subject detection and cropping, calls for a problem-solving path via object recognition and scene content determination according to the semantic meaning of recognized objects" and "rely on a manually created mask to outline where the main subject is." However, this manual procedure was "laborious" and not feasible for use in industries such as commercial photo finishing. '668 Patent, 5:30-61. This led to a need that was satisfied by the claimed method by providing an improved system using a technical solution involving, for example "automatically identifying a main subject of the image and altering pixel values to emphasize the main subject . . . accomplished by, among other techniques, altering pixel values in the main subject or altering pixel values in the background, or both." '668 Patent, 1:49-56.

**U.S. Patent No. 7,533,129**

36. The '129 Patent is titled "Method Software Program for Creating an Image Product Having Predefined Criteria." The inventions claimed in the '129 Patent generally relate to digital image products providing a novel and inventive method for creating an image product having at least one image provided thereon. The method provides for the use of a digital template for use in creating the image product and is attached as Exhibit D.

37. The '129 Patent lawfully issued on May 12, 2009 and stems from United States

Application No. 11/431,353 filed May 10, 2006. The '129 Patent is a continuation of and claims priority to U.S. Patent Application No. 10/242,861 which was filed on September 13, 2002 and issued as U.S. Patent No. 7,092,966.

38. The claims of the '129 Patent are directed to a technical solution for a technical problem and patent possess specific limitations for a specific improvement. For example, the specification of the '129 Patent discloses shortcomings in the prior art and then explains the technical way the inventions claimed in the '129 Patent resolve or overcome those shortcomings. *See, e.g.*, '129 Patent, 1:19-3:8.

39. For instance, the '129 Patent specification states that, at the time of the invention, "users must tediously look through each folder on their computer to find the images that they wish to include in their image product. If the images are stored in multiple folders, the user must spend more time navigating to the folder and previewing the desired images." '129 Patent, 1:26-52. This led to a need for a system to efficiently obtain digital images by suggesting types of images to use. *Id*.

40. Each claim of the '129 Patent is presumed valid and is directed to patent eligible subject matter under 35 U.S.C. § 101 and the technologies claimed in the '129 Patent disclose a specific manner of capturing content to create an image product with a template resulting in an improved user interface for electronic devices. The technologies claimed in the '129 Patent disclose clear improvements in the computer-related technology of digital image enhancement. *See McRO, Inc. v. Bandai Namco Games Am. Inc.,* 837 F.3d 1299, 1316 (Fed. Cir. 2016).

41. For example, Claim 10 of the '129 Patent is directed to a specific method and system for more efficiently collecting, transmitting, and organizing or manipulating digital images so that products may be provided for those images. In particular, Claim 10 requires (1) at least one

template for an image product on a digital image capture device, the template having at least one container for placement of content; containing at least one container for placement of content, (2) prompting a user to capture content for placement in the container; and (3) capturing the content and including capturing at least one digital still image. Based on these limitations, the claims provide limiting detail that confines the claim to a concrete solution to an identified problem. These claim elements as an ordered combination were not well-understood, routine, and conventional at the time of the invention.

42. The specification of the '129 Patent also makes clear that the technologies claimed in the '129 Patent consist of features and functions that were not, alone or in combination, considered well-understood by, and routine, generic, and conventional to skilled artisans in the industry at the time of invention "[U]sers must tediously look through each folder on their computer to find the images that they wish to include in their image product. If the images are stored in multiple folders, the user must spend more time navigating to the folder and previewing the desired images." '129 Patent, 1:26-52. This led to a need that was satisfied by the claimed method which provides an efficient manner for intended content to be placed into the associated container. *Id*.

**U.S. Patent No. 8,028,246**

43. The '246 Patent is titled "Concierge—Shopping Assistant." The inventions claimed in the '246 Patent generally relate to providing access to information related to a digital image record on a data processing device. The method provides for using information from digital image records associated with a user and providing GUI utilities for access to related digital content. The '246 Patent is attached as Exhibit E.

44. The '246 Patent lawfully issued on September 27, 2011 and stems from United

States Application No. 12/195,668 filed August 21, 2008.

45. The claims of the ’246 Patent are directed to a technical solution for a technical problem and patent possess specific limitations for a specific improvement. For example, the specification of the ’246 Patent discloses shortcomings in the prior art and then explains the technical way the inventions claimed in the ’246 Patent resolve or overcome those shortcomings. *See, e.g.*, ’246 Patent, 1:24-2:49.

46. For instance, the ’246 Patent specification states that, at the time of the invention, “[c]onventional methods for targeted marketing and for access to related digital content do not provide ways to offer enhanced opportunities that adapt readily to different image content and allow only a minimum of user interaction with image content.” ’246 Patent, 2:10-17. This led to a need for an improved system for providing user access to digital content that is related to a viewed image. *Id*.

47. Each claim of the ’246 Patent is presumed valid and is directed to patent eligible subject matter under 35 U.S.C. § 101 and the technologies claimed in the ’246 Patent disclose a specific manner of displaying a limited set of information to the user resulting in an improved user interface for electronic devices. The technologies claimed in the ’246 Patent disclose clear improvements in the computer-related technology of digital image enhancement. *See McRO, Inc. v. Bandai Namco Games Am. Inc.,* 837 F.3d 1299, 1316 (Fed. Cir. 2016).

48. For example, Claim 1 of the ’246 Patent is directed to a specific method for providing access to information related to a digital image record on a data processing device. The method requires (1) “instructing presentation of the digital image record on a display”; (2) “receiving an indication of user interaction with the displayed digital image record”; (3) “in response to the received indication, instructing presentation of a tab on the display, the tab

emanating from an edge of the displayed digital image record or from an edge of a displayed digital image record container including the digital image record, wherein the tab comprises an access point configured to allow a user to access a category of information related to content contained within the digital image record, wherein the tab is labeled according to the category of information for user access"; and (4) "wherein the category of information comprises shopping information associated with a particular product or service provider and indicates products or services related to the content contained within the digital image record and offered by the particular product or service provider." Based on these limitations, the claims provide limiting detail that confines the claim to a concrete solution to an identified problem. These claim elements as an ordered combination were not well-understood, routine, and conventional at the time of the invention.

49. The specification of the '246 Patent also makes clear that the technologies claimed in the '246 Patent consist of features and functions that were not, alone or in combination, considered well-understood by, and routine, generic, and conventional to skilled artisans in the industry at the time of invention stating that "[c]onventional methods for targeted marketing and for access to related digital content do not provide ways to offer enhanced opportunities that adapt readily to different image content . . ." '246 Patent, 2:6-17. This led to a need that was satisfied by the claimed method which provides "a range of opportunities for increased viewing enjoyment, enhanced social interaction, and enhanced marketing for items or services that are of particular interest." *Id*.

**U.S. Patent No. 8,640,042**

50. The '042 Patent is titled "Image Display Tabs for Accessing Related Information." The inventions claimed in the '042 Patent generally relate to providing access to information related to a digital image record on a data processing device. The method provides for using

information from digital image records associated with a user and providing GUI utilities for access to related digital content. The '042 Patent is attached as Exhibit F.

51. The '042 Patent lawfully issued on January 28, 2014 and stems from United States Application No. 13/191,518 filed July 27, 2011. The '042 Patent is a continuation of and claims priority to the '246 Patent.

52. The claims of the '042 Patent are directed to a technical solution for a technical problem and patent possess specific limitations for a specific improvement. For example, the specification of the '042 Patent discloses shortcomings in the prior art and then explains the technical way the inventions claimed in the '042 Patent resolve or overcome those shortcomings. *See, e.g.*, '042 Patent, 1:34-3:3.

53. For instance, the '042 Patent specification states that, at the time of the invention, "[c]onventional methods for targeted marketing and for access to related digital content do not provide ways to offer enhanced opportunities that adapt readily to different image content and allow only a minimum of user interaction with image content." '042 Patent, 2:20-26. This led to a need for an improved system for providing user access to digital content that is related to a viewed image. *Id*.

54. Each claim of the '042 Patent is presumed valid and is directed to patent eligible subject matter under 35 U.S.C. § 101 and the technologies claimed in the '042 Patent disclose a specific manner of displaying a limited set of information to the user resulting in an improved user interface for electronic devices. The technologies claimed in the '042 Patent disclose clear improvements in the computer-related technology of digital image enhancement. *See McRO, Inc. v. Bandai Namco Games Am. Inc.,* 837 F.3d 1299, 1316 (Fed. Cir. 2016).

55. For example, Claim 25 of the '042 Patent is directed to a specific method for

providing access to information related to a digital image record on a data processing device. The method requires (1) "presenting, by a data processing system, the digital image record on a display;" and (2) "presenting, by the data processing system, a tab on the display, wherein the tab displays or emanates from an edge of the displayed digital image record," (3) "wherein the tab comprises an access point configured to allow a user to access a category of information related to content contained within the digital image record," (4) "wherein the category of information comprises shopping information relating to the content contained within the digital image record," (5) "wherein the shopping information is associated with a particular product or service provider," and (6) "wherein the shopping information indicates products or services related to the content contained within the digital image record and offered by the particular product or service provider." Based on these limitations, the claims provide limiting detail that confines the claim to a concrete solution to an identified problem. These claim elements as an ordered combination were not well-understood, routine, and conventional at the time of the invention.

56. The specification of the '042 Patent also makes clear that the technologies claimed in the '042 Patent consist of features and functions that were not, alone or in combination, considered well-understood by, and routine, generic, and conventional to skilled artisans in the industry at the time of invention stating that "[c]onventional methods for targeted marketing and for access to related digital content do not provide ways to offer enhanced opportunities that adapt readily to different image content . . ." '042 Patent, 2:16-26. This led to a need that was satisfied by the claimed method which provides "a range of opportunities for increased viewing enjoyment, enhanced social interaction, and enhanced marketing for items or services that are of particular interest." *Id*.

**U.S. Patent No. 9,848,158**

57. The '158 Patent is titled "Digital Camera User Interface for Video Trimming." The inventions claimed in the '158 Patent generally relate to trimming digital video sequences on devices having a limited user interface which use a relatively small display screen. The '158 Patent is attached as Exhibit G.

58. The '158 Patent lawfully issued on December 19, 2017 and stems from United States Application No. 13/100,461 filed May 4, 2011.

59. The claims of the '158 Patent are directed to a technical solution for a technical problem and patent possess specific limitations for a specific improvement. For example, the specification of the '158 Patent discloses shortcomings in the prior art and then explains the technical way the inventions claimed in the '158 Patent resolve or overcome those shortcomings. *See, e.g.*, '158 Patent, 1:49-2:63.

60. For instance, the '158 Patent specification states that, at the time of the invention, that there was a need to provide a user interface using a limited size image display, and a limited number of user controls, which can nevertheless provide for advanced functions, including video trimming and text entry." '158 Patent, 1:65-2:2. This led to a need for an improved system for providing a user friendly and intuitive method for video trimming on a digital video device despite having a limited display size and user control functionality. *Id*., 2:53-63.

61. Each claim of the '158 Patent is presumed valid and is directed to patent eligible subject matter under 35 U.S.C. § 101 and the technologies claimed in the '158 Patent disclose a specific manner of providing a user interface for video trimming. *See McRO, Inc. v. Bandai Namco Games Am. Inc.,* 837 F.3d 1299, 1316 (Fed. Cir. 2016) (providing abbreviated analysis under § 101 for "clear improvements" in computer-related technology).

62. For example, Claim 23 of the '158 Patent is directed to a specific method for providing trimmed digital video sequences. The method requires (1) "receiving, from a user interface, at least one of a first input, a second input, a third input, a fourth input, or a confirmation input;" (2) "storing a digital video sequence comprising a sequence of frames;" (3) "displaying, on a display, a currently selected frame of the digital video sequence;" (4) "transitioning to a start frame selection mode in response to the user interface receiving the first input, wherein changing the position of a start frame marker causes the currently selected frame to scroll to a corresponding frame at the position of the start frame marker;" (5) "transitioning to an end frame selection mode in response to the user interface receiving the second input, wherein the start frame selection mode is separate from the end frame selection mode, wherein changing the position of an end frame marker causes the currently selected frame to scroll to a corresponding frame at the position of the end frame marker;" (6) "scrolling through the digital video sequence in a first temporal direction in response to the user interface receiving the third input;" (7) "scrolling through the digital video sequence in a second temporal direction in response to the user interface receiving the fourth input;" (8) "establishing a start frame as a currently selected frame in response to the user interface receiving a start frame selection input while the device is in the start frame selection mode, wherein the start frame selection input is separate from the first input;" (9) "establishing an end frame as the currently selected frame in response to the user interface receiving an end frame selection input while the device is in the end frame selection mode, wherein the end frame selection input is separate from the second input, and wherein the display is further configured to display an indication of whether the start frame selection mode is selected or the end frame selection mode is selected;" and (10) "storing a trimmed digital video sequence comprising frames of the digital video sequence between the start frame and the end frame." Based on these limitations, the claims

provide limiting detail that confines the claim to a concrete solution to an identified problem. These claim elements as an ordered combination were not well-understood, routine, and conventional at the time of the invention.

63. The specification of the '158 Patent also makes clear that the technologies claimed in the '158 Patent consist of features and functions that were not, alone or in combination, considered well-understood by, and routine, generic, and conventional to skilled artisans in the industry at the time of invention stating that there was "a need to provide a user interface using a limited size image display, and a limited number of user controls, which can nevertheless provide for advanced functions, including video trimming and text entry." '158 Patent, 1:65-2:2. This led to a need for an improved system for providing a user friendly and intuitive method for video trimming on a digital video device despite having a limited display size and user control functionality. *Id*., 2:53-63.

**U.S. Patent No. 10,425,612**

64. The '612 Patent is titled "Digital Camera User Interface for Video Trimming." The inventions claimed in the '612 Patent generally relate to trimming digital video sequences on devices having a limited user interface which use a relatively small display screen. The '612 Patent is attached as Exhibit H.

65. The '612 Patent lawfully issued on September 24, 2019 and stems from United States Application No. 15/827,370 filed November 30, 2017. The '612 Patent is a continuation of and claims priority to the '158 Patent.

66. The claims of the '612 Patent are directed to a technical solution for a technical problem and patent possess specific limitations for a specific improvement. For example, the specification of the '612 Patent discloses shortcomings in the prior art and then explains the

technical way the inventions claimed in the '612 Patent resolve or overcome those shortcomings. *See, e.g.*, '612 Patent, 1:22-2:53.

67. For instance, the '612 Patent specification states that, at the time of the invention, that there was a need to provide a user interface using a limited size image display, and a limited number of user controls, which can nevertheless provide for advanced functions, including video trimming and text entry." '612 Patent, 1:67-2:2. This led to a need for an improved system for providing a user friendly and intuitive method for video trimming on a digital video device despite having a limited display size and user control functionality. *Id*., 2:43-53.

68. Each claim of the '612 Patent is presumed valid and is directed to patent eligible subject matter under 35 U.S.C. § 101 and the technologies claimed in the '612 Patent disclose a specific manner of providing a user interface for video trimming. *See McRO, Inc. v. Bandai Namco Games Am. Inc.,* 837 F.3d 1299, 1316 (Fed. Cir. 2016) (providing abbreviated analysis under § 101 for "clear improvements" in computer-related technology).

69. For example, Claim 12 of the '612 Patent is directed to a specific method for providing trimmed digital video sequences. The method requires (1) "during a start frame selection mode, responsive to receipt of a user input changing a position of a start frame marker relative to a timeline via a user interface of the processor-based device, scrolling to and displaying a currently-selected frame of a digital video comprising an original sequence of frames on said display and establishing, in the memory of the processor-based device, the currently-selected frame as a start frame, said digital video being stored in the memory of the processor-based device;" and (2) "responsive to one or more subsequent user inputs via the user interface: facilitating, during an end frame selection mode, user selection of an end frame by permitting a user to scroll to a desired end frame of the sequence of frames by changing a position of an end

frame marker relative to the timeline, displaying the end frame, and establishing, in the memory, the user's selection of the end frame as a designated end frame;" (3) "during each of selection of the start frame and the designated end frame, presenting on the display an indication of whether the processor-based device is in the start frame selection mode or the end frame selection mode;" and (5) "storing, in the memory, a trimmed digital video sequence comprising the start frame and the designated end frame along with other frames of the original sequence of frames." Based on these limitations, the claims provide limiting detail that confines the claim to a concrete solution to an identified problem. These claim elements as an ordered combination were not well-understood, routine, and conventional at the time of the invention.

70. The specification of the '612 Patent also makes clear that the technologies claimed in the '612 Patent consist of features and functions that were not, alone or in combination, considered well-understood by, and routine, generic, and conventional to skilled artisans in the industry at the time of invention stating that there was "a need to provide a user interface using a limited size image display, and a limited number of user controls, which can nevertheless provide for advanced functions, including video trimming and text entry." '612 Patent, 1:65-2:2. This led to a need for an improved system for providing a user friendly and intuitive method for video trimming to enable captured videos to be shortened on an electronic device despite having a limited display size and user control functionality. '612 Patent, 2:43-63.

**U.S. Patent No. 10,728,490**

71. The '490 Patent is titled "Digital Camera User Interface for Video Trimming." The inventions claimed in the '490 Patent generally relate to trimming digital video sequences on devices having a limited user interface which use a relatively small display screen. The '490 Patent is attached as Exhibit I.

72. The ’490 Patent lawfully issued on July 28, 2020 and stems from United States Application No. 16/543,259 filed August 16, 2019. The ’490 Patent is a continuation of and claims priority to the ’612 Patent.

73. The claims of the ’490 Patent are directed to a technical solution for a technical problem and patent possess specific limitations for a specific improvement. For example, the specification of the ’490 Patent discloses shortcomings in the prior art and then explains the technical way the inventions claimed in the ’490 Patent resolve or overcome those shortcomings. *See, e.g.*, ’490 Patent, 1:43-2:53.

74. For instance, the ’490 Patent specification states that, at the time of the invention, that there was a need to provide a user interface using a limited size image display, and a limited number of user controls, which can nevertheless provide for advanced functions, including video trimming and text entry.” ’490 Patent, 2:1-4, 43-53. This led to a need for an improved system for providing a user friendly and intuitive method for video trimming on a digital video device despite having a limited display size and user control functionality. *Id*.

75. Each claim of the ’490 Patent is presumed valid and is directed to patent eligible subject matter under 35 U.S.C. § 101 and the technologies claimed in the ’490 Patent disclose a specific manner of providing a user interface for video trimming. *See McRO, Inc. v. Bandai Namco Games Am. Inc.,* 837 F.3d 1299, 1316 (Fed. Cir. 2016) (providing abbreviated analysis under § 101 for “clear improvements” in computer-related technology).

76. For example, Claim 12 of the ’490 Patent is directed to a specific method for providing trimmed digital video sequences. The method requires (1) “during a start frame selection mode and responsive to receipt of a user input changing a position of a start frame marker relative to a timeline via a user interface of the processor-based device, scrolling to and displaying

a currently-selected frame of a digital video comprising an original sequence of frames on the display of said processor-based device, and establishing, in the memory of the processor-based device, the currently-selected frame as a start frame;" (2) "during an end frame selection mode and responsive to one or more subsequent user inputs via the user interface, scrolling to and displaying a desired end frame of the sequence of frames by changing a position of an end frame marker relative to the timeline, and establishing, in the memory, the desired end frame as a designated end frame;" (3) "during each of scrolling to the start frame and the scrolling to the designated end frame, presenting on the display an indication of whether the processor-based device is in the start frame selection mode or the end frame selection mode;" and (4) "storing, in the memory, a trimmed digital video sequence comprising at least the start frame and the designated end frame." Based on these limitations, the claims provide limiting detail that confines the claim to a concrete solution to an identified problem. These claim elements as an ordered combination were not well-understood, routine, and conventional at the time of the invention.

77. The specification of the '490 Patent also makes clear that the technologies claimed in the '490 Patent consist of features and functions that were not, alone or in combination, considered well-understood by, and routine, generic, and conventional to skilled artisans in the industry at the time of invention stating that there was "a need to provide a user interface using a limited size image display, and a limited number of user controls, which can nevertheless provide for advanced functions, including video trimming and text entry." '490 Patent, 2:1-4. This led to a need for an improved system for providing a user friendly and intuitive method for video trimming to enable captured videos to be shortened on an electronic device despite having a limited display size and user control functionality. *Id*., 2:43-53.

**COUNT I**
**(Infringement of U.S. Patent No. 7,032,182)**

78. Plaintiff incorporates paragraphs 1 through 77 herein by reference.

79. This cause of action arises under the patent laws of the United States, including 35 U.S.C. §§ 271, *et seq*.

80. Plaintiff is the owner of the '182 Patent with all substantial rights to the '182 Patent including the exclusive right to enforce, sue, and recover damages for infringement.

81. The '182 Patent is valid, was duly issued in full compliance with Title 35 of the United States Code and was enforceable until its expiration on May 21, 2022.

**DIRECT INFRINGEMENT (35 U.S.C. § 271(a))**

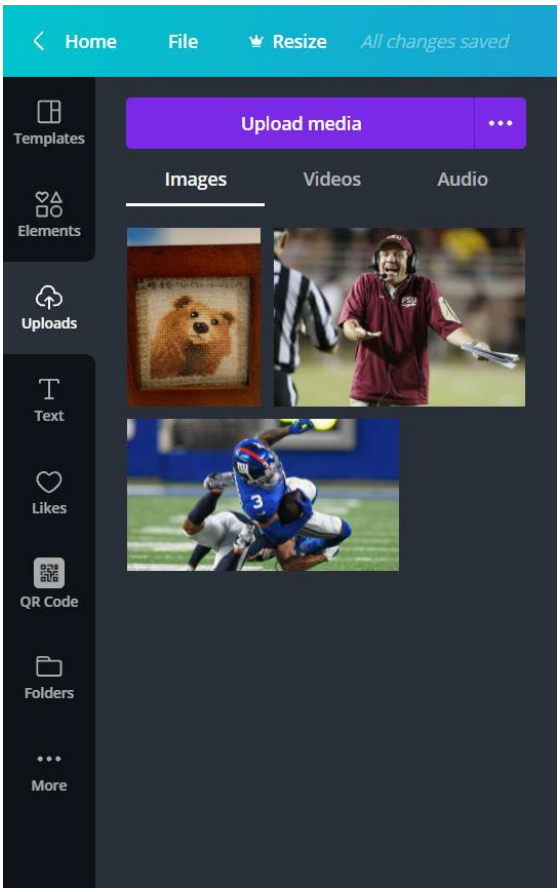
82. Defendant has infringed one or more claims of the '182 Patent in this District and elsewhere in Texas and the United States.

83. On information and belief, Defendant has, either by itself or via an agent or agents, infringed claims of the '182 Patent (including for example, and as illustrated below, Claim 1) by, among other things, making, using, testing (including its own use and testing), selling, offering for sale, importing and/or licensing in the United States without authority systems, products, and methods claimed by the '182 Patent, namely, the Canva Mobile Application, Canva.com Application, and Canva Desktop Application.

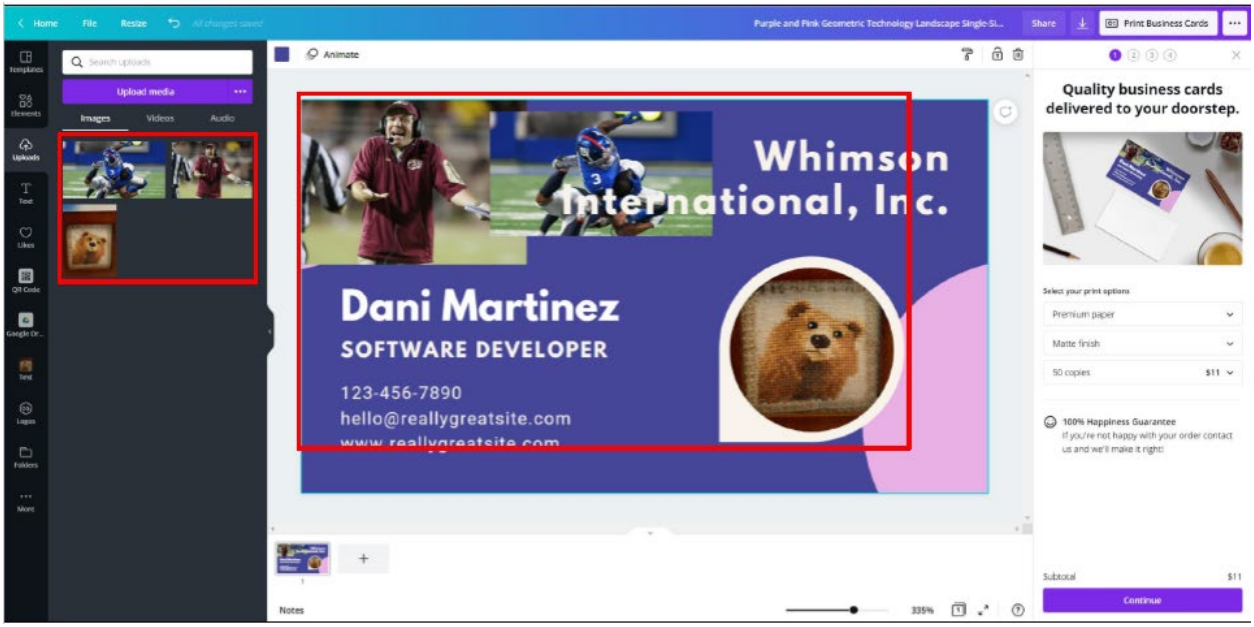
84. Defendant had knowledge of the '182 Patent and its direct infringement since at least October 7, 2021, when Defendant was notified of the '182 Patent and infringement of the '182 Patent. Specifically, Defendant received an email on October 7, 2021 from Mr. Robert Kelley that provided a link to claim charts detailing Defendant's infringement of the '182 Patent.

85. Upon information and belief, and as one illustration without limitation, Defendant infringes Claim 1 of the '182 Patent in the exemplary manners described below.

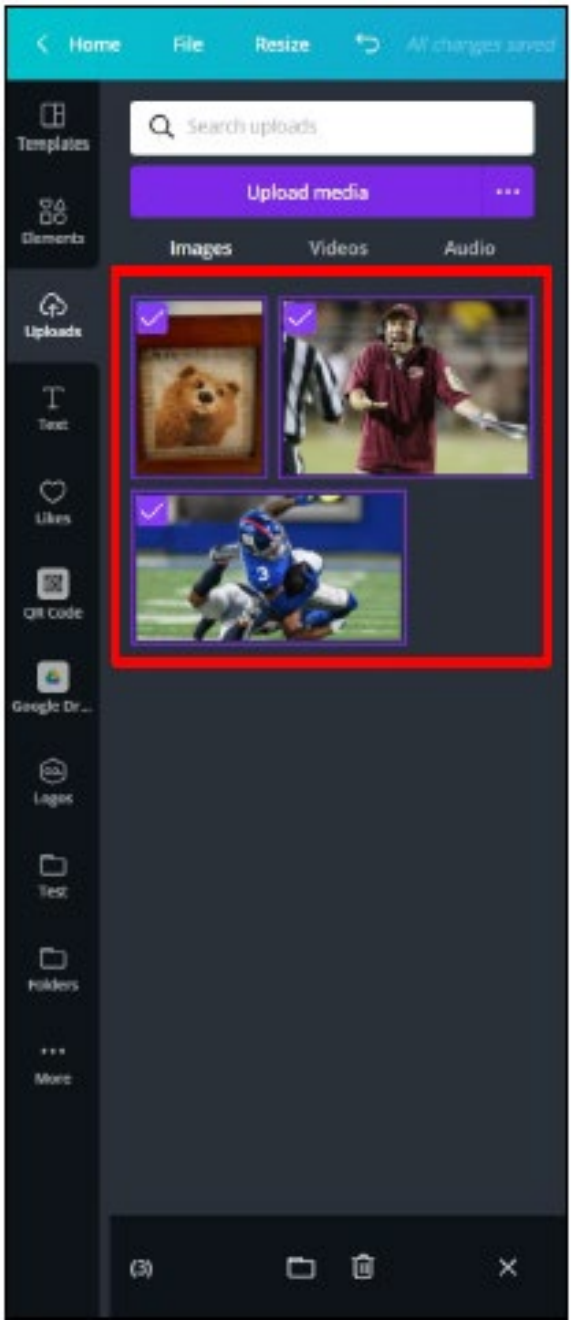
86. The Canva Design Tool performs a method of, via a viewing window (i.e., graphical user interface ("GUI")), annotating photo information for photos (i.e., "picture information in a picture") in a photo database.



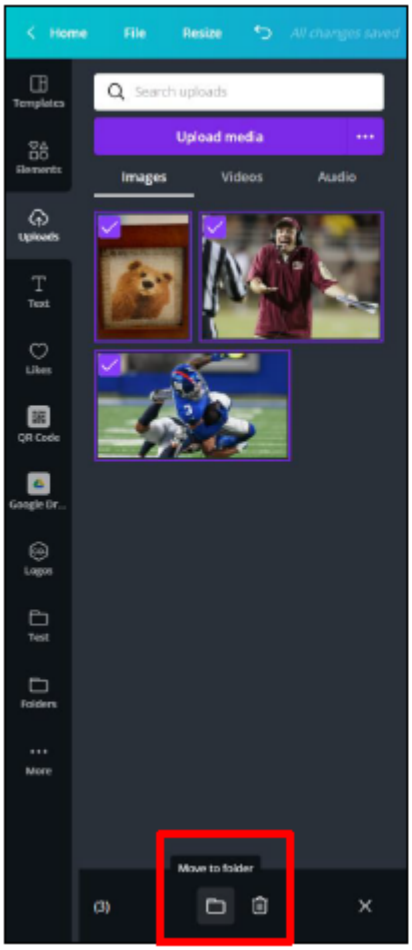
87. The Canva Design Tool generates a user-friendly display with, for example, thumbnails (i.e., "picture indicia") representing captured photos.

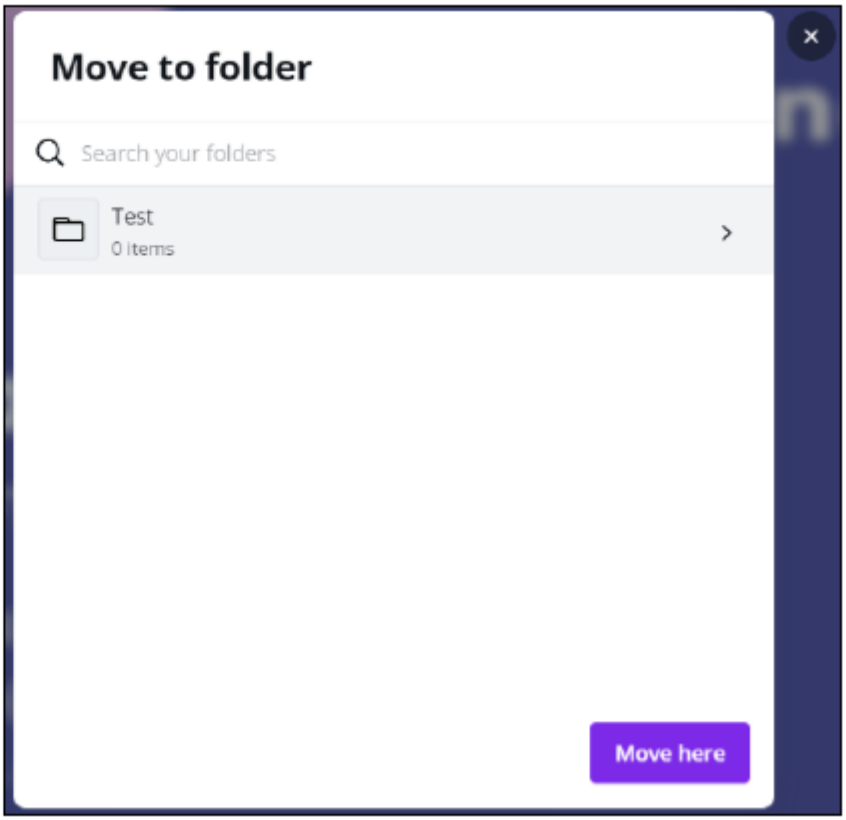


88. In response to a user's on-screen selection of multiple photos (i.e., "on-screen user input") that identifies the selected multiple photos as belonging to a selected group.



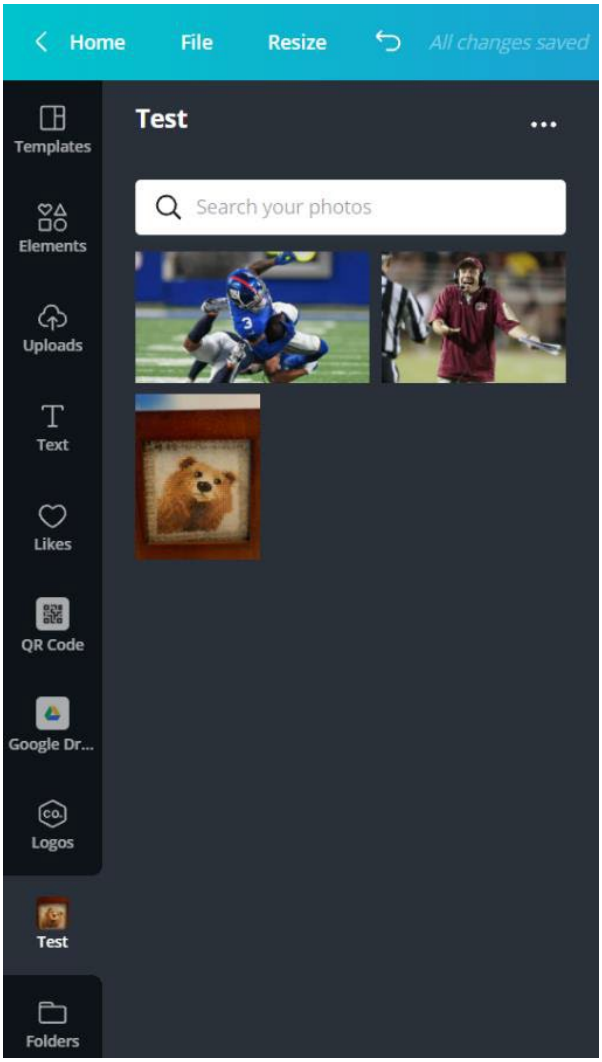
89. CANVA provides an Actions area (i.e., "an information entry area") for receiving, for example, for entry of "Move to Folder" information (i.e., "a single presentation on an information entry area") once about the group of selected photos.



90. CANVA accepts the folder selection (i.e., "customized data") being input on the screen by the user in the Actions area, the metadata characterizing the selected group of photos as belonging to the same folder (e.g., "Test").

91. CANVA automatically associates the folder selection with each of the photos in the group.




92. To the extent that Defendant has assigned performance of these steps to third parties, such as its customers, agents, or contractors, the third parties acted vicariously as an agent, under the direction and control of the Defendant, or formed a joint enterprise with Defendant, to infringe at least Claim 1 of the '182 Patent. Alternatively, the Defendant contracted with the third

parties to perform the infringing steps. Defendant profited vicariously from third party infringement, conditioned the third parties' participation and receipt of benefits of the Canva Mobile Application, Canva.com Application, and Canva Desktop Application on the performance on the infringing activity and further established the respective timing and manner of the third parties' performance of the infringing activity.

93. Defendant's infringing activities were without authority or license under the '182 Patent. Thus, Defendant has infringed at least Claim 1 of the '182 Patent under at least 35 U.S.C. § 271(a) by its prior use, testing, manufacture, sale, offer for sale, licensing, and/or importation of the Accused Products without authority.

**INDIRECT INFRINGEMENT (INDUCEMENT - 35 U.S.C. § 271(b))**

94. Based on the information presently available to Plaintiff, absent discovery, and in the alternative and in addition to direct infringement, Plaintiff contends that Defendant has indirectly infringed one or more claims of the '182 Patent by inducing direct infringement by others, including, but not limited to, its subsidiaries and end users of the Canva Mobile Application, Canva.com Application, and Canva Desktop Application.

95. On information and belief, Defendant had knowledge of the '182 Patent and its indirect infringement since at least October 7, 2021, when Defendant was notified of the '182 Patent and infringement of the '182 Patent. Specifically, Defendant received an email on October 7, 2021 from Mr. Robert Kelley that provided a link to claim charts detailing Defendant's infringement of the '182 Patent.

96. On information and belief, despite having knowledge of the '182 Patent and its infringement, Defendant specifically intended and encouraged one or more of its subsidiaries and end users to make, offer for sale, or sell in the United States and/or import the Canva Mobile

Application, Canva.com Application, and Canva Desktop Application into the United States, which (as illustrated above) infringes claims of the '182 Patent. Defendant's acts resulted in direct infringement by such subsidiaries for making, offering for sale, selling, and/or importing the Canva Mobile Application, Canva.com Application, and Canva Desktop Application.

97. Defendant has also specifically intended and encouraged individuals in this district and elsewhere in the United States to directly infringe claims of the '182 Patent (e.g., Claim 1 as described above) by acquiring and using the Canva Mobile Application, Canva.com Application, and Canva Desktop Application. Despite having knowledge of the '182 Patent and its infringement, Defendant has instructed and encouraged end users of the Canva Mobile Application, Canva.com Application, and Canva Desktop Application in a manner that infringes the '182 Patent. Defendant's acts resulted in direct infringement for use of the Canva Mobile Application, Canva.com Application, and Canva Desktop Application by end users of such products.

98. Plaintiff has been damaged as a result of Defendant's unlicensed infringing conduct described in this Count. Defendant is thus liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's infringement, which, by law, cannot be less than a reasonable royalty together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

99. Plaintiff has satisfied the requirements of 35 U.S.C. § 287 and is entitled to recover damages for infringement occurring before the filing of this lawsuit.

**COUNT II**
**(Infringement of U.S. Patent No. 7,092,573)**

100. Plaintiff incorporates paragraphs 1 through 99 herein by reference.

101. This cause of action arises under the Patent laws of the United States, including 35 U.S.C. §§ 271, *et seq*.

102. Plaintiff is the owner of the ’573 Patent with all substantial rights to the ’573 Patent including the exclusive right to enforce, sue, and recover damages for past and future infringement.

103. The ’573 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

**DIRECT INFRINGEMENT (35 U.S.C. § 271(a))**

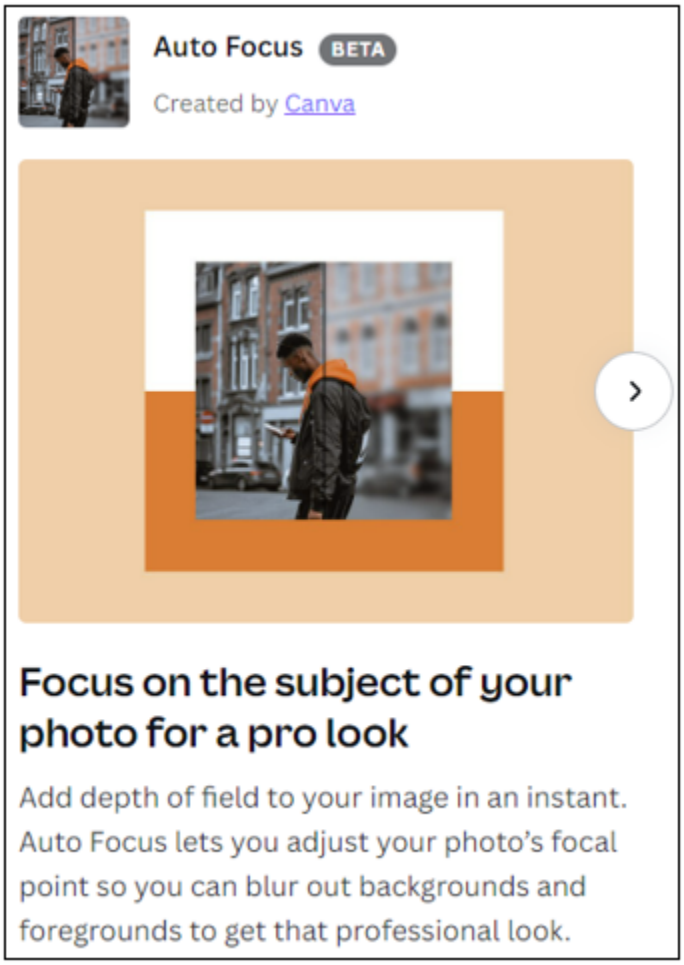
104. Defendant has, and continues to, infringe one or more claims of the ’573 Patent in this District and elsewhere in Texas and the United States.

105. On information and belief, Defendant has, and continues to, either individually or via an agent or agents, infringed claims of the ’573 Patent (including for example, and as illustrated below, Claim 1) by, among other things, making, using, testing (including its own use and testing), selling, offering for sale, importing and/or licensing in the United States without authority systems, products, and methods claimed by the ’573 Patent, namely, the Canva Mobile Application, Canva.com Application, and Canva Desktop Application.

106. On information and belief, Defendant was made aware of Plaintiff’s patent portfolio including the ’573 Patent since October 7, 2021, and thus has had knowledge of its infringement of the ’573 Patent since then. Nevertheless, Defendant has had knowledge of the ’573 Patent and its infringement at least since receiving Plaintiff’s Original Complaint.

107. Upon information and belief, and as one illustration without limitation, Defendant infringes Claim 1 of the ’573 Patent in the exemplary manners described below.

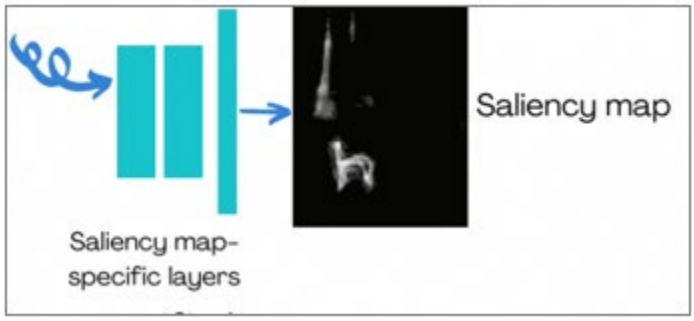
108. CANVA performs a method for processing a digital image using the Auto Focus tool.



109. CANVA applies a subject matter detector to the digital image to produce a belief map of saliency values indicating the degree of the belief that they belong to a main subject (i.e., "target subject matter"), said values defining a plurality of saliency regions (i.e., "belief regions").

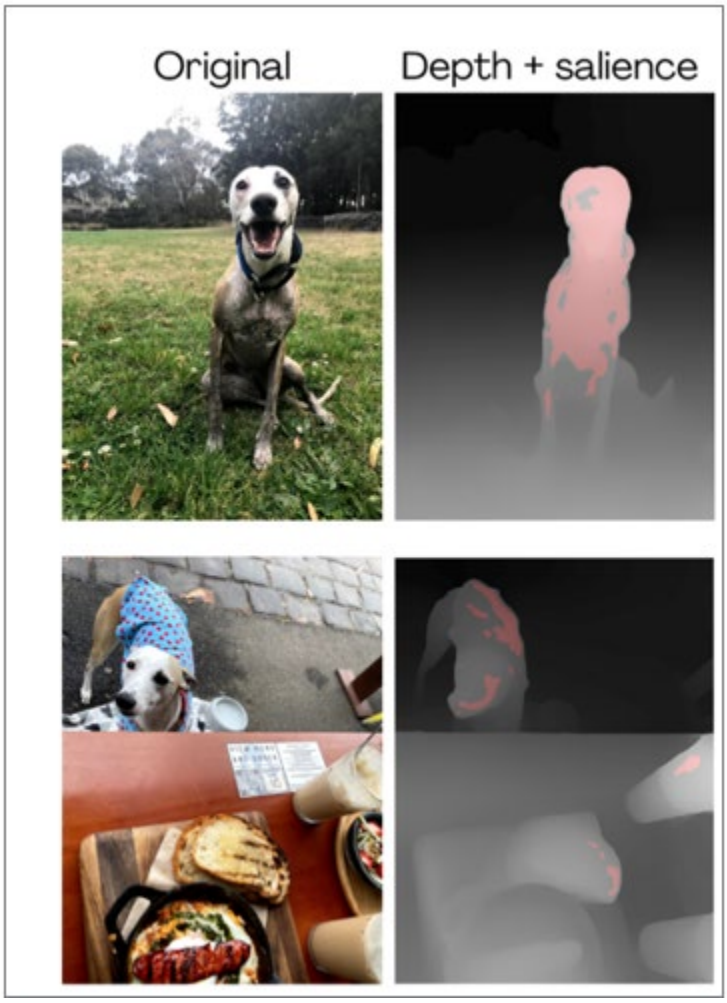
To estimate the subject of an image, we use a concept called a *saliency map*. A saliency map indicates the level of importance of each pixel in an image to the human visual system. Usually, the area of an image a human looks at first is more salient than any other area. Determining salience value is a tricky concept because it is very subjective. For example, when I'm hungry, you can bet I'll look at ice cream in a photo before I look at the person holding it.

By using binary classification as the task to train the saliency map prediction, the resulting saliency values ranged between 0 and 1. We then applied a threshold at 0.8. This relatively high threshold means that some images without a well-defined salient region might not have any pixels classified as salient. In such cases, a default focus depth at the halfway point of the depth map is used, which we found to be a better user experience than the result produced by lowering the saliency threshold. In the images below, the pixels highlighted in red are classified as salient using this definition. We then calculate the default focus depth as the median depth of all salient pixels.



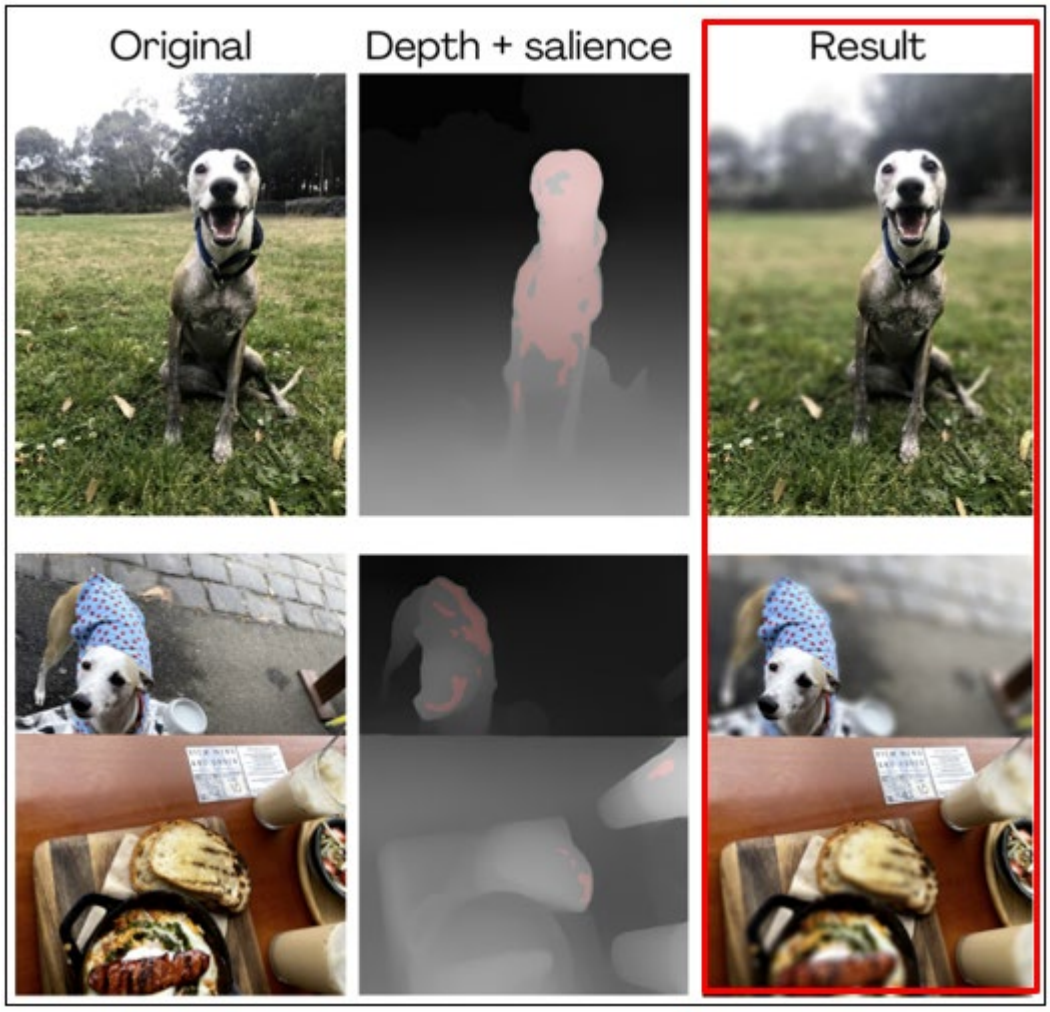

https://canvatechblog.com/going-deeper-with-depth-maps-ac0a7c8a71d0

110. CANVA determines the sizes of the saliency regions using a depth map.




*Id.*

111. CANVA enhances the digital image by blurring the non-subject-matter regions (i.e., "enhancing varying pixel by pixel") in accordance with the saliency and depth map.




*Id.*

112. Defendant is liable for its infringements of the '573 Patent pursuant to 35 U.S.C. § 271.

**INDIRECT INFRINGEMENT (INDUCEMENT - 35 U.S.C. §271(b))**

113. Based on the information presently available to Plaintiff, absent discovery, and in the alternative and in addition to direct infringement, Plaintiff contends that Defendant has, and continues to, indirectly infringe one or more claims of the '573 Patent by inducing direct infringement of the Accused Products by others, including, but not limited to subsidiaries and end

users.

114. On information and belief, Defendant was made aware of Plaintiff's patent portfolio including the '573 Patent since October 7, 2021, and thus has had knowledge of its infringement of the '573 Patent since then. Nevertheless, Defendant has had knowledge of the '573 Patent and its infringement at least since receiving Plaintiff's Original Complaint.

115. On information and belief, despite having knowledge of the '573 Patent and its infringement, Defendant specifically intended and encouraged one or more of its subsidiaries to make, offer for sale, or sell in the United States and/or import the Canva Mobile Application, Canva.com Application, and Canva Desktop Application into the United States, which (as illustrated above) infringes claims of the '573 Patent. Defendant's acts have resulted in, and continue to result in, direct infringement by such subsidiaries for making, offering for sale, selling, and/or importing the Canva Mobile Application, Canva.com Application, and Canva Desktop Application.

116. Defendant has also specifically intended and encouraged individuals in this District and elsewhere in the United States to directly infringe claims of the '573 Patent (e.g., Claim 1 as described above) by acquiring and using the Canva Mobile Application, Canva.com Application, and Canva Desktop Application. Despite having knowledge of the '573 Patent and its infringement, Defendant has instructed and encouraged end users of the Canva Mobile Application, Canva.com Application, and Canva Desktop Application in a manner that infringes the '573 Patent.

117. Plaintiff has been damaged as a result of Defendant's unlicensed infringing conduct described in this Count. Defendant is thus liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's infringement, which, by law, cannot be less than a

reasonable royalty together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

118. Plaintiff has satisfied the requirements of 35 U.S.C. § 287 and is entitled to recover damages for infringement occurring before the filing of this lawsuit.

**COUNT III**
**(Infringement of U.S. Patent No. 7,212,668)**

119. Plaintiff incorporates paragraphs 1 through 118 herein by reference.

120. This cause of action arises under the patent laws of the United States, including 35 U.S.C. §§ 271, *et seq*.

121. Plaintiff is the owner of the '668 Patent with all substantial rights to the '668 Patent including the exclusive right to enforce, sue, and recover damages for infringement.

122. The '668 Patent is valid, was duly issued in full compliance with Title 35 of the United States Code and was enforceable until its expiration on July 13, 2022.

**DIRECT INFRINGEMENT (35 U.S.C. § 271(a))**

123. Defendant has infringed one or more claims of the '668 Patent in this District and elsewhere in Texas and the United States.

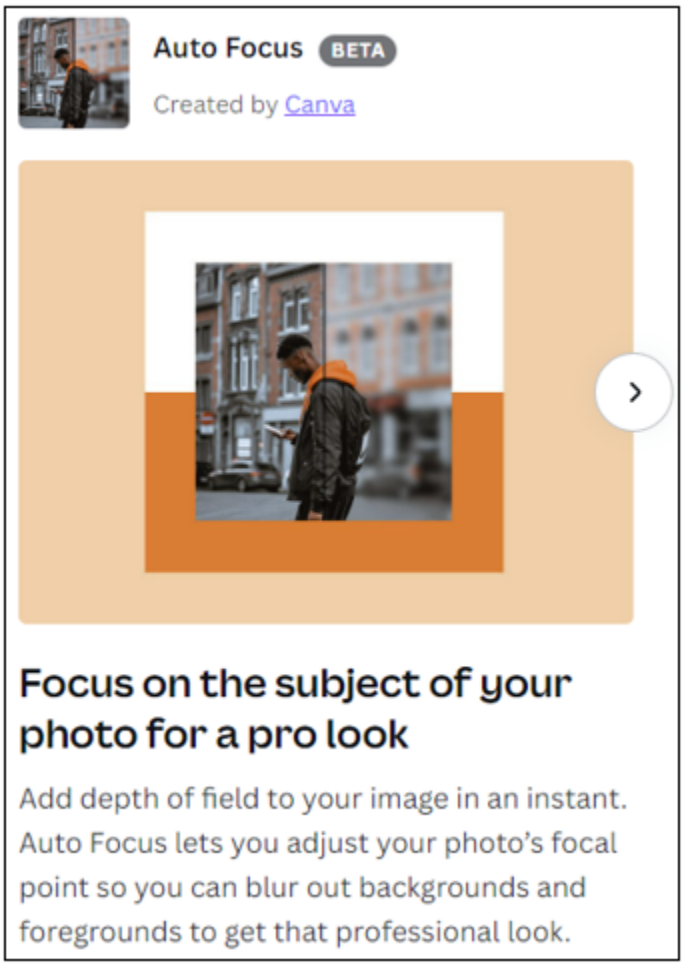
124. On information and belief, Defendant has, either individually or via an agent or agents, infringed claims of the '668 Patent (including for example, and as illustrated below, Claim 1) by, among other things, making, using, testing (including its own use and testing), selling, offering for sale, importing and/or licensing in the United States without authority systems, products, and methods claimed by the '668 Patent, namely, the Canva Mobile Application, Canva.com Application, and Canva Desktop Application.

125. On information and belief, Defendant had knowledge of the '668 Patent and its direct infringement since at least October 7, 2021, when Defendant was notified of the '668 Patent and infringement of the '668 Patent. Specifically, Defendant received an email on October 7, 2021

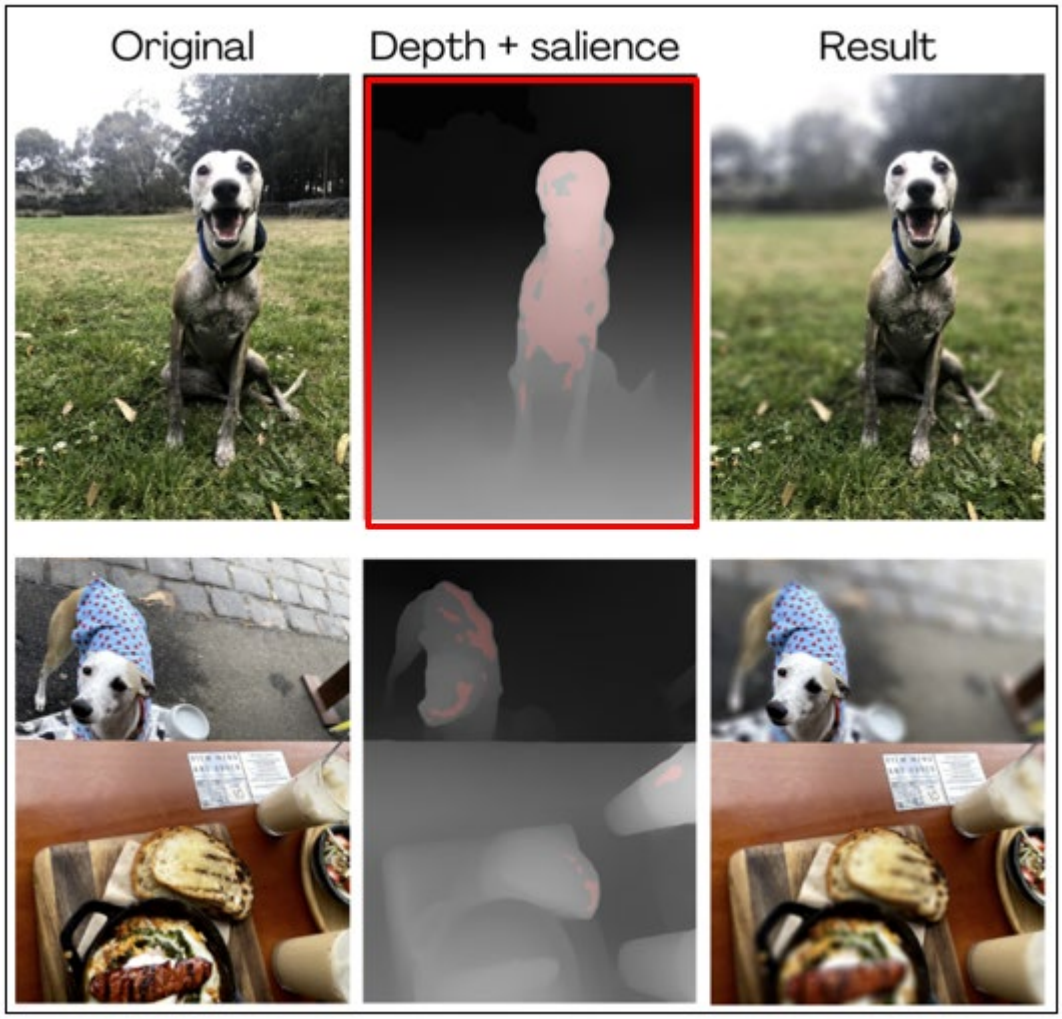
from Mr. Robert Kelley that provided a link to claim charts detailing Defendant's infringement of the '668 Patent.

126. Upon information and belief, and as one illustration without limitation, Defendant infringes Claim 1 of the '668 Patent in the exemplary manners described below.

127. CANVA performs a method for modifying an image have an object in the foreground (i.e., "main subject") and a background using the Auto Focus tool.

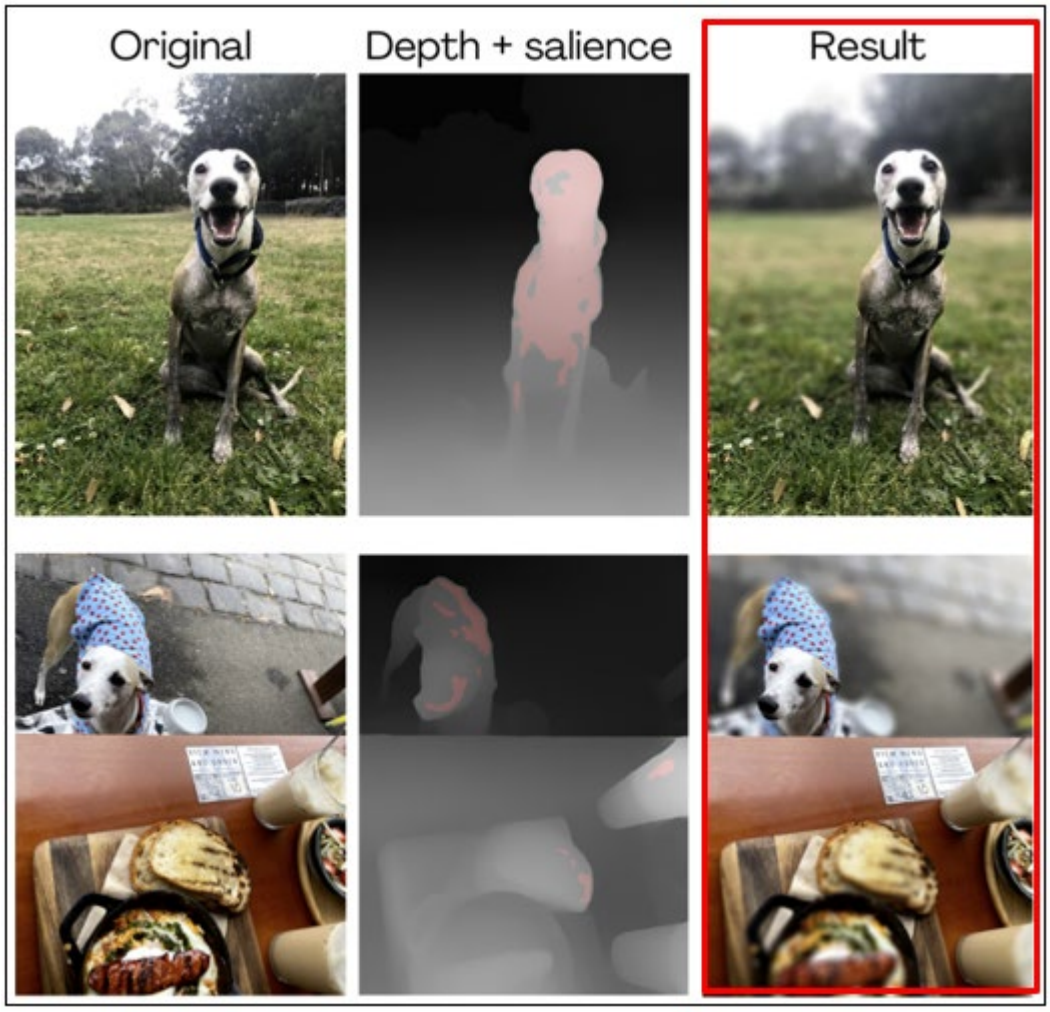


128. CANVA uses a depth and salience map to automatically identify the main subject of the image.




https://canvatechblog.com/going-deeper-with-depth-maps-ac0a7c8a71d0

129. CANVA automatically blurs background pixels (i.e., "altering pixel values") to emphasize the main subject.




*Id.*

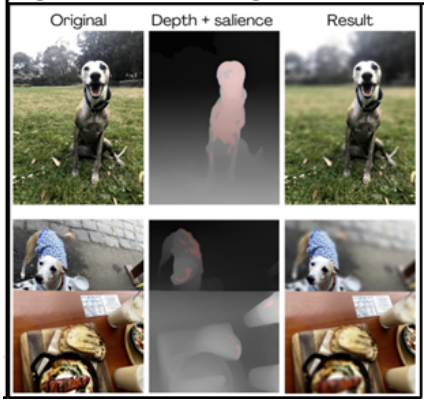
130. CANVA segments the image into salient and non-salient regions (i.e., "a plurality of regions"), generates belief values associated with the salient regions, said belief values related

to the probability the region contains the main subject of the image, to provide a main subject belief map.

To estimate the subject of an image, we use a concept called a *saliency map*. A saliency map indicates the level of importance of each pixel in an image to the human visual system. Usually, the area of an image a human looks at first is more salient than any other area. Determining salience value is a tricky concept because it is very subjective. For example, when I'm hungry, you can bet I'll look at ice cream in a photo before I look at the person holding it.


An RGB image (left) and the corresponding depth map (right). The closer to the camera an object is, the brighter it appears in the depth map

By using binary classification as the task to train the saliency map prediction, the resulting saliency values ranged between 0 and 1. We then applied a threshold at 0.8. This relatively high threshold means that some images without a well-defined salient region might not have any pixels classified as salient. In such cases, a default focus depth at the halfway point of the depth map is used, which we found to be a better user experience than the result produced by lowering the saliency threshold. In the images below, the pixels highlighted in red are classified as salient using this definition. We then calculate the default focus depth as the median depth of all salient pixels.



131. To the extent that Defendant has assigned performance of these steps to third parties, such as its customers, agents or contractors, the third parties act vicariously as agents of the Defendant, or form a joint enterprise with Defendant, to infringe at least Claim 1 of the '668 Patent. Alternatively, the Defendant contracts with the third parties to perform the infringing steps. Defendant profits vicariously from third party infringement, condition the third parties' participation and receipt of benefits of the Canva Mobile Application, Canva.com Application, and Canva Desktop Application on the performance on the infringing activity and further establish the respective timing and manner of the third parties' performance of the infringing activity.

132. Defendant's infringing activities were and are without authority or license under the '668 Patent. Thus, Defendant has infringed at least Claim 1 of the '668 Patent under at least 35 U.S.C. § 271(a) by its prior use, testing, manufacture, offer for sale, licensing, and/or importation of the Accused Products without authority.

**INDIRECT INFRINGEMENT (INDUCEMENT - 35 U.S.C. § 271(b))**

133. Based on the information presently available to Plaintiff, absent discovery, and in the alternative and in addition to direct infringement, Plaintiff contends that Defendant has indirectly infringed one or more claims of the '668 Patent by inducing direct infringement by others, including, but not limited to, its subsidiaries and end users of the Canva Mobile Application, Canva.com Application, and Canva Desktop Application.

134. Defendant had knowledge of the '668 Patent and its direct infringement since at least October 7, 2021, when Defendant was notified of the '668 Patent and infringement of the '668 Patent. Specifically, Defendant received an email on October 7, 2021 from Mr. Robert Kelley that provided a link to claim charts detailing Defendant's infringement of the '668 Patent.

135. On information and belief, despite having knowledge of the '668 Patent and its

infringement, Defendants specifically intended and encouraged one or more of its subsidiaries and end users to make, offer for sale, or sell in the United States and/or import the Canva Mobile Application, Canva.com Application, and Canva Desktop Application into the United States, which (as illustrated above) infringes claims of the '668 Patent. Defendant's acts have resulted in direct infringement by such subsidiaries for making, offering for sale, selling, and/or importing the Canva Mobile Application, Canva.com Application, and Canva Desktop Application.

136. Defendant has also specifically intended and encouraged individuals in this district and elsewhere in the United States to directly infringe claims of the '668 Patent (e.g., Claim 1 as described above) by acquiring and using the Canva Mobile Application, Canva.com Application, and Canva Desktop Application. Despite having knowledge of the '668 Patent and its infringement, Defendant has instructed and encouraged end users of the Canva Mobile Application, Canva.com Application, and Canva Desktop Application in a manner that infringes the '668 Patent. Defendant's acts have resulted in direct infringement for use of the Canva Mobile Application, Canva.com Application, and Canva Desktop Application by end users of such products.

137. Plaintiff has been damaged as a result of Defendant's unlicensed infringing conduct described in this Count. Defendant is thus liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's infringement, which, by law, cannot be less than a reasonable royalty together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

138. Plaintiff has satisfied the requirements of 35 U.S.C. § 287 and is entitled to recover damages for infringement occurring before the filing of this lawsuit.

## COUNT IV
## (Infringement of U.S. Patent No. 7,533,129)

139. Plaintiff incorporates paragraphs 1 through 138 herein by reference.

140. This cause of action arises under the Patent laws of the United States, including 35 U.S.C. §§ 271, *et seq*.

141. Plaintiff is the owner of the '129 Patent with all substantial rights to the '129 Patent including the exclusive right to enforce, sue, and recover damages for past and future infringement.

142. The '129 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

**DIRECT INFRINGEMENT (35 U.S.C. § 271(a))**

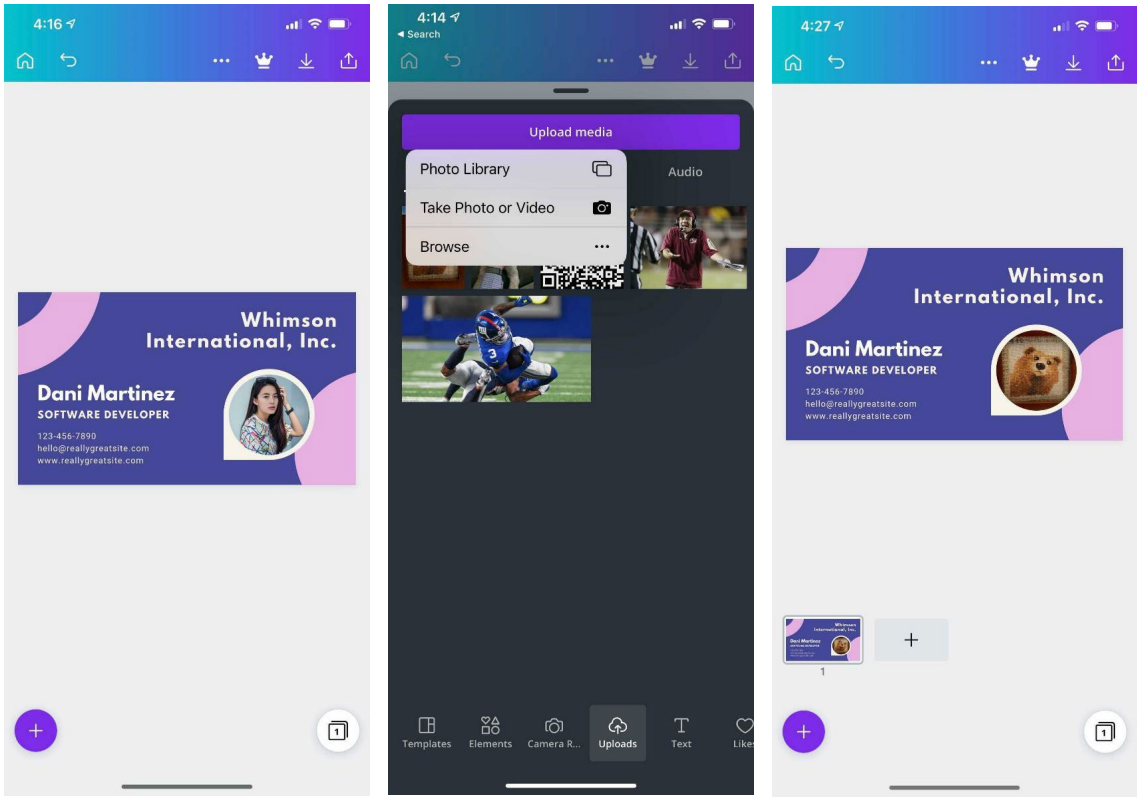
143. Defendant has, and continue to, infringe one or more claims of the '129 Patent in this District and elsewhere in Texas and the United States.

144. On information and belief, Defendant has, and continues to, via an agent or agents, infringed claims of the '129 Patent (including for example, and as illustrated below, Claim 10) by, among other things, making, using, testing (including its own use and testing), selling, offering for sale, importing and/or licensing in the United States without authority systems, products, and methods claimed by the '129 Patent, namely, the Canva Mobile Application.

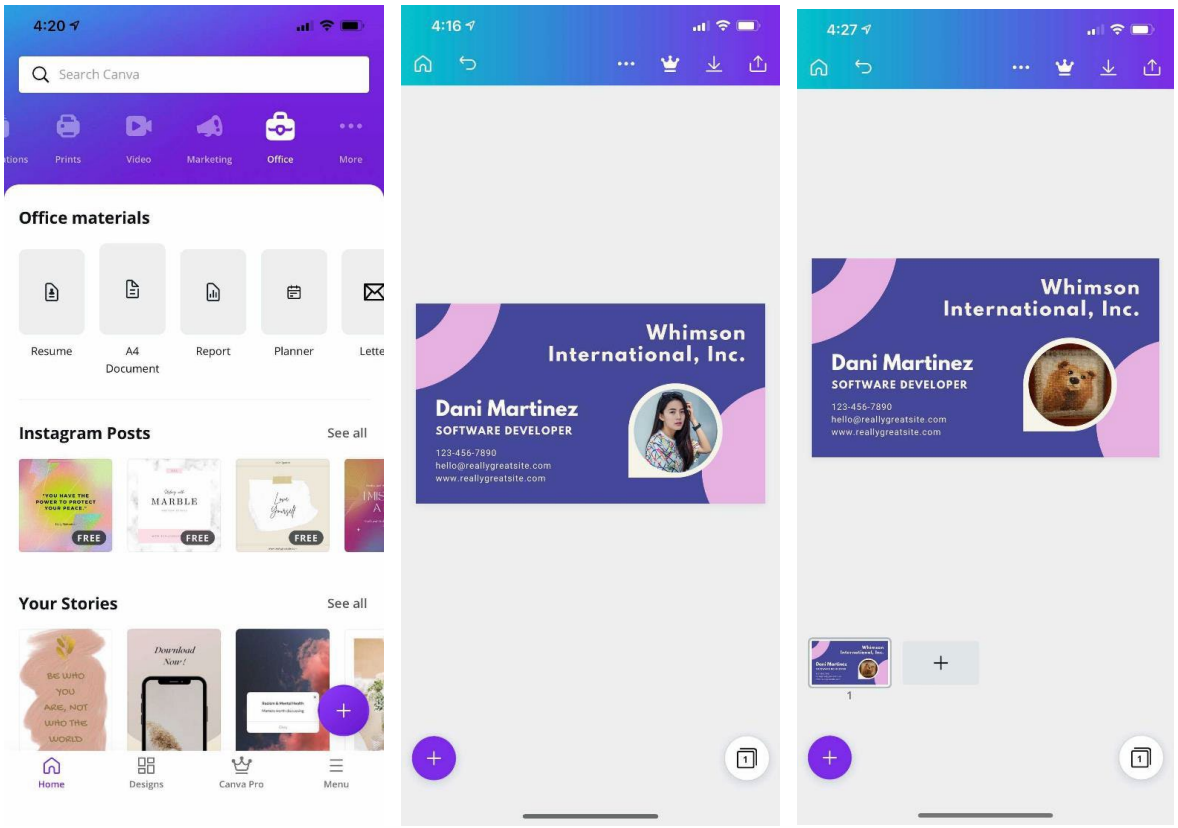
145. Defendant had knowledge of the '129 Patent and its direct infringement since at least October 7, 2021, when Defendant was notified of the '129 Patent and infringement of the '129 Patent. Specifically, Defendant received an email on October 7, 2021 from Mr. Robert Kelley that provided a link to claim charts detailing Defendant's infringement of the '129 Patent.

146. Upon information and belief, and as one illustration without limitation, Defendant infringes Claim 10 of the '129 Patent in the exemplary manners described below.

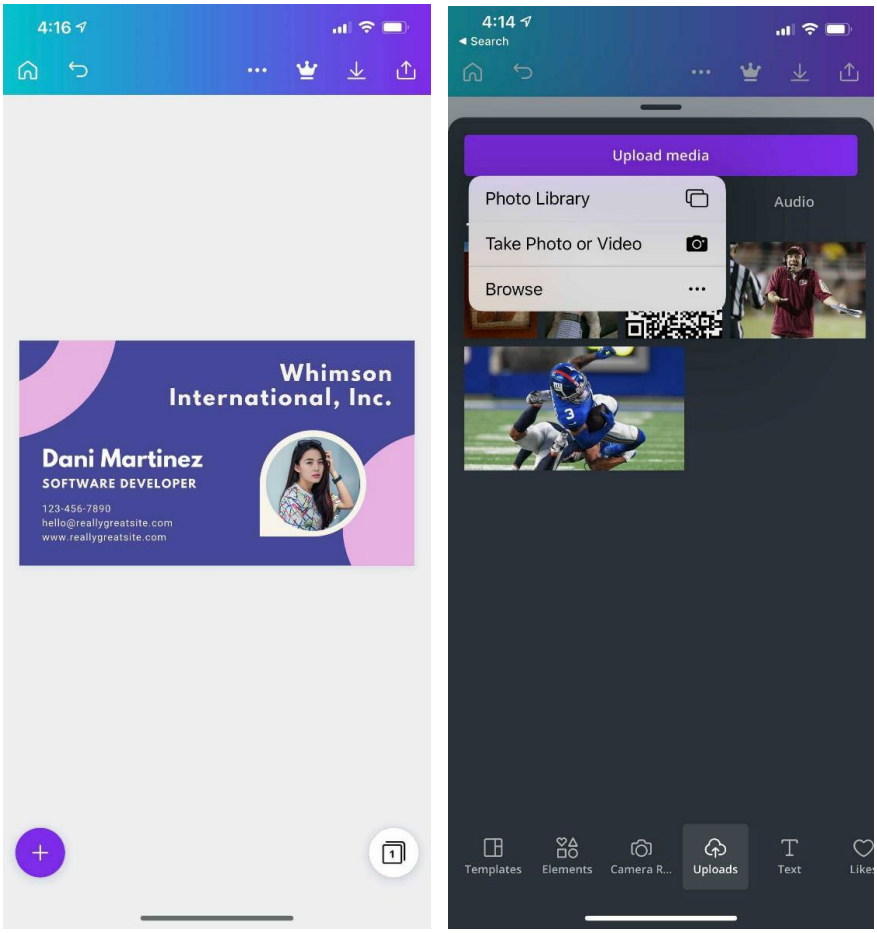
147. CANVA performs a method for capturing a photo (i.e., "content") to create an image product.



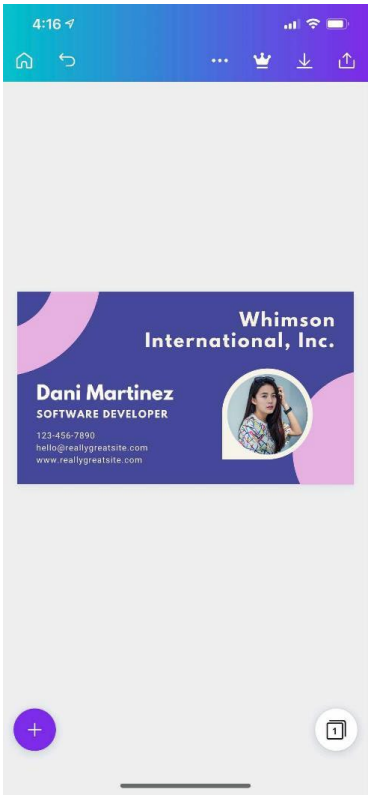
148. CANVA provides customers with various template options (e.g., resume, A4 Document, report, etc.) (i.e., "at least one template") on the customer's smartphone (i.e., "digital image capture device"), the template having at least a specific area (i.e., "container") for placement of a photograph.

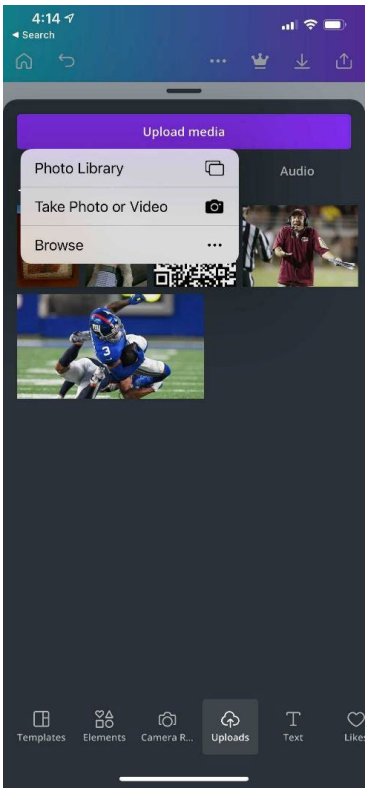


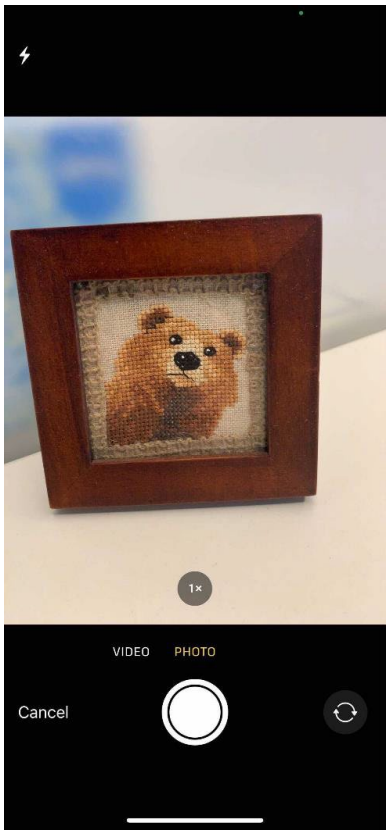
149. CANVA prompts the customer to capture the photo for placement.

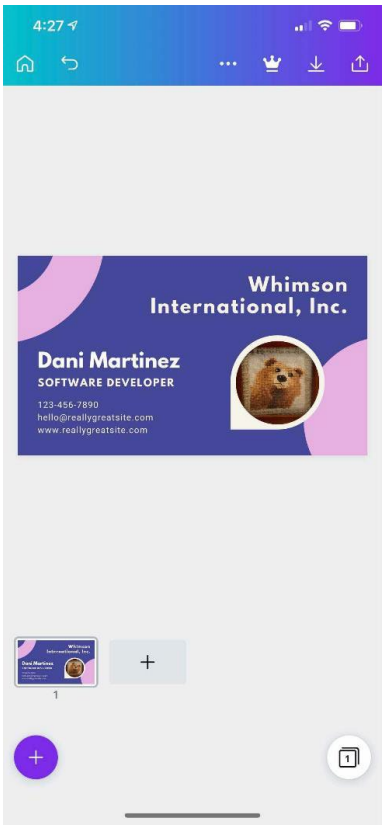


150. CANVA captures the photo (i.e., "at least one digital still image").



151. Defendant is liable for its infringements of the '129 Patent pursuant to 35 U.S.C. § 271.

**INDIRECT INFRINGEMENT (INDUCEMENT - 35 U.S.C. §271(b))**

152. Based on the information presently available to Plaintiff, absent discovery, and in the alternative and in addition to direct infringement, Plaintiff contends that Defendant has and continue to, indirectly infringe one or more claims of the '129 Patent by inducing direct infringement of the Accused Products by others, including, but not limited to subsidiaries and end users.

153. Defendant had knowledge of the '129 Patent and its direct infringement since at least October 7, 2021, when Defendant was notified of the '129 Patent and infringement of the '129 Patent. Specifically, Defendant received an email on October 7, 2021 from Mr. Robert Kelley that provided a link to claim charts detailing Defendant's infringement of the '129 Patent.

154. On information and belief, despite having knowledge of the '129 Patent and its infringement, Defendants specifically intended and encouraged one or more of its subsidiaries to make, offer for sale, or sell in the United States and/or import the Canva Mobile Application into the United States, which (as illustrated above) infringes claims of the '129 Patent. Defendant's acts have resulted in, and continue to result in, direct infringement by such subsidiaries for making, offering for sale, selling, and/or importing the Canva Mobile Application.

155. Defendant has also specifically intended and encouraged individuals in this District and elsewhere in the United States to directly infringe claims of the '129 Patent (e.g., Claim 10 as described above) by acquiring and using the Canva Mobile Application. Despite having knowledge of the '129 Patent and its infringement, Defendant has instructed and encouraged end users of the Canva Mobile Application in a manner that infringes the '129 Patent.

156. Plaintiff has been damaged as a result of Defendant's unlicensed infringing conduct described in this Count. Defendant is thus liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's infringement, which, by law, cannot be less than a reasonable royalty together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

157. Plaintiff has satisfied the requirements of 35 U.S.C. § 287 and is entitled to recover damages for infringement occurring before the filing of this lawsuit.

**COUNT V**
**(Infringement of U.S. Patent No. 8,028,246)**

158. Plaintiff incorporates paragraphs 1 through 157 herein by reference.

159. This cause of action arises under the Patent laws of the United States, including 35 U.S.C. §§ 271, *et seq*.

160. Plaintiff is the owner of the '246 Patent with all substantial rights to the '246 Patent including the exclusive right to enforce, sue, and recover damages for past and future infringement.

161. The '246 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

**DIRECT INFRINGEMENT (35 U.S.C. § 271(a))**

162. Defendant has, and continue to, infringe one or more claims of the '246 Patent in this District and elsewhere in Texas and the United States.

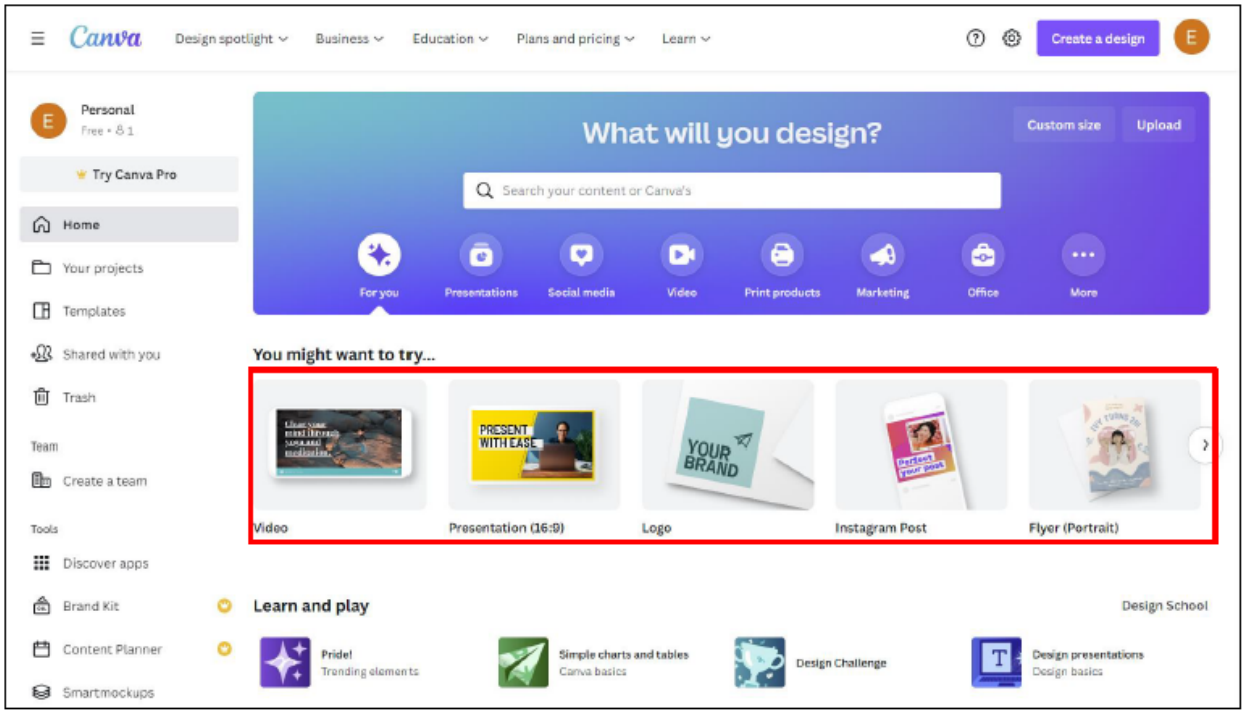
163. On information and belief, Defendant has, and continue to, either individually or via an agent or agents, infringed claims of the '246 Patent (including for example, and as illustrated below, Claim 1) by, among other things, making, using, testing (including its own use and testing), selling, offering for sale, importing and/or licensing in the United States without authority systems, products, and methods claimed by the '246 Patent, namely, the Canva.com Application.

164. On information and belief, Defendant was made aware of Plaintiff's patent

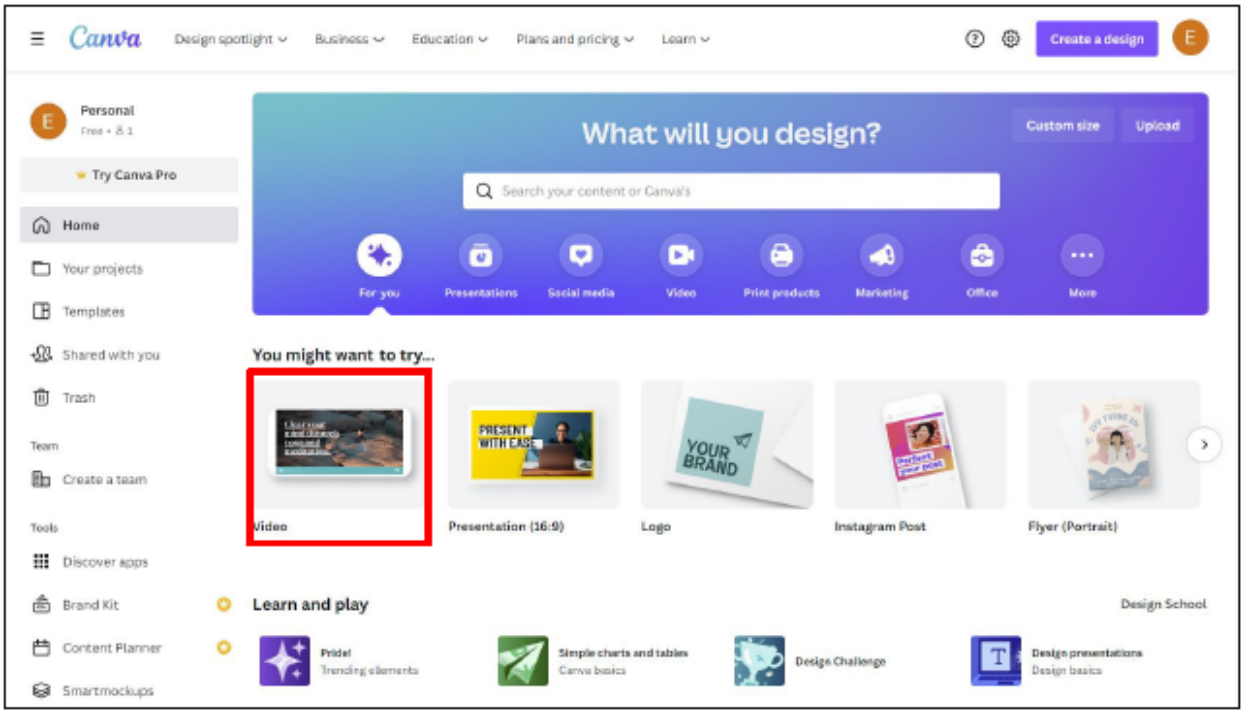
portfolio including the '246 Patent since October 7, 2021, and thus has had knowledge of its infringement of the '246 Patent since then. Nevertheless, Defendant has had knowledge of the '246 Patent and its infringement at least since receiving Plaintiff's Original Complaint.

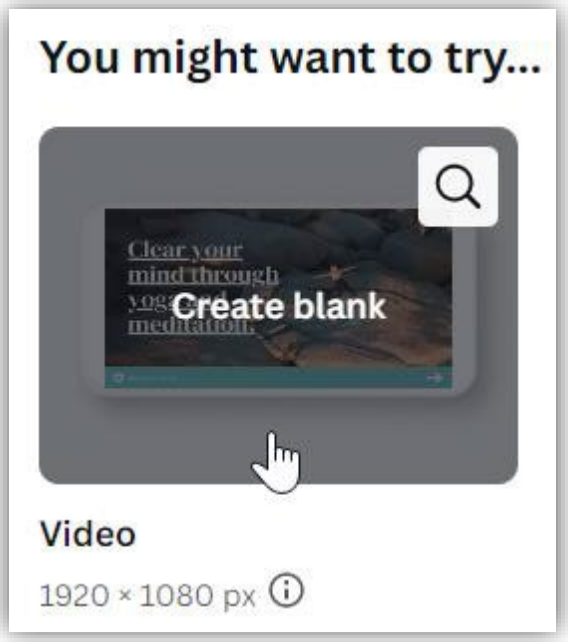
165. Upon information and belief, and as one illustration without limitation, Defendant infringes Claim 1 of the '246 Patent in the exemplary manners described below.

166. CANVA provides access to information related to a digital image record on a device. CANVA displays (i.e., "instructing presentation") the digital image record on a screen (i.e., "display").

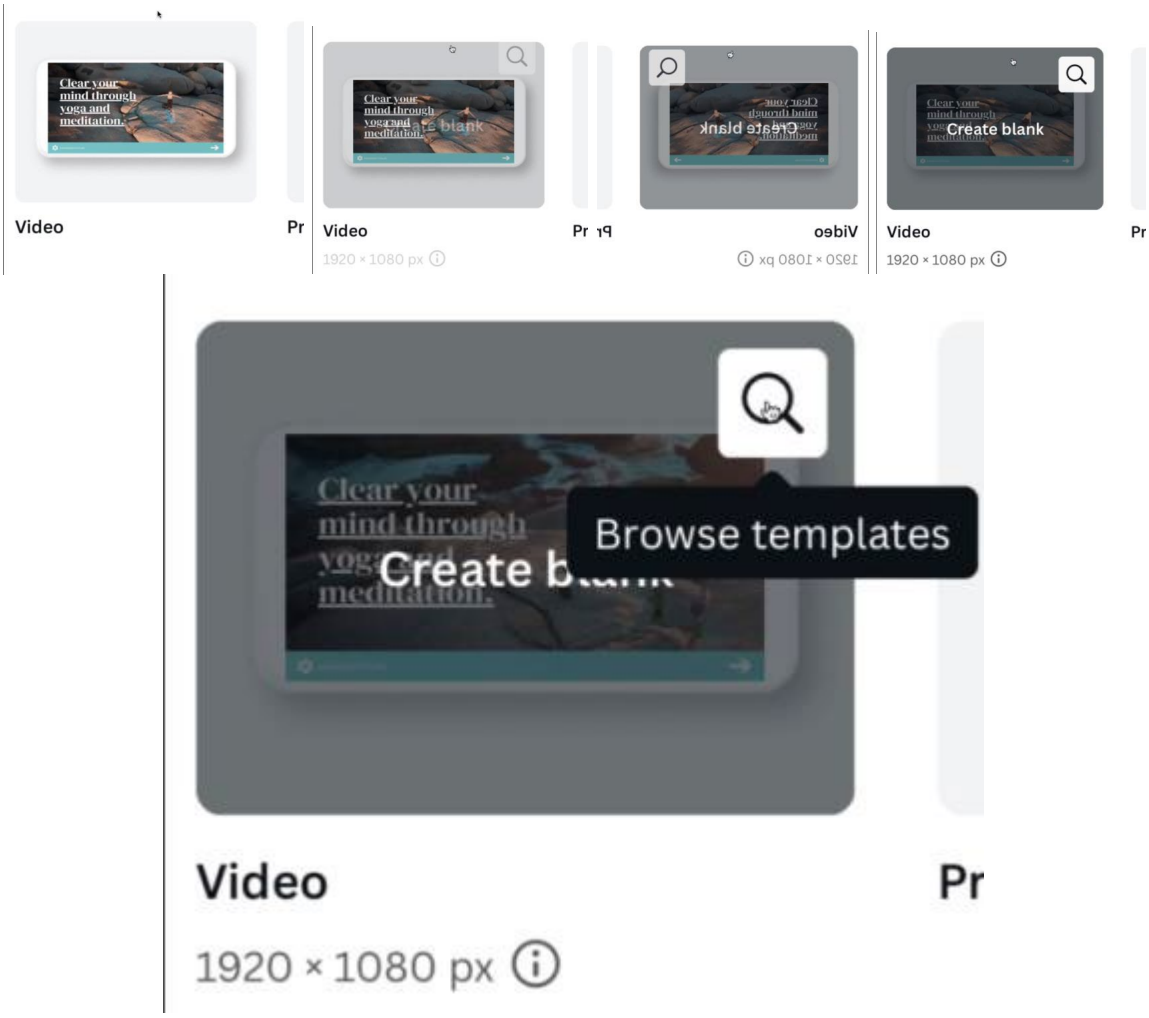



167. CANVA receives an indication of a mouse hovering (i.e., "user interaction") on the displayed digital image record.


Canva
Design spotlight
Business
Education
Plans and pricing
Learn
Create a design
Personal
Try Canva Pro
Home
Your projects
Templates
Shared with you
Trash
Team
Create a team
Tools
Discover apps
Brand Kit
Content Planner
Smartmockups
What will you design?
Custom size
Upload
Search your content or Canva's
For you
Presentations
Social media
Video
Print products
Marketing
Office
More
You might want to try...
Video
Presentation (16:9)
Logo
Instagram Post
Flyer (Portrait)
Learn and play
Design School

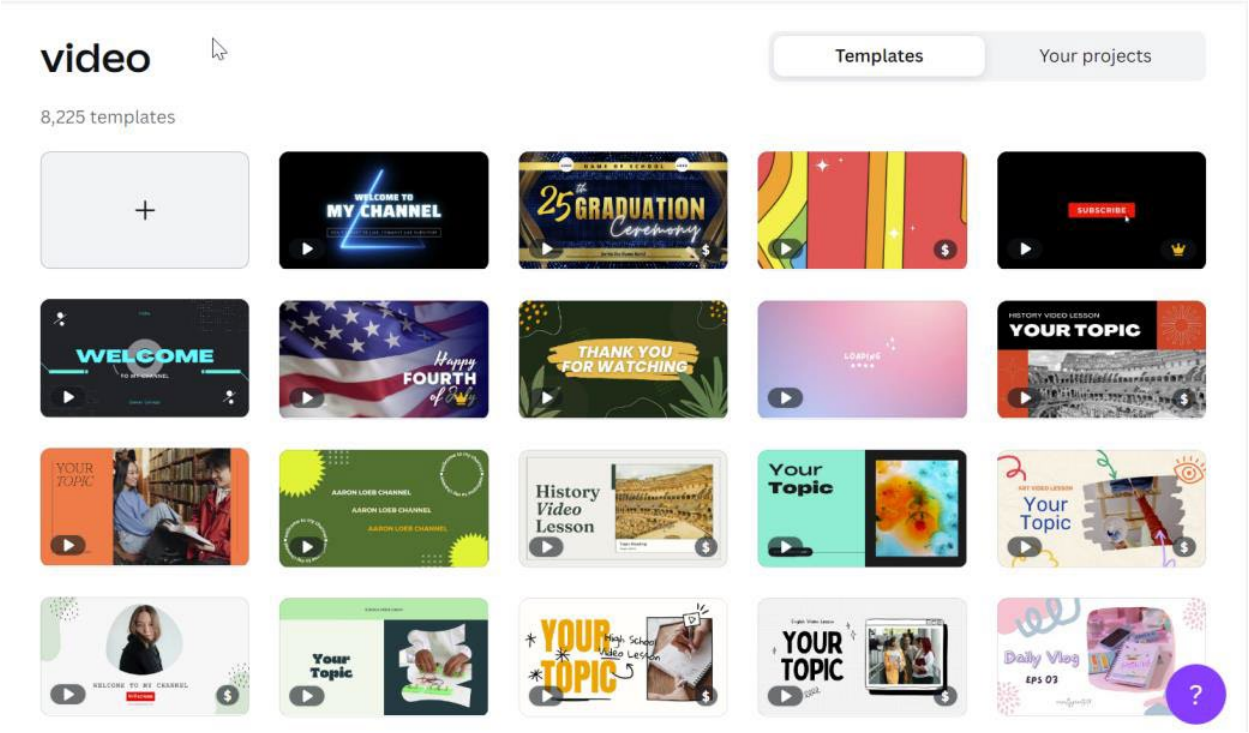

You might want to try...
Create blank
Video
1920 × 1080 px

168. In response to the user hovering the mouse over the digital image record, CANVA displays a magnification button (i.e., "tab") on the screen, the magnification button emanates from the top edge of the digital image record (i.e., "the tab emanating from an edge of the displayed digital image record").



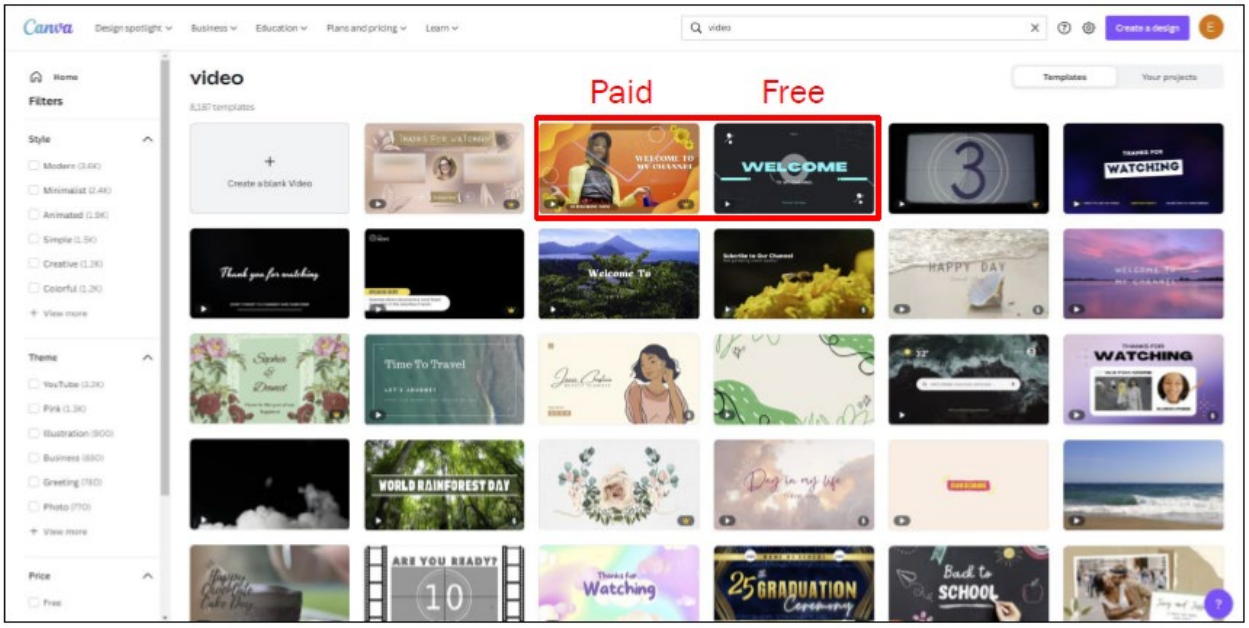
169. The magnification button (e.g., button_1QoxDW) emanates from the edge of the digital image record (e.g., div.QalX9g).


170. The magnification button comprises a link (i.e., "access point") to browse templates (i.e., "category of information") related to content (e.g., blank video template project) contained within the digital image record, wherein the button is labeled "Browse templates" for user access.




https://www.canva.com/search/templates?q=Video&category=tADs1de8MlY&doctype=TADUvCyAV_U&designSpec=djE6dEFEczFkZThNbFk6MTA4MH A%3D&width=1920&height=1080

171. The templates comprise shopping information (e.g., free vs paid templates) associated with each particular template (i.e., "particular product") and indicates editing options for each video template related to data contained within the digital image record and offered by the particular template




172. Defendant is liable for its infringements of the '246 Patent pursuant to 35 U.S.C. § 271.

**INDIRECT INFRINGEMENT (INDUCEMENT - 35 U.S.C. §271(b))**

173. Based on the information presently available to Plaintiff, absent discovery, and in the alternative and in addition to direct infringement, Plaintiff contends that Defendant has, and continue to, indirectly infringe one or more claims of the '246 Patent by inducing direct infringement of the Accused Products by others, including, but not limited to subsidiaries and end users.

174. On information and belief, Defendant was made aware of Plaintiff's patent portfolio including the '246 Patent since October 7, 2021, and thus has had knowledge of its infringement of the '246 Patent since then. Nevertheless, Defendant has had knowledge of the '246 Patent and its infringement at least since receiving Plaintiff's Original Complaint.

175. On information and belief, despite having knowledge of the '246 Patent and its infringement, Defendant specifically intended and encouraged one or more of its subsidiaries to

make, offer for sale, or sell in the United States and/or import the Canva.com Application into the United States, which (as illustrated above) infringes claims of the '246 Patent. Defendant's acts have resulted in, and continue to result in, direct infringement by such subsidiaries for making, offering for sale, selling, and/or importing the Canva.com Application.

176. Defendant has also specifically intended and encouraged individuals in this District and elsewhere in the United States to directly infringe claims of the '246 Patent (e.g., Claim 1 as described above) by acquiring and using the Canva.com Application. Defendant instructs and encouraged end users of the Canva.com Application in a manner that infringes the '246 Patent.

177. Plaintiff has been damaged as a result of Defendant's unlicensed infringing conduct described in this Count. Defendant is thus liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's infringement, which, by law, cannot be less than a reasonable royalty together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

178. Plaintiff has satisfied the requirements of 35 U.S.C. § 287 and is entitled to recover damages for infringement occurring before the filing of this lawsuit.

**COUNT VI**
**(Infringement of U.S. Patent No. 8,640,042)**

179. Plaintiff incorporates paragraphs 1 through 178 herein by reference.

180. This cause of action arises under the Patent laws of the United States, including 35 U.S.C. §§ 271, *et seq*.

181. Plaintiff is the owner of the '042 Patent with all substantial rights to the '042 Patent including the exclusive right to enforce, sue, and recover damages for past and future infringement.

182. The '042 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

**DIRECT INFRINGEMENT (35 U.S.C. § 271(a))**

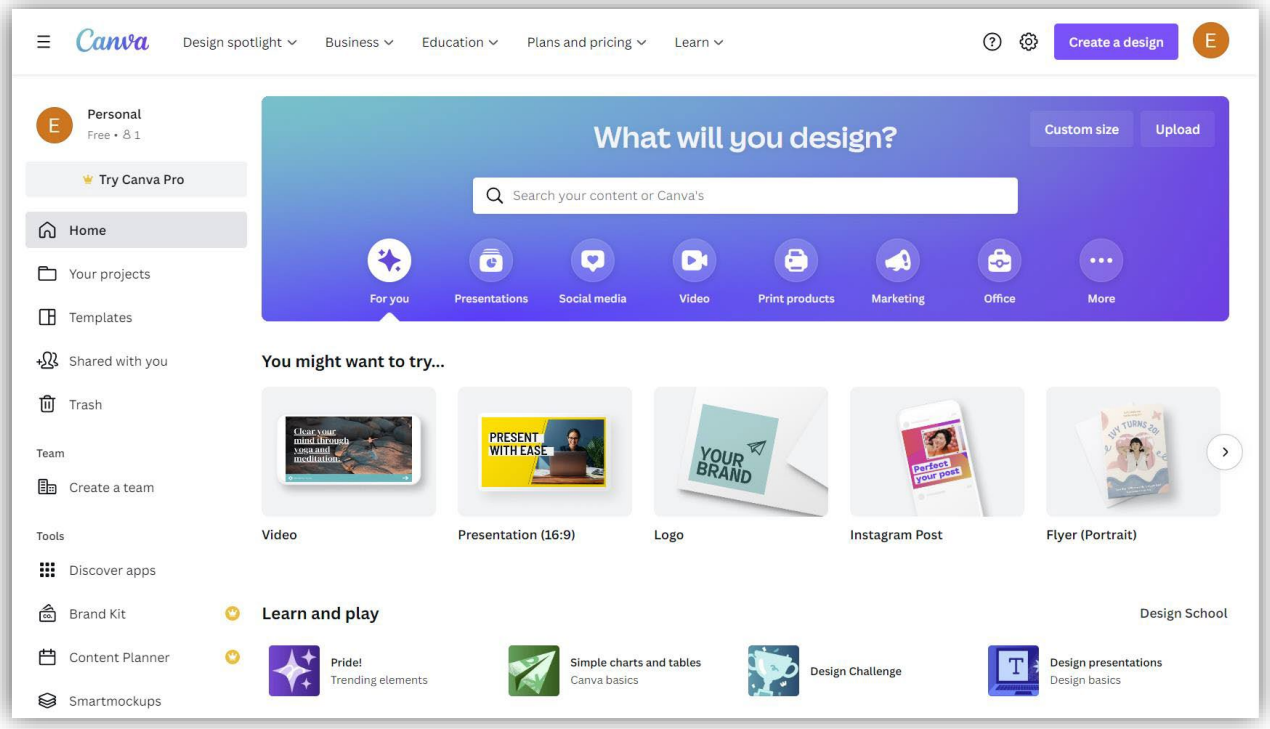
183. Defendant has, and continue to, infringe one or more claims of the ’042 Patent in this District and elsewhere in Texas and the United States.

184. On information and belief, Defendant has, and continues to, either by itself or via an agent or agents, infringed claims of the ’042 Patent (including for example, and as illustrated below, Claim 25) by, among other things, making, using, testing (including its own use and testing), selling, offering for sale, importing and/or licensing in the United States without authority systems, products, and methods claimed by the ’042 Patent, namely, the Canva.com Application.

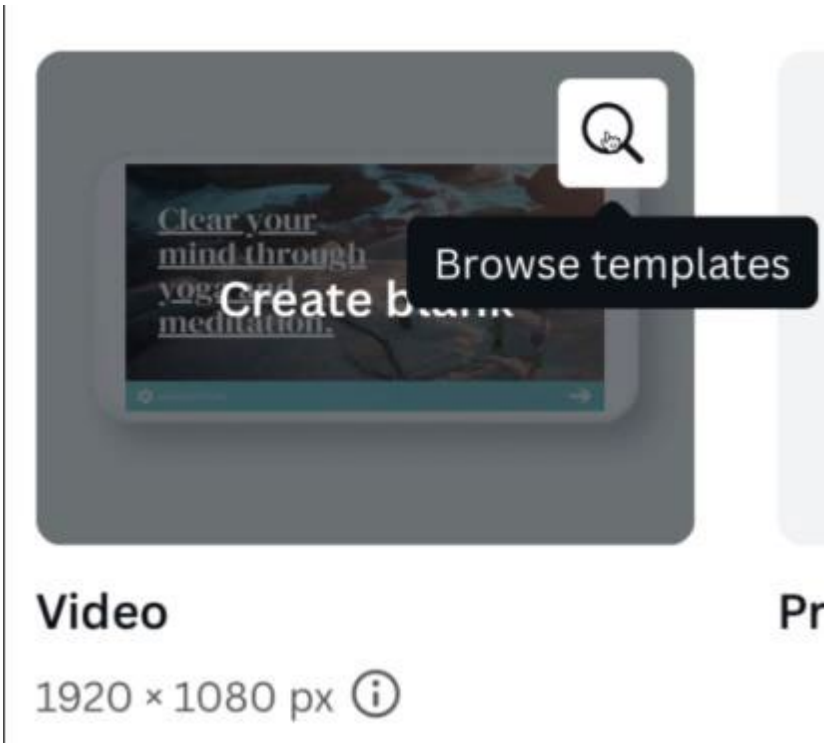
185. On information and belief, Defendant was made aware of Plaintiff’s patent portfolio including the ’042 Patent since October 7, 2021, and thus has had knowledge of its infringement of the ’042 Patent since then. Nevertheless, Defendant has had knowledge of the ’042 Patent and its infringement at least since receiving Plaintiff’s Original Complaint.

186. Upon information and belief, and as one illustration without limitation, Defendant infringes Claim 25 of the ’042 Patent in the exemplary manners described below.

187. CANVA provides access to information related to a digital image record on a device. CANVA servers (i.e., "data processing system") present the digital image record on a screen (i.e., "display").

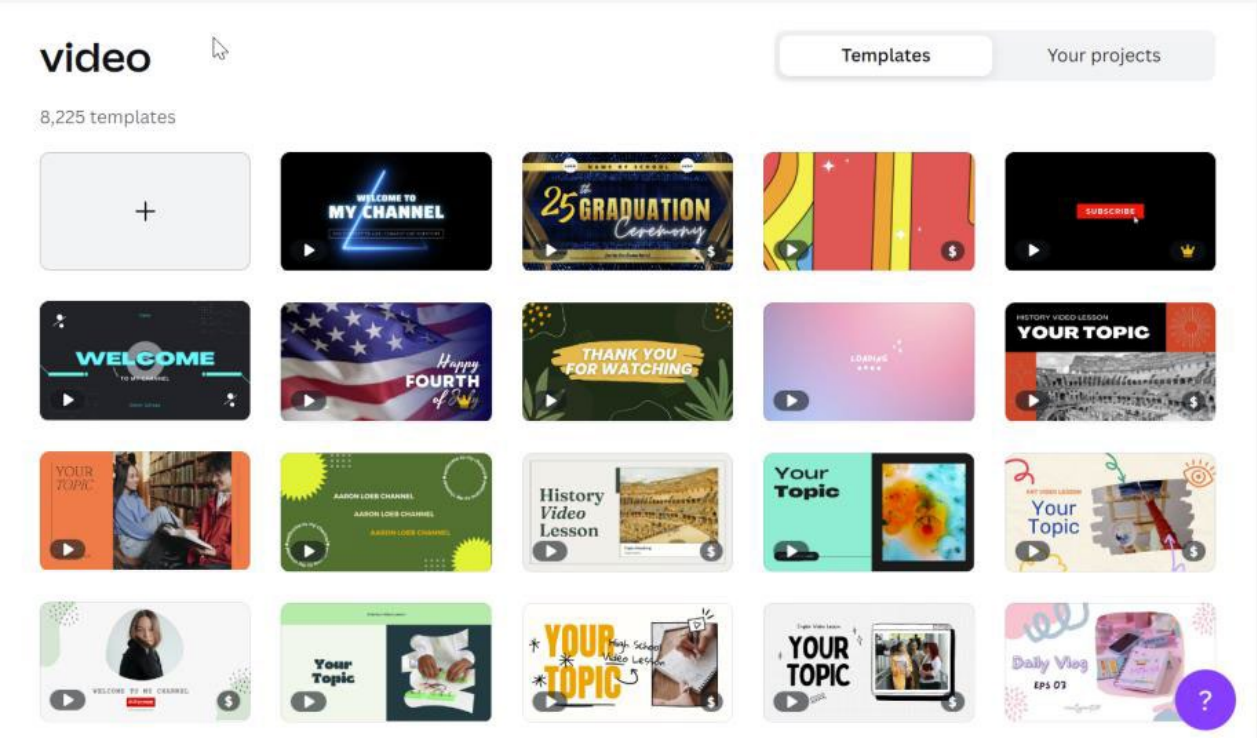



188. CANVA servers presents a magnification button (i.e., "tab") on the screen, the magnification button emanating from the top edge of the digital image record (i.e., "tab displays or emanates from an edge of the displayed digital image record").

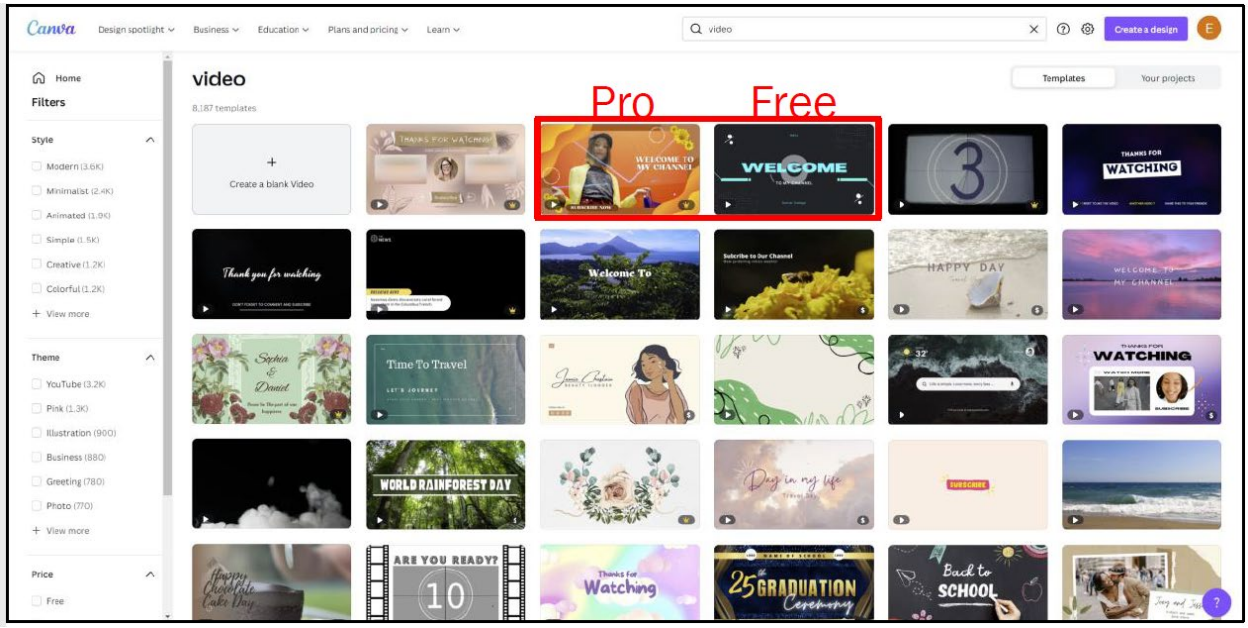

Clear your mind through
Browse templates
Video
1920 × 1080 px

189. The magnification button (e.g., button._1QoxDW) emanates from the edge of the digital image record (e.g., div.QalX9g).

190. The magnification button comprises a link (i.e., "access point") to browse templates (i.e., "category of information") related to content (e.g., blank video template project) contained within the digital image record.



191. The templates comprise shopping information (e.g., free vs pro templates) relating to the type of digital image record (e.g., Video), wherein the shopping information is associated with each particular template (i.e., "particular product") and indicates editing options for each video template related to data contained within the digital image record and offered by the particular template




192. Defendant is liable for its infringements of the '042 Patent pursuant to 35 U.S.C. § 271.

**INDIRECT INFRINGEMENT (INDUCEMENT - 35 U.S.C. §271(b))**

193. Based on the information presently available to Plaintiff, absent discovery, and in the alternative and in addition to direct infringement, Plaintiff contends that Defendant has, and continue to, indirectly infringe one or more claims of the '042 Patent by inducing direct infringement of the Accused Products by others, including, but not limited to subsidiaries and end users.

194. On information and belief, Defendant was made aware of Plaintiff's patent portfolio including the '042 Patent since October 7, 2021, and thus has had knowledge of its

infringement of the ’042 Patent since then. Nevertheless, Defendant has had knowledge of the ’042 Patent and its infringement at least since receiving Plaintiff’s Original Complaint.

195. On information and belief, despite having knowledge of the ’042 Patent and its infringement, Defendant specifically intended and encouraged one or more of its subsidiaries to make, offer for sale, or sell in the United States and/or import the Canva.com Application into the United States, which (as illustrated above) infringes claims of the ’042 Patent. Defendant’s acts have resulted in, and continue to result in, direct infringement by such subsidiaries for making, offering for sale, selling, and/or importing the Canva Mobile Application.

196. Defendant has also specifically intended and encouraged individuals in this District and elsewhere in the United States to directly infringe claims of the ’042 Patent (e.g., Claim 1 as described above) by acquiring and using the Canva.com Application. Despite having knowledge of the ’042 Patent and its infringement, Defendant has instructed and encouraged end users of the Canva.com Application in a manner that infringes the ’042 Patent.

197. Plaintiff has been damaged as a result of Defendant’s unlicensed infringing conduct described in this Count. Defendant is thus liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant’s infringement, which, by law, cannot be less than a reasonable royalty together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

198. Plaintiff has satisfied the requirements of 35 U.S.C. § 287 and is entitled to recover damages for infringement occurring before the filing of this lawsuit.

## COUNT VII
## (Infringement of U.S. Patent No. 9,848,158)

199. Plaintiff incorporates paragraphs 1 through 198 herein by reference.

200. This cause of action arises under the Patent laws of the United States, including 35 U.S.C. §§ 271, *et seq*.

201. Plaintiff is the owner of the ’158 Patent with all substantial rights to the ’158 Patent including the exclusive right to enforce, sue, and recover damages for past and future infringement.

202. The ’158 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

**DIRECT INFRINGEMENT (35 U.S.C. § 271(a))**

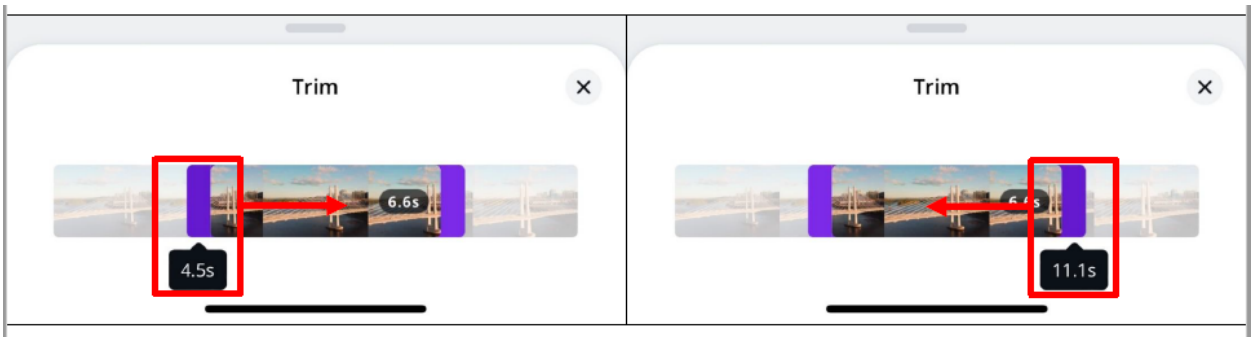
203. Defendant has, and continue to, infringe one or more claims of the ’158 Patent in this District and elsewhere in Texas and the United States.

204. On information and belief, Defendant has, and continues to, either by itself or via an agent or agents, infringed claims of the ’158 Patent (including for example, and as illustrated below, Claim 23) by, among other things, making, using, testing (including its own use and testing), selling, offering for sale, importing and/or licensing in the United States without authority systems, products, and methods claimed by the ’158 Patent, namely, the Canva Mobile Application.

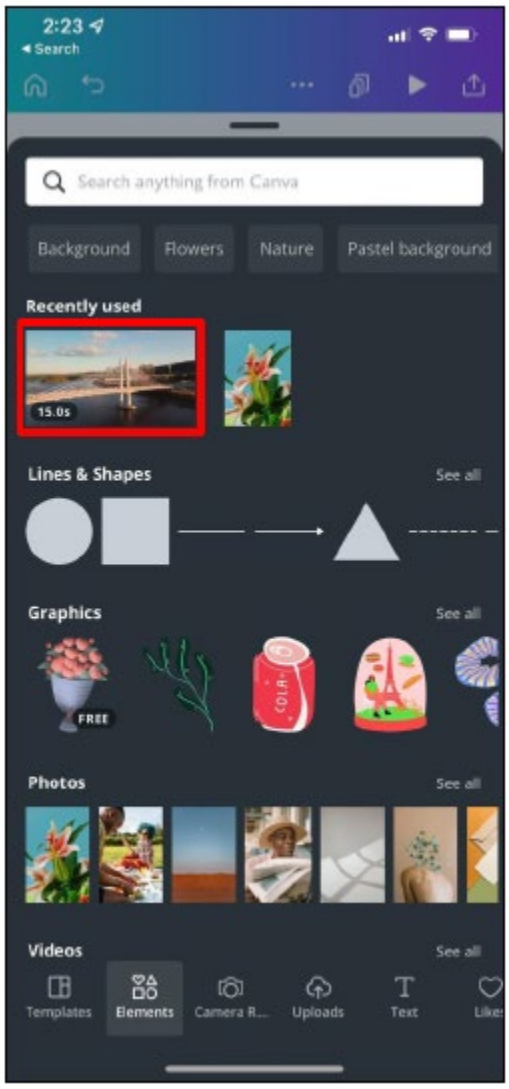
205. Defendant had knowledge of the ’158 Patent and its direct infringement since at least October 7, 2021, when Defendant was notified of the ’158 Patent and infringement of the ’158 Patent. Specifically, Defendant received an email on October 7, 2021 from Mr. Robert Kelley that provided a link to claim charts detailing Defendant’s infringement of the ’158 Patent.

206. Upon information and belief, and as one illustration without limitation, Defendant infringes Claim 23 of the ’158 Patent in the exemplary manners described below.

207. CANVA receives by the Canva user interface at least one of a first input (e.g., pressing the start frame marker), a second input (e.g., pressing the end frame marker), a third input (e.g., dragging either frame marker to the right), a fourth input (e.g., dragging either frame marker to the left.

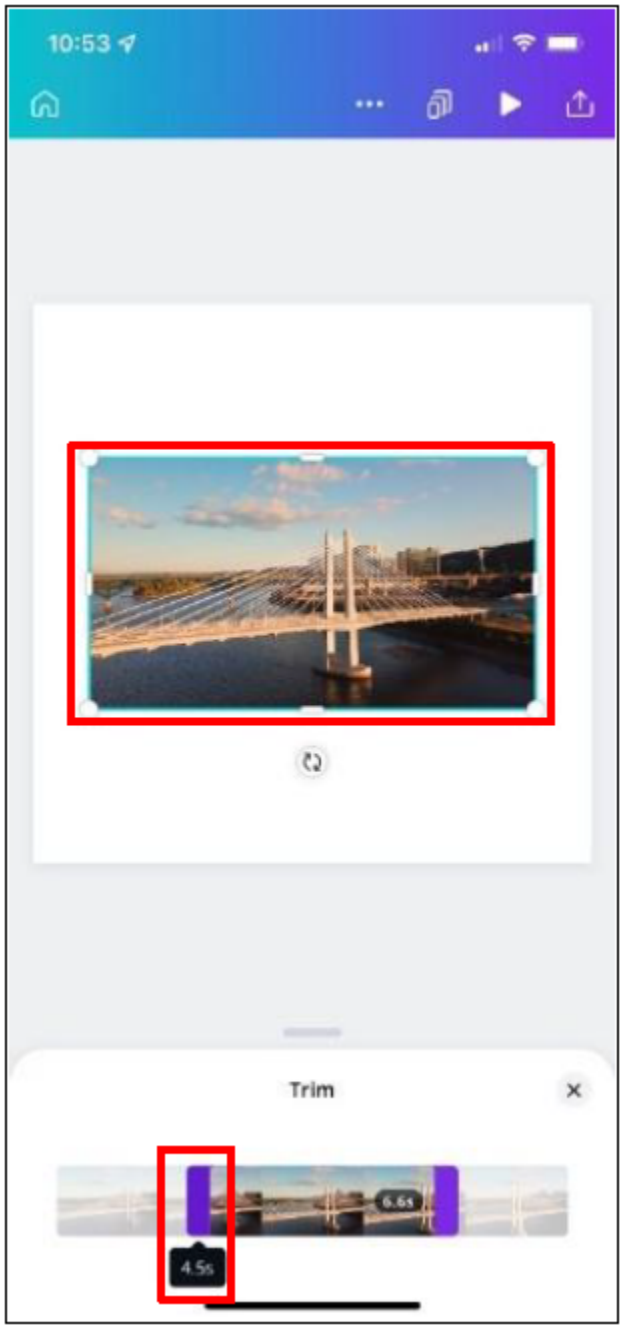



208. CANVA stores a digital video (i.e., "digital video sequence comprising a sequence of frames").

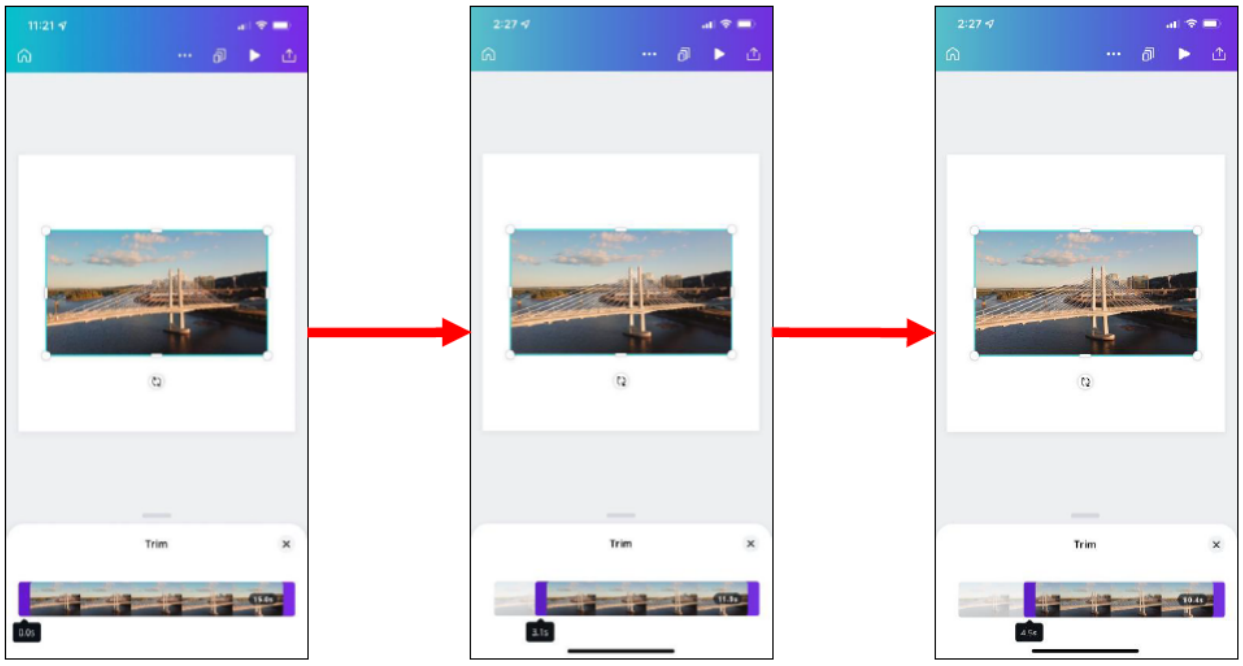



209. CANVA displays, on the smartphone's display, a currently selected frame of the

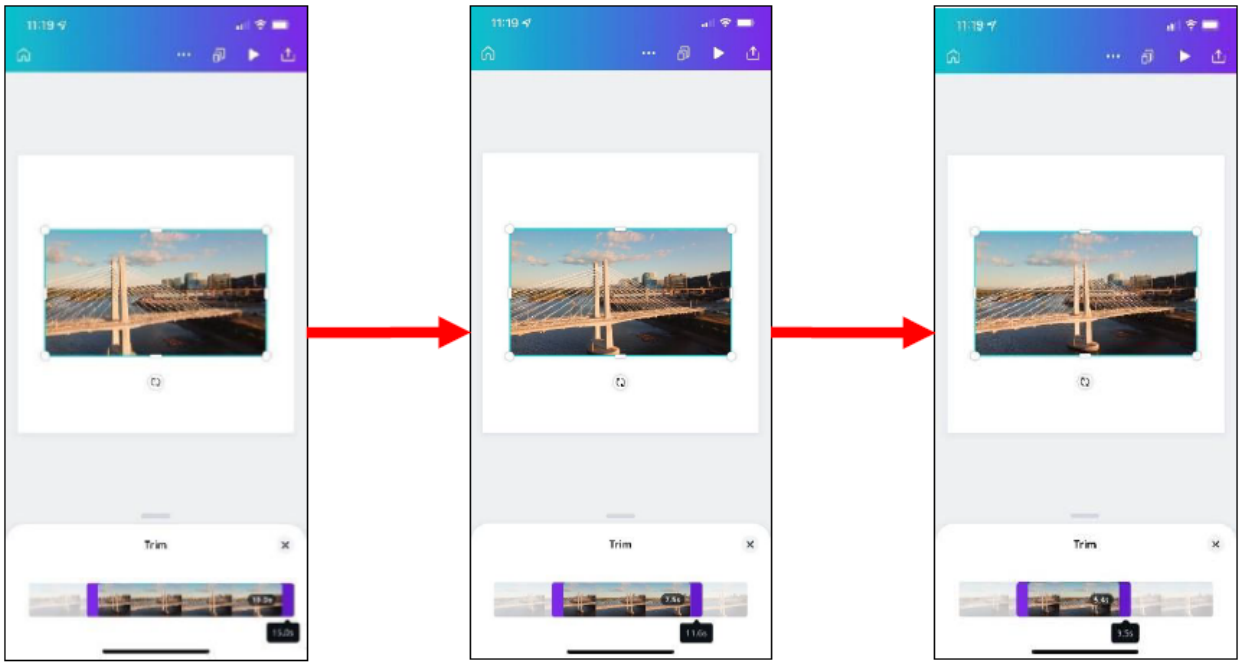
digital video.



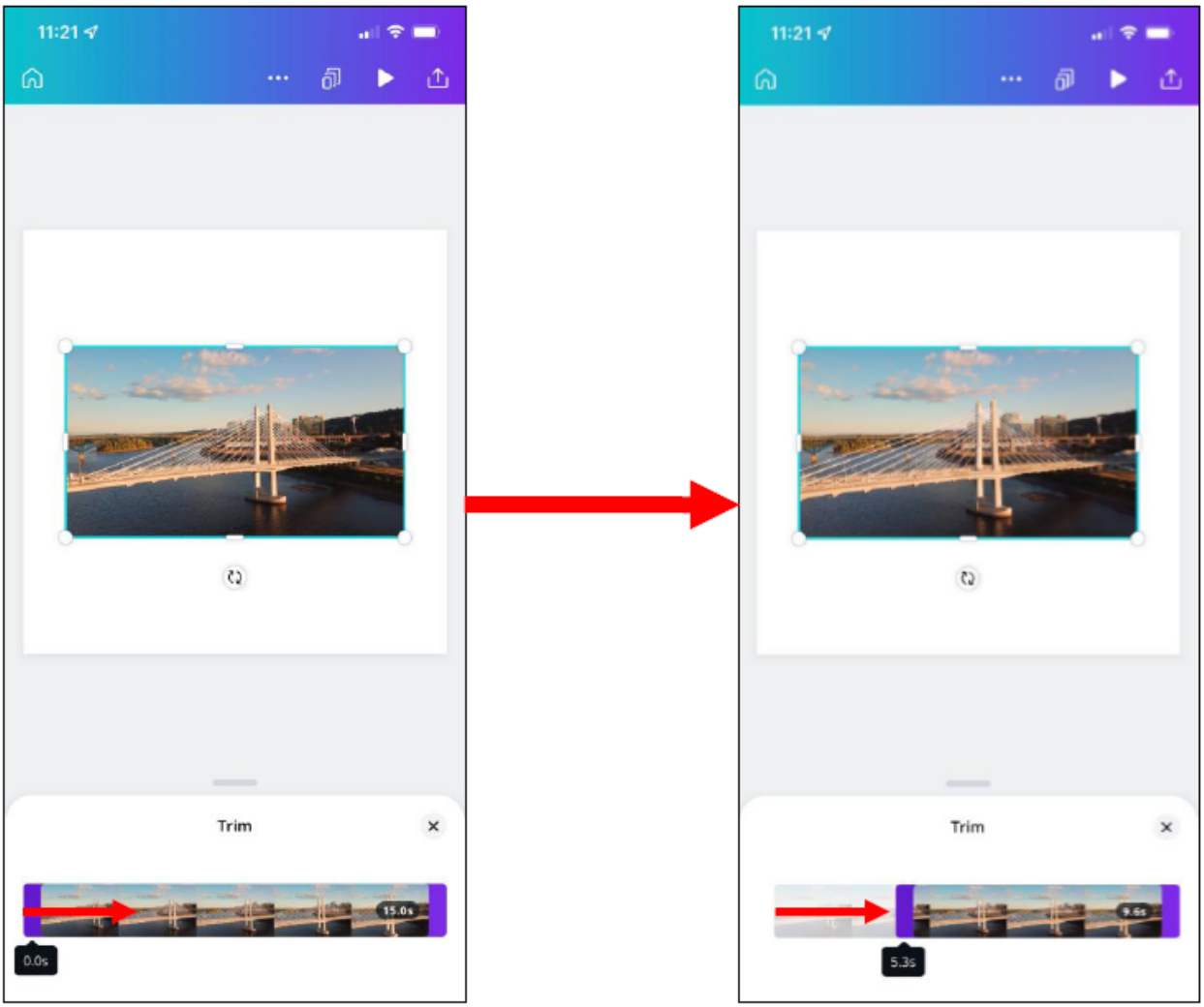

210. CANVA transitions to a start frame selection mode in response to the touchscreen receiving a press at the start frame marker, wherein changing the position of the start frame marker causes the currently selected frame to scroll to the frame corresponding to the start frame marker (i.e., "corresponding frame at the position of the start frame marker").



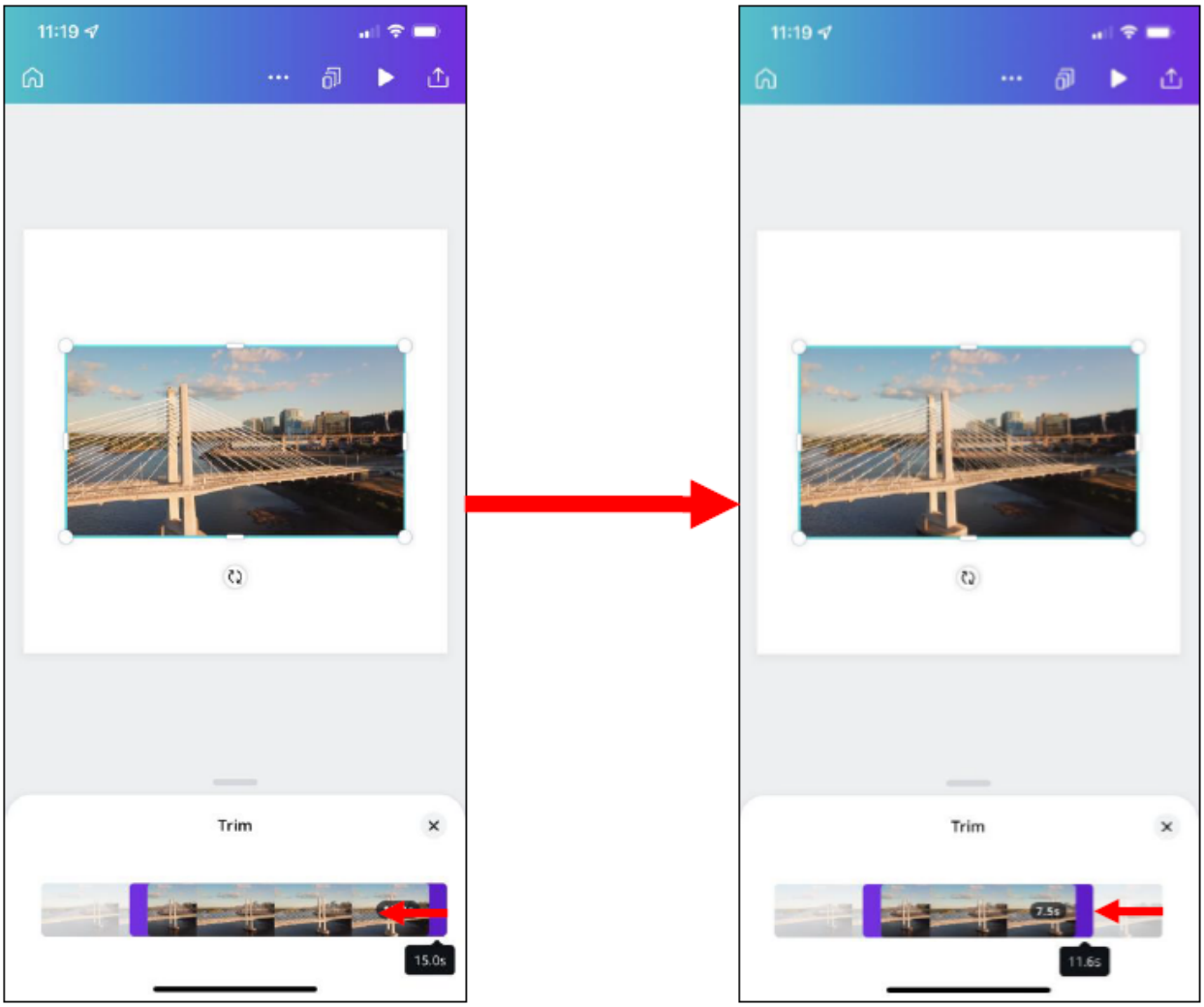

211. CANVA transitions to an end frame selection mode in response to the touchscreen receiving a press at the end frame marker, wherein the start frame selection mode is separate from the end frame selection mode, wherein changing the position of the end frame marker causes the currently selected frame to scroll to the frame corresponding to the end frame marker (i.e., "corresponding frame at the position of the end frame marker").



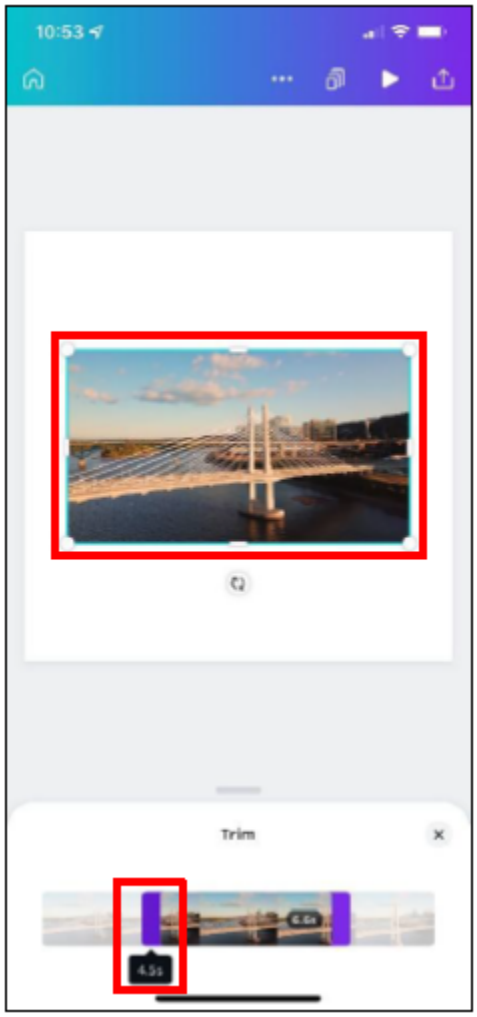
212. CANVA scrolls through the digital video in a left to right direction (i.e., "first temporal direction") in response to the touchscreen receiving an input dragging the start/end frame marker to the right.



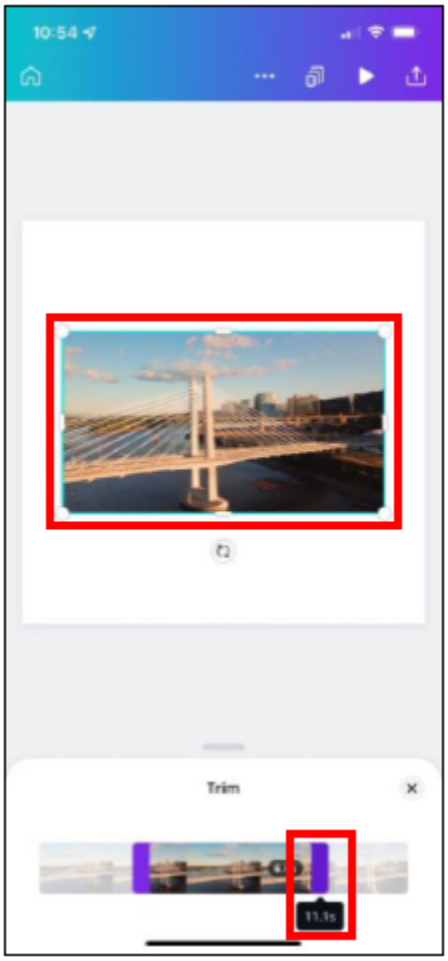

213. CANVA scrolls through the digital video in a right to left direction (i.e., "second temporal direction") in response to the touchscreen receiving an input dragging the start/end frame marker to the left.



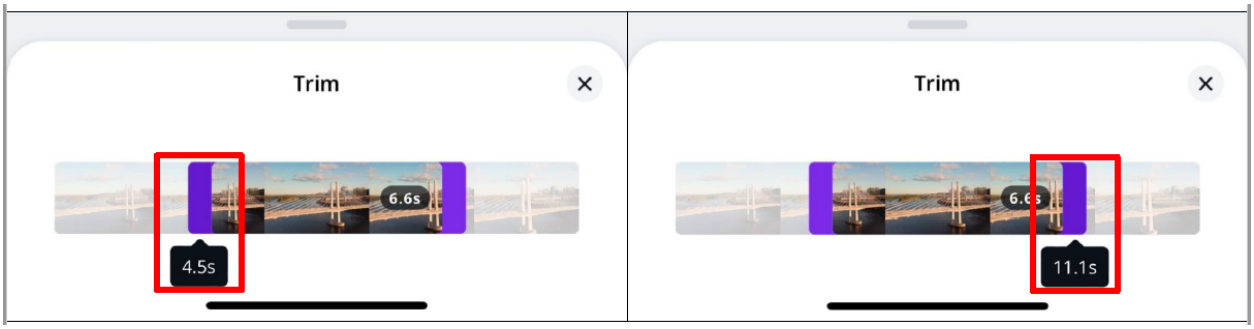

214. CANVA establishes the first frame at the start frame marker (i.e., "start frame") as the currently selected frame in response to the touchscreen receiving an input releasing the start frame marker (i.e., "start frame selection input") while the smartphone is in the start frame selection mode, wherein the releasing of the start frame marker is separate from the pressing of the start frame marker.



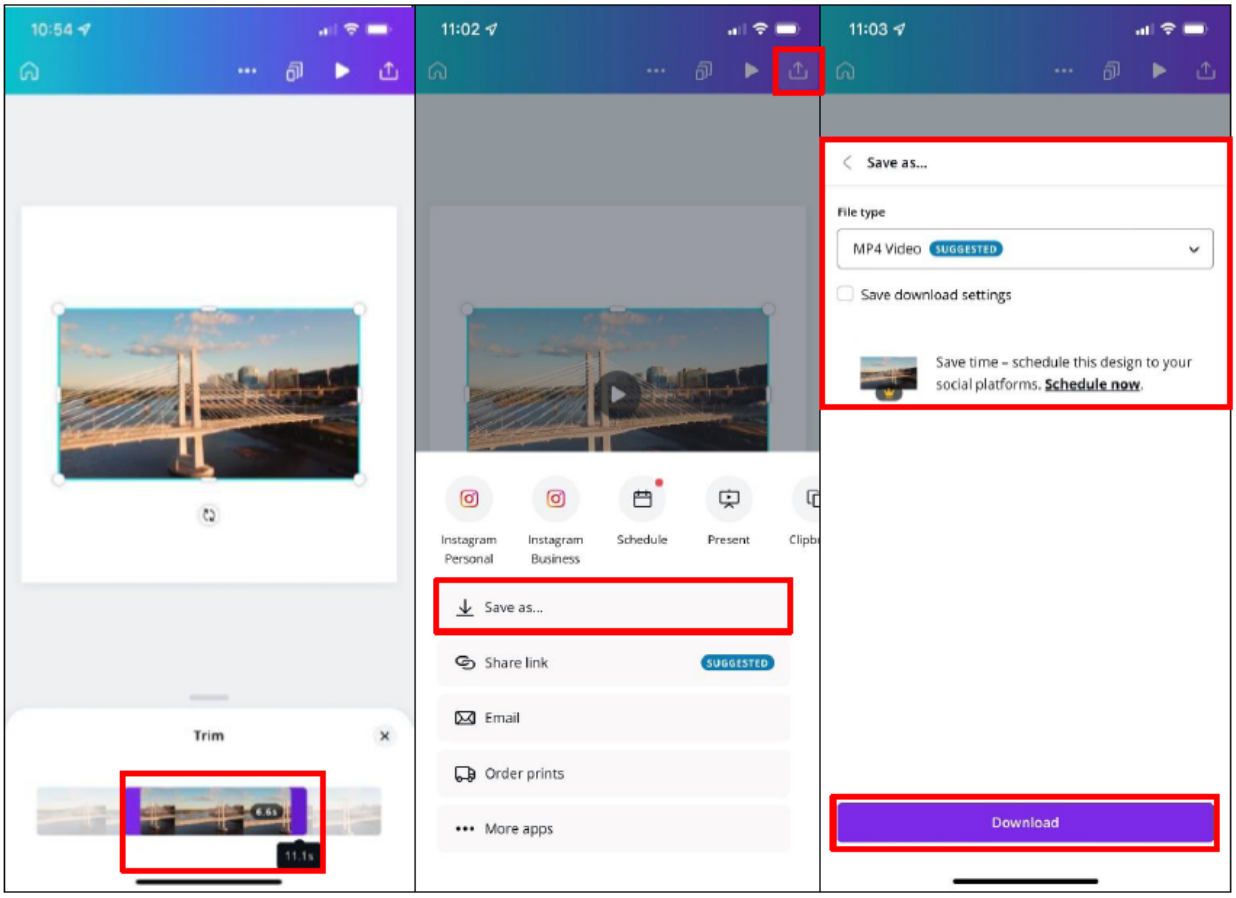

215. CANVA establishes the last frame at the end frame marker (i.e., "end frame") as the currently selected frame in response to the touchscreen receiving an input releasing the end frame marker (i.e., "end frame selection input") while the smartphone is in the end frame selection mode, wherein the releasing of the end frame marker is separate from the pressing of the end frame marker.




216. CANVA displays an indicator box of the currently selected frame marker (i.e., "indication") to either the start frame marker to indicate whether the start frame selection mode is selected or to the end frame marker to indicate whether the end frame selection mode is selected.




217. CANVA stores a trimmed digital video comprising frames of the digital video between the first frame at the start frame marker and the last frame at the end frame marker.




218. Defendant is liable for its infringements of the '158 Patent pursuant to 35 U.S.C. § 271.

**INDIRECT INFRINGEMENT (INDUCEMENT - 35 U.S.C. §271(b))**

219. Based on the information presently available to Plaintiff, absent discovery, and in the alternative and in addition to direct infringement, Plaintiff contends that Defendant has, and continue to, indirectly infringe one or more claims of the '158 Patent by inducing direct infringement of the Accused Products by others, including, but not limited to subsidiaries and end users.

220. Defendant had knowledge of the '158 Patent and its direct infringement since at least October 7, 2021, when Defendant was notified of the '158 Patent and infringement of the '158 Patent. Specifically, Defendant received an email on October 7, 2021 from Mr. Robert Kelley

that provided a link to claim charts detailing Defendant's infringement of the '158 Patent.

221. On information and belief, despite having knowledge of the '158 Patent and its infringement, Defendant specifically intended and encouraged one or more of its subsidiaries to make, offer for sale, or sell in the United States and/or import the Canva Mobile Application into the United States, which (as illustrated above) infringes claims of the '158 Patent. Defendant's acts have resulted in, and continue to result in, direct infringement by such subsidiaries for making, offering for sale, selling, and/or importing the Canva Mobile Application.

222. Defendant has also specifically intended and encouraged individuals in this District and elsewhere in the United States to directly infringe claims of the '158 Patent (e.g., Claim 23 as described above) by acquiring and using the Canva Mobile Application. Despite having knowledge of the '158 Patent and its infringement, Defendant has instructed and encouraged end users of the Canva Mobile Application in a manner that infringes the '158 Patent.

223. Plaintiff has been damaged as a result of Defendant's unlicensed infringing conduct described in this Count. Defendant is thus liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's infringement, which, by law, cannot be less than a reasonable royalty together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

224. Plaintiff has satisfied the requirements of 35 U.S.C. § 287 and is entitled to recover damages for infringement occurring before the filing of this lawsuit.

## COUNT VIII
## (Infringement of U.S. Patent No. 10,425,612)

225. Plaintiff incorporates paragraphs 1 through 224 herein by reference.

226. This cause of action arises under the Patent laws of the United States, including 35 U.S.C. §§ 271, *et seq*.

227. Plaintiff is the owner of the '612 Patent with all substantial rights to the '612 Patent

including the exclusive right to enforce, sue, and recover damages for past and future infringement.

228. The ’612 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

**DIRECT INFRINGEMENT (35 U.S.C. § 271(a))**

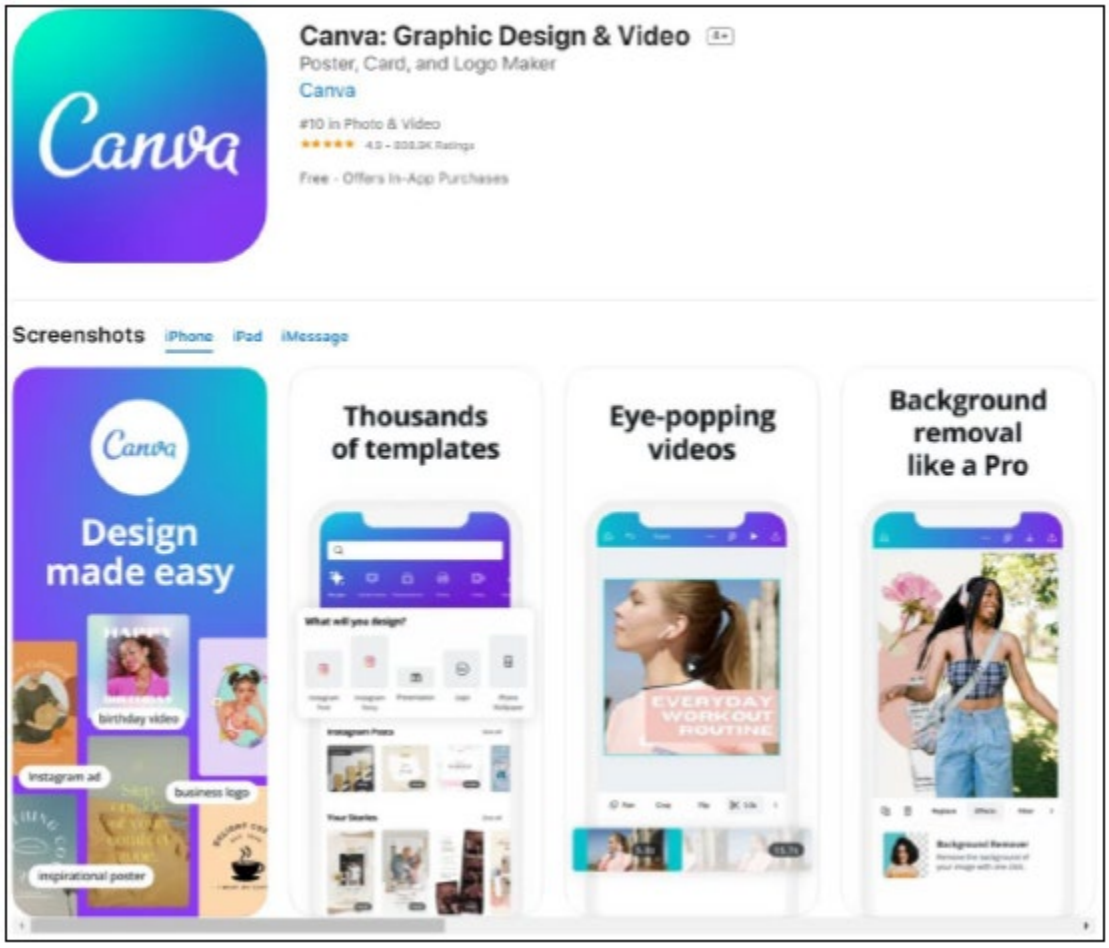
229. Defendant has, and continue to, infringe one or more claims of the ’612 Patent in this District and elsewhere in Texas and the United States.

230. On information and belief, Defendant has, and continues to, either by itself or via an agent or agents, infringed claims of the ’612 Patent (including for example, and as illustrated below, Claim 12) by, among other things, making, using, testing (including its own use and testing), selling, offering for sale, importing and/or licensing in the United States without authority systems, products, and methods claimed by the ’612 Patent, namely, the Canva Mobile Application.

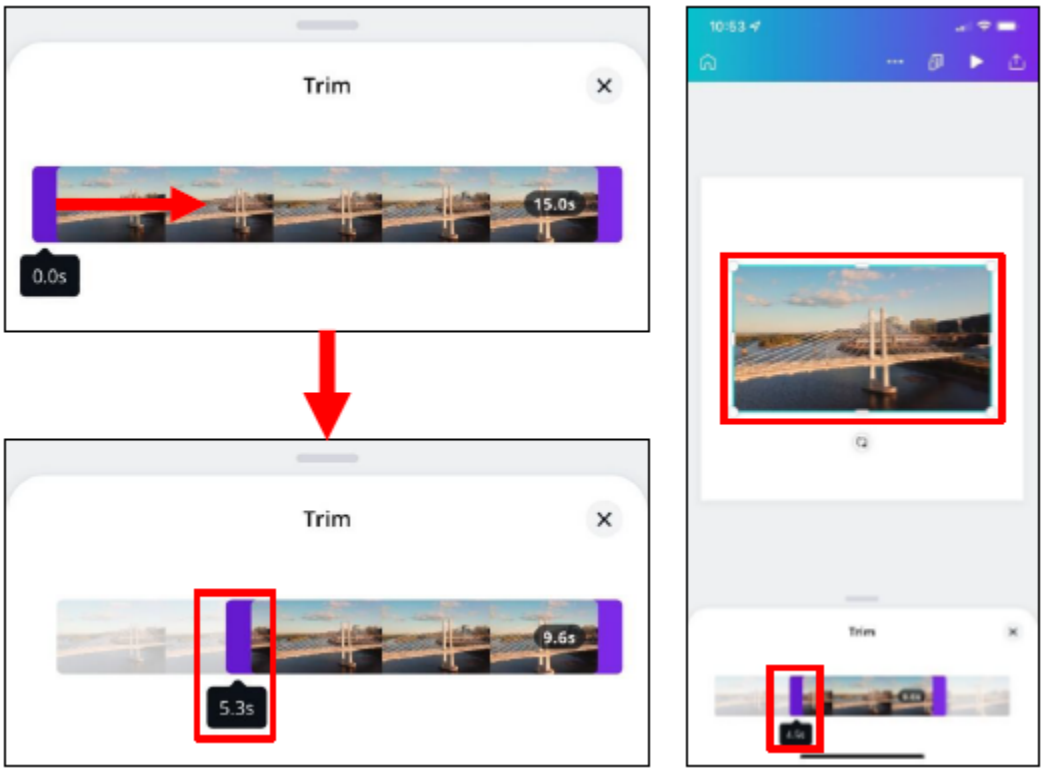
231. Defendant had knowledge of the ’612 Patent and its direct infringement since at least October 7, 2021, when Defendant was notified of the ’612 Patent and infringement of the ’612 Patent. Specifically, Defendant received an email on October 7, 2021 from Mr. Robert Kelley that provided a link to claim charts detailing Defendant’s infringement of the ’612 Patent.

232. Upon information and belief, and as one illustration without limitation, Defendant infringes Claim 12 of the ’612 Patent in the exemplary manners described below.

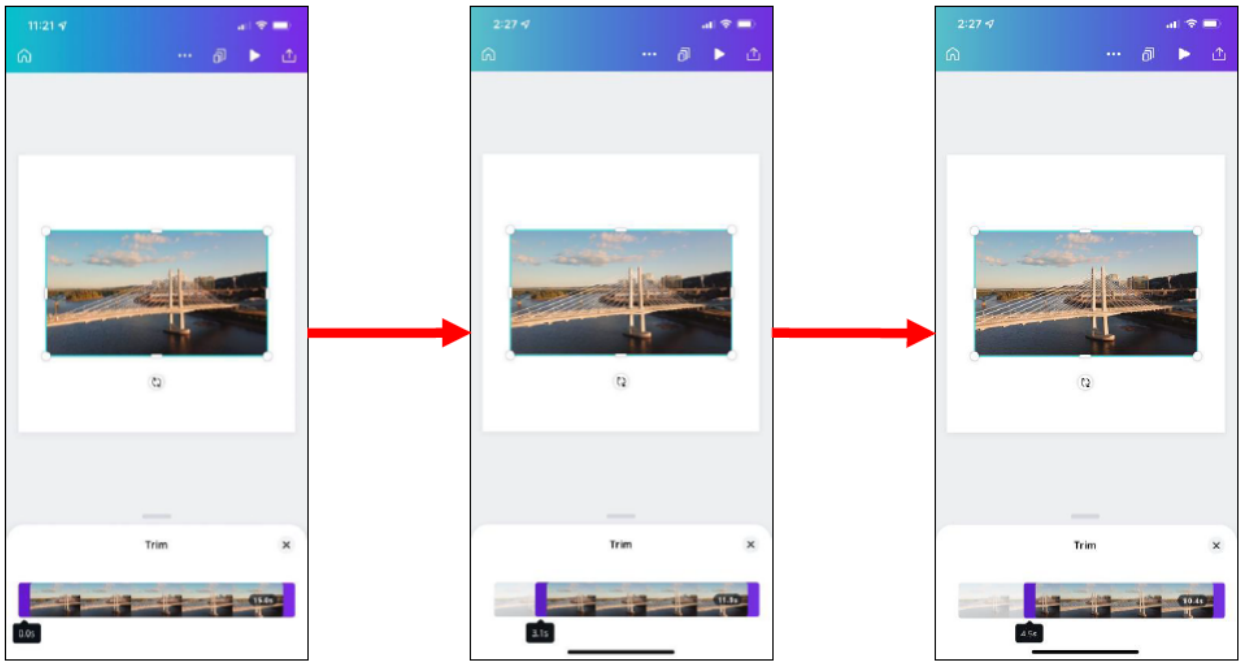
233. CANVA provides an application on a smartphone (i.e., "processor-based device") having a display and a memory accessible to said smartphone.



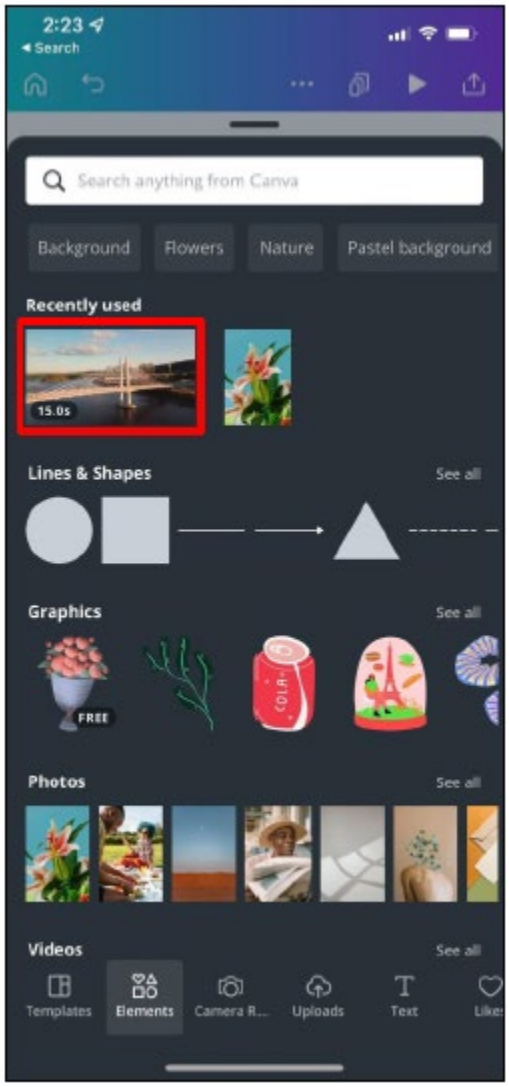
234. During a start frame selection mode, CANVA responds to a receipt of a user's input changing the position of the start frame marker relative to the timeline via the Canva application's user interface.



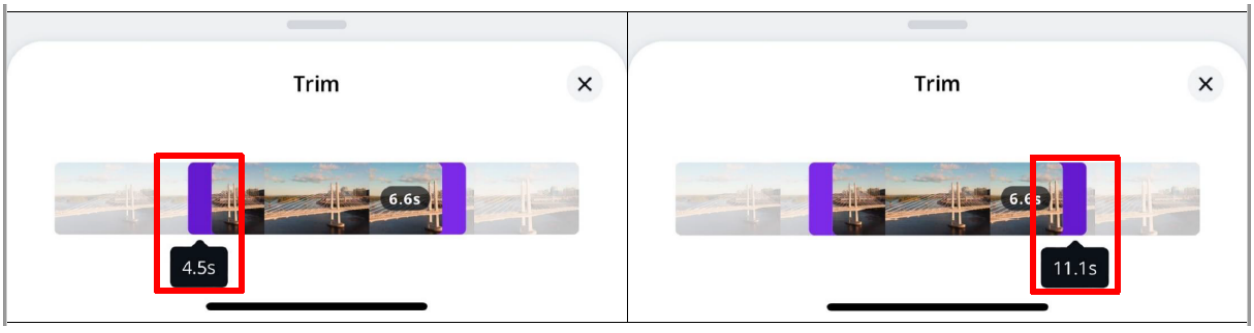
235. CANVA scrolls to and displays a currently-selected frame of the video comprising the original sequence of frame on said display and establishes in the smartphone memory the currently selected frame as a start frame.



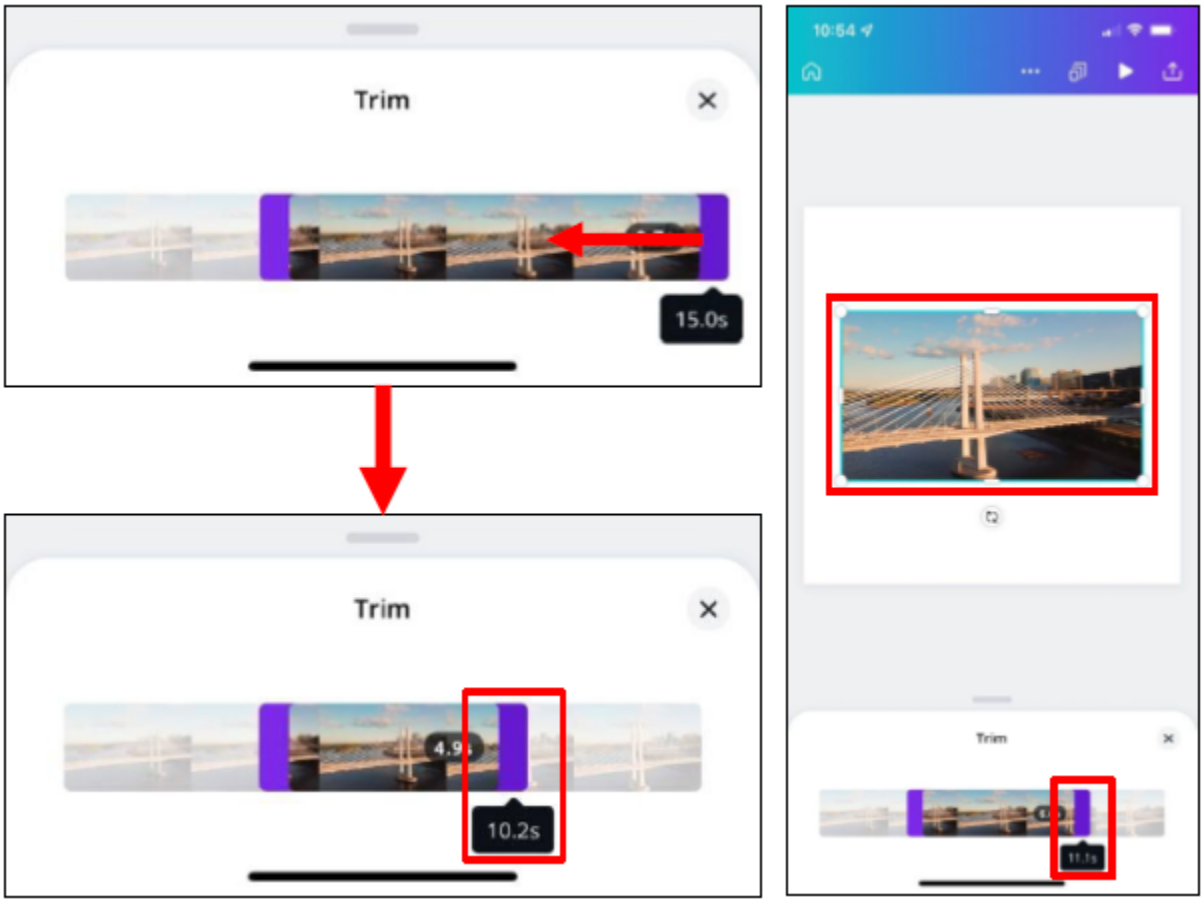
236. CANVA stores the video in the memory of the smartphone.



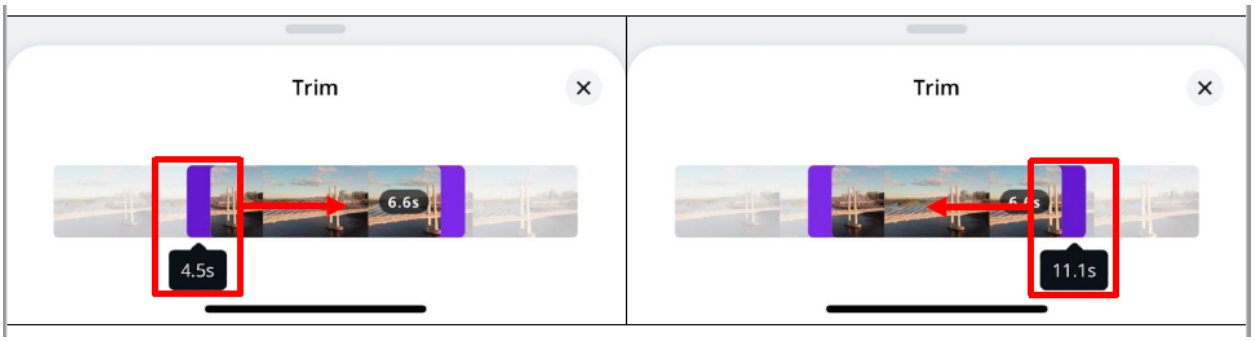

237. CANVA responds to one or more subsequent user inputs (e.g., pressing and/or dragging the start and/or end frame markers) via the Canva app user interface.



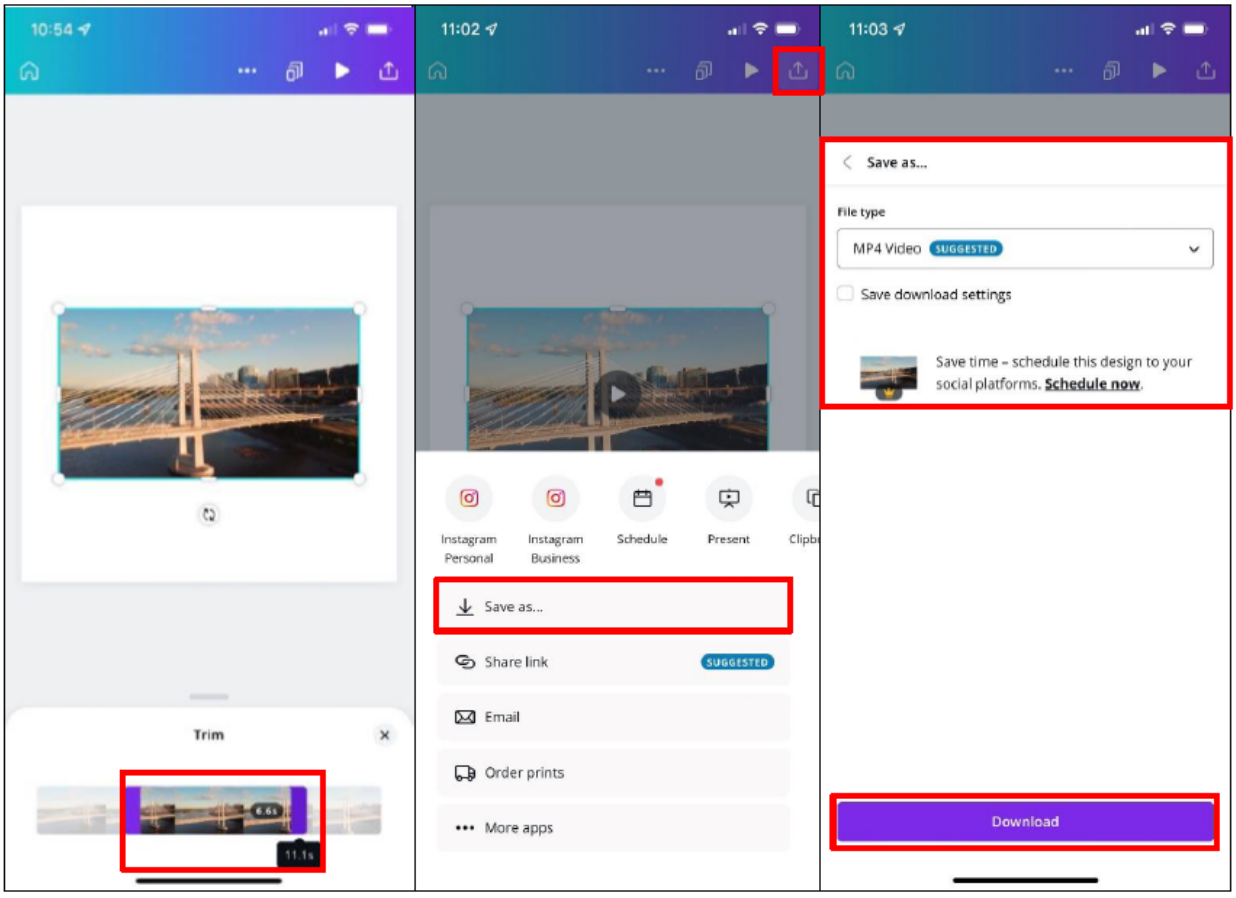
238. CANVA facilitates during an end frame selection mode a user selection of an end frame by permitting a user to scroll to a desired end frame by changing the end frame marker relative to the timeline (e.g., user touch dragging the end frame). CANVA displays the end frame and establishes the user's selection of the end frame as the designated end frame.



239. During the selection of the start frame and designated end frame, CANVA presents on the display an indicator box (i.e., "indication") to either the start frame marker to indicate whether the start frame selection mode is selected or to the end frame marker to indicate whether the end frame selection mode is selected.




240. CANVA stores a trimmed digital video comprising the start frame and the designated end frame along with the frames of the original sequence of frames.



241. Defendant is liable for its infringements of the ’612 Patent pursuant to 35 U.S.C. § 271.

**INDIRECT INFRINGEMENT (INDUCEMENT - 35 U.S.C. §271(b))**

242. Based on the information presently available to Plaintiff, absent discovery, and in the alternative and in addition to direct infringement, Plaintiff contends that Defendant has, and continue to, indirectly infringe one or more claims of the ’612 Patent by inducing direct infringement of the Accused Products by others, including, but not limited to subsidiaries and end users.

243. Defendant had knowledge of the ’612 Patent and its direct infringement since at least October 7, 2021, when Defendant was notified of the ’612 Patent and infringement of the ’612 Patent. Specifically, Defendant received an email on October 7, 2021 from Mr. Robert Kelley that provided a link to claim charts detailing Defendant’s infringement of the ’612 Patent.

244. On information and belief, despite having knowledge of the ’612 Patent and its infringement, Defendant specifically intended and encouraged one or more of its subsidiaries to make, offer for sale, or sell in the United States and/or import the Canva Mobile Application into the United States, which (as illustrated above) infringes claims of the ’612 Patent. Defendant’s acts have resulted in, and continue to result in, direct infringement by such subsidiaries for making, offering for sale, selling, and/or importing the Canva Mobile Application.

245. Defendant has also specifically intended and encouraged individuals in this District and elsewhere in the United States to directly infringe claims of the ’612 Patent (e.g., Claim 12 as described above) by acquiring and using the Canva Mobile Application. Despite having knowledge of the ’612 Patent and its infringement, Defendant has instructed and encouraged end users of the Canva Mobile Application in a manner that infringes the ’612 Patent.

246. Plaintiff has been damaged as a result of Defendant's unlicensed infringing conduct described in this Count. Defendant is thus liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's infringement, which, by law, cannot be less than a reasonable royalty together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

247. Plaintiff has satisfied the requirements of 35 U.S.C. § 287 and is entitled to recover damages for infringement occurring before the filing of this lawsuit.

**COUNT IX**
**(Infringement of U.S. Patent No. 10,728,490)**

248. Plaintiff incorporates paragraphs 1 through 247 herein by reference.

249. This cause of action arises under the Patent laws of the United States, including 35 U.S.C. §§ 271, *et seq*.

250. Plaintiff is the owner of the '490 Patent with all substantial rights to the '490 Patent including the exclusive right to enforce, sue, and recover damages for past and future infringement.

251. The '490 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

**DIRECT INFRINGEMENT (35 U.S.C. § 271(a))**

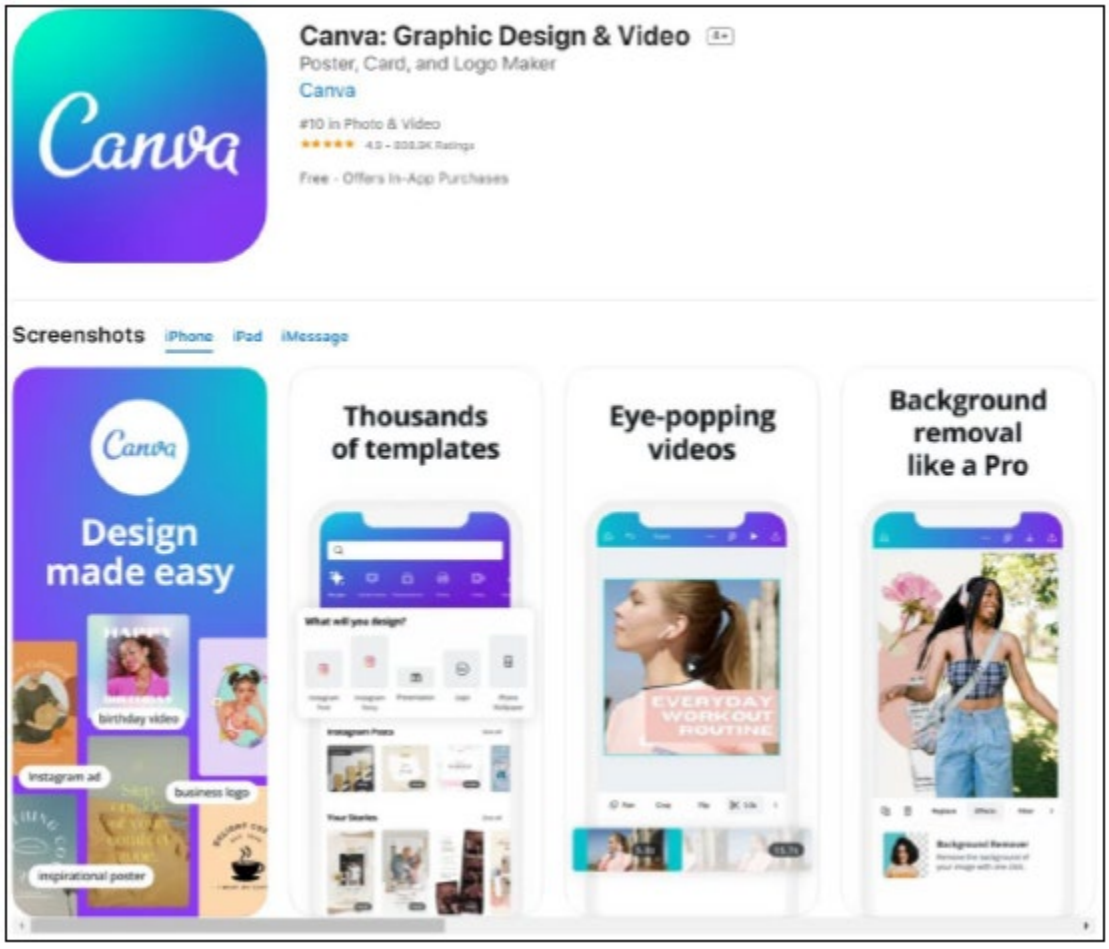
252. Defendant has, and continue to, infringe one or more claims of the '490 Patent in this District and elsewhere in Texas and the United States.

253. On information and belief, Defendant has, and continues to, either by itself or via an agent or agents, infringed claims of the '490 Patent (including for example, and as illustrated below, Claim 12) by, among other things, making, using, testing (including its own use and testing), selling, offering for sale, importing and/or licensing in the United States without authority systems, products, and methods claimed by the '490 Patent, namely, the Canva Mobile Application.

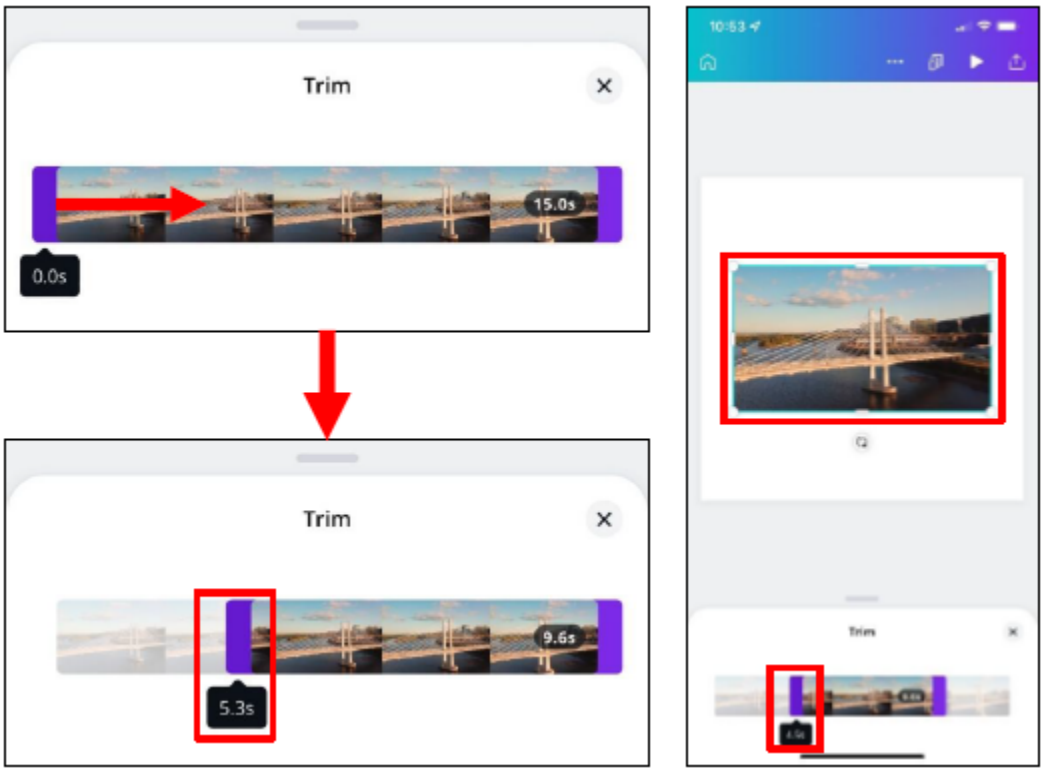
254. Defendant had knowledge of the ’490 Patent and its direct infringement since at least October 7, 2021, when Defendant was notified of the ’490 Patent and infringement of the ’490 Patent. Specifically, Defendant received an email on October 7, 2021 from Mr. Robert Kelley that provided a link to claim charts detailing Defendant’s infringement of the ’490 Patent.

255. Upon information and belief, and as one illustration without limitation, Defendant infringes Claim 12 of the ’490 Patent in the exemplary manners described below.

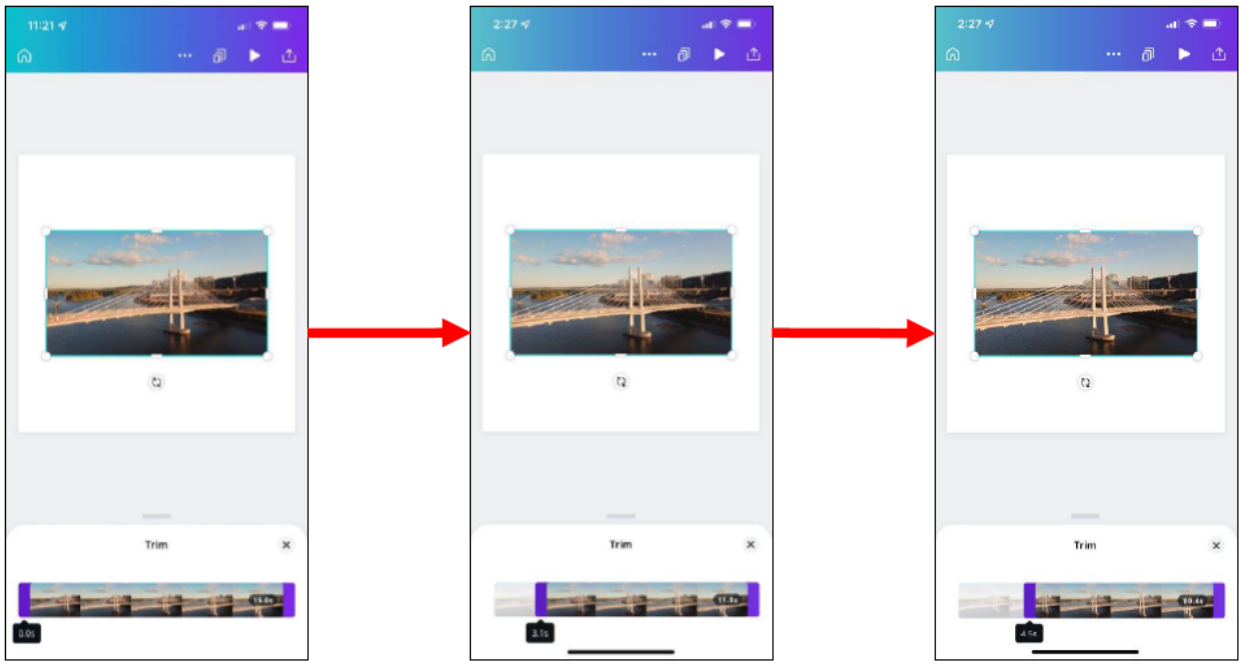
256. CANVA provides an application on a smartphone (i.e., “processor-based device”) having a display and a memory accessible to said smartphone.



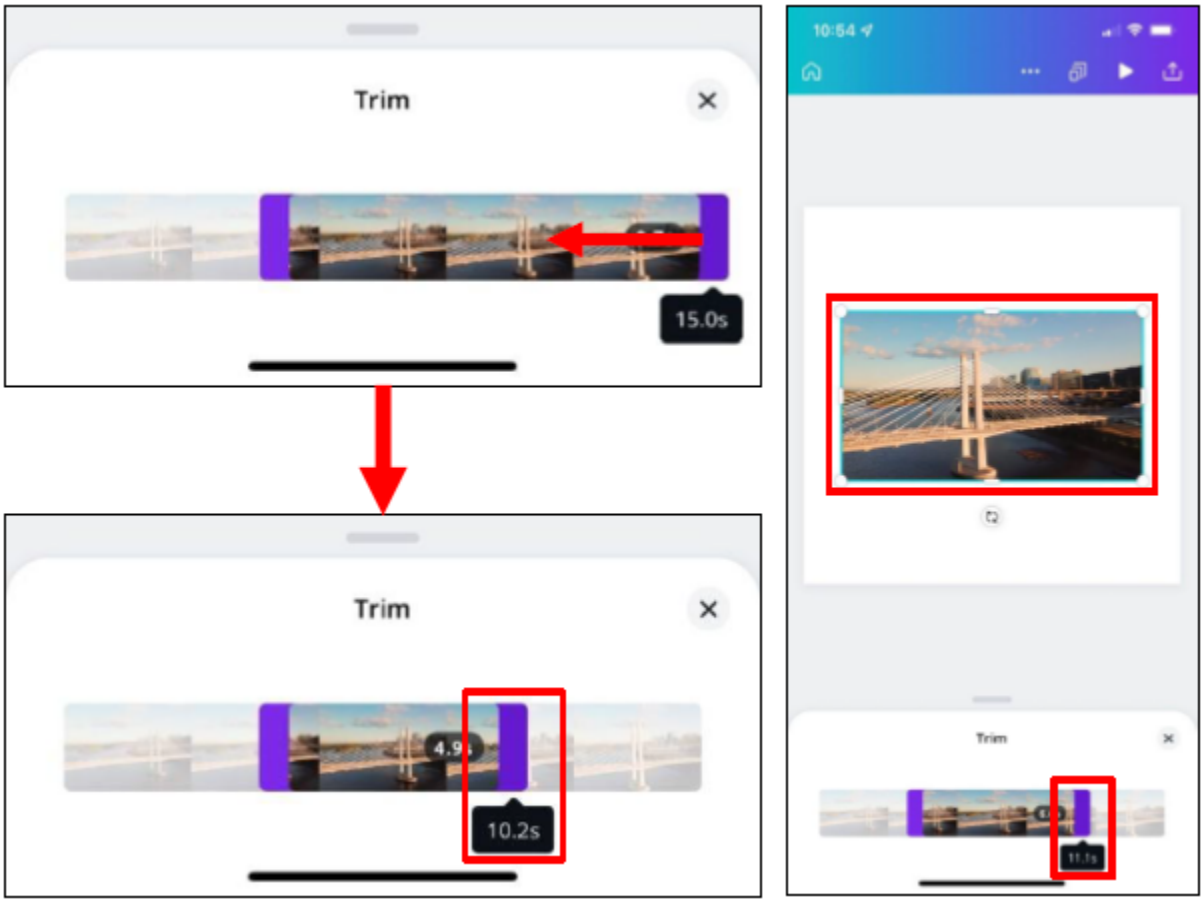
257. During a start frame selection mode, CANVA responds to a receipt of a user's input changing the position of the start frame marker relative to the timeline via the Canva application's user interface.



258. CANVA scrolls to and displays a currently-selected frame of the video comprising the original sequence of frame on said display and establishes in the smartphone memory the currently selected frame as a start frame.



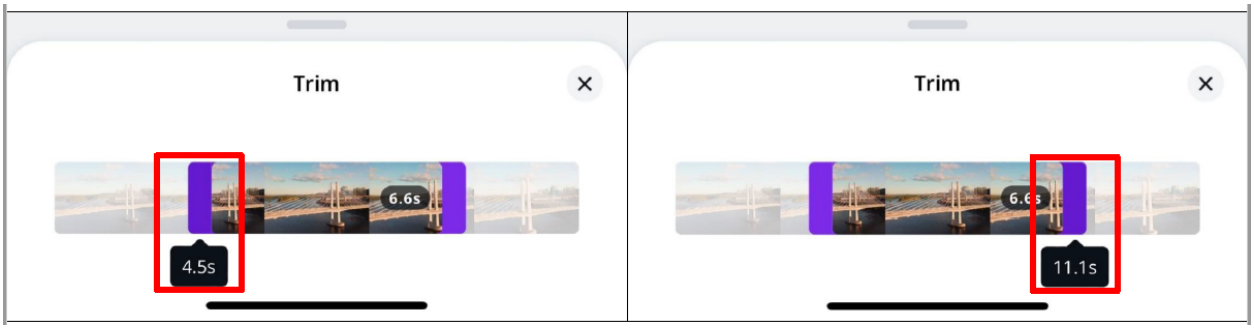
259. During an end frame selection mode, CANVA responds to a receipt of a user's input changing the position of the start frame marker relative to the timeline via the Canva application's user interface.



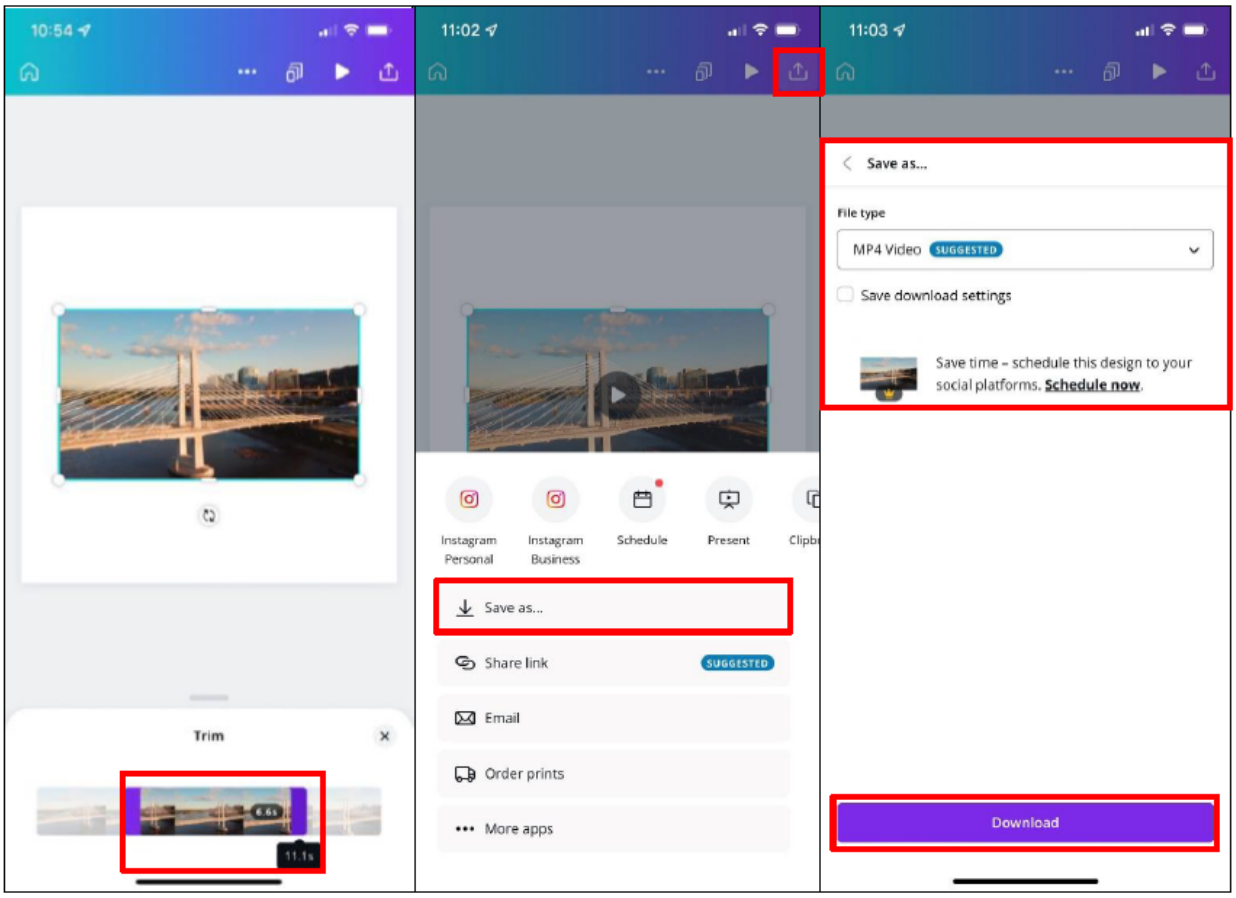

260. CANVA scrolls to and displays a desired end frame of the video by changing the end frame marker relative to the timeline (e.g., user touch dragging the end frame) and establishes in the smartphone's memory the user's selection of the end frame as the designated end frame (see figure above).

261. During the scrolling to the start frame and scrolling to the designated end frame, CANVA presents on the display an indicator box (i.e., "indication") to either the start frame marker

to indicate whether the start frame selection mode is selected or to the end frame marker to indicate whether the end frame selection mode is selected.




262. CANVA stores a trimmed digital video comprising the start frame and the designated end frame along with the frames of the original sequence of frames.




263. Defendant is liable for its infringements of the ’490 Patent pursuant to 35 U.S.C. § 271.

**INDIRECT INFRINGEMENT (INDUCEMENT - 35 U.S.C. §271(b))**

264. Based on the information presently available to Plaintiff, absent discovery, and in the alternative and in addition to direct infringement, Plaintiff contends that Defendant has, and continue to, indirectly infringe one or more claims of the '490 Patent by inducing direct infringement of the Accused Products by others, including, but not limited to subsidiaries and end users.

265. Defendant had knowledge of the '490 Patent and its direct infringement since at least October 7, 2021, when Defendant was notified of the '490 Patent and infringement of the '490 Patent. Specifically, Defendant received an email on October 7, 2021 from Mr. Robert Kelley that provided a link to claim charts detailing Defendant's infringement of the '490 Patent.

266. On information and belief, despite having knowledge of the '490 Patent and its infringement, Defendant specifically intended and encouraged one or more of its subsidiaries to make, offer for sale, or sell in the United States and/or import the Canva Mobile Application into the United States, which (as illustrated above) infringes claims of the '490 Patent. Defendant's acts have resulted in, and continue to result in, direct infringement by such subsidiaries for making, offering for sale, selling, and/or importing the Canva Mobile Application.

267. Defendant has also specifically intended and encouraged individuals in this District and elsewhere in the United States to directly infringe claims of the '490 Patent (e.g., Claim 12 as described above) by acquiring and using the Canva Mobile Application. Despite having knowledge of the '490 Patent and its infringement, Defendant has instructed and encouraged end users of the Canva Mobile Application in a manner that infringes the '490 Patent.

268. Plaintiff has been damaged as a result of Defendant's unlicensed infringing conduct described in this Count. Defendant is thus liable to Plaintiff in an amount that adequately

compensates Plaintiff for Defendant's infringement, which, by law, cannot be less than a reasonable royalty together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

269. Plaintiff has satisfied the requirements of 35 U.S.C. § 287 and is entitled to recover damages for infringement occurring before the filing of this lawsuit.

**COUNT X**
**(Willful Infringement)**

270. Plaintiff incorporates paragraphs 1 through 269 herein by reference.

271. Prior to the filing of this action, Defendant was aware of its infringement of the Asserted Patents.

272. As detailed above, Defendant was sent detailed claim charts detailing Defendant's infringement of the '182 Patent, the '129 Patent, the '158 Patent, the '612 Patent, the '490 Patent, and the '668 Patent and Defendant has been, or should have been, aware of its infringement since at least its receipt on October 7, 2021.

273. As detailed above, Defendant was aware of Plaintiff's patent portfolio including the '573 Patent, the '246 Patent and the '042 Patent and thus Defendant has been or should have been aware of its infringement of those patents since at least its receipt on October 7, 2021.

274. On information and belief, despite being aware of the Asserted Patents and its infringement of the Asserted Patents, Defendant has not changed or otherwise altered the Accused Products or its practices to avoid infringing the Asserted Patents. Rather, despite having notice of the Asserted Patents, Defendant has, and continues to, infringe the Asserted Patents, directly and/or indirectly, in disregard to Plaintiff's patent rights.

275. Defendant has acted recklessly and/or egregiously, and continues to willfully, wantonly, and deliberately engage in acts of infringement of the Asserted Patents, justifying a finding of willful infringement and an award to Plaintiff of increased damages under 35 U.S.C. §

284, and attorneys' fees and costs incurred under 35 U.S.C. § 285.

## JURY DEMAND

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

## PRAYER FOR RELIEF

Plaintiff asks that the Court find in its favor and against Defendant and that the Court grant Plaintiff the following relief:

a. judgment that Defendant has directly infringed one or more claims of the Asserted Patents, either literally and/or under the doctrine of equivalents;

b. judgment that Defendant has indirectly infringed one or more claims of the Asserted Patents, either literally and/or under the doctrine of equivalents.

c. judgment that Defendant has willfully infringed one or more claims of the Asserted Patents;

d. judgment that Defendant accounts for and pays to Plaintiff all damages and costs incurred by Plaintiff as a result of Defendant's infringing activities, and in no event less than a reasonable royalty;

e. judgment that Defendant pays to Plaintiff a reasonable, ongoing, post judgment royalty so long as Defendant continues its infringing activities;

f. An award of treble damages under 35 U.S.C. § 284 for Defendant's willful infringement;

g. pre-judgment and post judgment interest;

h. judgment that this case be found as exceptional under 35 U.S.C. § 285 and an award reasonable attorney fees;

i. a permanent injunction against Defendant, its officers, agents, employees, and those acting in privity with it, from further infringement or inducing infringement of the Asserted Patents; and

j. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: September 14, 2022

Respectfully submitted,

**PLATT CHEEMA RICHMOND PLLC**

*/s/ Matthew C. Acosta*

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