

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

VEDANTI SYSTEMS LIMITED and  
MAX SOUND CORPORATION,

Plaintiffs,

v.

GOOGLE, INC., YOUTUBE, LLC, and  
ON2 TECHNOLOGIES, INC.,

Defendants.

C.A. No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiffs Vedanti Systems Limited (“VSL”) and Max Sound Corporation (“Max Sound”) file this Complaint for patent infringement against Defendants Google, Inc. (“Google”), YouTube, LLC (“YouTube”), and On2 Technologies, Inc. (“On2”) (collectively “Defendants”) and allege as follows:

1. This case arises out of Defendants’ willful infringement of United States Patent No. 7,974,339 and Defendants’ incorporation of this patented technology into products made, used, sold, offered for sale, and/or imported, including, but not limited to, VP8, VP9, WebM, YouTube, Google Adsense, Google Play, Google TV, Chromebook, Google Drive, Google Chromecast, Google Play-per-view, Google Glasses, Google +, Google’s Simplify, Google Maps and Google Earth. In short, Defendants’ infringement pervades virtually every website and product offered by Google and its Defendant subsidiaries.

2. Despite Google's well-publicized Code of Conduct — "Don't be Evil" — which it explains is "about doing the right thing," "following the law," and "acting honorably," Google, in fact, has an established pattern of conduct which is the exact opposite of its claimed piety.

3. Indeed, time and time again, Google has willfully infringed the patents and used the proprietary information of others without offering to compensate the owners of those patents and/or proprietary information. This case is yet another of the many occasions on which Google has unlawfully taken, rather than developed for itself and/or paid for, valuable and proprietary technology that is core to the functioning of its many businesses and products.

### **PARTIES**

4. Plaintiff Vedanti Systems Limited is a British company having its principal place of business at 43 Overstone Road London W6 0AD.

5. Plaintiff Max Sound Corporation is a Delaware corporation having its principal place of business at 2902A Colorado Avenue, Santa Monica, California 90404.

6. Google is a corporation organized under the laws of the State of Delaware, and has a principal place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043 and/or is conducting business through an affiliate located at this address. Google may be served through its registered agent for service of process, Corporation Trust Company, at Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

7. On information and belief, YouTube is a limited liability company organized under the laws of the State of Delaware, and headquartered in San Bruno, California. YouTube is a wholly-owned subsidiary of Google. YouTube is in the business of the sharing and display of user-generated and corporate media video. Available content on YouTube includes video clips, TV clips, music videos, and other content such as video blogging, short original videos,

and educational videos. YouTube may be served through its registered agent for service of process, Corporation Trust Company, at Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

8. On information and belief, On2 is a corporation organized under the laws of the State of Delaware, and has a principal place of business in Clifton Park, New York. On2 is wholly-owned subsidiary of Google. On2, formerly known as The Duck Corporation, engaged in the business of developing video compression technologies known as codecs. In February 2010, Google acquired On2 for an estimated \$124.6 million. On2 claims the authorship of a number of video codecs, including video codecs known as VP8 and VP9. On2 may be served through its registered agent for service of process, Corporation Service Company, at 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

#### **JURISDICTION AND VENUE**

9. This civil action for patent infringement arises under the Patent Laws of the United States, 35 U.S.C. §§ 1, *et seq.* This Court has jurisdiction over the claims presented herein pursuant to 28 U.S.C. §§ 1331 and 1338(a).

10. Defendants make, import, use, sell, and/or offer for sale the Accused Instrumentalities (as defined below) within the United States, including this District, that infringe one or more claims of United States Patent No. 7,974,339 entitled “Optimized Data Transmission System and Method” (the “’339 Patent”). The ’339 Patent was duly and legally issued by the United States Patent and Trademark Office on July 5, 2011. A true and correct copy of the ’339 Patent is attached hereto as Exhibit 1.

11. The ’339 Patent is referred to herein as the “Asserted Patent.”

12. VSL is the owner by assignment of all rights, title, and interests in the Asserted Patent, and is entitled to sue for past and future infringement thereof.

13. Max Sound and VSL have agreed that Max Sound shall have the right to enforce VSL's patent rights on VSL's behalf.

14. A "codec" is a device or computer program capable of encoding or decoding a digital data stream or signal.

15. Defendants are engaged in the business of developing, using, and selling a variety of video computer programs, including those commonly referred to as the VP8, VP9, H.264, and WebM video codecs (collectively the "Accused Codec Instrumentalities").

16. Defendants embed these Accused Codec Instrumentalities into products that Defendants make, use, and sell, including in this District, such as the Android operating system used in many mobile phones and tablet computers (collectively "the Accused Android Instrumentalities").

17. Defendants use these Accused Codec Instrumentalities to deliver video content from Defendants' websites and products such as VP8, VP9, WebM, YouTube.com, Google AdSense, Google Play, Google TV, Chromebook, Google Drive, Google Chromecast, Google Play-per-view, Google Glasses, Google +, Google's Simplify, Google Maps and Google Earth (collectively the "Accused Website and Product Instrumentalities").

18. Defendants distribute software such as the Chrome web browser that implements the Accused Codec Instrumentalities (collectively the "Accused Software Instrumentalities").

19. Collectively, the Accused Codec Instrumentalities, the Accused Android Instrumentalities, the Accused Website and Product Instrumentalities, and the Accused Software Instrumentalities comprise the "Accused Instrumentalities."

20. On information and belief, Defendants directly and/or indirectly import, manufacture, use, offer for sale, and/or sell the Accused Instrumentalities within the United States, including this District, that infringe one or more claims of the Asserted Patent.

21. Venue is proper in this District pursuant to 28 U.S.C. § 1400(b).

### **GENERAL ALLEGATIONS**

#### **VSL and the '339 Patent**

22. In 2001, Constance Nash, one of the two named inventors of the '339 Patent, had the goal of offering to the public an Internet subscription service to deliver digitized video of musical concerts via the Internet.

23. After reviewing and testing numerous video compression and decompression technologies for use with the subscription services, Ms. Nash concluded that none of the then-existing video compression technologies could provide the level of video quality necessary to launch the project.

24. The then-existing video standards resulted in jittery, low-quality video and sound for large-sized video files.

25. The available technologies relied solely on compression, *i.e.*, the encoding of digital information by reducing the number of bits in the representation, by identifying and deleting unnecessary bits (“lossy” compression).

26. Ms. Nash hired Alex Krichevsky to work for VSL. Together, Ms. Nash and Mr. Krichevsky developed the technology, specifically a video codec (the “VSL Codec”), and the inventions described in the '339 Patent.

27. The VSL Codec implemented a proprietary and unique system of optimizing data transmission using methods for key frame partitioning, slicing and analyzing pixel variation of

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