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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

SYMANTEC CORPORATION,

Plaintiff,

vs.

ACRONIS, INC., ACRONIS  
INTERNATIONAL GMBH, and OOO  
ACRONIS,

Defendants.

Case No.  
(Related Case No. 3:11-cv-05310 EMC)

**COMPLAINT FOR PATENT  
INFRINGEMENT**

DEMAND FOR JURY TRIAL

ORIGINAL  
FILED  
OCT 16 2012  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

E-filing

SI

**CV 12 5331**

1 This is a patent infringement action brought before this Court pursuant to 28 U.S.C. §§  
2 1331 and 1338(a), in which Plaintiff, Symantec Corporation ("Symantec"), for its complaint  
3 against Defendants, Acronis, Inc., Acronis International GmbH and OOO Acronis (collectively,  
4 "Acronis"), alleges as follows:

### 5 INTRODUCTION

6 1. This is an action brought by Symantec against Acronis for Acronis' infringement of  
7 Symantec's patents. In particular, Symantec seeks remedies for Acronis' infringement of  
8 Symantec's U.S. Patents Nos. 7,941,459 ("the '459 patent"), 7,024,527 ("the '527 patent"),  
9 7,454,592 ("the '592 patent"), 7,680,957 ("the '957 patent"), and 7,996,708 ("the '708 patent")  
10 (collectively, "the Asserted Patents").

### 11 PARTIES

12 2. Symantec Corporation is a corporation organized and existing under the laws of the  
13 State of Delaware, having a principal place of business at 350 Ellis Street, Mountain View,  
14 California 94043.

15 3. Upon information and belief, Acronis, Inc. is a corporation organized and existing  
16 under the laws of the State of Delaware, having a principal place of business at 300 Trade Center,  
17 Suite 6700, Elm Street, Woburn, Massachusetts 01801. Upon information and belief, Acronis,  
18 Inc. uses, instructs customers to use, and provides sales support and marketing for backup,  
19 recovery and security software.

20 4. Upon information and belief, Acronis International GmbH is a corporation  
21 organized and existing under the laws of Switzerland, having a principal place of business at  
22 Rheinweg 9 Schaffhausen, CH-8200, Switzerland. Upon information and belief, Acronis  
23 International GmbH makes, sells and offers to sell backup, recovery and security software both  
24 directly and indirectly through partners, resellers and retailers.

25 5. Upon information and belief, OOO Acronis is a limited liability company  
26 organized and existing under the laws of Russia, having a principal place of business at  
27 Altufievskoye highway 44, Moscow, Russia. Upon information and belief, OOO Acronis  
28 researches, develops and offers to sell backup, recovery and security software.

## JURISDICTION AND VENUE

6. This lawsuit is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101, *et seq.* Accordingly, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Acronis, Inc. for at least the following reasons: (i) Acronis has designated an agent for service of process in the State of California; (ii) Acronis has committed acts of patent infringement and/or contributed to or induced acts of patent infringement by others in this District and elsewhere in California and the United States; (iii) Acronis regularly does business or solicits business, engages in other persistent courses of conduct, and/or derives substantial revenue from products and/or services provided to individuals in this District and in this State; and (iv) Acronis has purposefully established substantial, systematic and continuous contacts with this District and expects or should reasonably expect to be haled into court here. Thus, this Court's exercise of jurisdiction over Acronis will not offend traditional notions of fair play and substantial justice.

8. This Court has personal jurisdiction over Acronis International GmbH for at least the following reasons: (i) Acronis International GmbH has committed acts of patent infringement and/or contributed to or induced acts of patent infringement by others in this District or elsewhere in California and the United States, (ii) Acronis International GmbH regularly does business or solicits business, engages in other persistent courses of conduct, and/or derives substantial revenue from products and/or services provided to individuals in this District and in this State and (iii) Acronis International GmbH has purposefully established substantial, systematic and continuous contacts with this District and expects or should reasonably expect to be haled into court here. Thus, this Court's exercise of jurisdiction over Acronis International GmbH will not offend traditional notions of fair play and substantial justice.

9. This Court has personal jurisdiction over OOO Acronis for at least the following reasons: (i) OOO Acronis has committed acts of patent infringement and/or contributed to or induced acts of patent infringement by others in this District or elsewhere in California and the United States, (ii) OOO Acronis regularly solicits business, engages in other persistent courses of



1 conduct, and/or derives substantial revenue from products and/or services provided to individuals  
2 in this District and in this State and (iii) OOO Acronis has purposefully established substantial,  
3 systematic and continuous contacts with this District and expects or should reasonably expect to  
4 be haled into court here. Thus, this Court's exercise of jurisdiction over OOO Acronis will not  
5 offend traditional notions of fair play and substantial justice.

6 10. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)-(c) and  
7 1400(b) because Acronis does business in the State of California, has committed acts of  
8 infringement in this State and in this District, a substantial part of the events or omissions giving  
9 rise to this claim occurred in this District, and Acronis is subject to personal jurisdiction in this  
10 District.

#### 11 INTRADISTRICT ASSIGNMENT

12 11. Pursuant to Civil L.R. 3-2(c), this case is appropriate for assignment on a district-  
13 wide basis because this is an Intellectual Property Action. However, because this case is related to  
14 Civil Action No. 3:11-cv-05310 before Judge Edward M. Chen, and should be related thereto, this  
15 action should be filed in the San Francisco Division.

#### 16 FACTUAL BACKGROUND

##### 17 Symantec's History

18 12. Since its inception, Symantec has been providing software products to enhance its  
19 customers' computing productivity, security and reliability. Symantec was founded in 1982 by  
20 computer scientist Gary Hendrix with a grant from the National Science Foundation. Originally  
21 focused on natural language processing and artificial intelligence-related products, Symantec grew  
22 throughout the 1980s through organic growth and strategic acquisitions in the computer software  
23 field. In 1990, Symantec merged with Peter Norton Computing, a developer of various consumer  
24 antivirus and data management utilities. At the time, Symantec was already a market leader for  
25 Macintosh antivirus and utilities software and had already begun development of a DOS-based  
26 antivirus program, making the merger with Norton strategically advantageous. "Norton  
27 Antivirus" was launched in 1991. By 1993, the Norton product group accounted for 82% of  
28 Symantec's total revenues.

1           13.     Among other areas of expansion, Symantec sought to develop and acquire more  
2 products for corporate customers. Specifically, Symantec sought to offer products that would  
3 serve enterprise environments in which desktop computers were connected with local and other  
4 networks. Symantec was determined to achieve its goal of providing integrated, platform-  
5 independent and centralized network administration solutions. Symantec's investment and  
6 innovation led to the launching the Norton Enterprise Framework in 1996.

7           14.     By the late 1990s, Symantec was marketing three major product lines. The first  
8 covered security and assistance products, consisting mainly of Norton AntiVirus and Norton  
9 Utilities products to keep personal computers protected and reliable. The second line included  
10 remote productivity solutions, which enabled telecommuters, mobile professionals and workers in  
11 remote offices to access information, applications and data on-demand from any location. The  
12 third line included internet tools, primarily for Java programmers. Symantec expended  
13 tremendous resources in research and development to create the intellectual property upon which  
14 these products are based.

15          15.     In 2005, Symantec merged with Veritas Software Corporation ("Veritas"), a  
16 pioneer and market leader specialized in storage management software. With the addition of  
17 Veritas, Symantec doubled its size to more than 15,000 employees. More importantly, the merger  
18 of Veritas and Symantec brought with it a vast amount of additional expertise and talent upon  
19 which the new joint venture could build. Indeed, with the merger, Symantec also acquired the  
20 know-how and intellectual property developed by Veritas through Veritas' own extensive research  
21 and development investments. As a result of the merger, Symantec established itself as a leader in  
22 the enterprise software market, enabling Symantec to address and solve an expansive spectrum of  
23 security and data management challenges.

24          16.     Since 2005, Symantec has continued its innovation in the enterprise field helping  
25 customers from consumers and small businesses to the largest global organizations secure and  
26 manage their information. Today, Symantec offers state-of-the-art products such as Enterprise  
27 Vault 7.0 which provides companies a comprehensive system to store, manage, backup and  
28 archive critical business information. In addition, Symantec provides other leading end-to-end

1 enterprise solutions such as Backup Exec, Symantec Endpoint Protection, NetBackup, and Storage  
2 Foundation.

3 17. One of the major keys to Symantec's success has been its substantial investment in  
4 research and development which has enabled Symantec to offer its users the most innovative  
5 technologies on the market. Symantec has invested more than \$5 billion in research and  
6 development since 2005. Indeed, Symantec's patent portfolio includes over 1,900 issued patents  
7 and more than 1,900 pending patent applications, including over 1,700 patent applications filed  
8 since 2005.

9 18. As a result of Symantec's investments, Symantec has become one of the largest and  
10 most successful computer software companies in the United States. This success, in turn, has  
11 helped thousands of Symantec customers increase their own productivity through more secure and  
12 reliable computer systems and networks.

#### 13 **Symantec's Asserted Patents**

14 19. The Asserted Patents are a reflection of Symantec's research and development  
15 achievements. To enable an enterprise to securely and reliably backup and recover its critical  
16 business data, certain functionality relating to the saving and recovery of data is essential. Among  
17 the features necessary to perform state-of-the art backups and recoveries include imaging of  
18 physical and virtual machines and restoring imaged data to various computer hardware  
19 configurations. These features involve use of Symantec's innovations.

20 20. Backed up data can be stored in different formats. A software program may not be  
21 able to retrieve backed-up data because the data is stored in an incompatible format. The '459  
22 patent teaches means of extracting data stored in different formats through a common interface  
23 and converting the retrieved data stored in one format into another format.

24 21. During the data restoration process, a user is typically unable to access partially  
25 restored data. The '527 patent enables a user to access data that has already been restored while  
26 the restoration process of the complete data set is still ongoing.

27 22. The '592 patent addresses the problem of storing the same data file in different  
28 locations on the same system. For example, two users of the same system may each store the



1 same data file, but at different locations. The '592 patent is directed to systems, computer-  
2 readable media, and methods for identifying identical blocks of data. By identifying single blocks  
3 of data, the systems, media, or methods may ensure that particular data is stored in only one  
4 location on a system, thereby conserving storage resources.

5 23. The '957 patent addresses the problem of migrating one system to another when  
6 those systems are incompatible. The '957 patent describes a system and method for generating  
7 modifiable representations of system hardware and software configurations that enable a user to  
8 transfer a system on a source device to a target device.

9 24. The '708 patent deals with the restoration of a file system. Restoration of a file  
10 system on a new system generally requires an identical configuration between the new system and  
11 an old system. This means that if a system has been destroyed in a flood or fire and the file  
12 system configuration (as it relates to specific hardware in that system) is not available, then a user  
13 cannot restore the old system. Symantec's '708 patent is directed to effective methods of enabling  
14 restoration of file systems where the old file system configuration is no longer available.

#### 15 **Acronis' History**

16 25. Acronis International GmbH ("Acronis GmbH") is a Swiss entity incorporated in  
17 2007. Upon information and belief, Acronis GmbH has made, offered for sale and sold Acronis'  
18 various product lines, including the Backup and Recovery and True Image product lines, in the  
19 United States since at least 2009 and has received the proceeds from the United States sales of  
20 these products since at least 2009.

21 26. Acronis, Inc. is a Delaware corporation incorporated in 2000. Its headquarters are  
22 located in Woburn, Massachusetts. Upon information and belief, Acronis, Inc. has used,  
23 instructed customers to use, and provided sales support and marketing for Acronis' various  
24 product lines, including the Backup and Recovery and True Image product lines, in the United  
25 States since at least 2009.

26 27. OOO Acronis is a Russian limited liability company. Its headquarters are located in  
27 Moscow, Russia. Upon information and belief, OOO Acronis has researched, developed, offered  
28

1 to sell and instructed customers to use Acronis' various product lines, including the Backup and  
2 Recovery and True Image product lines, in the United States.

3 28. Acronis' Backup and Recovery products are one of Acronis' core product lines.  
4 The Backup and Recovery products provide disk-imaging backup and disaster recovery software  
5 in variations for private users, branch offices and large server installations for enterprise clients.  
6 More recently, Acronis has been aiming its products at protecting data in messaging and database  
7 systems within corporate environments, seeking to expand into the large enterprise market, in  
8 many cases supporting virtualized environments.

9 29. Symantec is harmed by Acronis' use of Symantec's patented technologies in a way  
10 that cannot be compensated for by payment of a royalty alone. Acronis has received millions of  
11 dollars in revenue and increased its market share by selling products that incorporate Symantec's  
12 technology without having to incur the costs of developing this technology. Symantec, on the  
13 other hand, has borne and continues to bear these costs.

14 30. Even if Acronis were to subsequently pay past due royalties, it would still enjoy a  
15 market share it has developed during its period of "free riding" on Symantec's intellectual  
16 property. Due to the difficulty in predicting whether, if at all, Symantec can recover this market  
17 share, Symantec's harm cannot be compensated by payment of past due royalties alone.

#### 18 **Acronis Infringes Symantec's Patents**

19 31. Symantec's Asserted Patents claim methods and systems for creating backups and  
20 recovery for physical, virtual and cloud environments. Acronis has infringed and continues to  
21 infringe Symantec's Asserted patents through at least its Backup and Recovery and True Image  
22 product lines.

23 32. Upon information and belief, Acronis, Inc. uses the Backup and Recovery and True  
24 Image product lines in the United States. Upon information and belief, Acronis GmbH makes,  
25 offers to sell and sells the Backup and Recovery and True Image product lines in the United  
26 States. Also upon information and belief, OOO Acronis offers to sell the Backup and Recovery  
27 and True Image product lines in the United States. Acronis, Inc.'s and Acronis GmbH's acts of  
28 infringement have been committed and are being committed with knowledge of Symantec's rights



1 in Symantec's Asserted Patents since at least May 30, 2012 when Symantec, in connection with  
2 another action pending in the District of Delaware, provided them a copy of its proposed  
3 counterclaims containing the claims herein with Symantec's Asserted Patents attached thereto.  
4 *See* 1:12-cv-372 (SLR). On information and belief OOO Acronis became aware of these claims  
5 and patents on or about May 30, 2012 because executives of Acronis, Inc. and Acronis GmbH also  
6 have executive responsibility over OOO Acronis; the lawsuit was relevant to products that OOO  
7 Acronis developed for use and sale by Acronis, Inc. and Acronis GmbH; and OOO Acronis and/or  
8 employees of OOO Acronis communicated with and are represented by Acronis, Inc. and Acronis  
9 GmbH's counsel in the District of Delaware. On information and belief, Acronis, Inc., Acronis  
10 GmbH and OOO Acronis have acted and are continuing to act despite an objectively high  
11 likelihood that their actions constituted direct infringement of a valid patent, and Acronis, Inc.,  
12 Acronis GmbH and OOO Acronis knew or should have known of that objectively high risk.  
13 Acronis, Inc.'s, Acronis GmbH and OOO Acronis' acts constitute willful and deliberate  
14 infringement, entitling Symantec to enhanced damages under 35 U.S.C. § 284 and its attorneys'  
15 fees and costs.

16       33. In addition, Acronis GmbH, Acronis, Inc. and OOO Acronis indirectly infringe the  
17 Asserted Patents. On information and belief, Acronis GmbH, Acronis, Inc. and OOO Acronis  
18 actively and knowingly induce users of the Backup & Recovery and True Image product lines to  
19 infringe the Symantec Asserted Patents by providing instructions, including without limitation  
20 user guides, as to how to use the backup and recovery features of these products. Acronis GmbH,  
21 Acronis, Inc. and OOO Acronis also make publicly available marketing, sales, and customer  
22 support materials that describe and direct users to use infringing features of the Backup &  
23 Recovery and True Image product lines in an infringing manner. On information and belief,  
24 Acronis GmbH, Acronis, Inc. and OOO Acronis also provide verbal and written instructions,  
25 including technical know-how, to their distributors and customers that intentionally aid, assist, and  
26 encourage infringement. Acronis GmbH and Acronis, Inc. have known that these acts induced  
27 infringement of Symantec's Asserted Patents since at least May 30, 2012 when Symantec, in  
28 connection with another action pending in the District of Delaware, provided them a copy of its

1 proposed counterclaims containing the claims herein with Symantec's Asserted Patents attached  
2 thereto. *See* 1:12-cv-372 (SLR). On information and belief, OOO Acronis became aware of these  
3 claims and patents on or about May 30, 2012 because executives of Acronis, Inc. and Acronis  
4 GmbH also have executive responsibility over OOO Acronis; the lawsuit was relevant to products  
5 that OOO Acronis developed for use and sale by Acronis, Inc. and Acronis GmbH; and OOO  
6 Acronis and/or employees of OOO Acronis communicated with and are represented by Acronis,  
7 Inc. and Acronis GmbH's counsel in the District of Delaware. On information and belief,  
8 Acronis, Inc., Acronis GmbH and OOO Acronis have acted and are continuing to act despite an  
9 objectively high likelihood that their actions constituted indirect infringement of a valid patent,  
10 and Acronis, Inc., Acronis GmbH and OOO Acronis knew or should have known of that  
11 objectively high risk. Acronis, Inc.'s, Acronis GmbH's and OOO Acronis acts constitute willful  
12 and deliberate infringement, entitling Symantec to enhanced damages under 35 U.S.C. § 284 and  
13 its attorneys' fees and costs.

14         34. Acronis GmbH and OOO Acronis also indirectly infringe the Asserted Patents by  
15 selling or offering to sell the Backup & Recovery and True Image product lines, which are  
16 designed to be used (and are used by distributors, consumers, and end-users) in a manner that  
17 infringes Symantec's Asserted Patents. Acronis GmbH knew that the Backup & Recovery and  
18 True Image product lines are especially made or especially adapted for use in an infringement of  
19 Symantec's Asserted Patents since at least May 30, 2012, when Symantec, in connection with  
20 another action pending in the District of Delaware, provided it with a copy of Symantec's  
21 proposed counterclaims containing the claims herein with Symantec's Asserted Patents attached  
22 thereto. *See* 1:12-cv-372 (SLR). On information and belief, OOO Acronis became aware of these  
23 claims and patents on or about May 30, 2012 because executives of Acronis, Inc. and Acronis  
24 GmbH also have executive responsibility over OOO Acronis; the lawsuit was relevant to products  
25 that OOO Acronis developed for use and sale by Acronis, Inc. and Acronis GmbH; and OOO  
26 Acronis and/or employees of OOO Acronis communicated with and are represented by Acronis,  
27 Inc. and Acronis GmbH's counsel in the District of Delaware. The Backup & Recovery and True  
28 Image product lines, on information and belief, have no substantial non-infringing uses and are



1 material to the claimed inventions. On information and belief, Acronis GmbH and OOO Acronis  
2 have acted and are continuing to act despite an objectively high likelihood that their actions  
3 constituted direct and indirect infringement of a valid patent, and Acronis GmbH and OOO  
4 Acronis knew or should have known of that objectively high risk. Acronis GmbH and OOO  
5 Acronis' acts constitute willful and deliberate infringement, entitling Symantec to enhanced  
6 damages under 35 U.S.C. § 284 and its attorneys' fees and costs.

7 **COUNT I: INFRINGEMENT OF U.S. PATENT NO. 7,941,459**

8 35. Symantec incorporates by reference the averments in the preceding paragraphs as if  
9 set forth herein.

10 36. The '459 patent, entitled "Selectable Use of Single-Instance Store Backup  
11 Methodology in Combination with Other Methods," was duly and lawfully issued on May 10,  
12 2011. A true and correct copy of the '459 patent is attached to this pleading as Exhibit 1.

13 37. Symantec is the owner of all rights, title, and interest in the '459 patent, including  
14 the right to bring this suit for injunctive relief and damages.

15 38. On information and belief, Acronis has infringed and continues to infringe, has  
16 contributed to and continues to contribute to acts of infringement, and/or has actively and  
17 knowingly induced and continues to actively and knowingly induce the infringement of the '459  
18 patent by making, using, offering for sale and selling in the United States, and by importing into  
19 the United States without authority, and/or by causing others to make, use, offer for sale and sell  
20 in the United States, and import into the United States without authority, products and services,  
21 including but not limited to the Acronis Backup & Recovery line of products and related services,  
22 for example, Backup & Recovery 11.5 Workstation, Backup & Recovery 11.5 Server for  
23 Windows, Backup & Recovery 11.5 Advanced Server SBS Edition, Backup & Recovery 11.5  
24 Server for Linux, Backup & Recovery 11.5 for Microsoft Exchange Server, Backup & Recovery  
25 Online, Backup & Recovery 11.5 Virtual Edition for Hyper-V, Backup & Recovery 11.5 Virtual  
26 Edition for RHEV, Backup & Recovery 11.5 Virtual Edition for Parallels, Backup & Recovery  
27 11.5 Virtual Edition for Citrix XenServer, Backup & Recovery 11.5 Virtual Edition for VMware  
28 vSphere, Backup & Recovery 11.5 Advanced Server for Windows, Backup & Recovery 11.5



1 Advanced Server for Linux, Backup & Recovery 11.5 Advanced Workstation, Backup &  
2 Recovery 11 Workstation, Backup & Recovery 11 Server for Windows, Backup & Recovery 11  
3 Advanced Server SBS Edition, Backup & Recovery 11 Server for Linux, Backup & Recovery 11  
4 Online, Backup & Recovery 11 Advanced Server, Backup & Recovery 11 Virtual Edition, and  
5 Backup & Recovery 11 Advanced Workstation.

6 39. On information and belief, Acronis' infringement, contributory infringement and/or  
7 inducement of infringement is literal infringement or, in the alternative, infringement under the  
8 doctrine of equivalents.

9 40. Acronis' acts of infringement have been committed and are being committed with  
10 knowledge of Symantec's rights in the '459 patent since approximately May 30, 2012 when  
11 Symantec, in connection with another action pending in the District of Delaware, provided  
12 Acronis, Inc. and Acronis GmbH a copy of its counterclaims containing the claims herein with  
13 Symantec's Asserted Patents attached thereto. *See* 1:12-cv-372 (SLR). On information and belief,  
14 Acronis has acted and is continuing to act despite an objectively high likelihood that its actions  
15 constituted direct and indirect infringement of a valid patent, and Acronis knew or should have  
16 known of that objectively high risk. Acronis' acts constitute willful and deliberate infringement,  
17 entitling Symantec to enhanced damages under 35 U.S.C. § 284 and its attorneys' fees and costs.

18 41. Acronis' infringing activities have caused and will continue to cause Symantec  
19 irreparable harm, for which it has no adequate remedy at law, unless Acronis' infringing activities  
20 are enjoined by this Court in accordance with 35 U.S.C. § 283.

21 42. Symantec has been and continues to be damaged by Acronis' infringement of the  
22 '459 patent in an amount to be determined at trial.

23 **COUNT II: INFRINGEMENT OF U.S. PATENT NO. 7,024,527**

24 43. Symantec incorporates by reference the averments in the preceding paragraphs as if  
25 set forth herein.

26 44. The '527 patent, entitled "Data Restore Mechanism," was duly and lawfully issued  
27 on April 4, 2006. A true and correct copy of the '527 patent is attached to this pleading as Exhibit  
28 2.

1           45.     Symantec is the owner of all rights, title, and interest in the '527 patent, including  
2 the right to bring this suit for injunctive relief and damages.

3           46.     On information and belief, Acronis has infringed and continues to infringe, has  
4 contributed to and continues to contribute to acts of infringement, and/or has actively and  
5 knowingly induced and continues to actively and knowingly induce the infringement of the '527  
6 patent by making, using, offering for sale and selling in the United States, and by importing into  
7 the United States without authority, and/or by causing others to make, use, offer for sale and sell  
8 in the United States, and import into the United States without authority, products and services,  
9 including but not limited to the Acronis Backup & Recovery line of products and related services,  
10 for example, Backup & Recovery 11.5 Workstation, Backup & Recovery 11.5 Server for  
11 Windows, Backup & Recovery 11.5 Advanced Server SBS Edition, Backup & Recovery 11.5  
12 Server for Linux, Backup & Recovery 11.5 for Microsoft Exchange Server, Backup & Recovery  
13 Online, Backup & Recovery 11.5 Virtual Edition for Hyper-V, Backup & Recovery 11.5 Virtual  
14 Edition for RHEV, Backup & Recovery 11.5 Virtual Edition for Parallels, Backup & Recovery  
15 11.5 Virtual Edition for Citrix XenServer, Backup & Recovery 11.5 Virtual Edition for VMware  
16 vSphere, Backup & Recovery 11.5 Advanced Server for Windows, Backup & Recovery 11.5  
17 Advanced Server for Linux, Backup & Recovery 11.5 Advanced Workstation, Backup &  
18 Recovery 11 Workstation, Backup & Recovery 11 Server for Windows, Backup & Recovery 11  
19 Advanced Server SBS Edition, Backup & Recovery 11 Server for Linux, Backup & Recovery 11  
20 Online, Backup & Recovery 11 Advanced Server, Backup & Recovery 11 Virtual Edition, and  
21 Backup & Recovery 11 Advanced Workstation.

22           47.     On information and belief, Acronis' infringement, contributory infringement and/or  
23 inducement of infringement is literal infringement or, in the alternative, infringement under the  
24 doctrine of equivalents.

25           48.     Acronis' acts of infringement have been committed and are being committed with  
26 knowledge of Symantec's rights in the '527 patent since approximately May 30, 2012 when  
27 Symantec, in connection with another action pending in the District of Delaware, provided  
28 Acronis, Inc. and Acronis GmbH a copy of its counterclaims containing the claims herein with

1 Symantec's Asserted Patents attached thereto. *See* 1:12-cv-372 (SLR). On information and belief,  
2 Acronis has acted and is continuing to act despite an objectively high likelihood that its actions  
3 constituted direct and indirect infringement of a valid patent, and Acronis knew or should have  
4 known of that objectively high risk. Acronis' acts constitute willful and deliberate infringement,  
5 entitling Symantec to enhanced damages under 35 U.S.C. § 284 and its attorneys' fees and costs.

6 49. Acronis' infringing activities have caused and will continue to cause Symantec  
7 irreparable harm, for which it has no adequate remedy at law, unless Acronis' infringing activities  
8 are enjoined by this Court in accordance with 35 U.S.C. § 283.

9 50. Symantec has been and continues to be damaged by Acronis' infringement of the  
10 '527 patent in an amount to be determined at trial.

11 **COUNT III: INFRINGEMENT OF U.S. PATENT NO. 7,454,592**

12 51. Symantec incorporates by reference the averments in the preceding paragraphs as if  
13 set forth herein.

14 52. The '592 patent, entitled "Block-Level and Hash-Based Single-Instance Storage,"  
15 was duly and lawfully issued on November 18, 2008. A true and correct copy of the '592 patent is  
16 attached to this pleading as Exhibit 3.

17 53. Symantec is the owner of all rights, title, and interest in the '592 patent, including  
18 the right to bring this suit for injunctive relief and damages.

19 54. On information and belief, Acronis has infringed and continues to infringe, has  
20 contributed to and continues to contribute to acts of infringement, and/or has actively and  
21 knowingly induced and continues to actively and knowingly induce the infringement of the '592  
22 patent by making, using, offering for sale and selling in the United States, and by importing into  
23 the United States without authority, and/or by causing others to make, use, offer for sale and sell  
24 in the United States, and import into the United States without authority, products and services,  
25 including but not limited to the Acronis Backup & Recovery line of products and related services,  
26 for example, Backup & Recovery 11.5 Workstation, Backup & Recovery 11.5 Server for  
27 Windows, Backup & Recovery 11.5 Advanced Server SBS Edition, Backup & Recovery 11.5  
28 Server for Linux, Backup & Recovery 11.5 for Microsoft Exchange Server, Backup & Recovery



1 Online, Backup & Recovery 11.5 Virtual Edition for Hyper-V, Backup & Recovery 11.5 Virtual  
2 Edition for RHEV, Backup & Recovery 11.5 Virtual Edition for Parallels, Backup & Recovery  
3 11.5 Virtual Edition for Citrix XenServer, Backup & Recovery 11.5 Virtual Edition for VMware  
4 vSphere, Backup & Recovery 11.5 Advanced Server for Windows, Backup & Recovery 11.5  
5 Advanced Server for Linux, Backup & Recovery 11.5 Advanced Workstation, Backup &  
6 Recovery 11 Workstation, Backup & Recovery 11 Server for Windows, Backup & Recovery 11  
7 Advanced Server SBS Edition, Backup & Recovery 11 Server for Linux, Backup & Recovery 11  
8 Online, Backup & Recovery 11 Advanced Server, Backup & Recovery 11 Virtual Edition, and  
9 Backup & Recovery 11 Advanced Workstation.

10 55. On information and belief, Acronis' infringement, contributory infringement and/or  
11 inducement of infringement is literal infringement or, in the alternative, infringement under the  
12 doctrine of equivalents.

13 56. Acronis' acts of infringement have been committed and are being committed with  
14 knowledge of Symantec's rights in the '592 patent since approximately May 30, 2012 when  
15 Symantec, in connection with another action pending in the District of Delaware, provided  
16 Acronis, Inc. and Acronis GmbH a copy of its counterclaims containing the claims herein with  
17 Symantec's Asserted Patents attached thereto. *See* 1:12-cv-372 (SLR). On information and belief,  
18 Acronis has acted and is continuing to act despite an objectively high likelihood that its actions  
19 constituted direct and indirect infringement of a valid patent, and Acronis knew or should have  
20 known of that objectively high risk. Acronis' acts constitute willful and deliberate infringement,  
21 entitling Symantec to enhanced damages under 35 U.S.C. § 284 and its attorneys' fees and costs.

22 57. Acronis' infringing activities have caused and will continue to cause Symantec  
23 irreparable harm, for which it has no adequate remedy at law, unless Acronis' infringing activities  
24 are enjoined by this Court in accordance with 35 U.S.C. § 283.

25 58. Symantec has been and continues to be damaged by Acronis' infringement of the  
26 '592 patent in an amount to be determined at trial.

27  
28

**COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 7,680,957**

59. Symantec incorporates by reference the averments in the preceding paragraphs as if set forth herein.

60. The '957 patent, entitled "Computer System Configuration Representation and Transfer," was duly and lawfully issued on March 16, 2010. A true and correct copy of the '957 patent is attached to this pleading as Exhibit 4.

61. Symantec is the owner of all rights, title, and interest in the '957 patent, including the right to bring this suit for injunctive relief and damages.

62. On information and belief, Acronis has infringed and continues to infringe, has contributed to and continues to contribute to acts of infringement, and/or has actively and knowingly induced and continues to actively and knowingly induce the infringement of the '957 patent by making, using, offering for sale and selling in the United States, and by importing into the United States without authority, and/or by causing others to make, use, offer for sale and sell in the United States, and import into the United States without authority, products and services, including but not limited to the Acronis Backup & Recovery line of products and related services, for example, Backup & Recovery 11.5 Workstation, Backup & Recovery 11.5 Server for Windows, Backup & Recovery 11.5 Advanced Server SBS Edition, Backup & Recovery 11.5 Server for Linux, Backup & Recovery 11.5 for Microsoft Exchange Server, Backup & Recovery Online, Backup & Recovery 11.5 Virtual Edition for Hyper-V, Backup & Recovery 11.5 Virtual Edition for RHEV, Backup & Recovery 11.5 Virtual Edition for Parallels, Backup & Recovery 11.5 Virtual Edition for Citrix XenServer, Backup & Recovery 11.5 Virtual Edition for VMware vSphere, Backup & Recovery 11.5 Advanced Server for Windows, Backup & Recovery 11.5 Advanced Server for Linux, Backup & Recovery 11.5 Advanced Workstation, Backup & Recovery 11 Workstation, Backup & Recovery 11 Server for Windows, Backup & Recovery 11 Advanced Server SBS Edition, Backup & Recovery 11 Server for Linux, Backup & Recovery 11 Online, Backup & Recovery 11 Advanced Server, Backup & Recovery 11 Virtual Edition, and Backup & Recovery 11 Advanced Workstation.

63. On information and belief, Acronis' infringement, contributory infringement and/or inducement of infringement is literal infringement or, in the alternative, infringement under the doctrine of equivalents.

64. Acronis' acts of infringement have been committed and are being committed with knowledge of Symantec's rights in the '957 patent since approximately May 30, 2012 when Symantec, in connection with another action pending in the District of Delaware, provided Acronis, Inc. and Acronis GmbH a copy of its counterclaims containing the claims herein with Symantec's Asserted Patents attached thereto. *See* 1:12-cv-372 (SLR). On information and belief, Acronis has acted and is continuing to act despite an objectively high likelihood that its actions constituted direct and indirect infringement of a valid patent, and Acronis knew or should have known of that objectively high risk. Acronis' acts constitute willful and deliberate infringement, entitling Symantec to enhanced damages under 35 U.S.C. § 284 and its attorneys' fees and costs.

65. Acronis' infringing activities have caused and will continue to cause Symantec irreparable harm, for which it has no adequate remedy at law, unless Acronis' infringing activities are enjoined by this Court in accordance with 35 U.S.C. § 283.

66. Symantec has been and continues to be damaged by Acronis' infringement of the '957 patent in an amount to be determined at trial.

#### **COUNT V: INFRINGEMENT OF U.S. PATENT NO. 7,996,708**

67. Symantec incorporates by reference the averments in the preceding paragraphs as if set forth herein.

68. The '708 patent, entitled "Techniques for File System Resource Restoration," was duly and lawfully issued on August 9, 2011. A true and correct copy of the '708 patent is attached to this pleading as Exhibit 5.

69. Symantec is the owner of all rights, title, and interest in the '708 patent, including the right to bring this suit for injunctive relief and damages.

70. On information and belief, Acronis has infringed and continues to infringe, has contributed to and continues to contribute to acts of infringement, and/or has actively and knowingly induced and continues to actively and knowingly induce the infringement of the '708



1 patent by making, using, offering for sale and selling in the United States, and by importing into  
2 the United States without authority, and/or by causing others to make, use, offer for sale and sell  
3 in the United States, and import into the United States without authority, products and services,  
4 including but not limited to the Acronis Backup & Recovery line of products and related services,  
5 for example, Backup & Recovery 11.5 Workstation, Backup & Recovery 11.5 Server for  
6 Windows, Backup & Recovery 11.5 Advanced Server SBS Edition, Backup & Recovery 11.5  
7 Server for Linux, Backup & Recovery 11.5 for Microsoft Exchange Server, Backup & Recovery  
8 Online, Backup & Recovery 11.5 Virtual Edition for Hyper-V, Backup & Recovery 11.5 Virtual  
9 Edition for RHEV, Backup & Recovery 11.5 Virtual Edition for Parallels, Backup & Recovery  
10 11.5 Virtual Edition for Citrix XenServer, Backup & Recovery 11.5 Virtual Edition for VMware  
11 vSphere, Backup & Recovery 11.5 Advanced Server for Windows, Backup & Recovery 11.5  
12 Advanced Server for Linux, Backup & Recovery 11.5 Advanced Workstation, Backup &  
13 Recovery 11 Workstation, Backup & Recovery 11 Server for Windows, Backup & Recovery 11  
14 Advanced Server SBS Edition, Backup & Recovery 11 Server for Linux, Backup & Recovery 11  
15 Online, Backup & Recovery 11 Advanced Server, Backup & Recovery 11 Virtual Edition, and  
16 Backup & Recovery 11 Advanced Workstation, and the True Image line of products and related  
17 services, for example, True Image 2012, True Image 2013, True Image 2013 Plus Pack, Acronis  
18 Universal Restore and Acronis True Image for Microsoft Small Business Server.

19 71. On information and belief, Acronis' infringement, contributory infringement and/or  
20 inducement of infringement is literal infringement or, in the alternative, infringement under the  
21 doctrine of equivalents.

22 72. Acronis' acts of infringement have been committed and are being committed with  
23 knowledge of Symantec's rights in the '708 patent since approximately May 30, 2012 when  
24 Symantec, in connection with another action pending in the District of Delaware, provided  
25 Acronis, Inc. and Acronis GmbH a copy of its counterclaims containing the claims herein with  
26 Symantec's Asserted Patents attached thereto. *See* 1:12-cv-372 (SLR). On information and belief,  
27 Acronis has acted and is continuing to act despite an objectively high likelihood that its actions  
28 constituted direct and indirect infringement of a valid patent, and Acronis knew or should have

1 known of that objectively high risk. Acronis' acts constitute willful and deliberate infringement,  
2 entitling Symantec to enhanced damages under 35 U.S.C. § 284 and its attorneys' fees and costs.

3 73. Acronis' infringing activities have caused and will continue to cause Symantec  
4 irreparable harm, for which it has no adequate remedy at law, unless Acronis' infringing activities  
5 are enjoined by this Court in accordance with 35 U.S.C. § 283.

6 74. Symantec has been and continues to be damaged by Acronis' infringement of the  
7 '708 patent in an amount to be determined at trial.

8 **REQUEST FOR RELIEF**

9 WHEREFORE, Symantec respectfully requests that:

10 (a) Judgment be entered that Acronis has infringed one or more claims of each of the  
11 Asserted Patents;

12 (b) Judgment be entered permanently enjoining Acronis, its directors, officers, agents,  
13 servants and employees, and those acting in privity or in concert with them, and their subsidiaries,  
14 divisions, successors and assigns, from further acts of infringement, contributory infringement, or  
15 inducement of infringement of the Asserted Patents;

16 (c) Judgment be entered awarding Symantec all damages adequate to compensate it for  
17 Acronis' infringement of the Asserted Patents including all pre-judgment and post-judgment  
18 interest at the maximum rate permitted by law; and

19 (d) Judgment be entered awarding Symantec such other and further relief as this Court  
20 may deem just and proper.

21  
22 DATED: October 16, 2012

Respectfully submitted,

23 QUINN EMANUEL URQUHART & SULLIVAN LLP

24 By: 

Jennifer A. Kash

Attorneys for Plaintiff Symantec Corporation