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

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| WELLCOMEMAT, LLC,<br><br>Plaintiff,<br><br>v.<br><br>AYLO HOLDINGS S.à r.l., AYLO FREESITES LTD., AYLO PREMIUM, LTD., 9219-1568 QUEBEC, INC., and JARROD BELTRAN,<br><br>Defendants. | C.A. No. 23-cv-483<br><br>**JURY TRIAL DEMANDED** |

## AMENDED COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Plaintiff WellcomeMat, LLC ("WellcomeMat") makes the following allegations against Aylo Holdings S.à r.l. f/k/a MindGeek S.à r.l. ("Aylo S.à r.l."); Aylo Freesites, Ltd. f/k/a MG Freesites, Ltd. ("Aylo Freesites"); Aylo Premium, Ltd. f/k/a/ MG Premium, Ltd. ("Aylo Premium"); 9219-1568 Quebec, Inc. ("9219-1568 Quebec") (with Aylo S.à r.l., Aylo Freesites, and/or Aylo Premium, "Aylo"); and Jarrod Beltran ("Beltran") (collectively, "Defendants").

## BACKGROUND

1. WellcomeMat—a start-up company consisting of three tech-savvy individuals collaborating in the garage of founder Christian Sterner—revolutionized the market for online video distribution by improving the operation and architecture of the computer driven systems necessary to manage, organize, and present video data.

2. Sterner and his co-founders, Phil DiGiulio and Haider Zainy, invented and obtained foundational patents covering methods and systems for managing, organizing, and presenting video data in certain specific ways.

3. In particular, as reflected in U.S. Patent No. 8,307,286 (the "'286 Patent"), WellcomeMat's founders invented methods and systems for enhancing and handling online video data. For example, the '286 Patent claims methods and systems for handling video chaptering that, for example, enables individuals (including video editors and content creators and owners) to upload video files to an online video platform and add, modify, and delete video cue point information—i.e., particularly indexed positions or tags—associated with those files, and further enables viewers to select and utilize such video cue points to navigate to and stream desired content.

4. Aylo has been aware of the '286 Patent—and its need to license it—for some time but has decided to infringe it anyway.

5. For example, in September 2020, Aylo petitioned for *inter partes* review ("IPR") of U.S. Patent No. 9,965,780 (the "Scorpcast Patent")—a patent that is owned by Scorpcast, LLC and was the subject of infringement litigation against Aylo in two federal district courts. Aylo claimed that the Scorpcast Patent was invalid in view of WellcomeMat's application for U.S. Patent No. 8,170,395 (the "'395 Patent"), which is related to the '286 Patent. During those proceedings, Aylo contacted, and eventually subpoenaed, WellcomeMat for information related to both the '395 Patent and the '286 Patent.

6. While complying with Aylo's informational requests and demands, WellcomeMat put Aylo on notice that Aylo was violating the '286 Patent through the video chaptering features

of its popular adult entertainment platform, Pornhub. WellcomeMat, in fact, offered Aylo an opportunity to negotiate a license agreement for the ’286 Patent.

7. Despite WellcomeMat’s efforts, Aylo has not obtained a license or any other non-assertion rights to the ’286 Patent.

8. By offering video platforms that violate the ’286 Patent on its popular adult entertainment website, Aylo has induced Pornhub content partners, like Defendant Beltran, to directly violate the ’286 Patent when uploading and categorizing videos with “Action Tags” via the accused Pornhub platform.

9. WellcomeMat thus files this suit to protect its valuable intellectual property rights.

## PARTIES

10. Plaintiff WellcomeMat is a limited liability company whose principal place of business is Boulder, Colorado. It specializes in real estate video marketing.

11. Defendant Aylo S.à r.l. is a foreign entity organized and existing under the laws of Luxembourg and conducting business in the United States, including in this District, through several foreign and American subsidiary companies. Aylo S.à r.l. owns, either directly or indirectly, several adult entertainment brands, including Pornhub, Pornhub Premium, YouPorn, YouPorn Premium, RedTube, Redtube Premium, Tube8, Thumbzilla, ModelHub, XTube, Brazzers, MOFOS, Babes.com, Twistys, Men.com, RealityKings.com, and DigitalPlayground.com. https://www.aylo .com/brands/.[1]

12. As Mr. Andreas Alkiviades Andreou stated in a signed declaration submitted under penalty of perjury in *Fleites v. MindGeek S.A.R.L., et al.*, No. 21-4920 (C.D. Cal. May 23, 2022),

[1] While the depictions reproduced below are redacted for explicit content, some of the referenced webpages, which cannot be redacted, contain explicit content. In light of that, WellcomeMat has disabled all links to prevent viewers from inadvertently being redirected to explicit content.

ECF No. 139-3 ("Andreou Decl."), on behalf of all four Aylo defendants in this case, Aylo S.à r.l. "is without any employees or operations of its own." *See* Andreou Decl. ¶ 14. Instead, it conducts all of its operations through foreign and American subsidiary companies, including Aylo Freesites, Aylo Premium, and 9219-1568 Quebec, of which Aylo S.à r.l. is the "ultimate parent corporation." *See id.* ¶ 15.

13. Defendant Aylo Freesites (d/b/a Pornhub) is a company incorporated in the Republic of Cyprus and conducting business in the United States, including in this District. As reflected in Pornhub's Terms of Service (https://www.pornhub .com/information/terms), Aylo Freesites purports to own and operate one of the most popular adult entertainment websites in the world, Pornhub.com. Aylo Freesites also operates other popular adult entertainment websites, including Pornhub Premium, YouPorn, YouPorn Premium, RedTube, RedTube Premium, Tube8, Thumbzilla, ModelHub, and XTube.

14. Upon information and belief, Aylo Freesites is predominantly under the control of and operated by directors, officers, and employees working in Aylo S.à r.l.'s offices in Canada, as well of those of various affiliated companies in the United States, with little business operations being conducted within the Republic of Cyprus.

15. Defendant Aylo Premium is a company incorporated in the Republic of Cyprus and conducting business in the United States, including in this District. Aylo Premium purports to own and operate several popular adult entertainment websites, including Brazzers, MOFOS, Babes.com, Twistys, Men.com, RealityKings.com, and DigitalPlayground.com.

16. Upon information and belief, Aylo Premium is predominantly under the control of and operated by directors, officers, and employees working in Aylo S.à r.l.'s offices in Canada, as

well of those of various affiliated companies in the United States, with little business operations being conducted within the Republic of Cyprus.

17. As noted, both Aylo S.à r.l., Aylo Freesites, and Aylo Premium were formerly known, respectively, as MindGeek S.à r.l., MG Freesites, Ltd., and MG Premium, Ltd. On August 17, 2023, Aylo announced its corporate rebrand for entities operating under the MindGeek and MG brands. https://www.aylo .com/newsroom/mindgeek-rebrands/. That same day, Aylo Freesites and Aylo Premium filed certificates of change of name with the appropriate authorities in Cyprus. Upon information and belief, around the same time, Aylo S.à r.l. filed similar papers with the appropriate authorities in Luxembourg.

18. Defendant 9219-1568 Quebec is a company organized and existing under the laws of the Province of Quebec with its principal place of business in Montreal, Canada. 9219-1568 Quebec is a service company that employs individuals responsible for the technical operations of Pornhub and Aylo S.à r.l.'s other accused adult entertainment websites. *See* Andreou Decl. ¶¶ 8, 32.

19. For all relevant purposes herein, Aylo S.à r.l., Aylo Freesites, Aylo Premium, and 9219-1568 Quebec are one and the same, and thus Aylo S.à r.l. is vicariously liable for the acts of Aylo Freesites, Aylo Premium, and 9219-1568 Quebec, which can be imputed to Aylo S.à r.l., because Aylo Freesites, Aylo Premium, and 9219-1568 Quebec are agents and the alter egos of Aylo S.à r.l.

20. Aylo S.à r.l. is the ultimate parent corporation of Aylo Freesites, Aylo Premium, and 9219-1568 Quebec and has no employees or operations of its own. Further, while Aylo Freesites and Aylo Premium purport to technically own and operate Pornhub and other adult

entertainment websites, all such technical operations actually are managed, controlled, and conducted by 9219-1568 Quebec.

21. In addition, Aylo S.à r.l. holds itself out to the public as a single global company operating under the Aylo brand for the benefit of the accused websites. https://www.aylo .com. To that end, the four Aylo entities share offices (https://www.aylo .com/contact/) and members of their boards of directors, which ensures that common members maintain control over all the Aylo entities (Andreou Decl. ¶¶ 15, 19, 26, 35). Further, the Aylo entities share executives and management teams to develop and distribute the infringing platforms described below. In doing so, the Aylo entities enjoy revenues from sales of accused platforms by related entities. And the Aylo entities conduct business with customers through common websites, including Aylo.com and Pornhub.com, which allows customers to view Aylo's content, utilize the infringement platforms described below, and obtain technical support. Thus, the Aylo entities, including Aylo S.à r.l., Aylo Freesites, Aylo Premium, 9219-1568 Quebec, and other affiliated entities, are a closely coordinated web of companies that carry out a joint strategy to use and deploy technology at the heart of the '286 Patent.

22. This complexity is no accident. In an effort to hide its operations and escape liability for various well publicized shortcomings, Aylo S.à r.l. has incorporated dozens of subsidiaries and related companies around the world, the details of which are unknown to Plaintiff at this time, and has changed their names several times over the past fifteen years. For example, directly or indirectly, through one or more of Aylo S.à r.l., Aylo Freesites, Aylo Premium, and 9219-1568 Quebec, Aylo wholly owns and controls at least four companies incorporated in the State of Delaware with corporate offices in Austin, Texas, at the same address of 610 Brazos Street, Suite 500, Austin, TX 78701: Aylo Global Entertainment Inc., Aylo Billing US Corp., Aylo Holdings

USA Corp., and Aylo USA Incorporated.[2] On information and belief, one or more of Aylo S.à r.l., Aylo Freesites, Aylo Premium, and 9219-1568 Quebec Aylo S.à r.l. contracts with and/or otherwise uses these entities to facilitate the receipt of monies and other payments related to Pornhub and the other infringing adult entertainment websites identified in this Complaint.

23. Defendant Jarrod Beltran (d/b/a Jarrod from Texas) is an individual domiciled in Lewisville, Texas. Beltran is a content partner in Pornhub's "Model Program" and uploads various video content onto the Pornhub website using one or more of Aylo's infringing platforms described below.

## JURISDICTION AND VENUE

24. This action arises under the patent laws of the United States, Title 35 of the United States Code.

25. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

26. This Court has personal jurisdiction over Aylo S.à r.l. because, directly or through its intermediaries, including Aylo Freesites, Aylo Premium, 9219-1568 Quebec, it has committed acts within Texas giving rise to this action and/or has established minimum contacts with Texas such that the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

27. Specifically, during the infringing period, Aylo S.à r.l., directly or through its intermediaries, including Aylo Freesites, Aylo Premium, and 9219-1568 Quebec, has placed one or more infringing products into the stream of commerce through the internet with the knowledge and/or understanding that such products were being utilized for sale in Texas.

[2] These subsidiaries formally shared the same corporate offices in California, but after WellcomeMat initiated this action Aylo moved those subsidiaries to Austin, Texas.

28. For example, just last month, Aylo Freesites cited its extensive contacts with the State of Texas to support a suit for injunctive relief against Texas officials in the United States District Court for the Western District of Texas. In particular, Aylo Freesites and other plaintiffs claimed that Texas law violates the First Amendment by requiring them, as a condition of doing business in the State, to verify that their visitors are at least eighteen years old and to display on their sites a public health warning. They claimed that those measures would irreparably harm "the goodwill of their Texan customers," going so far to claim that they hold a "protected property right in the goodwill of Texan viewers." Compl. ¶¶ 5, 64, *Free Speech Coalition, Inc., et al. v. Colmenero, et al.*, No. 23-917 (W.D. Tex. Aug. 4, 2023), ECF No. 1.

29. In addition, Aylo S.à r.l., including through Aylo Freesites, Aylo Premium, and 9219-1568 Quebec, closely analyzes its Texas market, quantifying the top search terms of its Texan customers on Pornhub (https://www.pornhub .com/insights/2022-year-in-review), the average time those Texan customers spend on that site, and the average number of pages they visit during that time (https://www.pornhub .com/insights/the-united-states-duration-nation).

30. The same sources thus demonstrate that Aylo S.à r.l., including through Aylo Freesites, Aylo Premium, and 9219-1568 Quebec, causes Texan viewers to watch video content on Pornhub using one or more platforms, which has induced conduct that infringes the '286 Patent.

31. In addition, through Pornhub's "Content Partner Program," which pays content partners "the highest rate per view in the industry" for uploading video content on the site (https://www.pornhub .com/partners/cpp), and through Pornhub's "Model Program," in which models can make "upwards of $40,000 a month" (https://help.pornhub .com/hc/en-us/categories/4419836208531-Model-Program), Aylo S.à r.l., including through Aylo Freesites, Aylo Premium, 9219-1568 Quebec, and the other Aylo entities, directly or indirectly have induced

Texan content partners to upload video content to Pornhub and categorize such content with "Action Tags" using one or more platforms, described below, in a manner that infringes the '286 Patent (https://help.pornhub .com/hc/en-us/articles/4419860542483-Video-Tags).

32. As just one of many examples, Aylo has partnered with a content partner who uploads videos to its Pornhub website under the tag, FitwifeJewels. FitwifeJewels represents on Pornhub and Twitter that she resides, and uploads and categorizes content, in Texas. In doing so, FitwifeJewels has used one or more platforms, described below, in a manner that infringes the '286 Patent.

33. Defendant Beltran is another of many Texan content partners. For example, through Pornhub's Model Program, Beltran uploads and categorizes video content on Pornhub from Lewisville, Texas, under the tag, Jarrod from Texas, using one or more platforms, described below, in a manner that infringes the '286 Patent.

34. Thus, this Court has personal jurisdiction over Beltran because he has committed acts within Texas giving rise to this action and/or has established minimum contacts with Texas such that the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

35. For the same reasons that this Court has personal jurisdiction over Aylo S.à r.l., this Court has personal jurisdiction over its agents and alter egos, Aylo Freesites, Aylo Premium, and 9219-1568 Quebec.

36. Because this Court has personal jurisdiction over Aylo S.à r.l., Aylo Freesites, Aylo Premium, and 9219-1568 Quebec—four foreign corporations—venue is proper pursuant to 28 U.S.C. § 1391(c)(1).

37. Venue is proper over Beltran pursuant to 28 U.S.C. § 1400(b) because he resides within this judicial district.

**SINGLE ACTION**

38. This suit is commenced against Defendants pursuant to 35 U.S.C. § 299 in a single action because (a) a right to relief is asserted against Defendants jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, and/or selling of the same accused platforms or processes and (b) questions of fact common to all Defendants will arise in the action.

39. Defendants offer, use, and/or sell the same platforms accused in this action, including because, as alleged below, each Defendant hosts and/or uploads for sale video content on Pornhub that use the methods recited in the ’286 Patent.

**WELLCOMEMAT’S STORY**

40. Formally founded in July 2006, WellcomeMat is a software company that focuses on real estate video marketing. Though the company would eventually revolutionize the market for online video distribution, it took years for WellcomeMat to take off.

41. Christian Sterner—WellcomeMat’s original founder—grew interested in online video distribution in 1999, while working his first job out of college. At that time, the Internet was experiencing rapid growth, but online video distribution was lagging.

42. Sterner sought to investigate why. In or around 2002, for example, Sterner contacted a real estate broker in New York City who gained notoriety for meeting prospective buyers to show them tape recordings of various listings. Sterner offered the broker a more efficient model—upload those recordings online to save time on individual meetings. Satisfied with his

own system, the broker declined Sterner's suggestion because online video was too cumbersome. That is when Sterner came up with WellcomeMat. His goal was to provide technical- and software-based solutions to the issues facing online video distribution at the time.

43. Initially, Sterner and co-founders DiGiulio and Zainy operated WellcomeMat out of the "WellcomeMat Global Headquarters"—an affectionate name for Sterner's garage. Equipped with a few computers, WellcomeMat set out to compete with far bigger and better funded corporations.

44. To set WellcomeMat apart, Sterner, DiGiulio, and Zainy invented methods and systems for enhancing and handling online video data. For example, the '286 Patent claims methods and systems for handling video chaptering that relies on cue points, which is data associated with a video that provides information about the contents of specific points in, or aspects of, the video. As invented by WellcomeMat, WellcomeMat's method of video chaptering allows video editors and content creators and owners to catalogue, order, and modify cue points remotely without modifying or otherwise disturbing the associated video file, and thereby enables users to find, watch, and share desired portions of the video and search for relevant content.

45. An illustrative example of the client-side of video chaptering as depicted in the patent is shown below.

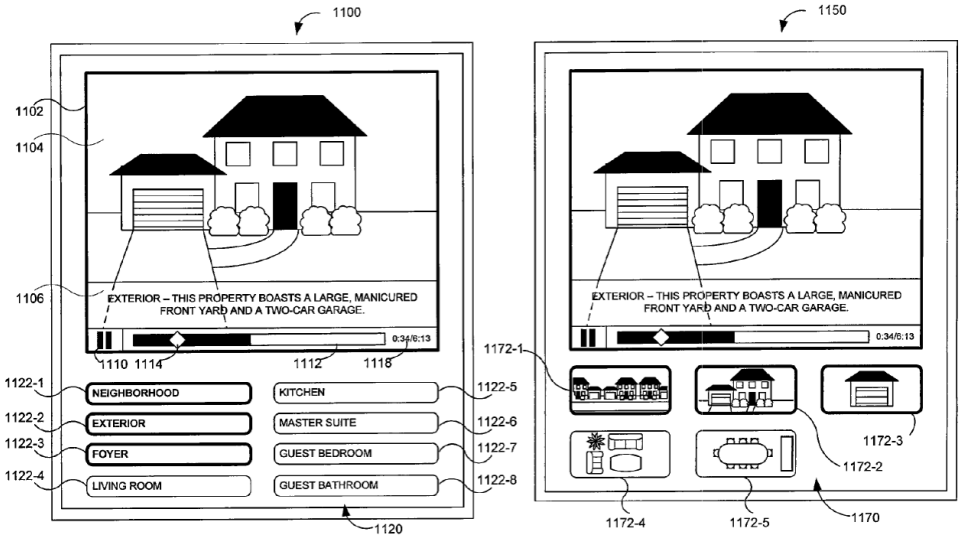



Fig. 11A Fig. 11B

46. Though it is now ubiquitous, video chaptering was a major development—a game changer—in online video distribution. At the time, online video distribution gave users too much information without providing them a way to find and filter content and save time. Consider, for example, a consumer who seeks a home with a large dining room. Before WellcomeMat's video chaptering invention, the consumer had to rely on either photographs or online video but without chaptering. Photographs, however, failed to capture the size, features, and human scale of the dining room, and while video without chaptering well represented the dining room, it may have shown the dining room at the fifteen-minute mark and was thus cumbersome and time consuming to watch and share with others.

47. Further, then-existing network architectures made video chaptering too inefficient at the time WellcomeMat invented the methods and systems claimed by the '286 Patent. For example, then-existing network architectures used a video editing environment at the client-side of the network and did not use video servers and cue point servers to separately store videos from their associated cue points.

48. Thus, at the time, to chapter a video, a video editor needed a video file to be stored locally on the client-side of a network. The video editor then needed to open proprietary video editing software, which provided the necessary video editing environment to add cue points. That proprietary software was also stored locally on the client-side of a network.

49. As the patent explains, such software (and the overall technological technique) was "cumbersome, expensive, and difficult to learn." *See* '286 Patent at 2:18–21. Using the proprietary software, the video editor needed to add cue points to the video, but those cue points needed to be assembled with and/or written directly into the locally stored video itself. After adding the cue points, the video editor then needed to code an HTML webpage that could provide a video playback environment capable of accommodating a chaptered video (or find such an accommodating website).

50. However, because the video editing software was disposed at the client-side of a network, and because the cue point was assembled with or embedded into the locally stored video itself, a video editor could not add, delete, and/or modify cue points in videos without repeating the steps described above. But that process caused the video to lose exposure to the viewing public and lose certain derivative data, such as number of views and cue point visits.

51. The '286 Patent is directed at improving those and other then-existing technological processes by, among other things, providing network architectures that, among other things, enable a video editor and/or content creator or owner to access a video editing environment at the server side of a public network. Using the video editing environment, the video editor may add, delete, and/or modify cue points. An illustrative example of the video editing environment as depicted in the patent is shown below.

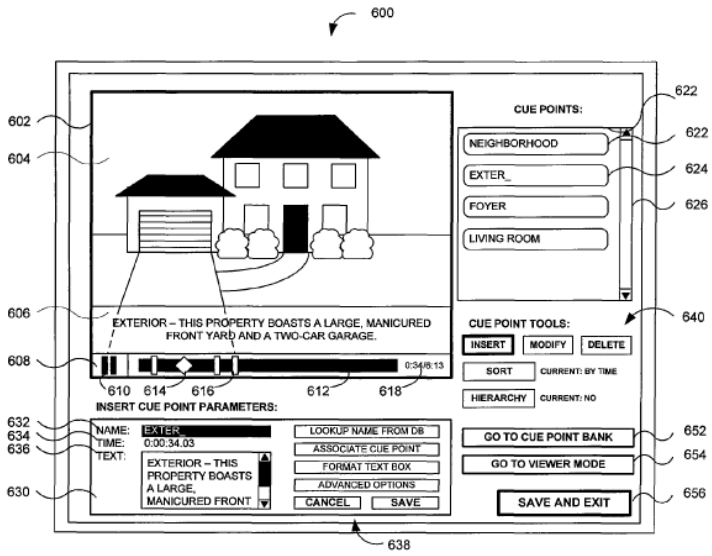



**Fig. 6**

52. The ’286 Patent is further directed at improving then-existing technological processes by, among other things, configuring network architectures to allow video editors to store video files and cue point files separately, while simultaneously retaining the ability to associate the two. For example, the ’286 Patent discloses a new, non-conventional network architecture in which a video server and a cue point server are in operative communication with each other and with an application server (which is in operative communication with the video editing environment) and a network. At the video editing environment, a video editor may upload video files onto the video server and submit or upload cue point files and data onto the cue point server. Video files and cue point files may be associated through their specific identifiers, i.e., unique file names or other identifiers. An illustrative example of this new network architecture is depicted in FIG. 1A of the patent.

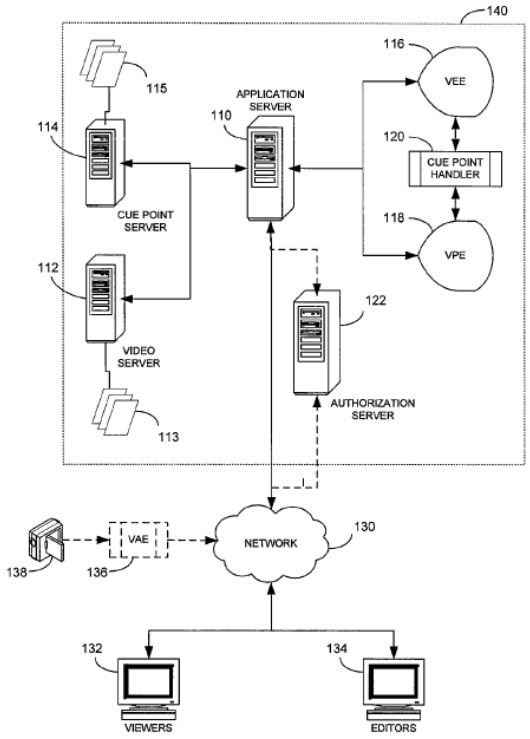



**Fig. 1A**

53. This specific network architecture, which was not previously contemplated with respect to online video distribution and is non-conventional, obviates a video editor's reliance on separate video editing software that must be downloaded locally, and further allows video editors to update "cue point associations," whether it is "after submission, after exit from the [video editing environment], or substantially in real time," without replacing or modifying the original video file—functionality not present in prior art architectures. *See* '286 Patent at 16:24–26.

54. Claim 13 of the '286 Patent recites this improved, non-conventional network architecture. For example, the method of Claim 13 recites the step of "providing a computer system having at least one computer readable medium comprising a video editing environment, and being disposed at a server side of a public network." Claim 13 further recites the separate steps of receiving a video file (i.e., "a set of video information") and receiving a cue point file (i.e., "cue point information"), both of which occur at the video editing environment, which exists at the

server side of a public network. Claim 13 also recites the step of "modifying a portion of the cue point information at the server side of the public network according to the cue point editing command received over the public network from the client terminal." The method recited by Claim 13 thus enables the improved, non-conventional activities and functionality allowing a video editor (or other person or entity) to add, delete, and/or modify cue points without the need to download proprietary software on the client terminal or alter the locally stored video file to associate cue points.

55. This non-conventional network architecture also allows video editors and content owners and creators to distribute videos and add, delete, and/or modify associated cue points "widely across one or more networks." *See* '286 Patent at 11:30. For example, as a result of the '286 Patent's network architectures, a video editor can upload and/or distribute the same video to multiple websites and add, delete, and/or modify associated cue points across all such websites at once.

56. The '286 Patent further allows video editors and users to generate video montages by, among other things, using a video generator application disposed at the server-side of a network that, in response to a query, will generate a relational dataset of cue points. This feature is particularly useful to individuals who require a kitchen of a certain size or dimensions to even begin considering a home purchase. The '286 Patent enables video editors and users to generate such video montages based on cue points and videos that are hosted by different websites.

57. The non-conventional computer and network architecture recited by the '286 Patent further improves the computational and data efficiencies of the underlying computer(s) by requiring and utilizing less bandwidth when a user selects a cue point and views a video chapter.

58. The ’286 Patent also revolutionized the computer-dependent technology used to manage online video content such that content providers can track and thereby analyze derivative information such as “which videos, cue points, categories thereof, etc. were most visited by clients; which cue point names were most used in cue point editors; which geographic or socioeconomic groups of clients used various systems and methods in which ways, etc.” *See* ’286 Patent at 9:58–62.

59. The ’286 Patent further enhances the computer-dependent technology used to manage online video content such that a website provider can use and modify cue point banks, which store suggested cue points for the video editor to choose from. A cue point bank, for example, may simplify a website provider’s ability to analyze which cue points are most popular because the cue point bank may narrow the types of cue points a video editor may use. Cue point banks further provide the necessary infrastructure for montage-based video search because cue point banks enable a system to better filter for relevant content.

60. These network architectures are merely illustrative and not intended to limit the scope of the ’286 Patent.

61. Once WellcomeMat invented its method of video chaptering, Sterner, DiGiulio, and Zainy knew that they had to protect it.

62. On May 7, 2006, WellcomeMat filed Provisional Application No. 60/746,645 with the United States Patent and Trademark Office (“PTO”).

63. On May 4, 2007, WellcomeMat filed U.S. Patent Application No. 2007/0294622 A1, published December 20, 2007 (the “Sterner ’286 Application”).

64. This was no light (or easy) process for WellcomeMat. The patent process imposed significant costs on WellcomeMat and its founders. DiGiulio has described that process as

expensive and exhausting. Sterner recalls—at a time when his wife was supporting him and their two children on a waitress's salary—making difficult choices like whether to buy groceries and pay the electric bill or pay legal expenses associated with the patent process.

65. Six years later, however, the co-founders' efforts came to fruition when the PTO issued the '286 Patent.

## THE ASSERTED PATENT

66. This lawsuit asserts a cause of action for infringement of U.S. Patent No. 8,307,286 (the "'286 Patent"), which the PTO issued on November 6, 2012.

67. WellcomeMat owns all substantial rights to the '286 Patent, including the right to sue and recover damages for all infringement thereof.

## NOTICE

68. As noted above, Aylo is no stranger to the '286 Patent.

69. On September 28, 2020, Aylo Freesites filed a petition for IPR of a patent owned by Scorpcast, LLC that was the subject its patent infringement litigation against Aylo Freesites in the U.S. District Court for the Western District of Texas (No. 20-877) and U.S. District Court for the District of Delaware (Nos. 20-1012, 21-887).

70. In its 116-page petition, Aylo Freesites invoked U.S. Patent Application No. 2007/0263984 A1—the related patent application for the '395 Patent (the "Sterner '395 Application")—no less than 100 times, arguing that it "constitutes prior art under pre-AIA 35 U.S.C. §§ 102(a), (b), and (e)."

71. While IPR proceedings and infringement litigation were underway, Aylo contacted Sterner to discuss the '286 Patent. In particular, on March 19, 2021, Aylo's counsel, Gianna E. Cricco-Lizza, counsel at Venable LLP, emailed Sterner, explaining that "a company called

Scorpcast, LLC doing business as HaulStars is claiming to have invented a way of identifying specific points of interest in a video and then letting a viewer jump to those points by clicking on text or images in the video area." She went on, "I was looking at the real estate video marketing that you have done through WellcomeMat ***and your patents in this area*** and I think you came up with this idea well before Scorpcast did." She then asked Sterner if they could schedule a call to discuss WellcomeMat's patents.

72. On March 23, 2021, in the phone conversation that ensued, Cricco-Lizza urged Sterner to help Aylo.

73. In a follow-up call, on April 9, 2021, Cricco-Lizza, with her associate Christopher M. Gerson, spoke to Sterner about the details and timeline of his inventions, including his patents.

74. At some point during the April 9 call, Sterner pointed out that Aylo was also violating WellcomeMat's intellectual property, including the '286 Patent. Sterner asked Cricco-Lizza whether Aylo would negotiate for a license to WellcomeMat's intellectual property, including the '286 Patent.

75. On September 24, 2021, Aylo Freesites issued a subpoena against WellcomeMat, directing it to submit to a deposition and produce documents relating to the '286 Patent.

76. Despite WellcomeMat's willingness to negotiate a license agreement for the '286 Patent, Aylo has never obtained a license for or other rights to the '286 Patent. To this day, its infringing products remain unlicensed.

**COUNT 1 – AGAINST AYLO, INFRINGEMENT OF U.S. PATENT NO. 8,307,286**

77. WellcomeMat repeats and incorporates by reference each preceding paragraph as if fully set forth herein, and further states:

78. Aylo has directly infringed, and continues to directly infringe, the '286 Patent in violation of 35 U.S.C. § 271(a) by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, without authorization, one or more online video platforms that perform or are capable of performing at least Claim 13 of the '286 Patent literally or under the doctrine of equivalents, including through functionality made available through or utilized in relation with adult entertainment websites like Pornhub, Pornhub Premium, YouPorn, YouPorn Premium, RedTube, Redtube Premium, Tube8, Thumbzilla, ModelHub, XTube, Brazzers, MOFOS, Babes.com, Twistys, Men.com, RealityKings.com, and DigitalPlayground.com Pornhub Premium, YouPorn, YouPorn Premium, RedTube, Redtube Premium, Tube8, Thumbzilla, ModelHub, XTube, Brazzers, MOFOS, Babes.com, Twistys, Men.com, RealityKings.com, and DigitalPlayground.com (hereafter the "'286 Accused Platforms").

79. At a minimum, such '286 Accused Platforms include those servers/software utilized by Aylo to offer an online video platform that enables content partners to upload video files and add, modify, and delete video cue point information associated with those files, which enables visitors of such website to select and utilize such cue points to find, watch/stream, and share desired content.[3]

80. For example, Claim 13 of the '286 Patent recites "[a] method for handling video cue points, the method comprising: [1] providing a computer system having at least one computer readable medium comprising a video editing environment, and being disposed at a server side of

[3] This description is illustrative and is not intended to be an exhaustive or limiting explanation of every manner in which each '286 Accused Platform infringes the '286 Patent. Further, the identified components and functionality—including references to Pornhub and functionality associated with Pornhub—are non-limiting and representative of the components and functionality present in all '286 Accused Platforms.

a public network; [2] receiving a set of video information at the video editing environment using the computer system; [3] receiving a set of cue point information at the video editing environment using the computer system; [4] receiving a cue point editing command over the network from a remote client terminal disposed at a client side of the public network using the computer system; [5] modifying a portion of the cue point information at the server side of the public network according to the cue point editing command received over the public network from the client terminal; [6] receiving a cue point selection over the network from the remote client terminal identifying one of the cue points corresponding to a portion of the video information of one of the video files; and [7] streaming the portion of the video information to the client terminal over the public network in response to receiving the cue point selection."

81. The '286 Accused Platforms each are configured to perform, and are used by Aylo to perform, a method for handling video cue points that performs each of these elements. Pornhub is one non-limiting example. Among other things, as part of the Content Partner Program, Aylo provides content partners with a guide that is titled, "The Pornhub Playbook: How to make money with Pornhub." https://www.pornhub .com/content_partner_guide.pdf. In that guide, Aylo emphasizes the importance of content partners applying what Aylo describes as Action Tags, which it explains are "indicators you can add to your video's player bar to help users get to their favorite parts easily." Likewise, Aylo allows content partners in its Model Program to use such Action Tags to optimize their videos and thereby increase "views and ad revenue." https://www.pornhub .com/blog/crash-course-how-to-use-metadata-tags-categories; *see also* https://help.pornhub .com/hc/en-us/articles/4419870696083-How-To-Upload-Videos.

82. In particular, the '286 Accused Platforms are configured to perform, and are used by Aylo to perform, a method of providing a computer system having at least one computer

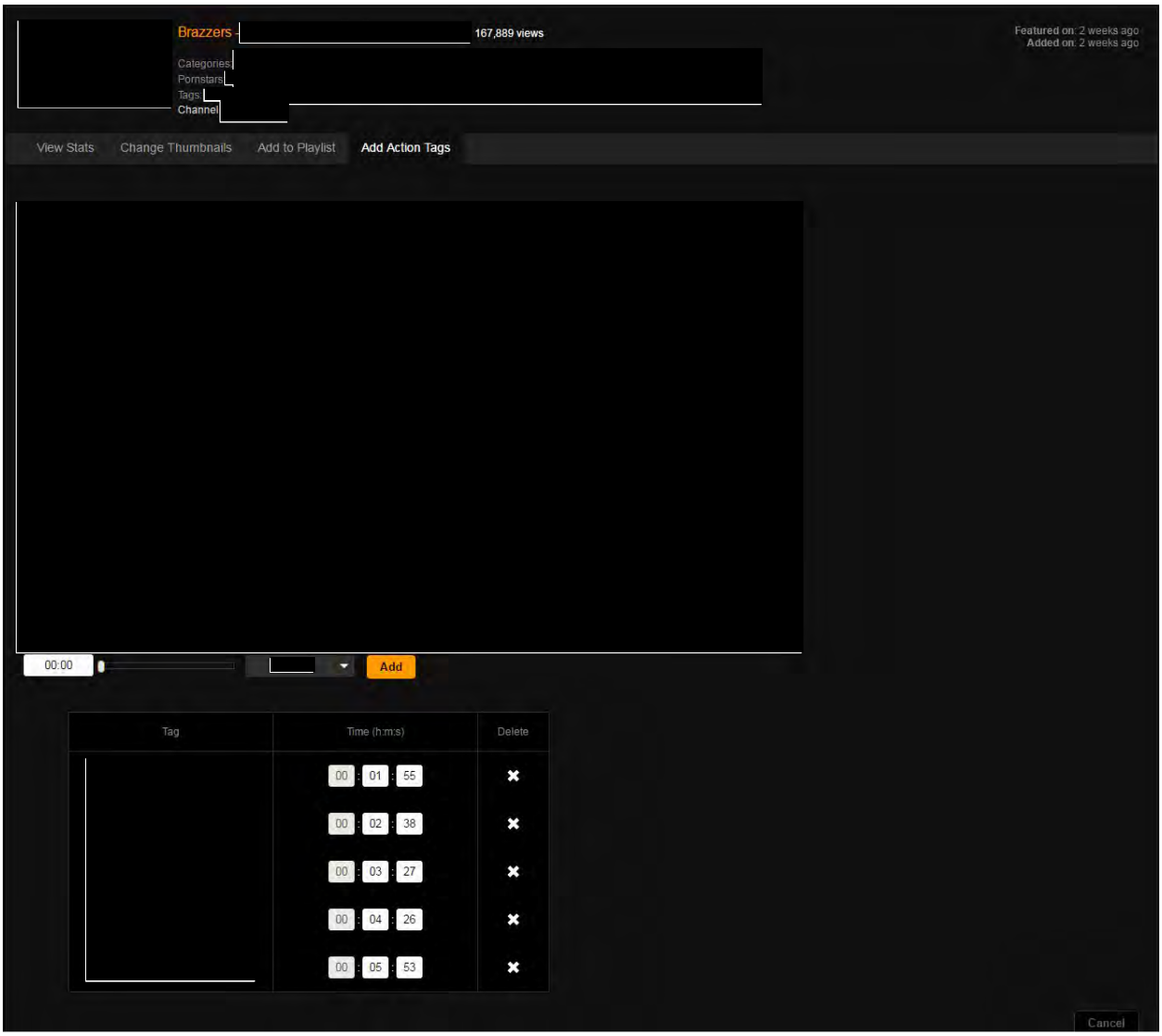
readable medium that, for example, offers Pornhub content partners a video editing environment, which Aylo calls the "'Video Manager' page." https://help.pornhub .com/hc/en-us/articles/4419860542483-Video-Tags. That video editing environment—i.e., the Video Manager page—is disposed at a server-side of a public network—i.e., at one or more Aylo or Aylo controlled or provisioned servers on the server side of the Internet.

83. Further, the '286 Accused Platforms are configured to perform, and are used by Aylo to perform, a method of receiving a video file from a content partner, who, for example, submits the video to Pornhub through the Video Manager page.

84. The '286 Accused Platforms are also configured to perform, and are used by Aylo to perform, a method of receiving a set of cue point information, which Aylo calls "Action Tags," from—for example—a Pornhub content partner through the Video Manager page. *Id.* Such cue point information includes, but is not limited to, indexed time positions or tags anywhere within a video file. Thus, if selected, Action Tags will direct the viewer to desired content. Aylo even provides an "Action Tag" cue point bank to allow and encourage content partners to remotely add and manage such information to their uploaded video content. By using common Action Tags, the cue point bank enhances Pornhub's search and montage capabilities.

85. In addition, the '286 Accused Platforms are configured to perform, and are used by Aylo to perform, a method of receiving a cue point editing command over the network from a remote client terminal disposed at a client side of the public network using the computer system. For example, the Video Manager page enables a content partner to send a cue point editing command to a Aylo owned or provisioned server by adding, modifying, and/or deleting cue points.

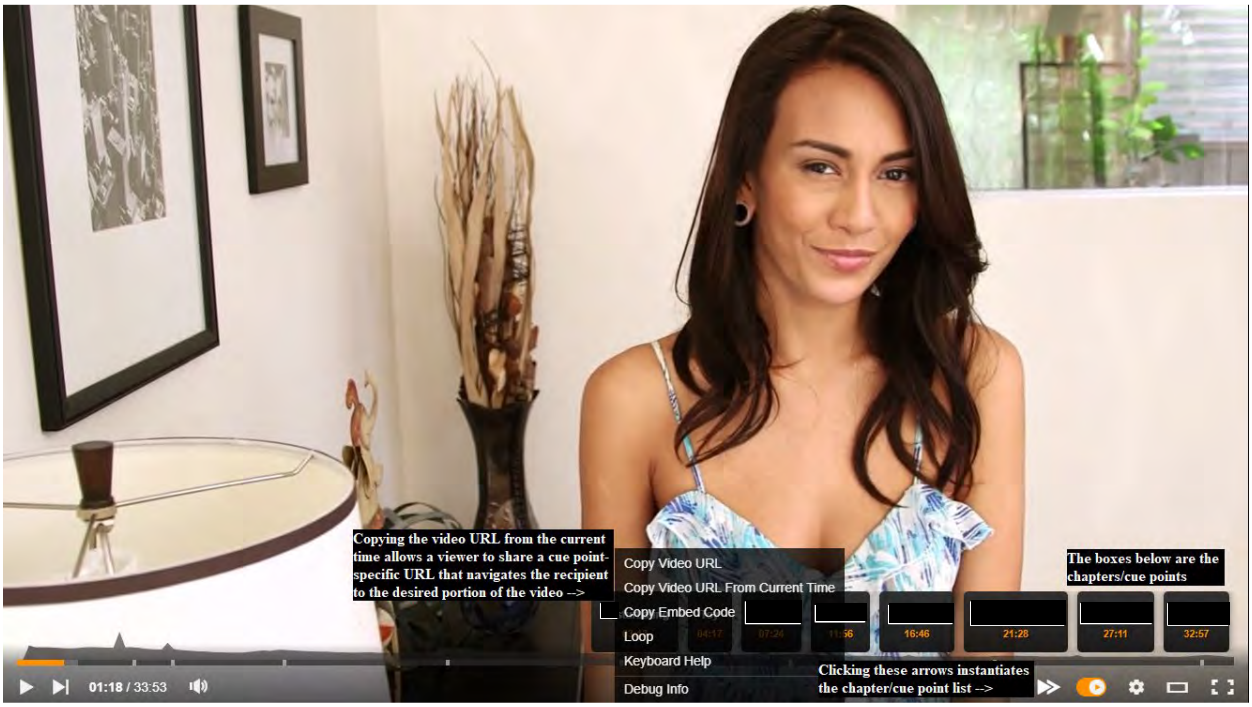
86. Below is an illustrative example of the Video Manager page (redacted for pornographic content).




87. The ’286 Accused Platforms are configured to perform, and are used by Aylo to perform, a method of modifying, in response to receiving the cue point editing command from a content partner, a portion of the cue point information at the server side of the public network. Modifying cue point information may include, but is not limited to, changing various attributes of an existing cue point (e.g., the cue point’s name or time position), changing the associations between an existing cue point and either a video file or other cue point information, or any other useful type of modification to cue point information. *E.g.*, https://help.pornhub .com/hc/en-

us/articles/4419860542483-Video-Tags; https://help.pornhub .com/hc/en-us/articles/4419870696083-How-To-Upload-Videos.

88. The ’286 Accused Platforms are configured to perform, and are used by Aylo to perform, a method of receiving a cue point selection over the network from the remote client terminal identifying one of the cue points corresponding to a portion of the video information of one of the video files; and streaming the portion of the video information to the client terminal over the public network in response to receiving the cue point selection. In particular, the ’286 Accused Platforms enable a visitor operating from a remote client terminal to select—for example—an Action Tag that corresponds to a portion of the video information of one of the video files. Upon receiving the cue point selection, the ’286 Accused Platforms are configured to cause the remote client terminal to immediately navigate to the desired portion of the video and begin streaming the video information corresponding to the selected tag. Below is an illustrative example one such client terminal.



89. Aylo thus directly infringed, and continues to directly infringe, each element of at least Claim 13 of the ’286 Patent by selling and offering to sell in the United States, and by importing into the United States, without authorization, the ’286 Accused Platforms before the expiration date of the ’286 Patent.

90. Aylo’s infringement of the ’286 Patent was willful. As detailed above, Aylo was aware of the ’286 Patent and its infringement of it. Nevertheless, without authorization, Aylo deliberately continued to infringe the ’286 Patent and also encouraged others to infringe the ’286 Patent, as described above, including by selling and/or using the ’286 Accused Platforms in the United States.

91. Aylo’s acts of infringement have caused damage to WellcomeMat, and WellcomeMat is entitled to recover from Aylo the damages it has sustained as a result of such wrongful acts in an amount to be proven at trial.

92. Further, WellcomeMat states that it is entitled to all damages against Aylo to which it otherwise is entitled because, among other things, the asserted claim of the ’286 Patent is a method claim that is not subject to 35 U.S.C. § 287’s marking requirement.

**COUNT 2 – AGAINST BELTRAN, INFRINGEMENT OF U.S. PATENT NO. 8,307,286**

93. WellcomeMat repeats and incorporates by reference each preceding paragraph as if fully set forth herein, and further states:

94. Defendant Beltran has indirectly infringed, and continues to indirectly infringe, Claim 13 of the ’286 Patent in violation of 35 U.S.C. § 271(b) by taking active steps to encourage and facilitate direct infringement by Aylo, in the United States, through his use of the ’286 Accused Platforms.

95. For example, Beltran used the ’286 Accused Platforms when uploading video content to Pornhub. Four months ago, for example, Beltran uploaded a video titled, “Meet Taylor, . . . on roof in Downtown Dallas.” From the Video Manager page, Beltran applied Action Tags identifying at least two cue points—one at the 00:11 mark and one at the 01:20 mark. Beltran used the ’286 Accused Platforms to upload and add Action Tags to video content on other occasions as well.

96. By using the ’286 Accused Platforms in this way, Beltran has encouraged and facilitated and, on information and belief, will continue to encourage and facilitate direct infringement by Aylo. Indeed, when Beltran uploads video content onto Pornhub and adds and/or edits Action Tags, such actions cause Aylo to infringe Claim 13 of the ’286 Patent.

97. Further, Beltran undertook such actions with knowledge of ’286 Patent and his infringement of it. On September 19, 2023, WellcomeMat sent Beltran a letter by FedEx First Overnight explaining that his actions in uploading and adding Action Tags to certain of his video content infringed the ’286 Patent and that he needed to obtain a license for such infringement. The letter was delivered to Beltran’s Texas address on September 21, 2023, at 4:22 pm CST.

98. On October 12, 2023, several weeks after receiving WellcomeMat’s letter, Beltran uploaded a video to Pornhub titled, “See how Ivy Hale . . . before she . . . on it.” From the Video Manager page, Beltran applied Action Tags identifying at least two cue points—one at the 01:00 mark and one at the 02:32 mark. Thus, after receiving notice of the ’286 Patent and his need to obtain a license for it, Beltran took active steps to encourage and facilitate direct infringement by Aylo by uploading video content using a method that infringes the ’286 Patent.

99. On January 5, 2024, after receiving service of WellcomeMat’s Complaint and this Court’s summons, Beltran uploaded a video to Pornhub titled, “POV Red Eliza . . .” From the

Video Manager page, Beltran applied Action Tags identifying at least two cue points—one at the 03:01 mark and one at the 05:26 mark. Thus, even after receiving notice of this suit, Beltran took active steps to encourage and facilitate direct infringement by Aylo by uploading video content using a method that infringes the ’286 Patent.

100. Beltran has not removed the infringing content or any Action Tags from his videos. Nor has Beltran contacted WellcomeMat to discuss his need to obtain a license.

101. Upon information and belief, Beltran will continue to use the ’286 Accused Platforms when uploading video content to, and managing video content on, Pornhub after receiving notice of his infringement.

102. In addition, Beltran has directly infringed, and continues to directly infringe, the ’286 Patent in violation of 35 U.S.C. § 271(a) because Aylo’s performance of each step of Claim 13 of the ’286 Patent is attributable to Beltran.

103. For example, Aylo’s acts of infringement are attributable to Beltran because Beltran directs or controls Aylo’s performance of each step of Claim 13.

104. As set forth in the Terms of Service that Beltran agreed to when creating his model account, Beltran controls any and all activity that occurs on his model page, including use of Pornhub’s Action Tag function. https://www.modelhub .com/information/terms. In particular, Beltran agreed that he is responsible for the “activity that occurs on [his] account,” the content that he posts, and the “consequences of posting” such content. *Id.* Beltran also agreed that he owns or has licenses to use “all patent . . . rights” relating to the production and dissemination of his content “in the manner contemplated by the” Pornhub website, including Pornhub’s Action Tag function. *Id.* Thus, while Aylo ultimately performs each step of Claim 13, Beltran directs and controls any activity that occurs on his model page, including Aylo’s use of the ’286 Accused Platforms.

105. Similarly, Aylo's acts of infringement are attributable to Beltran because, through the Terms of Service, Aylo and Beltran entered into a contract pursuant to which Aylo performs each step of Claim 13 of the '286 Patent.

106. In addition to the provisions set forth above, under the Terms of Service, Beltran "grant[ed] each user of" the Pornhub site—i.e., viewers and visitors—"a non-exclusive, royalty free license to access [his] Content through" Pornhub, and "to use, reproduce, display, communicate, and perform such Content *as permitted through the functionality of*" Pornhub, which includes, but is not limited to, the '286 Accused Platforms. *Id.* (emphasis added). Thus, under the Terms of Service, Aylo and Beltran agreed that Aylo would use the '286 Accused Platforms—a major aspect of Pornhub's functionality—when hosting Beltran's content on his model page and allowing him to upload and manage such content, including by adding Action Tags to it.

107. Further, when applying to Pornhub's Model Program, Beltran and Aylo executed the "Primary Model Agreement." https://help.pornhub .com/hc/en-us/articles/4419875178131-Model-Agreement. Upon information and belief, under the Primary Model Agreement, Aylo and Beltran agreed that Aylo would use the '286 Accused Platforms when hosting Beltran's content on Pornhub and allowing him to upload and manage such content, including by adding Action Tags to it.

108. Finally, Aylo's acts of infringement are attributable to Beltran because Beltran profits from and has the right or ability to limit Aylo's acts of infringement (which he has not done).

109. In particular, Beltran profits from Aylo's acts of infringement because, among other things, he profits from each view of such content and the '286 Accused Platforms improve his

viewers' experience, thereby increasing his views and revenue. For example, since Beltran began using the '286 Accused Platforms, the videos for which he has used the '286 Accused Platforms have typically obtained higher views than videos that do not use the patented methods.

110. Not only do those increased views generate additional income to Beltran, but they also promote his brand, thus generating additional income from other sources. For example, Beltran's Pornhub model page advertises his official site (OnlyFans) and social media (Twitter, Snapchat, and Instagram)—platforms where he may or does earn additional income. For example, Beltran charges his OnlyFans subscribers $8.99 per month. And in at least one video for which Beltran used the '286 Accused Platforms, Beltran promoted his OnlyFans tag (@MultipleAffairs) in the bottom ride-hand corner of the video.

111. Moreover, Beltran has the right or ability to limit Aylo's acts of infringement. Each time Beltran uses the '286 Accused Platforms, Aylo commits a separate act of infringement that—absent Beltran's affirmative action of uploading content to Pornhub and thereafter managing it by adding Action Tags to it—would not have occurred.

112. Beltran's infringement of the '286 Patent was willful. As detailed above, Beltran was aware of the '286 Patent and his infringement of it. Nevertheless, without authorization, Beltran deliberately continued to infringe the '286 Patent and also encouraged others to infringe the '286 Patent, as described above, including by selling and/or using the '286 Accused Platforms in the United States.

113. Beltran's acts of infringement have caused damage to WellcomeMat, and WellcomeMat is entitled to recover from Beltran the damages it has sustained as a result of such wrongful acts in an amount to be proven at trial.

114. Further, WellcomeMat states that it is entitled to all damages against Beltran to which it otherwise is entitled because, among other things, the '286 Patent is a methods patent that is not subject to 35 U.S.C. § 287's marking requirement.

## DEMAND FOR JURY TRIAL

115. Plaintiff hereby demands a jury trial for all issues so triable.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

A. Declaring that Aylo and Beltran each has infringed and continues to infringe the U.S. Patent No. 8,307,286;

B. Declaring that Aylo and Beltran's infringement of U.S. Patent No. 8,307,286 has been willful and deliberate;

C. Awarding damages to WellcomeMat in an amount no less than a reasonable royalty for each Defendant's infringement of U.S. Patent No. 8,307,286, together with prejudgment and post-judgment interest and without limitation under 35 U.S.C § 287;

D. Awarding WellcomeMat its attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law;

E. Awarding all other costs and relief that the Court deems just and proper.

Date: January 29, 2024

Respectfully submitted,

*/s/Andres C. Healy*

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*Attorneys for WellcomeMat, LLC*

**CERTIFICATE OF SERVICE**

I certify that on January 29, 2024, a copy of the foregoing was served on the parties who have appeared in this action by electronically filing true and correct copies with the Clerk of the Court using the ECM/ECF system which automatically sent notification by e-mail of such filing to the counsel of record.

*/s/Andres C. Healy*
Andres C. Healy