UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

ELEMENT TELEVISION COMPANY, LLC and ELEMENT TV COMPANY, LP, Plaintiff, v. NOKIA CORPORATION and NOKIA TECHNOLOGIES OY, Defendants.	Case No. **COMPLAINT** **JURY TRIAL DEMANDED**

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiffs Element Television Company, LLC and Element TV Company TV, LP (collectively, "Element") files this Complaint seeking a declaratory judgment that Element and its televisions do not infringe any of the following patents owned by Defendant Nokia Technology Oy: United States Patent Nos. 6,856,701 (the "'701 Patent"), 6,950,469 (the "'469 Patent"), 6,968,005 (the "'005 Patent"), 7,263,125 (the "'125 Patent"), 7,280,599 (the "'599 Patent"), 7,532,808 (the "'808 Patent"), 7,724,818 (the "'818 Patent"), 8,036,273 (the "'273 Patent"), 8,050,321 (the "'321 Patent"), 8,077,991 (the "'991 Patent"), 8,144,764 (the "'764 Patent"), 8,175,148 (the "'148 Patent"), 8,204,134 (the "'134 Patent"), 9,571,833 (the "'833 Patent"), 9,800,891 (the "'891 Patent"), 10,536,714 (the "'714 Patent"), and 11,805,267 (the "'267 Patent") (collectively the "Patents at Issue"). Element also seeks a declaratory judgment that Defendants Nokia Corporation and Nokia Technologies Oy (collectively, "Nokia") have breached their obligations to

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license patents allegedly essential to the video coding standards known as H.264 and H.265 on reasonable and non-discriminatory ("RAND") terms and conditions.

NATURE OF THIS ACTION

1. Element brings this action in view of Nokia's continued assertions that it owns patents allegedly essential to the H.264 and H.265 standards ("Video Coding Patents")—including the Patents at Issue—and that, because certain Element TVs support one or both of H.264 and/or H.265 standards, Element must license Nokia's Video Coding Patents on Nokia's preferred terms. Element further brings this action because Nokia has breached its obligations to license its Video Coding Patents on RAND terms and conditions and also because Nokia has failed to negotiate in good faith toward a RAND license. Nokia has been unwilling to meaningfully engage with Element as to reasonable and fair terms and conditions. Nokia's conduct has created a definite and concrete dispute as to (i) the non-infringement of the Patents at Issue, (ii) whether Nokia has breached its RAND obligations, and (iii) whether Nokia has breached its duty to negotiate a license to its Video Coding Patents in good faith. Accordingly, Element seeks a declaration on each of these three disputes.

2. Nokia has breached its RAND obligations and failed to negotiate in good faith by betraying the very RAND-standardization framework it supported. Nokia Corporation was involved in standards-setting activities related to the relevant H.264 and H.265 video coding standards. While the H.264 standard was being developed in 2003, Nokia Corporation advocated for a royalty-free baseline profile and helped establish the royalty terms of the one of the world's most successful patent pools, the MPEG LA H.264

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pool. The royalty terms Nokia helped establish were: no royalties on the first 100,000 units per year, $.20 per unit from 100,000 to 5 million units, and $.10 per unit thereafter up until an annual royalty cap. Ex. A. On information and belief, the MPEG LA pool came to represent upwards of 90% of all H.264 essential patents, and has been acknowledged by video coding experts, including Nokia's own expert, to contain patents that are "broad, covering all fundamental aspects [of the H.264 standard], and rich." Ex. B at 1877:16-1878:2. Nokia Corporation never publicly disagreed with MPEG LA's rates from 2003 to at least 2013. In 2013, however, Nokia sold its cellular phone business. Shortly thereafter, Nokia switched to "maximizing" its SEP royalties. At some point after 2013, Nokia began demanding .60 Euro cents for a license to its allegedly essential H.264 (and H.265) patents. *See* Ex. C at 831:18-21. This rate bears no relation to Nokia's proportional share of H.264 (and H.265) patents, which, on information and belief, is less than 10% of all H.264 essential patents. It is also contrary to terms offered by established video coding SEP pools, including MPEG LA's H.264 pool. Put another way, Nokia seeks to charge over six times as much as MPEG LA for H.264 technology when its H.264 patents are less than fifteen percent of the number of patents licensed by MPEG LA.

3. Nokia approached Element in 2021 demanding Element take a license to Nokia's Video Coding Patents. Element attempted to negotiate RAND terms with Nokia, making several substantial, good-faith offers. Nokia, however, refused to meaningfully engage with Element, and instead threatened Element with patent litigation if Element did not accede to Nokia's licensing demands. In recent months, Nokia has refused to extend negotiations beyond the end of 2024 while making clear that if an agreement is not reached

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on Nokia's terms, Nokia will take action against Element, creating an imminent threat of a patent infringement lawsuit by Nokia against Element.

4. Element's apprehension of an imminent suit is well-founded. Nokia has a known practice of springing widespread litigation campaigns on entities who have disagreed with Nokia's licensing demands. Roughly a year ago, Nokia sued Amazon and HP in multiple U.S. and worldwide fora, including the U.S. International Trade Commission and the United States District Court for the District of Delaware, after Amazon and HP would not agree to Nokia's demands. *See, e.g., In the Matter of Certain Video Capable Electronic Devices, Including Computers, Streaming Devices, Televisions, Cameras, and Components and Modules Thereof*, Inv. No. 337-TA-1379 (USITC); *In the Matter of Certain Video Capable Electronic Devices, Including Computers, Streaming Devices, Televisions, and Components and Modules Thereof*, Inv. No. 337-TA-1380 (USITC); *Nokia Corp. et al v. Amazon.com, Inc.*, No. 1:23-cv-01232-GBW (D. Del. 2023); *Nokia Techs. Oy v. Amazon.com, Inc.*, No. 1:23-cv-01236-GBW (D. Del. 2023); *Nokia Techs. Oy v. HP, Inc.*, 1:23-cv-01237-GBW (D. Del. 2023). Nokia previously launched similar litigation campaigns against others such as HTC, Lenovo, and Oppo. Indeed, Nokia is known as the most litigious essential patent holder in the world. *See, e.g.*, Tim Pohlmann, *SEP Litigation Trends: What Does the Data Say?* at Fig. 6 (April 2021), https://www.lexisnexisip.com/wp-content/uploads/2023/09/SEP-litigation-trends-_What-does-the-data-say_IPlytics.pdf.

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THE PARTIES

5. Element Television Company, LLC is a Delaware LLC with its principal place of business in Edina, Minnesota.

6. Element TV Company, LP is a Delaware LP with a principal place of business in Edina, Minnesota.

7. Element's President and other senior management work out of Element's Edina, Minnesota office.

8. Upon information and belief, Defendant Nokia Corporation is a foreign corporation organized under the laws of Finland, located at Karakaari 7, FIN-02610, Espoo, Finland.

9. Upon information and belief, Defendant Nokia Technologies Oy is a foreign corporation organized under the laws of Finland and is a wholly owned subsidiary of Nokia Corporation; its principal place of business is at Karakaari 7, FIN-02610, Espoo, Finland.

10. Upon information and belief, Defendant Nokia Technologies Oy is the sole owner of all title, right, and interest in the Patents at Issue.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction based on 28 U.S.C. §§ 1331, 1332, 1338(a), and 2201(a).

12. This Court may declare the rights and other legal relations of the parties pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*., because this case presents an actual controversy within the Court's jurisdiction under 28 U.S.C. §§ 1331 and 1338(a). An actual controversy exists within the Court's jurisdiction because Nokia

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contends that, without a license to its Video Coding Patents (on its preferred terms), Element TVs that support the H.264 and/or H.265 standards infringe the Patents at Issue.

13. Additionally, the amount in controversy is over $75,000, all plaintiffs are citizens of the State of Minnesota, and all defendants are citizens of the country of Finland.

14. The Court has personal jurisdiction over Nokia because Nokia has purposefully directed its activities in this District. Nokia has negotiated with Element in this District and has purposefully directed its licensing activities into this District by communicating and engaging in patent licensing negotiations with Element employees living and working in this District over a period of more than three years, including by sending numerous non-disclosure agreements and amendments into this District, which were signed and executed by Element in this District.

15. In May 2021, Nokia sent a letter to Element's Co-President, at Element's principal place of business in Minnesota, in which Nokia contended that Element needed to take a license to Nokia's Video Coding Patents because Element's TVs allegedly implemented one or more of the H.264 and/or H.265 standards. Nokia requested Element enter into a non-disclosure agreement (NDA) before Nokia would provide additional information about its licensing demands. Nokia thereafter sent draft NDA to Element and Element promptly executed that NDA in Minnesota. Because Nokia refused to meaningfully engage with Element in licensing discussions (as described below), six additional NDA extensions or amendments were negotiated and signed by Element in Minnesota, having the following dates: November 2022, April 2023, July 2023, December 2024, March 2024, and October 2024.

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16. Subsequent to the initial NDA being executed, Nokia provided patent lists, presentations, and claim charts to Element personnel in Minnesota, and made offers and counter-offers to Element personnel in Minnesota. These lists, presentations, claim charts, and offers and counter-offers were part of around one-hundred correspondences sent to Element personnel in Minnesota over a period of three years, from May 2021 until November 2024. Nokia also requested dozens of calls and video conferences with Element personnel in Minnesota. On at least some of these calls and video conferences, Nokia made clear that if Element did not take a license from Nokia on Nokia's preferred terms, Nokia would sue Element for patent infringement.

17. Element is unable to disclose the contents of Nokia's offers and counter-offers due to the NDAs Element has signed with Nokia, but on information and belief, these offers and counter-offers were and are not RAND, including in view of publicly available terms from patent pools that license the vast majority of H.264 and H.265 related patents, such as MPEG LA's H.264 pool (https://www.via-la.com/licensing-2/avc-h-264/) and Access Advance's HEVC Advance pool (https://accessadvance.com/licensing-programs/hevc-advance/). When Element asked questions to try to understand Nokia's offers and counter-offers, Element was rebuffed or provided no or only insufficient information.

18. Because Nokia refused to meaningfully engage with Element, Element has been forced to endure three years of fruitless and unproductive discussions. Element remains unlicensed to Nokia's Video Codec Patents and thus subject to apprehension that Nokia will sue it for patent infringement. This is so even though Element wants and

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remains willing to take a license on RAND terms and conditions, as Element has made clear to Nokia many times including through Element's substantial good-faith offers and counter-offers to Nokia.

19. Accordingly, this Court has personal jurisdiction over Nokia because the causes of action alleged herein arise from Nokia's actions directed into this District, including Nokia's demands in connection with the Patents at Issue and its repeated threats to enforce its Video Coding Patents against Element.

20. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

BACKGROUND

21. Element makes and sells high-quality and affordable televisions.

22. The H.264 Advanced Video Coding (H.264/AVC) and H.265 High Efficiency Video Coding (H.265/HEVC) standards are video compression standards that allow for the recording, compression, and distribution of digital video content.

23. The H.264/AVC standard was developed as part of a joint collaboration between the Video Coding Experts Group (VCEG), a working group of the International Telecommunication Union's Telecommunication Standardization Section (ITU-T), and the Moving Picture Expert Group (MPEG), a working group of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC). To develop the H.264 standard, VCEG and MPEG formed the Joint Video Team (JVT) in 2001. The H.264 standard was first approved by the ITU in 2003, as well as by the ISO/IEC as 14496-10. On information and belief, Nokia was at all relevant times a member

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organization of the ITU-T and a participant in the JVT's efforts to develop the H.264 standard.

24. As part of its standard-setting activities, the ITU-T adopted a Patent Policy in about 1996, and Guidelines on the Implementation of the Patent Policy in 1999. In doing so, the ITU-T required that, if a member organization believes it has any known patent or patent application that would be required to implement an ITU-T Recommendation, then member organization must declare whether it is willing to license such patents or patent applications "to an unrestricted number of applicants on a worldwide, non-discriminatory basis and/on reasonable terms and conditions to manufacture, use, and/or sell implementations" of the relevant ITU-T Recommendation. This Patent Policy and Guidelines applied to the standardization of the H.264 Standard.

25. Nokia voluntarily and publicly committed to grant licenses under its portfolio of patents essential to practice the H.264/AVC standard on RAND terms and conditions. Nokia has submitted declarations to the ITU and/or ISO/IEC declaring that several of its patents and patent applications may be potentially essential to the H.264 standard and committing to license those patents and patent applications to implementers, such as Element, on reasonable and non-discriminatory terms and conditions.

26. Nokia has contended that at least the following Patents at Issue are infringed by an H-264 compliant decoder and thus essential to the H.264 standard: United States Patent Nos. 6,856,701 (the "'701 Patent"), 6,950,469 (the "'469 Patent"), 6,968,005 (the "'005 Patent"), 7,263,125 (the "'125 Patent"), 7,280,599 (the "'599 Patent"), 7,532,808 (the "'808 Patent"), 7,724,818 (the "'818 Patent"), 8,036,273 (the "'273 Patent"),

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8,050,321 (the "'321 Patent"), 8,144,764 (the "'764 Patent"), 8,175,148 (the "'148 Patent"), 8,204,134 (the "'134 Patent"), 9,800,891 (the "'891 Patent"). On information and belief, Nokia submitted H.264 licensing declarations to the ITU and/or ISO/IEC covering the patents identified in this paragraph.

27. The H.265 High Efficiency Video Coding (H.265 or HEVC) standard is a video compression standard intended to be the successor to the H.264 standard. As with H.264 standard, VCEG and MPEG formed a joint collaboration to develop the H.265 standard in 2010, the Joint Collaborative Team on Video Coding (JCTVC). The H.265/HEVC standard was first approved by ITU in April 2013, as well as by the ISO/IEC as 23008-2. On information and belief, Nokia was a participant in the JCTVC's efforts to develop the H.265 standard.

28. Nokia voluntarily and publicly committed to grant licenses under its portfolio of patents essential to practice the H.265/HEVC standard on RAND terms and conditions. Nokia has submitted declarations to the ITU and/or ISO/IEC declaring that several of its patents and patent applications may be potentially essential to H.265 standard and committing to license those patents and patent applications to implementers, such as Element, on reasonable and non-discriminatory terms and conditions

29. Nokia has contended that at least the following Patents at Issue are infringed by an H-265 compliant decoder and thus are essential to the H.265 standard: United States Patent Nos. 7,724,818 (the "'818 Patent"), 8,050,321 (the "'321 Patent"), 8,077,991 (the "'991 Patent"), 9,571,833 (the "'833 Patent"), 10,536,714 (the "'714 Patent"), and 11,805,267 (the "'267 Patent"). On information and belief, Nokia submitted H.265

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licensing declarations to the ITU and/or ISO/IEC covering the patents identified in this paragraph.

30. MPEG LA is a patent pool administrator overseeing patent pools, including patent pools licensing patents allegedly essential to the H.264/AVC and H.265/HEVC standards. MPEG LA merged with Via Licensing Corporation in April 2023 to form Via Licensing Alliance LLC (Via LA).

31. In November 2003, MPEG LA announced its licensing terms for its H.264/AVC Patent Pool.[1] Under those terms, no royalties need to be paid for decoders/encoders the first 1 to 100,000 units annually. The royalty for 100,001 to 5,000,000 units annually is $0.20 per unit. For more than 5,000,000 units, the royalty is $0.10 per unit. *See* Ex. A; https://www.via-la.com/licensing-2/avc-h-264/avc-h-264-license-fees/.

32. Nokia helped to establish the original licensing terms for MPEG LA's H.264 Patent Pool. Ex. A at 2.

33. On information and belief, the MPEG LA H.264 Patent Pool has over forty licensors, over 1600 licensees, and covers 80% or more of all allegedly essential H.264 patents.

34. MPEG LA also established an H.265 Patent Pool in 2014. For decoder-encoder royalties, no royalties are to be paid for the first 100,000 units annually. For more than 100,001 units annually, the royalty to be paid is $0.20 per unit. *See* https://www.via-

[1] Via LA acquired MPEG LA in 2023 and now operates MPEG LA's H.264 and H.265 Patent Pools.

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la.com/licensing-2/hevc-vvc/hevc-vvc-license-fees/. The MPEG LA H.265 Pool has over fifty licensors and nearly 500 licensees.

35. Access Advance is another patent pool administrator that has formed an H.265 Patent Pool. Access Advance formed its HEVC Advance patent pool in 2015. The current maximum, published royalty for the HEVC Advance Pool is $1.60 per unit for a 4K UHD+ television. *See* https://accessadvance.com/hevc-advance-patent-pool-detailed-royalty-rates/. The HEVC Advance Pool has over forty licensors and over 350 licensees.

36. On information and belief, the MPEG LA H.265 and HEVC Advance Pools contain upwards of 90% of all H.265 essential patents.

37. Nokia has contended the royalty rate for its H.264 and H.265 Video Coding Patents is €.60 per unit.

38. €.60 per unit is approximately $.64 at current exchange rates.

39. On information and belief, Nokia has less than ten percent of all essential H.264 patents.

40. On information and belief, Nokia has less than ten percent of all essential H.265 patents.

41. Nokia's €.60 rate is grossly disproportionate to the published terms and conditions of the MPEG H.264, MPEG LA H.265, and HEVC Advance Patent Pools, which cover the vast majority of H.264 and H.265 essential patents and have thousands of licensees.

42. On information and belief, the license terms and conditions Nokia has sought to impose on Element throughout the parties' licensing discussions are inconsistent with

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Nokia's RAND commitment. For example, Nokia has insisted on an above-RAND royalty payment and, in doing so, Nokia has deprived Element of its right to a license on RAND terms.

43. Over the course of the parties' licensing discussions, Nokia has made clear that a failure to reach an agreement on its terms for a license would mean patent infringement litigation regarding the patents Nokia contends are essential to the H.264/AVC and H.265/HEVC standard, including the Patents at Issue.

44. Accordingly, an actual, substantial, and immediate controversy exists between Element and Nokia, which warrants the issuance of a declaratory judgment.

PATENTS AT ISSUE

45. The '701 Patent, entitled "Method and System for Context-Based Adaptive Binary Arithmetic Coding," issued on February 15, 2005, from U.S. Patent Application No. 09/995,240 filed on November 27, 2001. The '701 Patent claims priority to U.S. Provisional Application No. 60/322,112, filed on September 14, 2001.

46. Upon information and belief, Nokia is the owner of the right, title, and interest in the '701 Patent via assignment.

47. The '469 Patent, entitled "Method for Sub-Pixel Value Interpolation," issued on September 27, 2005, from U.S. Patent Application No. 09/954,608 filed on September 17, 2001.

48. Upon information and belief, Nokia is the owner of the right, title, and interest in the '469 Patent via assignment.

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49. The ’005 Patent, entitled “Video Coding,” issued on November 22, 2005, from U.S. Patent Application No. 09/855,640 filed on May 15, 2001.

50. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’005 Patent via assignment.

51. The ’125 Patent, entitled “Method and Device for Indicating Quantizer Parameters in a Video Coding System,” issued on August 28, 2007, from U.S. Patent Application No. 10/421,629 filed on April 23, 2003. The ’125 Patent claims priority to U.S. Provisional Application No. 60/374,667, filed on April 23, 2002.

52. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’125 Patent via assignment.

53. The ’599 Patent, entitled “Method for Sub-Pixel Value Interpolation,” issued on October 9, 2007, from U.S. Patent Application No. 11/090,717 filed on March 25, 2005. The ’599 Patent is a continuation of the ’469 Patent, filed on September 17, 2001.

54. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’599 Patent via assignment.

55. The ’808 Patent, entitled “Method for Coding Motion in a Video Sequence,” issued on May 12, 2009, from U.S. Patent Application No. 10/390,549 filed on March 14, 2003. The ’808 Patent claims priority to U.S. Provisional Application No. 60/365,072, filed on March 15, 2002.

56. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’808 Patent via assignment.

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57. The ’818 Patent, entitled “Method for Coding Sequences of Pictures,” issued on May 25, 2010, from U.S. Patent Application No. 10/426,928 filed on April 30, 2003.

58. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’818 Patent via assignment.

59. The ’273 Patent, entitled “Method for Sub-Pixel Value Interpolation,” issued on October 11, 2011, from U.S. Patent Application No. 11/839,205 filed on August 15, 2007. The ’273 is a continuation of U.S. Patent Nos. 7,280,599, filed on March 25, 2005, and 6,950,469, filed on September 17, 2001.

60. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’273 Patent via assignment.

61. The ’321 Patent, entitled “Grouping of Image frames in Video Coding,” issued on November 1, 2011, from U.S. Patent Application. No. 11/338,934 filed on January 25, 2006. The ’321 Patent is a continuation of U.S. Patent No. 7,894,521, which was filed on November 29, 2002.

62. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’321 Patent via assignment.

63. The ’991 Patent, entitled “Spatially Enhanced Transform Coding,” issued on December 13, 2011, from U.S. Patent Application No. 12/101,019 filed on April 10, 2008. The ’991 Patent claims priority to U.S. Provisional Application No. 60/911,480, filed on April 12, 2007.

64. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’991 Patent via assignment.

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65. The ’764 Patent, entitled “Video Coding,” issued on March 27, 2012, from U.S. Patent Application No. 11/242,888 filed on October 5, 2005. The ’764 Patent is a continuation of the ’005 Patent, which was filed on May 15, 2001.

66. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’764 Patent via assignment.

67. The ’148 Patent, entitled “Method and Device for Indicating Quantizer Parameters in a Video Coding System,” issued on May 8, 2012, from U.S. Patent Application No. 11/881,367 filed on July 26, 2007. The ’148 Patent claims priority to U.S. Provisional Application No. 60/374,667, filed on April 23, 2002. The ’148 Patent is a division of U.S. Patent No. 7,263,125, filed on April 23, 2003.

68. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’148 Patent via assignment.

69. The ’134 Patent, entitled “Grouping of Image Frames in Video Coding,” issued on June 19, 2012, from U.S. Patent Application No. 11/338,996 filed on January 25, 2006. The ’134 Patent is a continuation of U.S. Patent No. 7,894,521, which was filed on November 29, 2002.

70. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’134 Patent via assignment.

71. The ’833 Patent, entitled “Method for Coding and an Apparatus,” issued on February 14, 2017, from U.S. Patent Application No. 13/666,680 filed on November 1, 2012. The ’833 Patent claims priority to U.S. Provisional Application No. 61/555,703, filed on November 4, 2011.

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72. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’833 Patent via assignment.

73. The ’891 Patent, entitled “Method and Associated Device for Filtering Digital Video Images,” issued on October 24, 2017, from U.S. Patent Application No. 09/766,035 filed on January 19, 2001.

74. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’891 Patent via assignment.

75. The ’714 Patent, entitled “Method for Coding and an Apparatus,” issued on January 14, 2020, from U.S. Patent Application No. 16/356,733 filed on March 18, 2019. The ’714 Patent claims priority to U.S. Provisional Application No. 61/555,703 filed on November 4, 2011. The ’714 Patent is a continuation of U.S. Patent Nos. 10,237,574 filed on August 21, 2017, 9,743,105 filed on February 7, 2017, and 9,571,833 filed on November 1, 2012.

76. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’714 Patent via assignment.

77. The ’267 Patent, entitled “Motion Prediction in Video Coding,” issued on October 31, 2023, from U.S. Patent Application No. 17/328,750 filed on May 24, 2021.

78. Upon information and belief, Nokia is the owner of the right, title, and interest in the ’267 Patent via assignment.

79. On information and belief, Nokia has asserted at least the ’808 Patent, ’818 Patent, ’321 Patent, ’991 Patent, ’134 Patent,’714 Patent, and ’267 Patent against Amazon and HP in matters at the ITC. *See, e.g., In the Matter of Certain Video Capable Electronic*

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Devices, Including Computers, Streaming Devices, Televisions, Cameras, and Components and Modules Thereof, Inv. No. 337-TA-1379 (USITC); *In the Matter of Certain Video Capable Electronic Devices, Including Computers, Streaming Devices, Televisions, and Components and Modules Thereof*, Inv. No. 337-TA-1380 (USITC).

80. On information and belief, Nokia has asserted at least the '714 Patent, '267 Patent, '808 Patent, '321 Patent, '991 Patent, and '134 Patent against Amazon in the District Court of Delaware. *See Nokia Corp. et al v. Amazon.com, Inc.*, No. 1:23-cv-01232-GBW (D. Del. 2023).

81. On information and belief, Nokia has asserted at least the '714 Patent, '267 Patent, '469 Patent, '599 Patent, '808 Patent, '818 Patent, '273 Patent, '321 Patent, '991 Patent, and '134 Patent against HP in the District Court of Delaware. *See Nokia Techs. Oy v. HP, Inc.*, 1:23-cv-01237-GBW (D. Del. 2023).

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the '701 Patent)

82. Element repeats and realleges each and every allegation contained in paragraphs 1-81 above as if fully set forth herein.

83. On information and belief, Nokia contends that the '701 patent covers an H.264 complaint decoder and thus is essential to the H.264 standard. Element makes and sells televisions that support the H.264 standard.

84. On information and belief, Nokia believes Element H.264 supported televisions are covered by the '701 patent.

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85. On information and belief, Element does not infringe any claim of the ’701 Patent.

86. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

87. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

88. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

89. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’701 Patent.

90. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

SECOND CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’469 Patent)

91. Element repeats and realleges each and every allegation contained in paragraphs 1-90 above as if fully set forth herein.

92. On information and belief, Nokia contends that the ’469 patent covers an H.264 complaint decoder and thus is essential to the H.264 standard. Element makes and sells televisions that support the H.264 standard.

93. On information and belief, Nokia believes Element H.264 supported televisions are covered by the ’469 patent.

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94. Upon information and belief, Element does not infringe any claim of the ’469 Patent.

95. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

96. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

97. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

98. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’469 Patent.

99. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

THIRD CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’005 Patent)

100. Element repeats and realleges each and every allegation contained in paragraphs 1-99 above as if fully set forth herein.

101. On information and belief, Nokia contends that the ’005 patent covers an H.264 complaint decoder and thus is essential to the H.264 standard. Element makes and sells televisions that support the H.264 standard.

102. On information and belief, Nokia believes Element H.264 supported televisions are covered by the ’005 patent.

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103. Upon information and belief, Element does not infringe any claim of the ’005 Patent.

104. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

105. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

106. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

107. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’005 Patent.

108. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

FOURTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’125 Patent)

109. Element repeats and realleges each and every allegation contained in paragraphs 1-108 above as if fully set forth herein.

110. On information and belief, Nokia contends that the ’125 patent covers an H.264 complaint decoder and thus is essential to the H.264 standard. Element makes and sells televisions that support the H.264 standard.

111. On information and belief, Nokia believes Element H.264 supported televisions are covered by the ’125 patent.

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112. Upon information and belief, Element does not infringe any claim of the ’125 Patent.

113. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

114. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

115. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

116. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’125 Patent.

117. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

FIFTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’599 Patent)

118. Element repeats and realleges each and every allegation contained in paragraphs 1-117 above as if fully set forth herein.

119. On information and belief, Nokia contends that the ’599 patent covers an H.264 complaint decoder and thus is essential to the H.264 standard. Element makes and sells televisions that support the H.264 standard.

120. On information and belief, Nokia believes Element H.264 supported televisions are covered by the ’599 patent.

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121. Upon information and belief, Element does not infringe any claim of the ’599 Patent.

122. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

123. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

124. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

125. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’599 Patent.

126. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

SIXTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’808 Patent)

127. Element repeats and realleges each and every allegation contained in paragraphs 1-126 above as if fully set forth herein.

128. On information and belief, Nokia contends that the ’808 patent covers an H.264 complaint decoder and thus is essential to the H.264 standard. Element makes and sells televisions that support the H.264 standard.

129. On information and belief, Nokia believes Element H.264 supported televisions are covered by the ’808 patent.

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130. Upon information and belief, Element does not infringe any claim of the ’808 Patent.

131. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

132. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

133. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

134. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’808 Patent.

135. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

SEVENTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’818 Patent)

136. Element repeats and realleges each and every allegation contained in paragraphs 1-135 above as if fully set forth herein.

137. On information and belief, Nokia contends that the ’818 patent covers an H.264 complaint decoder and thus is essential to the H.264 standard. Element makes and sells televisions that support the H.264 standard.

138. On information and belief, Nokia believes Element H.264 supported televisions are covered by the ’818 patent.

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139. On information and belief, Nokia contends that the ’818 patent covers an H.265 complaint decoder and thus is essential to the H.265 standard. Element makes and sells televisions that support the H.265 standard.

140. On information and belief, Nokia believes Element H.265 supported televisions are covered by the ’818 patent.

141. Upon information and belief, Element does not infringe any claim of the ’818 Patent.

142. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

143. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

144. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

145. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’818 Patent.

146. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

EIGHTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’273 Patent)

147. Element repeats and realleges each and every allegation contained in paragraphs 1-146 above as if fully set forth herein.

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148. On information and belief, Nokia contends that the ’273 patent covers an H.264 complaint decoder and thus is essential to the H.264 standard. Element makes and sells televisions that support the H.264 standard.

149. On information and belief, Nokia believes Element H.264 supported televisions are covered by the ’273 patent.

150. Upon information and belief, Element does not infringe any claim of the ’273 Patent.

151. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

152. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

153. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

154. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’273 Patent.

155. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

NINTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’321 Patent)

156. Element repeats and realleges each and every allegation contained in paragraphs 1-155 above as if fully set forth herein.

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157. On information and belief, Nokia contends that the ’321 patent covers an H.264 complaint decoder and thus is essential to the H.264 standard. Element makes and sells televisions that support the H.264 standard.

158. On information and belief, Nokia believes Element H.264 supported televisions are covered by the ’321 patent.

159. On information and belief, Nokia contends that the ’321 patent covers an H.265 complaint decoder and thus is essential to the H.265 standard. Element makes and sells televisions that support the H.265 standard.

160. On information and belief, Nokia believes Element H.265 supported televisions are covered by the ’321 patent.

161. Upon information and belief, Element does not infringe any claim of the ’321 Patent.

162. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

163. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

164. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

165. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’321 Patent.

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166. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

TENTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’991 Patent)

167. Element repeats and realleges each and every allegation contained in paragraphs 1-166 above as if fully set forth herein.

168. On information and belief, Nokia contends that the ’991 patent covers an H.264 complaint decoder and thus is essential to the H.265 standard. Element makes and sells televisions that support the H.265 standard.

169. On information and belief, Nokia believes Element H.265 supported televisions are covered by the ’991 patent.

170. Upon information and belief, Element does not infringe any claim of the ’991 Patent.

171. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

172. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

173. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

174. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’991 Patent.

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175. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

ELEVENTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the '764 Patent)

176. Element repeats and realleges each and every allegation contained in paragraphs 1-175 above as if fully set forth herein.

177. On information and belief, Nokia contends that the '764 patent covers an H.264 complaint decoder and thus is essential to the H.264 standard. Element makes and sells televisions that support the H.264 standard.

178. On information and belief, Nokia believes Element H.264 supported televisions are covered by the '764 patent.

179. Upon information and belief, Element does not infringe any claim of the '764 Patent.

180. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

181. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

182. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

183. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the '764 Patent.

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184. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

TWELFTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’148 Patent)

185. Element repeats and realleges each and every allegation contained in paragraphs 1-184 above as if fully set forth herein.

186. On information and belief, Nokia contends that the ’148 patent covers an H.264 complaint decoder and thus is essential to the H.264 standard. Element makes and sells televisions that support the H.264 standard.

187. On information and belief, Nokia believes Element H.264 supported televisions are covered by the ’148 patent.

188. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

189. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

190. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

191. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’148 Patent.

192. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

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THIRTEENTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’134 Patent)

193. Element repeats and realleges each and every allegation contained in paragraphs 1-192 above as if fully set forth herein.

194. On information and belief, Nokia contends that the ’134 patent covers an H.264 complaint decoder and thus is essential to the H.264 standard. Element makes and sells televisions that support the H.264 standard.

195. On information and belief, Nokia believes Element H.264 supported televisions are covered by the ’134 patent.

196. Upon information and belief, Element does not infringe any claim of the ’134 Patent.

197. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

198. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

199. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

200. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’134 Patent.

201. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

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FOURTEENTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’833 Patent)

202. Element repeats and realleges each and every allegation contained in paragraphs 1-201 above as if fully set forth herein.

203. On information and belief, Nokia contends that the ’833 patent covers an H.264 complaint decoder and thus is essential to the H.265 standard. Element makes and sells televisions that support the H.265 standard.

204. On information and belief, Nokia believes Element H.265 supported televisions are covered by the ’833 patent.

205. Upon information and belief, Element does not infringe any claim of the ’833 Patent.

206. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

207. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

208. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

209. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’833 Patent.

210. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

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FIFTEENTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’891 Patent)

211. Element repeats and realleges each and every allegation contained in paragraphs 1-210 above as if fully set forth herein.

212. On information and belief, Nokia contends that the ’891 patent covers an H.264 complaint decoder and thus is essential to the H.264 standard. Element makes and sells televisions that support the H.264 standard.

213. On information and belief, Nokia believes Element H.264 supported televisions are covered by the ’891 patent.

214. Upon information and belief, Element does not infringe any claim of the ’891 Patent.

215. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

216. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

217. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

218. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’891 Patent.

219. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

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SIXTEENTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’714 Patent)

220. Element repeats and realleges each and every allegation contained in paragraphs 1-219 above as if fully set forth herein.

221. On information and belief, Nokia contends that the ’714 patent covers an H.264 complaint decoder and thus is essential to the H.265 standard. Element makes and sells televisions that support the H.265 standard.

222. On information and belief, Nokia believes Element H.265 supported televisions are covered by the ’714 patent.

223. Upon information and belief, Element does not infringe any claim of the ’714 Patent.

224. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

225. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

226. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

227. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’714 Patent.

228. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

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SEVENTEENTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the ’267 Patent)

229. Element repeats and realleges each and every allegation contained in paragraphs 1-228 above as if fully set forth herein.

230. On information and belief, Nokia contends that the ’267 patent covers an H.264 complaint decoder and thus is essential to the H.265 standard. Element makes and sells televisions that support the H.265 standard.

231. On information and belief, Nokia believes Element H.265 supported televisions are covered by the ’267 patent.

232. Upon information and belief, Element does not infringe any claim of the ’267 Patent.

233. There is an actual, substantial and immediate controversy between Element and Nokia to warrant the issuance of a declaratory judgment.

234. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

235. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

236. Element is entitled to a Judicial Declaration and Order that Element has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any claim of the ’267 Patent.

237. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

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EIGHTEENTH CLAIM FOR RELIEF

(Breach of RAND Obligations to the ITU and Declaratory Judgment that Nokia has Breached its RAND Obligations to the ITU)

238. Element repeats and realleges each and every allegation contained in paragraphs 1-237 above as if fully set forth herein.

239. Nokia, as the owner of the patents it contends are essential to the H.264/AVC and H.265/HEVC standards, has submitted numerous declarations to the ITU committing to grant licenses to its Video Coding Patents "on a worldwide, non-discriminatory basis and on reasonable terms and conditions" to implementers, such as Element.

240. Nokia's declarations constitute binding and enforceable contracts between Nokia and the ITU.

241. Element is entitled to enforce Nokia's binding commitments to license its Video Coding Patents on RAND terms and conditions, whether as a third-party beneficiary or under the doctrine of promissory estoppel.

242. Element has negotiated with Nokia in good faith, including by unequivocally expressing its willingness to take a license to Nokia's Video Coding Patents on RAND terms and conditions, and by making several substantial good-faith offers to license Nokia's Video Coding Patents.

243. On information and belief, Nokia has not offered RAND terms and conditions for its Video Coding Patents and has failed to negotiate in good faith with Element. For example, Nokia's licensing demands to Element are inconsistent with the terms offered by the licensors holding the vast majority of H.264 and H.265 essential patents, such as terms offered under the MPEG-LA's H.264 Patent Pool. On information

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and belief, Element suspects Nokia's offer to Element is also inconsistent with other licenses Nokia has entered, rendering Nokia's offer discriminatory.

244. Nokia's conduct toward Element—including by making non-RAND offers and by failing to provide sufficient information to allow Element to assess Nokia's offers—is contrary to and breaches Nokia's RAND licensing obligations under the ITU's Patent Policy.

245. Element has suffered harm to its property or business from Nokia's breach of its RAND licensing obligations under the ITU's Patent Policy, including through the expenditure of time and resources on fruitless licensing discussions.

246. Accordingly, a dispute exists between Element and Nokia concerning whether Nokia has breached its obligation to grant Element a license to Nokia's Video Coding Patents on RAND terms and conditions. Thus, there is an actual, substantial, and immediate controversy between Element and Nokia warranting the issuance of a declaratory judgment.

247. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

248. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

249. Element is entitled to a Judicial Declaration and Order that Nokia has breached its RAND commitment and has failed to grant Element a license to its Video Coding Patents on RAND terms and conditions.

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250. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

NINETEENTH CLAIM FOR RELIEF

(Breach of Duty to Negotiate in Good Faith and Declaratory Judgment That Breach Its Duty to Negotiate in Good Faith)

251. Element repeats and realleges each and every allegation contained in paragraphs 1-250 above as if fully set forth herein.

252. Nokia is obligated to negotiate, in good faith, toward a license to Nokia's Video Coding Patents with implementers such as Element. *See, e.g.*, *Microsoft Corp. v. Motorola Inc.*, 2012 WL 4827743, at *6 (W.D. Wash. Oct. 10, 2012).

253. Nokia's obligation to negotiate in good faith is enforceable by implementers such as Element.

254. Nokia has failed to negotiate with Element in good faith. Nokia approached Element in 2021 demanding Element take a license to Nokia's Video Coding Patents. Element attempted to negotiate RAND terms with Nokia, making several substantial, good faith offers. Nokia, however, has been unwilling to meaningfully engage with Element as to reasonable terms and conditions, and on information and belief has made license demands that are unreasonable and discriminatory, including because those offers are inconsistent with terms and conditions offered by established video coding SEP pools, such as MPEG LA's H.264 pool and Access Advance's HEVC Advance pool. Nokia further made clear that if Element did not take a license to Nokia's Video Coding Patents on Nokia's preferred terms, Nokia would sue Element for patent infringement. Nokia's conduct toward Element demonstrates lack of good faith.

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255. Accordingly, Nokia's conduct constitutes a breach of its obligation to negotiate with Element in good faith towards a license to its Video Coding Patents.

256. Element has suffered harm to its property or business from Nokia's breach of its obligation to negotiate in good faith, including through the expenditure of time and resources on fruitless licensing discussions.

257. A dispute exists between Element and Nokia concerning whether Nokia has complied with its obligation to negotiate in good faith. Thus, there is an actual, substantial, and immediate controversy between Element and Nokia warranting the issuance of a declaratory judgment.

258. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

259. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

260. Element is entitled to a Judicial Declaration and Order that Nokia has breached its duty and failed to negotiate in good faith toward a RAND license during its negotiations with Element.

261. The relief sought by Element will resolve the controversy relative to the respective interests of Element and Nokia.

PRAYER FOR RELIEF

WHEREFORE, in view of the foregoing, Element respectfully requests that this Court enter judgment as follows:

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A. Declare that Element has not infringed and does not infringe any claim of the ’701 Patent;

B. Declare that Element has not infringed and does not infringe any claim of the ’469 Patent;

C. Declare that Element has not infringed and does not infringe any claim of the ’005 Patent;

D. Declare that Element has not infringed and does not infringe any claim of the ’125 Patent;

E. Declare that Element has not infringed and does not infringe any claim of the ’599 Patent;

F. Declare that Element has not infringed and does not infringe any claim of the ’808 Patent;

G. Declare that Element has not infringed and does not infringe any claim of the ’818 Patent;

H. Declare that Element has not infringed and does not infringe any claim of the ’273 Patent;

I. Declare that Element has not infringed and does not infringe any claim of the ’321 Patent;

J. Declare that Element has not infringed and does not infringe any claim of the ’991 Patent;

K. Declare that Element has not infringed and does not infringe any claim of the ’764 Patent;

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L. Declare that Element has not infringed and does not infringe any claim of the ’148 Patent;

M. Declare that Element has not infringed and does not infringe any claim of the ’134 Patent;

N. Declare that Element has not infringed and does not infringe any claim of the ’833 Patent;

O. Declare that Element has not infringed and does not infringe any claim of the ’891 Patent;

P. Declare that Element has not infringed and does not infringe any claim of the ’714 Patent;

Q. Declare that Element has not infringed and does not infringe any claim of the ’267 Patent;

R. Declare that Nokia’s offers do not comply with RAND and that Nokia has breached its RAND commitment to grant Element a license on RAND terms and conditions;

S. Declare the RAND terms and conditions to which Element is entitled so that Element may obtain a RAND license on those terms;

T. Declare that Nokia has breached its duty to negotiate with Element in good faith; and

U. Make an award of such other and further relief as this Court may deem just, equitable, and proper.

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JURY TRIAL DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Element demands a trial by jury on all issues presented in this Complaint and so triable.

Dated: November 25, 2024

By: *s/ Keith S. Moheban*

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