

1 RYAN R. SMITH, State Bar No. 229323
rsmith@wsgr.com
2 WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
3 650 Page Mill Road
Palo Alto, CA 94304-1050
4 Telephone: (650) 493-9300
Facsimile: (650) 565-5100

5 JOSE C. VILLARREAL (admitted *pro hac vice*)
jvillarreal@wsgr.com
6 ADEN M. ALLEN (admitted *pro hac vice*)
aallen@wsgr.com
7 ABRAHAM DELAO (admitted *pro hac vice*)
adelao@wsgr.com
8 JOEL C. BOEHM (admitted *pro hac vice*)
jboehm@wsgr.com

9 WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
10 900 South Capital of Texas Highway
Las Cimas IV, 5th Floor
11 Austin, TX 78746
12 Telephone: (512) 338-5400
Facsimile: (512) 338-5499

13 Attorneys for Plaintiffs
14 Dimdim, Inc., and salesforce.com, inc.

15
16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 DIMDIM, INC., a Delaware corporation,
20 and
SALESFORCE.COM, INC., a Delaware
21 corporation,

22 Plaintiffs,

23 v.

24 RICHARD A. WILLIAMSON, ON BEHALF
OF AND AS TRUSTEE FOR AT HOME
25 BONDHOLDERS' LIQUIDATING TRUST,

26 Defendant.

CASE NO.: 3:12-CV-03403-RS

**FIRST AMENDED COMPLAINT
FOR DECLARATORY JUDGMENT
OF PATENT NONINFRINGEMENT
AND INVALIDITY**

DEMAND FOR JURY TRIAL

1 Plaintiffs Dimdim, Inc. ("Dimdim") and salesforce.com, inc. ("Salesforce") hereby allege
2 for their First Amended Complaint against defendant Richard A. Williamson, on behalf of and as
3 trustee for At Home Bondholders' Liquidating Trust ("Williamson"), on personal knowledge as
4 to Plaintiffs' own actions and on information and belief as to the actions of others, as follows:

5 **INTRODUCTION**

6 1. Dimdim and Salesforce file this action in response to Williamson's previous
7 accusations that Dimdim and/or Salesforce infringe U.S. Patent Number 6,155,840 ("the '840
8 Patent").

9 2. Williamson previously sued Dimdim and Salesforce in the Central District of
10 California, Case Number 2:11-cv-02409, along with several other defendants. On Friday, June
11 29, 2012, the presiding judge in that matter ordered Dimdim and Salesforce dismissed from that
12 case due to misjoinder.

13 3. Given Williamson's recent accusations of patent infringement against Dimdim
14 and Salesforce, including Williamson's Answer and Counterclaim to Plaintiffs' original
15 Complaint in this action (Dkt. No. 26), there is a real and actual controversy between Dimdim
16 and Salesforce on the one hand and Williamson on the other regarding whether Dimdim or
17 Salesforce is liable for the alleged infringement of the '840 Patent owned by Williamson.
18 Dimdim and Salesforce thus bring this declaratory judgment action to obtain a declaration that
19 neither infringes any valid, enforceable claim of the '840 Patent.

20 **THE PARTIES**

21 4. Plaintiff Dimdim is a Delaware corporation and a wholly-owned subsidiary of
22 Salesforce. Salesforce acquired Dimdim on or about January 6, 2011. Dimdim previously
23 developed and commercially offered certain software products for online, web-based
24 collaboration.

25 5. Plaintiff Salesforce is a Delaware corporation with its principal place of business
26 and corporate headquarters in San Francisco, California. Salesforce is a leading provider of web-

1 based software and cloud computing products, including its customer relationship management
2 (CRM) product.

3 6. On information and belief, Defendant Williamson is a liquidating trust formed
4 under the confirmed plan of reorganization for the At Home Corporation in connection with its
5 bankruptcy filing on September 28, 2001, Case No. 01-32495-TC, in the United States
6 Bankruptcy Court for the Northern District of California, San Francisco Division. Defendant's
7 address is: Richard A. Williamson, Trustee of At Home Bondholders' Liquidating Trust,
8 Flemming Zulack Williamson Zauderer LLP, One Liberty Plaza, New York, New York 10006-
9 1404.

10 **JURISDICTION AND VENUE**

11 7. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. §§
12 1331 and 1338(a), because this action involves a claim arising under the patent laws of the
13 United States, 35 U.S.C. §§ 101, et seq., and under the Federal Declaratory Judgment Act, 28
14 U.S.C. §§ 2201 and 2202.

15 8. The Court may exercise personal jurisdiction over Williamson because, for
16 example, Williamson has continuous and systematic contacts with the State of California and has
17 acted as trustee in connection with the At Home Corporation's bankruptcy in the United States
18 Bankruptcy Court for the Northern District of California, San Francisco Division.

19 9. Salesforce conducts business within California by maintaining an office located at
20 The Landmark @ One Market, Suite 300, San Francisco, California 94105. Salesforce also
21 regularly conducts business in this District and has offered for sale and sold products and
22 systems within this judicial district. Prior to its acquisition by Salesforce, Dimdim maintained a
23 corporate headquarters at 900 Chelmsford St., Lowell, Massachusetts 01851.

24 10. The claims herein arise from Williamson's prior accusations of infringement.
25 Because Williamson has availed himself of the privileges of conducting activities in this District,
26 he is subject to personal jurisdiction in this District. Given that Salesforce is headquartered in
27

1 San Francisco, this District and the State of California clearly has a sufficient interest in
2 resolving this dispute.

3 11. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), (c)
4 and/or (d) because, *inter alia*, Williamson is subject to personal jurisdiction in this District, the
5 Plaintiff Salesforce is headquartered in this District, the former At Home Corporation was
6 headquartered in this District, a substantial part of the alleged events or omissions giving rise to
7 the claims occurred in this District, and key witnesses reside in this District.

8 **INTRADISTRICT ASSIGNMENT**

9 12. Pursuant to Civil Local Rule 3-5(b), this is an Intellectual Property Action to be
10 assigned on a district-wide basis.

11 **FACTUAL BACKGROUND**

12 13. Prior to its acquisition by Salesforce, Dimdim engaged in the design and
13 development of online, web-based collaboration software. Specifically, Dimdim offered the
14 following products: Dimdim Free, Dimdim Pro, Dimdim Webinar, and Dimdim Enterprise (also
15 called Dimdim Business) (“Dimdim’s products”). Salesforce acquired Dimdim on or about
16 January 6, 2011.

17 14. On March 22, 2011, Williamson sued Dimdim and Salesforce in the Central
18 District of California, Case Number 2:11-cv-02409, along with several other defendants, for
19 infringement of the ’840 Patent (“the First Litigation”). Prior to March 22, 2011 neither Dimdim
20 nor Salesforce was aware of U.S. Patent No. 6,155,840 or had received notice from Williamson
21 that each might be accused of infringing the ’840 Patent. Dimdim and Salesforce each answered
22 Williamson’s complaint, asserting various defenses. Dimdim and Salesforce also each counter-
23 claimed for declaratory judgment of non-infringement and invalidity of U.S. Patent No.
24 6,155,840.

25 15. During the First Litigation, Williamson accused Dimdim’s products of direct
26 and/or indirect infringement, and maintained that both Dimdim and Salesforce are liable for such
27 alleged acts of infringement. In connection with the First Litigation, Williamson also accused

1 Salesforce of infringement based on its support of Dimdim's products after Salesforce acquired
 2 Dimdim to satisfy unexpired contractual obligations. Williamson also raised a potential theory
 3 accusing Salesforce of infringement based on the possibility that Salesforce has integrated or
 4 may integrate Dimdim's technology into existing Salesforce products.

5 16. On Friday, June 29, 2012, Central District Judge Matz ordered Dimdim and
 6 Salesforce dismissed from that case due to misjoinder. A true and correct copy of this order is
 7 attached as Exhibit A.

8 17. On September 12, 2012, Williamson filed its Answer to Plaintiffs' original
 9 Complaint in this action, and counter-claimed for infringement of U.S. Patent No. 6,155,840.
 10 (Dkt. No. 26.)

11 18. Therefore, according to the facts as set forth above, an actual controversy exists
 12 between the parties with sufficient immediacy and reality to warrant declaratory relief thereof.

13
 14 **FIRST CAUSE OF ACTION**
(Declaratory Judgment of Noninfringement of U.S. Patent No. 6,155, 840)

15
 16 19. Dimdim and Salesforce repeat and reallege the allegations of paragraphs 1
 17 through 18 in their entirety.

18 20. United States Patent Number 6,155,840 ("the '840 patent") is entitled "System
 19 and Method for Distributed Learning." A true and correct copy of the '840 patent is attached
 20 hereto as Exhibit B.

21 21. Dimdim and Salesforce contend that each has not infringed, has not willfully
 22 infringed, is not now infringing, has not contributorily infringed, and has not induced
 23 infringement of any valid, enforceable claim of the '840 Patent.

24 22. Specifically, and by way of non-limiting example, any and all products relating to
 25 Dimdim or Salesforce that Williamson accused in the First Litigation were and are not for
 26 "conducting distributed learning" (independent claims 1 and 8) and did not and do not constitute
 27 a "distributed learning server" (independent claim 17). Likewise, those accused products did not

1 and do not contain “a graphical display representative of a classroom” (independent claim 1) or
 2 “a classroom region” (independent claim 17).

3 23. Accordingly, a valid and justiciable controversy has arisen and exists between
 4 Dimdim and Salesforce on the one hand and Williamson on the other. Dimdim and Salesforce
 5 desire a judicial determination and declaration of the respective rights and the duties of the
 6 parties herein. Such a determination and declaration is necessary and appropriate at this time in
 7 order that the parties may ascertain their respective rights and duties.

8
 9 **SECOND CAUSE OF ACTION**
 10 **(Declaratory Judgment of Invalidity of U.S. Patent No. 6,155,840)**

11 24. Dimdim and Salesforce repeat and reallege the allegations of paragraphs 1
 12 through 23 in their entirety.

13 25. Dimdim and Salesforce contend that the ’840 patent is invalid because it fails to
 14 satisfy one or more conditions and requirements for patentability as set forth, *inter alia*, in 35
 15 U.S.C. §§ 101, 102, 103, 112, and/or 116.

16 26. In particular, in connection with the first litigation, Dimdim and Salesforce have
 17 identified voluminous references that anticipate the ’840 patent, and/or render it obvious alone or
 18 in conjunction with one another.

19 27. By way of example, Dimdim and Salesforce attach as Exhibit C a non-exhaustive
 20 list of prior art they have identified and which has been produced to Williamson in the first
 21 litigation, and as Exhibit D a chart showing how Maly et al., “Interactive Distance Learning over
 22 Intranets,” *IEEE Journal of Internet Computing*, vol. 1, Jan.-Feb. 97, pp. 60-71, anticipates at
 23 least certain claims of the ’840 patent.

24 28. Accordingly, a valid and justiciable controversy has arisen and exists between
 25 Dimdim and Salesforce on the one hand and Williamson on the other. Dimdim and Salesforce
 26 desire a judicial determination and declaration of the respective rights and the duties of the
 27

1 parties herein. Such a determination and declaration is necessary and appropriate at this time in
2 order that the parties may ascertain their respective rights and duties.

3
4 **THIRD CAUSE OF ACTION**
(Declaratory Judgment of Unenforceability of U.S. Patent No. 6,155,840)

5
6 29. Dimdim and Salesforce repeat and reallege the allegations of paragraphs 1 through 28
7 in their entirety.

8 30. On information and belief, the '840 Patent, issued from U. S. patent application serial
9 number 09/156,335 ("the application leading to the '840 Patent"), is unenforceable because the
10 named inventor, Mr. Alfred Sallette ("Mr. Sallette"), and/or his patent prosecution counsel,
11 violated their duty of candor to, and engaged in inequitable conduct before, the United States
12 Patent and Trademark Office ("USPTO") by omitting from disclosure to the patent examiner and
13 USPTO known information material to the patentability of the application leading to the
14 '840 Patent, but for which the USPTO would not have granted the '840 patent, and with
15 calculated intent to deceive the USPTO into allowing one or more of the claims of the
16 '840 Patent, as explained below.

17 **BACKGROUND**

18 31. Mr. Sallette is the single named inventor on the face of the '840 Patent. The title of
19 the '840 Patent is "System and Method for Distributed Learning." The '840 Patent was assigned
20 from Mr. Sallette to the At Home Corporation. Mr. Sallette began working for the At Home
21 Corporation in 1997. The application leading to the '840 patent was filed on September 18,
22 1998.

23 32. Before joining the At Home Corporation, Mr. Sallette worked for Novell from 1991
24 to 1997. While working at Novell, Mr. Sallette had responsibilities related to training people
25 with respect to Novell's technology, but he had no experience with distributed learning.

26 33. Brian Hoffman ("Mr. Hoffman") was an attorney for the At Home Corporation and/or
27 Mr. Sallette. Mr. Hoffman drafted and prosecuted the application leading to the '840 Patent.

1 Mr. Sallette met with Mr. Hoffman on June 21, 1998. At a meeting between Mr. Sallette and
2 Mr. Hoffman on June 21, 1998, Mr. Sallette provided Mr. Hoffman information that formed the
3 basis of the content of application leading to the '840 Patent.

4 34. Before June 21, 1998, Mr. Sallette had not provided Mr. Hoffman information
5 disclosing all of the concepts recited in any of the independent claims of the '840 Patent.

6 35. When the application leading to the '840 Patent was filed, Mr. Sallette understood
7 that he had a duty to disclose to the USPTO information that was material to patentability of the
8 application leading to the '840 Patent. In connection with the application leading to the '840
9 patent, Mr. Sallette signed a declaration acknowledging his duty to disclose material information
10 as defined in Title 37 Code of Federal Regulations Section 1.56.

11 36. Mr. Sallette's initial job responsibilities with the At Home Corporation were
12 performing needs analysis and instructional design, course development, and training. In 1997,
13 the @Work Division of the At Home Corporation was interested in developing a distributed
14 learning product. In 1997, Mr. Sallette began collaborating with the @Work Division to develop
15 what ultimately became a product called the At Home Corporation Portable Learning ("HPL").

16 37. Williamson has contended, and on information and belief, contends, that the HPL
17 product embodied one or more claims of the '840 Patent.

18 38. Mr. Sallette has contended that he was leading the efforts with the @Work Division
19 to create the HPL product. When Mr. Sallette began collaborating with the @Work Division to
20 develop a distributed learning product, Mr. Sallette was familiar with existing distributed
21 learning products that had been developed by others.

22 39. Louis Leporace ("Mr. Leporace") was a product manager for the @Work Division of
23 the At Home Corporation in 1997. Mr. Leporace was responsible for creating a distributed
24 learning product that could be sold by the @Work Division of the At Home Corporation. Mr.
25 Leporace's approach to designing the distributed learning product for the @Work group was to
26 look at and understand systems that had been developed by others, to leverage existing
27 technology, and then move forward and differentiate from there.

1 48. Mr. Anderson had originally intended to accompany Mr. Sallette and Mr. Leporace at
2 the ODU meeting, but ultimately Mr. Anderson did not attend.

3 49. The meeting at ODU involving Mr. Sallette and Mr. Leporace lasted all day.

4 50. Dr. Kurt Maly ("Dr. Maly") was a lead developer of the ODU IRI System.

5 51. During the January 1998 meeting at ODU, Dr. Maly gave a presentation on the
6 capabilities of the IRI System.

7 52. During the January 1998 meeting at ODU, Mr. Sallette and Mr. Leporace witnessed a
8 demonstration of the IRI System.

9 53. During the January 1998 meeting at ODU, Mr. Sallette and Mr. Leporace discussed
10 with Dr. Maly the architecture of the IRI System.

11 54. During the January 1998 meeting at ODU, Dr. Maly explained to Mr. Sallette and Mr.
12 Leporace the history of the IRI System.

13 55. During the January 1998 meeting at ODU, Dr. Maly discussed with Mr. Sallette and
14 Mr. Leporace the possibility of running the IRI System on the At Home Corporation network.

15 56. At or near the time of 1998 meeting at ODU, Mr. Sallette received a copy of a
16 technical paper describing the IRI System.

17 57. At or near the time of 1998 meeting at ODU, Mr. Leporace received a copy of a
18 technical paper describing the IRI System.

19 58. At or near the time of 1998 meeting at ODU, Mr. Sallette received a copy of the IEEE
20 IRI System Paper, or a document very similar to it.

21 59. At or near the time of 1998 meeting at ODU, Mr. Leporace received a copy of the
22 IEEE IRI System Paper, or a document very similar to it.

23 60. When Mr. Sallette and Mr. Leporace returned from their meeting at ODU, Mr.
24 Sallette and Mr. Leporace discussed what they had learned at ODU.

25 61. When Mr. Sallette and Mr. Leporace returned from their meeting at ODU, Mr.
26 Sallette and Mr. Leporace discussed the technical paper they had received from ODU regarding
27 the IRI System.

62. Copies of the technical paper received from ODU regarding the IRI System were distributed in a meeting including Mr. Leporace and Mr. Sallette that occurred when Mr. Leporace and Mr. Sallette returned from ODU.

63. While working in the @Work division, Mr. Leporace kept a file of all of the technologies that they were exploring.

64. Mr. Leporace put a copy of the technical paper that he received from ODU into the file of technologies that they were exploring.

Withholding Material Information from the USPTO

65. Neither Mr. Sallette nor anyone acting on his behalf disclosed to Mr. Hoffman a copy of the IEEE IRI System Paper.

66. Neither Mr. Sallette nor anyone acting on his behalf disclosed to Mr. Hoffman a reference describing the IRI System developed at ODU.

67. Neither Mr. Sallette, Mr. Hoffman, nor anyone acting on the Applicant's behalf disclosed to anyone else who was substantively involved in the prosecution of the application leading to the '840 Patent a copy of the IEEE IRI System Paper.

68. Neither Mr. Sallette, Mr. Hoffman, nor anyone acting on the Applicant's behalf disclosed to anyone else who was substantively involved in the prosecution of the application leading to the '840 Patent a copy of a reference describing the IRI System developed at ODU.

69. Neither Mr. Sallette, Mr. Hoffman, nor anyone acting on the Applicant's behalf disclosed to the USPTO a copy of the IEEE IRI System Paper.

70. Neither Mr. Sallette, Mr. Hoffman, nor anyone acting on the Applicant's behalf disclosed to the USPTO a reference describing the IRI System developed at ODU.

71. The USPTO did not consider, in connection with the prosecution of the '840 Patent, a copy of the IEEE IRI System Paper.

72. The USPTO did not consider, in connection with the prosecution of the '840 Patent, a prior art reference describing the IRI System developed at ODU.

73. Nothing on the face of the '840 Patent or in its file history indicates that, in connection with the prosecution of the '840 Patent, the USPTO was aware of the IEEE IRI System Paper.

74. Nothing on the face of the '840 Patent or in its file history indicates that, in connection with the prosecution of the '840 Patent, the USPTO was aware of a prior art reference describing the IRI System developed at ODU.

Materiality of Information Withheld from the USPTO

75. Multiple documents describing the IRI System are properly considered disclosure of a single prior art system to the claims of the '840 Patent under the public use prongs of 35 U.S.C. § 102(a) and/or (b). Attached hereto as Exhibit E is a true and correct copy of a claim chart filed in Case No. 2:11-CV-02409-AHM-JEM (C.D. Cal.), relating to the IRI system. Attached hereto as Exhibit F is a true and correct copy of a set of underlying documents relating to the IRI system, also filed in Case No. 2:11-CV-02409-AHM-JEM (C.D. Cal.).

76. The paper, Dr. Kurt Maly et al., "Interactive Distance Learning over Intranets," *IEEE Journal of Internet Computing*, vol. 1, Jan. 97, pp. 60-71 (the "IEEE IRI System Paper"), one such document describing the IRI System included in Exhibit F, is prior art to the '840 Patent pursuant to 35 U.S.C. § 102(b), because its publication date was more than one year prior to the date of application for the '840 Patent.

77. The IRI System would have been highly material to the patentability of the claims of the '840 Patent.

78. The IEEE IRI System Paper would have been highly material to the patentability of the claims of the '840 Patent.

79. The standards governing a patent applicant's duty to disclose information material to patentability is set forth in 37 C.F.R. § 1.56 (the "§ 1.56 standard"). The § 1.56 standard requires the applicant to disclose non-cumulative information that establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim, giving each term in the claim its broadest reasonable construction consistent with the specification.

1 80. Under the § 1.56 standard, the IEEE IRI System Paper anticipates and/or renders
2 obvious at least the independent claims of the '840 Patent, as detailed in Exhibits E and F.
3 Under the § 1.56 standard, the IEEE IRI System Paper establishes a *prima facie* case of
4 unpatentability of at least the independent claims of the '840 Patent.

5 81. Under the § 1.56 standard, the IRI System anticipates and/or renders obvious at least
6 the independent claims of the '840 Patent, as detailed in Exhibits E and F. Under the § 1.56
7 standard, the IRI System establishes a *prima facie* case of unpatentability of at least the
8 independent claims of the '840 Patent.

9 82. The applicant for the application leading to the '840 Patent (the "Applicant") argued
10 during prosecution that the prior art considered by the USPTO failed to disclose: (1) first and
11 second computers systems that each simultaneously displayed first and second data streams at
12 the same time; (2) creating a graphical display representative of the classroom on first and
13 second computers system coupled to a network; and (3) a distributed learning system that allows
14 a remote data stream to be transmitted to the presenter's and the audience member's respective
15 computer systems.

16 83. Each limitation the Applicant identified as allegedly not disclosed in the prior art
17 considered by the USPTO was enabled by and disclosed in the prior art IRI system and was
18 publicly used by users of the IRI system more than one year prior to the date of application for
19 the '840 Patent.

20 84. Under the § 1.56 standard, the IRI system disclosed at least the following elements:
21 (1) first and second computers systems that each simultaneously displayed first and second data
22 streams at the same time; (2) creating a graphical display representative of the classroom on first
23 and second computer systems coupled to a network; and (3) a distributed learning system that
24 allows a remote data stream to be transmitted to the presenter's and the audience member's
25 respective computer systems.

26 85. Thus, in light of the Applicant's arguments, the IRI System was not cumulative to the
27 patentability of at least the independent claims of the '840 Patent, as explained above.

1 86. Likewise, in light of the Applicant's arguments, the IEEE IRI System Paper was not
2 cumulative to the patentability of at least the independent claims of the '840 Patent, as explained
3 above.

4 **But-For Causation**

5 87. If the USPTO had been aware of the IRI System, the '840 Patent Applicant would not
6 have been able to distinguish the prior art on this basis, and the USPTO would not have allowed
7 at least the independent claims of the '840 Patent. But for the withholding of the IRI System, the
8 USPTO would not have allowed at least the independent claims of the '840 Patent.

9 88. If the USPTO had been aware of the IEEE IRI System Paper, the applicant would not
10 have been able to distinguish the prior art on the basis argued during prosecution, and the
11 USPTO would not have allowed the independent claims of the '840 Patent to issue. But for the
12 withholding of the IEEE IRI System Paper, the USPTO would not have allowed at least the
13 independent claims of the '840 Patent.

14 **Intent to Deceive or Mislead the USPTO**

15 89. Mr. Sallette has no excuse for not disclosing the IRI System to the USPTO.

16 90. Mr. Sallette has no excuse for not disclosing the IEEE IRI System Paper to the
17 USPTO.

18 91. On information and belief, Mr. Sallette intentionally withheld from Mr. Hoffman and
19 the USPTO the IRI System.

20 92. On information and belief, Mr. Sallette intentionally withheld from Mr. Hoffman and
21 the USPTO the IEEE IRI System Paper describing the IRI System.

22 93. On information and belief, Mr. Sallette intended to deceive the USPTO by
23 withholding disclosure of the IRI System from the USPTO.

24 94. On information and belief, Mr. Sallette intended to deceive the USPTO by
25 withholding disclosure of the IEEE IRI System Paper from the USPTO.

26 95. On information and belief, further evidence of Mr. Sallette's intent to deceive the
27 USPTO may have been destroyed. In particular, and by way of non-limiting example, in Case

1 No. 1:11-CV-04948-LTS-KNF (S.D.N.Y.), Williamson stated in a letter to that Court that
2 “almost all of the records of At Home Corporation, . . . approximately two thousand boxes of
3 documents and servers, were destroyed sometime in 2007.”

4 96. Salesforce repeats and incorporates herein its allegations in paragraphs 31-95 as if
5 they were set forth fully herein. The only reasonable inference to be drawn from these
6 allegations is that Mr. Sallette knew of highly material prior art and deliberately withheld that
7 prior art from the patent examiner so as to intentionally deceive the USPTO in order to obtain
8 allowance of the claims of the '840 Patent.

9 97. Considering the high degree of materiality of the withheld prior art, which negate the
10 patentability of at least the independent claims of the '840 Patent, Mr. Sallette's knowledge of
11 the withheld IRI System, and the evidence of intent set forth above, there is clear evidence that
12 Mr. Sallette engaged in inequitable conduct before the USPTO in procuring the issuance of the
13 '840 Patent.

14 THE GTS AND PLACEWARE SYSTEMS

15 **Knowledge of Material Information**

16 98. As early as 1997, Mr. Sallette knew about distributed learning systems developed by
17 Placeware and Graham Technology Solutions (“GTS”).

18 99. The '840 Patent specification mentions the Placeware system and the GTS system in
19 the context of describing preferred embodiments.

20 100. In 1997, John Graham of GTS gave Mr. Sallette demonstrations of the GTS
21 System and explained numerous ways in which the GTS System may be integrated with other
22 systems.

23 101. Before filing the application leading to the '840 Patent, Mr. Sallette was aware
24 that the GTS System had been integrated with, and publicly used by, the TelePresence
25 Collaboratory at Argonne National Laboratories (“ANL”).

26 102. In 1997, at least John Graham demonstrated and/or explained to Mr. Sallette the
27 ability for a user of a presenter computer to select two streaming data sources and to have images

1 from each of the two streaming data sources shown simultaneously on the presenter's computer
2 and an audience member's computer (the "Simultaneous Data Stream Embodiment").

3 103. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
4 that a working example of the Simultaneous Data Stream Embodiment was publically available
5 at the web address <http://www.graham.com>.

6 104. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
7 of documentation regarding the Simultaneous Data Stream Embodiment publically available at
8 the web address <http://www.graham.com>.

9 105. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
10 that a working example of the Simultaneous Data Stream Embodiment was publically available
11 at the web address <http://tpm.amc.anl.gov>.

12 106. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
13 of documentation regarding the Simultaneous Data Stream Embodiment publically available at
14 the web address <http://tpm.amc.anl.gov>.

15 107. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
16 that the Simultaneous Data Stream Embodiment had been in public use since before
17 September 17, 1997.

18 108. In 1997, John Graham demonstrated and/or explained to Mr. Sallette that a user of
19 a computer connected to the GTS System could select output from a remote microscope to be
20 shown simultaneously on his computer and on another computer connected to the GTS System
21 (the "Remote Source Embodiment").

22 109. Before the '840 Patent was filed, Mr. Sallette was aware that in the Remote
23 Source Embodiment, a video image of a microscope could be streamed from a computer
24 connected to the microscope to a GTS server, and from the GTS sever to the computers
25 connected to the GTS System.

26 110. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
27 that in the Remote Source Embodiment, each participants' computer could display a live video

1 image of one or more participants in the session while the video of the microscope was also
2 displayed on each participants' computer screen.

3 111. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
4 that the Remote Source Embodiment had been in public use since before September 17, 1997.

5 112. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
6 that a working example of the Remote Source Embodiment was publically available at the web
7 address <http://www.graham.com>.

8 113. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
9 of documentation regarding the Remote Source Embodiment publically available at the web
10 address <http://www.graham.com>.

11 114. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
12 that a working example of the Remote Source Embodiment was publically available at the web
13 address <http://tpm.amc.anl.gov>.

14 115. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
15 of documentation regarding the Remote Source Embodiment publically available at the web
16 address <http://tpm.amc.anl.gov>.

17 116. By December 8, 1997, Mr. Sallette had used, or was aware of the At Home
18 Corporation using, the GTS System to train a large number of widely dispersed people at very
19 low cost, creating a fully interactive nationwide program, training hundreds of people virtually
20 over a network.

21 117. By December 8, 1997, Mr. Sallette had used, or was aware of the At Home
22 Corporation using, the GTS System to train 120 people across three time zones in 14 states
23 without leaving home.

24 118. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
25 that the GTS System had been in public use since before September 17, 1997.

26 119. Mr. Sallette learned about the Placeware product from John Graham of GTS.
27

1 120. Mr. Sallette learned from at least John Graham that the GTS System could be
2 integrated with the Placeware System.

3 121. Mr. Sallette started using Placeware in 1997.

4 122. In 1997, Mr. Sallette used, or was aware of, the Auditorium feature of the
5 Placeware System (the "Placeware Classroom Embodiment").

6 123. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
7 that the Placeware Classroom Embodiment enabled users to actively participate in a distributed
8 learning session.

9 124. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
10 that the Placeware Classroom Embodiment enabled audience members to actively participate in a
11 distributed learning session at least by participating in live polls.

12 125. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
13 that the Placeware Classroom Embodiment enabled audience members to actively participate in a
14 distributed learning session at least by asking questions of the presenter.

15 126. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
16 that the Placeware Classroom Embodiment enabled audience members to actively participate in a
17 distributed learning session at least by changing seat color in response to questions.

18 127. Before the application leading to the '840 Patent was filed, Mr. Sallette was aware
19 that Placeware had conceived of incorporating live video into the Placeware product.

20 128. In the '840 Patent specification, the audience member response window 634
21 shown in Figure 6 is the same as or materially identical to the Placeware Classroom Embodiment
22 that Mr. Sallette first used before September 17, 1997.

23 129. Mr. Sallette learned from at least John Graham that the combination of GTS and
24 Placeware would enable an integrated presentation of the Placeware Classroom Embodiment
25 with the GTS Simultaneous Data Stream Embodiment.

Withholding Material Information from the USPTO

130. Neither Mr. Sallette nor anyone acting on his behalf disclosed to Mr. Hoffman a reference describing the GTS System, the GTS Simultaneous Data Stream Embodiment, or the GTS Remote Source Embodiment.

131. Neither Mr. Sallette nor anyone acting on his behalf disclosed to Mr. Hoffman a reference describing the Placeware system or the Placeware Classroom Embodiment.

132. Neither Mr. Sallette, Mr. Hoffman, nor anyone acting on the Applicant's behalf disclosed to anyone else who was substantively involved in the prosecution of the application leading to the '840 Patent a copy of a reference describing the GTS System, the GTS Simultaneous Data Stream Embodiment, or the GTS Remote Source Embodiment.

133. Neither Mr. Sallette, Mr. Hoffman, nor anyone acting on the Applicant's behalf disclosed to anyone else who was substantively involved in the prosecution of the application leading to the '840 Patent a copy of a reference describing the Placeware System or the Placeware Classroom Embodiment.

134. Neither Mr. Sallette, Mr. Hoffman, nor anyone acting on the Applicant's behalf disclosed to the USPTO a reference describing the GTS System, the GTS Simultaneous Data Stream Embodiment, or the GTS Remote Source Embodiment.

135. Neither Mr. Sallette, Mr. Hoffman, nor anyone acting on the Applicant's behalf disclosed to the USPTO a reference describing the Placeware system or the Placeware Classroom Embodiment.

136. The USPTO did not consider, in connection with the prosecution of the '840 Patent, a prior art reference describing the GTS System, the GTS Simultaneous Data Stream Embodiment, or the GTS Remote Source Embodiment.

137. The USPTO did not consider, in connection with the prosecution of the '840 Patent, a prior art reference describing the Placeware System or the Placeware Classroom Embodiment.

1 138. Nothing on the face of the '840 Patent or in its file history indicates that, in
2 connection with the prosecution of the '840 Patent, the USPTO was aware of a prior art
3 reference describing the GTS System, the GTS Simultaneous Data Stream Embodiment, or the
4 GTS Remote Source Embodiment.

5 139. Nothing on the face of the '840 Patent or in its file history indicates that, in
6 connection with the prosecution of the '840 Patent, the USPTO was aware of a prior art
7 reference describing the Placeware system or the Placeware Classroom Embodiment.

8 **Materiality of Information Withheld from the USPTO**

9 140. Multiple documents describing the Graham Technology Solution System ("GTS
10 System") are properly considered disclosure of a single prior art system to the claims of
11 '840 Patent under the public use prongs of 35 U.S.C. § 102(a) and/or (b). Attached hereto as
12 Exhibit G is a true and correct copy of a claim chart filed in Case No. 2:11-CV-02409-AHM-
13 JEM (C.D. Cal.), relating to the GTS system. Attached hereto as Exhibit H is a true and correct
14 copy of a set of underlying documents relating to the GTS system, also filed in Case No. 2:11-
15 CV-02409-AHM-JEM (C.D. Cal.).

16 141. Multiple documents describing the Placeware system are properly considered
17 disclosure of a single prior art system to the claims of the '840 Patent under the public use
18 prongs of 35 U.S.C. § 102(a) and/or (b) including in view of how Plaintiff is applying those
19 claims as part of its infringement allegations in this case. Attached hereto as Exhibit I is a true
20 and correct copy of a claim chart filed in Case No. 2:11-CV-02409-AHM-JEM (C.D. Cal.),
21 relating to the Placeware system. Attached hereto as Exhibit J is a true and correct copy of a set
22 of underlying documents relating to the Placeware System, also filed in Case No. 2:11-CV-
23 02409-AHM-JEM (C.D. Cal.).

24 142. The GTS System would have been highly material to the patentability of the
25 claims of the '840 Patent.

26 143. The Placeware system would have been highly material to the patentability of the
27 claims of the '840 Patent.

1 144. Under the § 1.56 standard, the GTS System anticipates and/or renders obvious at
2 least the independent claims of the '840 Patent, as detailed in Exhibits G and H. Under the §
3 1.56 standard, the GTS System establishes a *prima facie* case of unpatentability of at least the
4 independent claims of the '840 Patent.

5 145. Under the § 1.56 standard, the Placeware system anticipates and/or renders
6 obvious at least the independent claims of the '840 Patent, as detailed in Exhibits I and J. Under
7 the § 1.56 standard, the Placeware system establishes a *prima facie* case of unpatentability of at
8 least the independent claims of the '840 Patent.

9 146. Under the § 1.56 standard, the combination of the GTS System and Placeware
10 system renders obvious at least the independent claims of the '840 Patent, as detailed in Exhibits
11 G, H, I, and J. Under the § 1.56 standard, the combination of the GTS System and Placeware
12 system establishes a *prima facie* case of unpatentability of at least the independent claims of the
13 '840 Patent.

14 147. Each limitation the Applicant identified as allegedly not disclosed in the prior art
15 considered by the USPTO was enabled by, disclosed in, and was publicly used by users of the
16 GTS System and/or the Placeware system more than one year prior to the date of application for
17 the '840 Patent.

18 148. Under the § 1.56 standard, the GTS System disclosed: (1) first and second
19 computers systems that each simultaneously displayed first and second data streams at the same
20 time; (2) creating a graphical display representative of the classroom on first and second
21 computer system coupled to a network; and (3) a distributed learning system that allows a remote
22 data stream to be transmitted to the presenter's and the audience member's respective computer
23 systems.

24 149. Under the § 1.56 standard, the Placeware system disclosed: (1) first and second
25 computers systems that each simultaneously displayed first and second data streams at the same
26 time; (2) creating a graphical display representative of the classroom on first and second
27 computer system coupled to a network; and (3) a distributed learning system that allows a remote

1 data stream to be transmitted to the presenter's and the audience member's respective computer
2 systems.

3 150. The materiality of the GTS System is disclosed in the specification of the '840
4 Patent, where the Applicant writes at Column 6: "A preferred embodiment of the streaming data
5 module 314 uses the GTS Audio and Video Servers from Graham Technology Solutions, Inc.,
6 Cupertino, Calif." Again, despite this passage, the Applicant failed to disclose the GTS System
7 to the USPTO as prior art.

8 151. The materiality of the Placeware System is disclosed in the specification of the
9 '840 Patent, where the Applicant writes at Columns 5 and 6: "The classroom environment module
10 312 provides a classroom- or auditorium-like metaphor to the presenter and audience members
11 coupled to the DLS 102, and a preferred embodiment of the classroom environment module 312
12 uses the PLACEWARETM software product manufactured by PLaceware, Inc., Mountain
13 View, Calif." Again, despite this passage, the Applicant failed to disclose the Placeware System
14 to the USPTO as prior art.

15 152. Thus, in light of the Applicant's arguments, the GTS System, the GTS
16 Simultaneous Data Stream Embodiment, and the GTS Remote Source Embodiment were not
17 cumulative to the patentability of at least the independent claims of the '840 Patent, as explained
18 above.

19 153. Likewise, in light of the Applicant's arguments, the Placeware system and the
20 Placeware Classroom Embodiment were not cumulative to the patentability of at least the
21 independent claims of the '840 Patent, as explained above.

22 154. Similarly, in light of the Applicant's arguments, the combination of the GTS
23 System and the Placeware system were not cumulative to the patentability of at least the
24 independent claims of the '840 Patent, as explained above.

25 **But-For Causation**

26 155. If the USPTO had been aware of the GTS System, the '840 Patent Applicant
27 would not have been able to distinguish the prior art on the basis argued during prosecution, and

1 the USPTO would not have allowed at least the independent claims of the '840 Patent. But for
2 the withholding of the GTS System, the USPTO would not have allowed at least the independent
3 claims of the '840 Patent.

4 156. If the USPTO had been aware of the Placeware System, the '840 Patent Applicant
5 would not have been able to distinguish the prior art on the basis argued during prosecution, and
6 the USPTO would not have allowed at least the independent claims of the '840 Patent. But for
7 the withholding of the Placeware system, the USPTO would not have allowed at least the
8 independent claims of the '840 Patent.

9 157. If the USPTO had been aware of the combination of the GTS System and the
10 Placeware System, the '840 Patent Applicant would not have been able to distinguish the prior
11 art on the basis argued during prosecution, and the USPTO would not have allowed at least the
12 independent claims of the '840 Patent. But for the withholding of the combination of the GTS
13 System and the Placeware system, the USPTO would not have allowed at least the independent
14 claims of the '840 Patent.

15 **Intent to Deceive or Mislead the USPTO**

16 158. Mr. Sallette has no excuse for not disclosing the GTS System, or his use of the
17 GTS System, as prior art to the USPTO.

18 159. Mr. Sallette has no excuse for not disclosing additional information regarding the
19 Placeware System as prior art to the USPTO.

20 160. Mr. Sallette has no excuse for not disclosing the combination of the GTS System
21 and the Placeware System as prior art to the USPTO.

22 161. On information and belief, Mr. Sallette intentionally withheld from Mr. Hoffman
23 and the USPTO the GTS System.

24 162. On information and belief, Mr. Sallette intentionally withheld from Mr. Hoffman
25 and the USPTO the Placeware System.

1 163. On information and belief, Mr. Sallette intentionally withheld from Mr. Hoffman
2 and the USPTO the combination of the GTS System and the Placeware System as prior art to the
3 USPTO.

4 164. On information and belief, Mr. Sallette intentionally withheld from Mr. Hoffman
5 and the USPTO all information he had about the GTS System, other than the following sentence
6 that appears in the '840 Patent at Column 6: "A preferred embodiment of the streaming data
7 module 314 uses the GTS Audio and Video Servers from Graham Technology Solutions, Inc.,
8 Cupertino, Calif."

9 165. On information and belief, Mr. Sallette intentionally withheld from Mr. Hoffman
10 and the USPTO all information he had about the Placeware System, other than the following
11 sentence that appears in the '840 Patent at Columns 5 and 6: "The classroom environment
12 module 312 provides a classroom- or auditorium-like metaphor to the presenter and audience
13 members coupled to the DLS 102, and a preferred embodiment of the classroom environment
14 module 312 uses the PLACEWARETM software product manufactured by Placeware, Inc.,
15 Mountain View, Calif."

16 166. On information and belief, Mr. Sallette intentionally withheld from Mr. Hoffman
17 and the USPTO that Mr. Sallette had derived the invention claimed in the independent claims of
18 the '840 Patent from at least John Graham.

19 167. On information and belief, Mr. Sallette intended to deceive the USPTO by
20 withholding from the USPTO disclosure of the GTS System, including information describing
21 that system and available on September 18, 1998, and during most if not all of the pendency of
22 the application leading to the '840 Patent, at the publicly available websites www.graham.com
23 and <http://tpm.amc.anl.gov>.

24 168. On information and belief, Mr. Sallette intended to deceive the USPTO by
25 withholding from the USPTO that Mr. Sallette had learned from John Graham of GTS that the
26 GTS System could be integrated with the Placeware System.

1 175. By December 18, 1999, after the application leading to the '840 Patent had been
2 filed, but while the application was still pending, Mr. Sallette knew about the ShowMe System
3 developed at Sun Microsystems.

4 176. While prosecuting the application leading to the '840 patent, Mr. Hoffman sent a
5 letter to Mr. Sallette (the "InfoWorld Letter"), after the application leading to the '840 Patent had
6 been filed but while the Application was pending, that on information and belief included an
7 attached article from InfoWorld magazine (the "InfoWorld Article") that described the Sun
8 Microsystems ShowMe Distributed Learning System ("ShowMe System") and identified it as
9 potentially material prior art.

10 177. Upon information and belief, Mr. Hoffman sent Mr. Sallette the InfoWorld Letter
11 on or by December 18, 1999.

12 178. Mr. Hoffman sent the InfoWorld Article to Mr. Sallette in connection with Mr.
13 Sallette's duty to disclose material prior art information to the USPTO.

14 179. Mr. Hoffman requested a response from Mr. Sallette to the InfoWorld Letter.

15 180. Mr. Sallette did not respond to Mr. Hoffman's InfoWorld Letter.

16 **Withholding Material Information from the USPTO**

17 181. Neither Mr. Sallette, Mr. Hoffman, nor anyone acting on the Applicant's behalf
18 disclosed to anyone else who was substantively involved in the prosecution of the application
19 leading to the '840 Patent a copy of the InfoWorld Article.

20 182. Neither Mr. Sallette, Mr. Hoffman, nor anyone acting on the Applicant's behalf
21 disclosed to anyone else who was substantively involved in the prosecution of the application
22 leading to the '840 Patent a copy of a reference describing the ShowMe System.

23 183. Neither Mr. Sallette, Mr. Hoffman, nor anyone acting on the Applicant's behalf
24 disclosed to the USPTO a copy of the InfoWorld Article.

25 184. Neither Mr. Sallette, Mr. Hoffman, nor anyone acting on the Applicant's behalf
26 disclosed to the USPTO a copy of a reference describing the ShowMe System.

1 185. The USPTO did not consider, in connection with the prosecution of the '840
2 Patent, a copy of the InfoWorld Article.

3 186. The USPTO did not consider, in connection with the prosecution of the
4 '840 Patent, a prior art reference describing the ShowMe System.

5 187. Nothing on the face of the '840 Patent or in its file history indicates that, in
6 connection with the prosecution of the '840 Patent, the USPTO was aware of the InfoWorld
7 Article.

8 188. Nothing on the face of the '840 Patent or in its file history indicates that, in
9 connection with the prosecution of the '840 Patent, the USPTO was aware of a prior art
10 reference describing the ShowMe System.

11 **Materiality of Information Withheld from the USPTO**

12 189. Multiple documents describing the ShowMe system are properly considered
13 disclosure of a single anticipatory system to the '840 Patent under the public use prongs of
14 35 U.S.C. § 102(a) and/or (b). Attached hereto as Exhibit K is a true and correct copy of a claim
15 chart filed in Case No. 2:11-CV-02409-AHM-JEM (C.D. Cal.), relating to the ShowMe system.
16 Attached hereto as Exhibit L is a true and correct copy of a set of underlying documents relating
17 to the ShowMe System.

18 190. The ShowMe System would have been highly material to the patentability of the
19 claims of the '840 Patent.

20 191. Under the § 1.56 standard, the ShowMe System anticipates and/or renders
21 obvious at least the independent claims of the '840 Patent, as detailed in Exhibits K and L.
22 Under the § 1.56 standard, the ShowMe System establishes a *prima facie* case of unpatentability
23 of at least the independent claims of the '840 Patent.

24 192. Each limitation the Applicant identified as allegedly not disclosed in the prior art
25 considered by the USPTO was enabled by and disclosed in the prior art ShowMe system and was
26 publicly used by users of the ShowMe system more than one year prior to the date of application
27 for the '840 Patent.

1 193. Under the § 1.56 standard, the ShowMe system disclosed: (1) first and second
2 computers systems that each simultaneously displayed first and second data streams at the same
3 time; (2) creating a graphical display representative of the classroom on first and second
4 computer system coupled to a network; and (3) a distributed learning system that allows a remote
5 data steam to be transmitted to the presenter's and the audience member's respective computer
6 systems.

7 194. Thus, in light of the Applicant's arguments, the ShowMe System was not
8 cumulative to the patentability of at least the independent claims of the '840 Patent, as explained
9 above.

10 **But-For Causation**

11 195. If the USPTO had been aware of the ShowMe System, the '840 Patent Applicant
12 would not have been able to distinguish the prior art on the basis argued during prosecution, and
13 the USPTO would not have allowed the independent claims of the '840 Patent to issue. But for
14 the withholding of the ShowMe System, the USPTO would not have allowed at least the
15 independent claims of the '840 Patent.

16 196. If the USPTO had been aware of the InfoWorld Article, the applicant would not
17 have been able to distinguish the prior art on the basis argued during prosecution, and the
18 USPTO would not have allowed the independent claims of the '840 Patent to issue. But for the
19 withholding of the InfoWorld Article, the USPTO would not have allowed at least the
20 independent claims of the '840 Patent.

21 **Intent to Deceive or Mislead the USPTO**

22 197. Mr. Sallette has no excuse for not disclosing additional information regarding
23 ShowMe System to the USPTO.

24 198. Mr. Sallette has no excuse for not disclosing the InfoWorld Article describing the
25 ShowMe System to the USPTO.

26 199. Mr. Hoffman has no excuse for not disclosing the InfoWorld Article describing
27 the ShowMe System to the USPTO.

1 200. On information and belief, Mr. Sallette intentionally withheld from the USPTO
2 the InfoWorld Article.

3 201. On information and belief, Mr. Sallette intentionally withheld from the USPTO
4 the ShowMe System.

5 202. On information and belief, Mr. Hoffman intentionally withheld from the USPTO
6 the InfoWorld Article.

7 203. On information and belief, Mr. Hoffman intentionally withheld from the USPTO
8 the ShowMe System.

9 204. On information and belief, Mr. Sallette intended to deceive the USPTO by
10 withholding from the USPTO disclosure of the InfoWorld Article.

11 205. On information and belief, Mr. Hoffman intended to deceive the USPTO by
12 withholding from the USPTO disclosure of the InfoWorld Article.

13 206. On information and belief, Mr. Sallette intended to deceive the USPTO by
14 withholding from the USPTO disclosure of the ShowMe System.

15 207. On information and belief, Mr. Hoffman intended to deceive the USPTO by
16 withholding from the USPTO disclosure of the ShowMe System.

17 208. On information and belief, further evidence of Mr. Sallette's and/or Mr.
18 Hoffman's intent to deceive the USPTO may have been destroyed. In particular, and by way of
19 non-limiting example, in Case No. 1:11-CV-04948-LTS-KNF (S.D.N.Y.), Williamson stated in a
20 letter to that Court that "almost all of the records of At Home Corporation, . . . approximately
21 two thousand boxes of documents and servers, were destroyed sometime in 2007."

22 209. Salesforce repeats and incorporates herein its allegations in paragraphs 31-41 and
23 175-208 as if they were set forth fully herein. The only reasonable inference to be drawn from
24 those allegations is that Mr. Sallette and/or one or more of his patent attorneys knew of highly
25 material prior art and deliberately withheld that prior art from the patent examiner so as to
26 intentionally deceive the USPTO in order to obtain allowance of all the claims of the
27 '840 Patent.

210. Considering the high degree of materiality of the withheld systems, which negate the patentability of at least the independent claims of the '840 Patent, Mr. Sallette's knowledge and Mr. Hoffman's knowledge of the ShowMe system and the InfoWorld Article, and the evidence of intent set forth above, there is clear evidence that Mr. Sallette and/or one or more of his patent attorneys engaged in inequitable conduct before the USPTO in procuring the issuance of the '840 Patent.

EXCEPTIONAL CASE

211. To the extent this is an exceptional case under 35 U.S.C. § 285, Dimdim and Salesforce are entitled to recover from Williamson attorneys' fees and costs incurred in connection with this action.

PRAAYER FOR RELIEF

WHEREFORE, plaintiffs Dimdim and Salesforce, request entry of judgment in their favor and against defendant Williamson as follows:

- a. Declaring that neither Dimdim nor Salesforce has infringed, willfully infringed, induced others to infringe or contributed to the infringement of any valid, enforceable claims of U.S. Patent No. 6,155,840 under any applicable provision of 35 U.S.C. § 271;
- b. Declaring that U.S. Patent No. 6,155,840 is invalid under 35 U.S.C. §§ 101, 102, 103 and/or 112;
- c. Declaring that U.S. Patent No. 6,155,840 is unenforceable;
- d. Enjoining Williamson, its officers, partners, employees, agents, parents, subsidiaries, attorneys, and anyone acting in concert or participation with any of them from representing or implying that Dimdim, Salesforce, or their customers have unlawfully infringed or are unlawfully infringing U.S. Patent No. 6,155,840;
- e. Enjoining Williamson, its officers, partners, employees, agents, parents, subsidiaries, attorneys, and anyone acting in concert or participation with any of them from instituting or prosecuting any lawsuit or proceeding, placing in issue the right of Dimdim or

1 Salesforce to make, use or sell products that allegedly infringe, or placing in issue any liability
2 for alleged past infringement;

3 f. Declaring that this is an exceptional case under 35 U.S.C. § 285;

4 g. Awarding Dimdim and Salesforce their costs and attorneys' fees; and

5 h. Granting such other and further relief as this Court may deem just and
6 appropriate.

7
8 Dated: October 3, 2012

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

9
10
11 By: /s/:Ryan R. Smith
Ryan R. Smith

12
13 Attorneys for Plaintiffs
Dimdim, Inc. and salesforce.com, inc.
14
15
16
17
18
19
20
21
22
23
24
25
26
27

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, plaintiffs Dimdim and Salesforce demand a trial by jury of this action.

Dated: October 3, 2012

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: /s/:Ryan R. Smith
Ryan R. Smith

Attorneys for Plaintiffs
Dimdim, Inc. and salesforce.com, inc.