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Attorneys for Defendants
GOOGLE, LLC and YOUTUBE, LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

WITHROW NETWORKS, INC.,

Plaintiff,

v.

GOOGLE, LLC and YOUTUBE, LLC,

Defendants.

Case No. 5:24-CV-03203-PCP

DEFENDANTS GOOGLE LLC AND YOUTUBE LLC'S ANSWER AND AFFIRMATIVE DEFENSES TO COMPLAINT

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Defendants Google LLC ("Google") and YouTube, LLC ("YouTube") (collectively, "Defendants") hereby submit their Answer in response to the Complaint (ECF No. 1) filed by Plaintiff Withrow Networks, Inc. ("Withrow" or "Plaintiff") as set forth below.

Each paragraph of the Answer below corresponds to the corresponding numbered or lettered paragraph of the Complaint. All allegations not expressly admitted herein are denied by Defendants.

INTRODUCTION

1. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 1 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

2. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 2 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

3. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 3 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

4. Defendants admit that the text quoted (with the exception of the ellipses, bracketed term, and emphasis, which Withrow appears to have added) in paragraph 4 appears in a webpage that on its face is titled "Gone in a Flash: a brief history of HTTP Adaptive Streaming" by Christian Pillsbury for MUX, published on Oct. 10, 2022, and available at https://www.mux.com/blog/http-adaptive-streaming-history. Except as expressly admitted, Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 4 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

5. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 5 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

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6. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 6 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

7. Defendants admit that what purports to be a copy of U.S. Patent No. 10,771,849 (the "'849 Patent") is attached as Exhibit 1 of the Complaint. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 7, and therefore deny them. Except as expressly admitted, Defendants deny all remaining allegations in paragraph 7.

8. Defendants deny all allegations contained in paragraph 8.

9. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 9 as this paragraph contains allegations pertaining to what "Withrow realized" and one or more vague and/or ambiguous terms, and therefore deny them.

10. Defendants deny all allegations contained in paragraph 10.

11. Defendants deny all allegations contained in paragraph 11.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 12 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

13. Defendants deny all allegations contained in paragraph 13.

14. Defendants deny that the technology that resulted in the '849 Patent was groundbreaking. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 14, and therefore deny them.

15. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 15, and therefore deny them.

16. Defendants admit that a copy of what purports to be a document from Movidity that on its face was published on May 12, 2006 is attached as Exhibit 4 of the Complaint. Defendants admit that the text quoted in paragraph 16 appears in Exhibit 4 of the Complaint. Except as expressly admitted, Defendants deny all remaining allegations in paragraph 16.

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17. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 17, and therefore deny them.

18. Defendants admit the allegations in paragraph 18.

19. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 19 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

20. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 20 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

21. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 21, and therefore deny them.

22. Defendants admit that the text quoted in paragraph 22 appears in the document available at https://www.mux.com/blog/http-adaptive-streaming-history. Except as expressly admitted, Defendants deny all remaining allegations in paragraph 22.

23. Defendants admit that the images depicted in paragraph 23 appear in a video titled "Google I/O 2013 - Adaptive Streaming for You and YouTube" available at https://www.youtube.com/watch?v=UklDSMG9ffU. Defendants admit that the video titled "Google I/O 2013 - Adaptive Streaming for You and YouTube" available at https://www.youtube.com/watch?v=UklDSMG9ffU includes the following statements: "Sliced Bread", "delivering video in giant loaves of bread", and "The New World". Except as expressly admitted, Defendants deny all remaining allegations in paragraph 23.

24. Defendants admit that the video titled "Google I/O 2013 - Adaptive Streaming for You and YouTube" includes the following statement: "One of the core axioms of engineering work at YouTube . . . is [that] playing videos is hard, surprisingly hard." Except as expressly admitted, Defendants deny all remaining allegations in paragraph 24.

25. Defendants admit that what purports to be a copy of a document titled "YouTube Mobile gets a kick start" that on its face appears to be "by Andrey Doronichev," from July 7, 2010, and from "YouTube Official Blog" is attached as Exhibit 5 of the Complaint. Defendants

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admit that the text quoted in paragraph 25 (with the exception of ellipses, which Withrow appears to have added) appears in Exhibit 5 of the Complaint. Except as expressly admitted, Defendants deny all remaining allegations in paragraph 25.

26. Defendants admit that the text quoted in paragraph 26 (with the exception of ellipses and emphasis, which Withrow appears to have added) appears in a video titled "Shaka Player: High Performance Video for the Web (100 days of Google Dev)" available at https://www.youtube.com/watch?v=Fm3Bagcf9Oo. Except as expressly admitted, Defendants deny all remaining allegations in paragraph 26.

27. Defendants admit that the text quoted in paragraph 27 appears in Exhibit 5 of the Complaint. Except as expressly admitted, Defendants deny all remaining allegations in paragraph 27.

28. Defendants admit that the text quoted in paragraph 28 appears in Exhibit 5 of the Complaint. Except as expressly admitted, Defendants deny all remaining allegations in paragraph 28.

29. Paragraph 29 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 29 and specifically deny that Defendants have committed any acts of patent infringement and that Defendants must compensate Withrow.

NATURE OF THE ACTION

30. Defendants admit that the Complaint purports to state a claim that arises under Title 35 of the United States Code. Except as expressly admitted, Defendants deny all remaining allegations in Paragraph 30 and specifically deny that they have committed any acts of patent infringement.

PARTIES

31. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 31, and therefore deny them.

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32. Defendants admit that Google LLC is a Delaware limited liability company with a principal place of business located at 1600 Amphitheatre Parkway, Mountain View, California. Except as expressly admitted, Defendants deny any remaining allegations in paragraph 32.

33. Defendants admit that YouTube, LLC is a Delaware limited liability company with a principal place of business located at 901 Cherry Avenue, San Bruno, California. Except as expressly admitted, Defendants deny any remaining allegations in paragraph 33.

34. Defendants admit that YouTube is wholly owned by Google. Paragraph 34 also contains legal conclusions to which no response is required. To the extent a response is required and except as expressly admitted, Defendants deny any remaining allegations in paragraph 34.

35. Defendants admit that a copy of what purports to be YouTube's Terms of Service, available at https://www.youtube.com/static?template=terms is attached as Exhibit 6 of the Complaint. Defendants admit that the text quoted in paragraph 35 appears under the section bearing the heading "Your Service Provider" in Exhibit 6 of the Complaint. Paragraph 35 contains legal conclusions to which no response is required. To the extent a response is required and except as expressly admitted, Defendants deny any remaining allegations in paragraph 35.

36. Defendants admit that the text quoted (with the exception of the emphasis, which Withrow appears to have added) in paragraph 36 appears in Exhibit 6 of the Complaint. Paragraph 36 also contains legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 36. Except as expressly admitted, Defendants deny any remaining allegations in paragraph 36.

37. Defendants admit that the text quoted (with the exception of the ellipses, bracketed letters and/or terms, and emphasis, which Withrow appears to have added) in paragraph 37 appears in Exhibit 6 of the Complaint. Paragraph 37 also contains legal conclusions to which no response is required. To the extent a response is required and except as expressly admitted, Defendants deny any remaining allegations in paragraph 37.

38. Defendants admit that the text quoted (with the exception of the bracketed terms, which Withrow appears to have added) in paragraph 38 appears in Exhibit 6 of the Complaint. Paragraph 38 also contains legal conclusions to which no response is required. To the extent a

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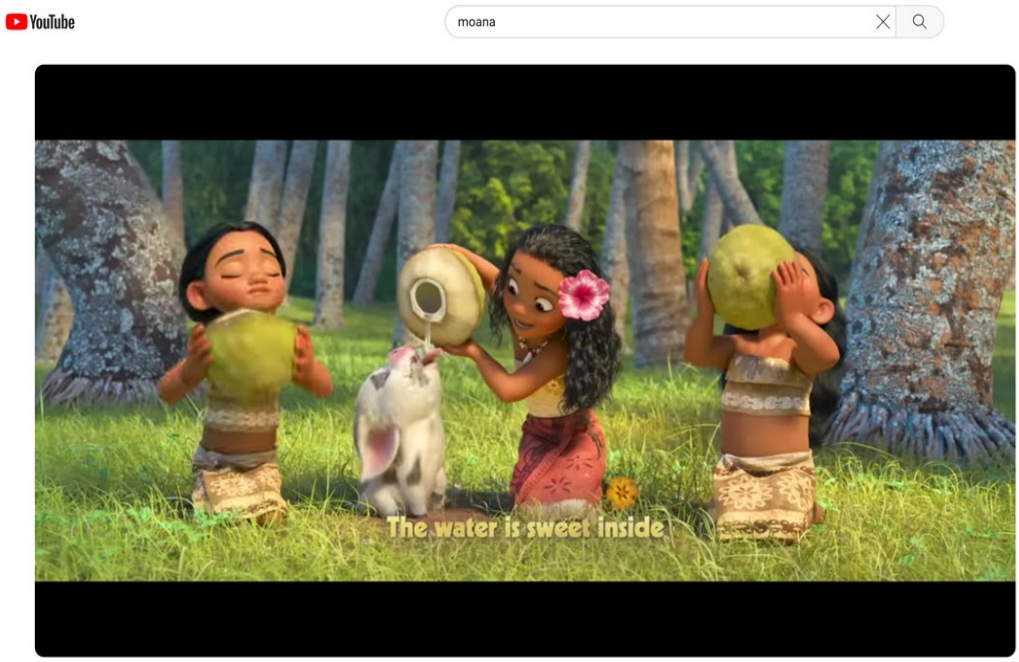
response is required and except as expressly admitted, Defendants deny any remaining allegations in paragraph 38.

39. Defendants admit that a copy of what purports to be a document from YouTube with the header "Revenue Sharing," available at https://www.youtube.com/static?template=terms and on its face appears to have been accessed on "4/29/24" is attached as Exhibit 7 of the Complaint. Defendants admit that the text quoted (with the exception of the emphasis, which Withrow appears to have added) in paragraph 39 appears in Exhibit 7 of the Complaint. Except as expressly admitted, Defendants deny any remaining allegations in paragraph 39.

40. Defendants admit that a copy of what purports to be a document titled "Frequently asked questions" from YouTube Advertising is attached as Exhibit 8 of the Complaint. Defendants admit that the text quoted (with the exception of the emphasis, which Withrow appears to have added) in paragraph 40 appears in Exhibit 8 of the Complaint. Except as expressly admitted, Defendants deny any remaining allegations in paragraph 40.

41. Defendants admit that the image depicted in paragraph 41 appears in the video available at www.youtube.com/watch?v=RTWhvp_OD6s. Except as expressly admitted, Defendants deny any remaining allegations in paragraph 41.

42. Defendants admit that the image below, which is depicted in paragraph 42, appears in the video available at www.youtube.com/watch?v=RTWhvp_OD6s:



Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations as to the second image contained in paragraph 42, and therefore deny them. Except as expressly admitted, Defendants deny any remaining allegations in paragraph 42.

43. Defendants admit that the registrant for the source domain, googlevideo.com, is Google. Except as expressly admitted, Defendants deny any remaining allegations in paragraph 43.

JURISDICTION AND VENUE

44. Defendants admit that this Court has subject matter jurisdiction over actions arising under 28 U.S.C. §§ 1331 and 1338(a). Defendant admits that this Court has subject matter jurisdiction over claims that arise under the patent laws of the United States. Except as expressly admitted, Defendants deny any remaining allegations in paragraph 44.

45. Paragraph 45 contains legal conclusions to which no response is required. To the extent a response is required, Defendants do not contest personal jurisdiction over Google in this District solely for the purpose of this action. Except as expressly stated, Defendants deny the allegations in paragraph 45 and specifically deny that Google has committed any acts of infringement in this District.

46. Paragraph 46 contains legal conclusions to which no response is required. To the extent a response is required, Defendants do not contest personal jurisdiction over YouTube in this District solely for the purpose of this action. Except as expressly stated, Defendants deny the allegations in paragraph 46 and specifically deny that YouTube has committed any acts of infringement in this District.

47. Paragraph 47 contains legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 47 and Defendants specifically deny that Defendants have committed any acts of infringement in this District.

48. Paragraph 48 contains legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 48 and Defendants specifically deny that YouTube has committed any acts of infringement in this District.

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49. Paragraph 49 contains legal conclusions to which no response is required. Defendants do not contest that venue is proper in this District for the purpose of this particular action. Except as expressly stated, Defendants deny any remaining allegations in paragraph 49 and specifically deny that Defendants have committed any acts of infringement in this District.

FACTUAL BACKGROUND

The '849 Patent

50. Defendants admit that the title appearing on the face of the '849 Patent is "MULTIMEDIA SYSTEM FOR MOBILE CLIENT PLATFORMS." Defendants admit that the '849 patent bears, on its face, an issue date of Sep. 8, 2020. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 50, and therefore deny them.

51. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 51, and therefore deny them.

52. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 52 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

53. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 53 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

54. Defendants admit that the text quoted (with the exception of the ellipses and bracketed words and/or terms, which Withrow appears to have added) in paragraph 54 appears in Exhibit 10 of the Complaint. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 54 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

55. Paragraph 55 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 55.

56. Defendants admit that the text quoted (with the exception of the bracketed words and/or terms, which Withrow appears to have added) in paragraph 56 appears in Exhibit 11 of the

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Complaint. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 56 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

57. Defendants admit that the image depicted in paragraph 57 appears in "Google I/O 2013 - Adaptive Streaming for You and YouTube." Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 57 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

58. Defendants admit that the text quoted (with the exception of the bracketed letters, which Withrow appears to have added, and the omission of the words "this is" prior to "This is bad", which Withrow appears to have omitted) in paragraph 58 appears in "Google I/O 2013 - Adaptive Streaming for You and YouTube." Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 58 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

59. Defendants admit that the image depicted and text quoted in paragraph 59 appear in "Google I/O 2013 - Adaptive Streaming for You and YouTube." Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 59 as this paragraph contains one or more vague and/or ambiguous terms, and therefore deny them.

60. Defendants deny the allegations in paragraph 60.

The HLS Standard

61. Paragraph 61 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 61.

62. Defendants admit that a copy of what purports to be a document titled "HTTP Live Streaming" is available at https://datatracker.ietf.org/doc/rfc8216/ is attached as Exhibit 12 of the Complaint. Defendants admit that the text quoted in paragraph 62 appears in Exhibit 12 of the Complaint. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 62, and therefore deny them.

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63. Defendants admit that a copy of what purports to be a document titled "HTTP Live Streaming" with the heading "Overview" available at https://developer.apple.com/documentation/http-live-streaming is attached as Exhibit 13 of the Complaint. Defendants admit that the image depicted immediately below the words "Apple HLS Standard:" in paragraph 63 appears in Exhibit 13 of the Complaint. Defendants admit that what purports to be a copy of the '849 Patent is attached as Exhibit 1 of the Complaint. Defendants admit that the image depicted (with the exception of the red text, which Withrow appears to have added) immediately below the words "The '849 Patent:" in paragraph 63 appears in Exhibit 1 of the Complaint. Except as expressly admitted, Defendants deny all remaining allegations in paragraph 63.

64. Paragraph 64 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 64.

65. Paragraph 65 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 65.

66. Defendants admit that Exhibit 13 of the Complaint contains sections bearing the headers "Overview," "Creating a Multivariant Playlist" and "Video on Demand playlist construction." Defendants admit that the text quotes (with the exception of the ellipses and what appears to be a typographical error substituting the word "and" for the word "then" in the first quotation, which Withrow appears to have added) in paragraph 66 appears in Exhibit 13 of the Complaint. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 66, and therefore deny them.

The MPEG-DASH Standard

67. Paragraph 67 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 67.

68. Defendants admit that a copy of what purports to be a document titled "Information technology — Dynamic adaptive streaming over HTTP (DASH)" is attached as Exhibit 14 of the Complaint. Defendants admit that the text quoted (with the exception of the ellipses and bracketed terms, which Withrow appears to have added) in paragraph 68 appears in

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Exhibit 14 of the Complaint. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 68, and therefore deny them.

69. Defendants admit that a copy of what purports to be a document titled "Dynamic Adaptive Streaming over HTTP – Design Principles and Standards" and that on its face was authored by "Thomas Stockhammer" at "Qualcomm" is attached as Exhibit 15 of the Complaint. Defendants deny that the image in paragraph 69 appears in Exhibit 15 of the Complaint. Except as expressly admitted, Defendants deny all remaining allegations in paragraph 69.

70. Defendants deny that the above image referenced in paragraph 69 appears in Exhibit 15 of the Complaint. Paragraph 70 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 70.

71. Paragraph 71 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 71.

72. Defendants admit that the text quoted (with the exception of the ellipses, which Withrow appears to have added) in paragraph 72 appears in Exhibit 14 of the Complaint. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 72, and therefore deny them.

YouTube's Infringement of the '849 Patent[1]

73. Paragraph 73 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 73 and Defendants specifically deny that YouTube has committed any acts of patent infringement.

Google's Infringement of the '849 Patent[2]

[1] Defendants include this section heading to correspond with the heading in the Complaint. The heading contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in the heading.

[2] Defendants include this section heading to correspond with the heading in the Complaint. The heading contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in the heading and Defendants specifically deny that YouTube has committed any acts of patent infringement.

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74. Paragraph 74 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 74 and Defendants specifically deny that Google has committed any acts of patent infringement.

COUNT ONE

Patent Infringement by Google[3]

75. This paragraph does not contain any factual allegations and thus, no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 75.

76. Paragraph 76 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 76 and Defendants specifically deny that Google has committed any acts of patent infringement.

77. Paragraph 77 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 77 and Defendants specifically deny that Google has committed any acts of patent infringement.

78. Paragraph 78 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 78 and Defendants specifically deny that Google has committed any acts of patent infringement and that Withrow is entitled to any relief requested in the Complaint.

COUNT TWO

Patent Infringement by YouTube[4]

79. This paragraph does not contain any factual allegations and thus, no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 79.

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[3] Defendants include this section heading to correspond with the heading in the Complaint. The heading contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in the heading and Defendants specifically deny that Google has committed any acts of patent infringement.

[4] Defendants include this section heading to correspond with the heading in the Complaint. The heading contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in the heading and Defendants specifically deny that YouTube has committed any acts of patent infringement.

80. Paragraph 80 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 80 and Defendants specifically deny that YouTube has committed any acts of patent infringement.

81. Paragraph 81 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 81 and Defendants specifically deny that YouTube has committed any acts of patent infringement.

82. Paragraph 82 contains legal conclusions and arguments to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 82 and Defendants specifically deny that YouTube has committed any acts of patent infringement and that Withrow is entitled to any relief requested in the Complaint.

PRAYER FOR RELIEF

These paragraphs A-E set forth Withrow's statement of requested relief, to which no response is required. Defendants deny that Withrow is entitled to any of its requested relief and deny any allegations.

JURY DEMAND

Withrow's demand for a jury trial for any issues so triable by right does not state any allegation, and Defendants are not required to respond. To the extent that any allegations are included in the demand, Defendants deny these allegations.

AFFIRMATIVE AND OTHER DEFENSES

Subject to the responses above, Defendants allege and assert the following defenses in response to the allegations, undertaking the burden of proof only as to those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated herein. In addition to the affirmative defenses described below, and subject to their responses above, Defendants specifically reserve all rights to allege additional affirmative defenses that become known through the course of discovery.

FIRST DEFENSE – FAILURE TO STATE A CLAIM

Withrow fails to state a claim upon which relief may be granted against Defendants.

SECOND DEFENSE – NON-INFRINGEMENT

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Defendants do not and have not infringed (whether directly, contributorily, or by inducement), either literally or under the doctrine of equivalents, and are not liable for infringement of any valid and enforceable claim of the '849 patent.

THIRD DEFENSE – INVALIDITY AND UNENFORCEABILITY

The claims of the '849 patent are invalid and unenforceable under 35 U.S.C. § 101 because the claims are directed to abstract ideas or other non-statutory subject matter. The claims of the '849 patent are invalid and unenforceable under 35 U.S.C. § 102 because the claims lack novelty, and are taught and suggested by the prior art. The claims of the '849 patent are invalid and unenforceable under 35 U.S.C. § 103 because the claims are obvious in view of the prior art. The claims of the '849 patent are invalid and unenforceable for failure to satisfy the conditions set forth in 35 U.S.C. § 112, including failure of written description, lack of enablement, and claim indefiniteness. The claims of the '849 Patents are invalid and unenforceable under 35 U.S.C. §§ 101, 115, and/or 116 because of improper inventorship, as the '849 patent fails to identify all of and/or the correct inventors.

FOURTH DEFENSE – LIMITATION ON PATENT DAMAGES

Withrow's claims for damages, if any, against Defendants for alleged infringement of the '849 patent is limited by 35 U.S.C. §§ 286, 287, and/or 288.

FIFTH DEFENSE – EQUITABLE DOCTRINES

Withrow's claims of patent infringement are barred, in whole or in part, by the equitable doctrines of waiver, estoppel, acquiescence, laches, and/or unclean hands, and/or other equitable doctrines.

SIXTH DEFENSE – PROSECUTION HISTORY ESTOPPEL AND/OR DISCLAIMER

Withrow is estopped from construing or interpreting the claims of the '849 patent in such a way as may cover and/or include, either literally or under the doctrine of equivalents, Defendants' products, processes, services, and/or activities, and/or has waived any right to do so by reason of cancellation, limitation, or abandonment of claims, admissions, arguments, amendments, and/or representations made by or on behalf of the applicants in any proceedings before the United States Patent and Trademark Office.

SEVENTH DEFENSE – LICENSE OR EXHAUSTION

To the extent the owner(s) of the asserted patent, and/or their licensees have sold and/or provided a license to the '849 patent to Defendants, Withrow's claims for relief are barred in whole or in part by the doctrines of exhaustion, first sale, license, implied license, full compensation, or restrictions against double recovery.

EIGHTH DEFENSE – NO WILLFUL INFRINGEMENT

Withrow is not entitled to a finding of willful infringement with a corresponding increase in damages under 35 U.S.C. § 284.

NINTH DEFENSE – NOT AN EXCEPTIONAL CASE

Withrow is not entitled to a finding that this case is exceptional, warranting attorneys' fees under 35 U.S.C. § 285 to Withrow, or pursuant to the Court's inherent power.

TENTH DEFENSE – PATENT MARKING

Withrow's claims for damages for alleged infringement are limited by 35 U.S.C. § 287 to the extent the owner(s) of the asserted patent, and/or their licensees, failed to mark allegedly practicing products, or otherwise give proper notice that Defendants' actions allegedly infringed any claim of the asserted patent.

ELEVENTH DEFENSE – LACK OF STANDING

To the extent that Withrow does not own all substantial rights in the '849 patent, it lacks standing to pursue some or all of its claims against Defendants.

TWELFTH DEFENSE – SUBSTANTIAL NON-INFRINGING USES

Any and all products or actions accused of infringement by Withrow have substantial uses that do not infringe and do not induce or contribute to the alleged infringement of the claims of the '849 patent.

THIRTEENTH DEFENSE – DAMAGES SPECULATIVE, UNCERNTAIN, AND CONTINGENT

Withrow's alleged damages are speculative, uncertain and/or contingent, have not accrued, and are not recoverable.

FOURTEENTH DEFENSE – NO INJURY

Withrow's claims are barred, in whole or in part, because Withrow has not suffered any injury in fact from the conduct alleged in the Complaint.

FIFTEENTH DEFENSE – NO CAUSATION

Defendants' conduct was and is neither the cause in fact nor the proximate cause of any injury, loss, or damage alleged by Withrow.

SIXTEENTH DEFENSE – 28 U.S.C. § 1498

To the extent Withrow's allegations of infringement include any method, system, apparatus and/or product used by or manufactured by or for the United States, Withrow's claims for damages for alleged infringement are limited and/or barred by 28 U.S.C. § 1498.

DEMAND FOR JURY TRIAL

In accordance with Federal Rule of Civil Procedure 38(b), Defendants demand a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Defendants request that the Court enter judgment in their favor and against Withrow as follows:

1. For a judgment dismissing Withrow's Complaint against Defendants with prejudice and denying each and every prayer for relief therein;

2. For a judgment that the '849 patent, and every asserted claim thereof, are invalid, unenforceable, and not infringed;

3. For a judgment that Withrow is not entitled to any damages, interests, costs, and/or expenses;

4. For an order that Defendants are the "prevailing party" with respect to Withrow's patent claims and that this case is "exceptional" within the meaning of 35 U.S.C. § 285, and for an award granting Defendants their reasonable attorney's fees and costs, as permitted by law or equity;

5. A judgment limiting or barring Withrow's ability to enforce the '849 patent; and

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6. Granting Defendants such other and further relief as the Court may deem necessary, just, or proper.

Dated: February 4, 2025

KWUN BHANSALI LAZARUS LLP

By: */s/ Asim M. Bhansali*

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GOOGLE, LLC and YOUTUBE, LLC

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