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17 *Attorneys for Plaintiffs*

18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**

20 WESTERN DIGITAL TECHNOLOGIES, INC.,
WESTERN DIGITAL IRELAND LTD.,
21 SANDISK 3D IP HOLDINGS LTD., SANDISK
TECHNOLOGIES LLC, and SANDISK
22 STORAGE MALAYSIA SDN. BHD.,

23 Plaintiff,

24 v.

25 VIASAT, INC.,

26 Defendant.

Case No.: 5:22-cv-4376

COMPLAINT FOR PATENT
INFRINGEMENT

DEMAND FOR JURY TRIAL

27
28

1 This is an action for patent infringement arising under the patent laws of the United States
2 of America, 35 U.S.C. § 1 *et seq.*, in which Plaintiffs Western Digital Technologies, Inc. (“WDT”),
3 Western Digital Ireland Ltd. (“WDI”), SanDisk 3D IP Holdings Ltd. (“SD3D”), SanDisk
4 Technologies LLC (“SDT”), and SanDisk Storage Malaysia Sdn. Bhd. (“SDSM”) (collectively, or
5 individually, “Plaintiffs”) demand a trial by jury on all issues so triable in their complaint against
6 Defendant Viasat, Inc. (“Viasat” or “Defendant”), alleging as follows:

7 INTRODUCTION

8 1. This complaint arises from Defendant’s unlawful infringement of the following U.S.
9 Patents owned by Plaintiffs: U.S. Patent No. 9,424,400 (the “400 patent”), U.S. Patent No.
10 10,447,667 (the “667 patent”), and U.S. Patent No. 8,504,834 (the “834 patent”) (collectively, the
11 “Patents-in-Suit”).

12 2. Viasat develops and/or sells media streaming software, systems, and services (the
13 “Accused Products”), including, by way of illustrative example, in-flight entertainment and
14 communication (“IFEC”) systems for use in commercial and private aviation.¹ As further explained
15 below, the Accused Products utilize technologies patented by Plaintiffs to deliver media content to
16 end-users.

17 THE PARTIES

18 3. WDT is a wholly owned subsidiary of Western Digital Corporation (“WDC”;
19 together with WDT, “Western Digital”), a publicly traded corporation, and has a principal place of
20 business located at 5601 Great Oaks Parkway in San Jose, California, 95119.

21 4. Western Digital is a leading developer and provider of data storage devices and
22 solutions. Western Digital’s products help customers capture, preserve, access, and transform every
23 type of data currently imaginable. Western Digital’s broad technology and product offerings include
24 Client Devices (for example, desktop and notebook PCs; flash-based embedded storage products
25 for mobile phones, tablets, and notebook PCs; and flash-based memory wafers and components);
26 Data Center Devices and Solutions (for example, high-capacity enterprise HDDs and high

27 _____
28 ¹ See, e.g., Viasat, *Today’s media for today’s traveler*, <https://www.viasat.com/enterprise-and-mobility/aviation/commercial/inflight-entertainment/>.

1 performance enterprise SSDs, data center software and system solutions); and Client Solutions (for
2 example, HDDs and SSDs embedded into external storage products and removable flash-based
3 products, such as: cards, universal serial bus flash drives and wireless drives).

4 5. Founded in 1970, Western Digital has a rich heritage of innovation and operational
5 excellence, and broad research and development capabilities. As a result of its R&D investments,
6 Western Digital now has one of the technology industry's most significant and valuable patent
7 portfolios, with approximately 13,500 active patents worldwide.

8 6. WDI and SD3D are wholly owned subsidiaries of WDT and have a principal place
9 of business in George Town, Grand Cayman, Cayman Islands.

10 7. SDT is a wholly owned subsidiary of WDT. SDT's parent, SanDisk Corporation
11 ("SanDisk"), was a global leader in flash storage solutions with a strong history of innovative
12 product offerings. SanDisk was in the business of designing, developing, and manufacturing
13 products including solid state drives, embedded flash products, USB drives, wireless media drives,
14 digital media players, and wafers and components.

15 8. SanDisk was founded in 1988 by Eli Harari, Sanjay Mehrotra, and Jack Yuan. Co-
16 founder Eli Harari played a major role in the development of the first electrically erasable
17 programmable read-only memory ("EEPROM"). In 1990, Western Digital and SanDisk
18 collaborated to create the first commercial flash SSD.

19 9. SanDisk was acquired by Western Digital in 2016.

20 10. SDSM is a wholly owned subsidiary of WDT and has a principal place of business
21 in Palau Pinang, Malaysia.

22 11. Viasat is a company organized under the laws of Delaware, with headquarters at
23 6155 El Camino Real, Carlsbad, California 92009. Viasat also maintains a place of business at 333
24 West San Carlos Street, Suite 1700, San Jose, California 95110.

25 12. Amongst other things, Viasat provides satellite internet to customers' homes and
26 businesses, and provides satellite internet, live TV, and in-flight entertainment to commercial and
27 private aviation customers.

JURISDICTION AND VENUE

1
2 13. This action arises under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*,
3 including § 271. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331
4 and 1338(a).

5 14. This Court has personal jurisdiction over Defendant because, among other things,
6 Defendant has done business in this District, and has committed and continues to commit acts of
7 patent infringement in this District giving rise to this action, and has established minimum contacts
8 with this forum such that the exercise of jurisdiction over Defendant would not offend traditional
9 notions of fair play and substantial justice. Defendant, directly and indirectly through subsidiaries
10 and intermediaries, has committed and continues to commit acts of infringement in this District by,
11 among other things, making, using, selling, offering to sell, and importing products that infringe the
12 asserted patents.

13 15. Venue is proper in this District under 28 U.S.C. § 1400(b) because, among other
14 things, Defendant has transacted business, has committed acts of infringement, and has a regular
15 and established place of business in this District. For example, Viasat maintains a regular and
16 established place of business in this District at 333 West San Carlos Street, Suite 1700, San Jose,
17 California 95110.

18 16. Viasat has also sought to recruit individuals for employment within this District
19 through its website. As of the date herein, Viasat has 20 open job postings seeking to recruit
20 employees to its San Jose office, including engineers for its Infrastructure, Space and Commercial
21 Segment, and Global Enterprise Mobility teams.

DIVISIONAL ASSIGNMENT

22
23 17. Pursuant to Civil Local Rules 3-5(b) and 3-2(c), and General Order No. 44, because
24 this action is an intellectual property action, it is properly assigned to any of the divisions of this
25 District and is subject to assignment on a district-wide basis.

COUNT ONE: INFRINGEMENT OF THE '400 PATENT

26
27 18. Plaintiffs reallege the foregoing paragraphs as if fully set forth herein.
28

1 19. One or more Plaintiffs holds title to the '400 patent, entitled "Digital rights
2 management system transfer of content and distribution," which was issued by the United States
3 Patent and Trademark Office ("USPTO") on August 23, 2016. A true and correct copy of the '400
4 patent is attached hereto as **Exhibit 1**. One or more Plaintiffs together own all substantial rights to
5 the '400 patent, including the rights to practice, license, and transfer the '400 patent, and all
6 economic interest in the '400 patent. All claims of the '400 patent are valid and enforceable.

7 20. Viasat develops and/or sells media streaming software, systems, and services (the
8 "'400 Accused Products"), including, by way of illustrative example, IFEC systems for use in
9 commercial and private aviation.

10 21. Viasat has directly infringed and continues to directly infringe one or more claims of
11 the '400 patent in connection with the '400 Accused Products. Viasat makes, uses, sells, offers for
12 sale, and/or tests media streaming systems and software, including but not limited to the '400
13 Accused Products, within the United States, and as such, Viasat has directly infringed and continues
14 to directly infringe, either literally or under the doctrine of equivalents, at least one claim of the '400
15 patent, including under 35 U.S.C. § 271(a).

16 22. Claim 1² of the '400 patent recites:

17 1. A kiosk for provisioning secure media content to a plurality of
18 portable data storage devices, the kiosk comprising:

19 a first data interface configured to communicate with a
20 portable data storage device;

21 a second data interface configured to communicate, over a
22 network, with a remote trusted server; and

23 a processor configured to:

24 obtain a unique identifier from the portable data
25 storage device, wherein the unique identifier is
26 specific to the portable data storage device and is
27 concealed by the portable data storage device;

28 authenticate the portable data storage device, using at
least the unique identifier, by communicating with the

² Plaintiffs' allegations of infringement are not limited to the claims specifically identified herein. Viasat infringes other claims of the Patents-in-Suit based on similar attributes that are outlined in this Complaint.

1 remote trusted server over the second data interface;
2 and

3 in response to the authentication, provide to the
4 portable data storage device an encrypted first media
5 content and a corresponding access key.

6 23. The '400 Accused Products infringe at least claim 1 of the '400 patent.³ The '400
7 Accused Products include a kiosk for provisioning secure media content to a plurality of portable
8 data storage devices. For example, the '400 Accused Products provide access to, via the Internet,
9 Apple Music and/or Apple TV+ to user devices and/or seat back devices connected to the
10 '400 Accused Products, and provide each device with access to over 50 million songs, playlists and
11 music videos and/or Apple Originals and Apple TV+ channels.⁴

12 24. In announcing this service, Apple's Vice President of Apple Music underscored the
13 commercial value, stating that for "most travelers, having music to listen to on the plane is just as
14 important as anything they pack in their suitcases."⁵ He continued to explain that, "[w]ith the
15 addition of Apple Music on American flights, we are excited that customers can now enjoy their
16 music in even more places. Subscribers can stream all their favorite songs and artists in the air, and
17 continue to listen to their personal library offline, giving them everything they need to truly sit back,
18 relax and enjoy their flight."⁶

19 25. The '400 Accused Products include a first data interface configured to communicate
20 with a portable data storage device, such as an interface for connecting to a user and/or seat-back
21 device.⁷ The '400 Accused Products establish communications with the portable data storage
22 device.

23 ³ The '400 Accused Products also infringe at least the corresponding method claim (claim 9).

24 ⁴ Apple, *Apple Music takes flight on American Airlines* (January 30, 2019),
25 <https://www.apple.com/newsroom/2019/01/apple-music-takes-flight-on-american-airlines/>;
26 American Airlines, *Inflight Entertainment*, [https://www.aa.com/i18n/travel-](https://www.aa.com/i18n/travel-info/experience/entertainment/inflight-entertainment.jsp)
27 [info/experience/entertainment/inflight-entertainment.jsp](https://www.aa.com/i18n/travel-info/experience/entertainment/inflight-entertainment.jsp).

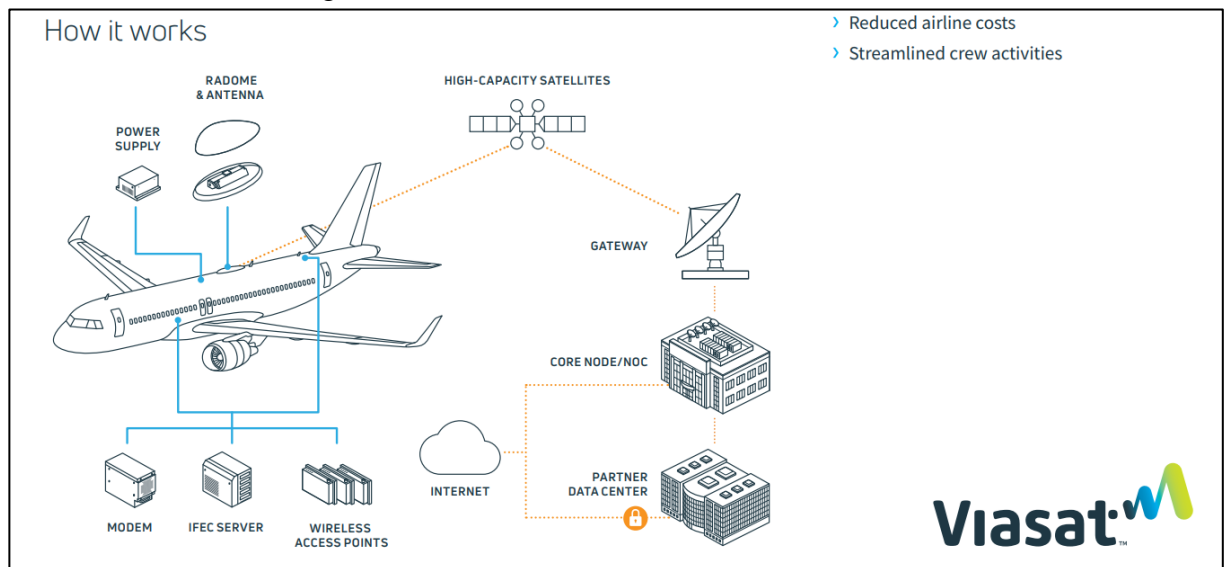
28 ⁵ Apple, *Apple Music takes flight on American Airlines* (January 30, 2019),
<https://www.apple.com/newsroom/2019/01/apple-music-takes-flight-on-american-airlines/>.

⁶ *Id.*

⁷ American Airlines, *Inflight Entertainment*, [https://www.aa.com/i18n/travel-](https://www.aa.com/i18n/travel-info/experience/entertainment/inflight-entertainment.jsp)
[info/experience/entertainment/inflight-entertainment.jsp](https://www.aa.com/i18n/travel-info/experience/entertainment/inflight-entertainment.jsp).

1 26. The '400 Accused Products also include a second data interface configured to
 2 communicate, over a network, with a remote trusted server, for example, for connecting to a server
 3 for user identification and/or music delivery. The '400 Accused Products establish communications
 4 with the remote trusted server. Viasat's Sponsored Access Privacy Notice⁸ (which sets out the terms
 5 that an end user of the '400 Accused Products must accept to access services such as Apple Music)
 6 indicates that Viasat is a data controller that collects personal information related to end-users.
 7 Viasat collects such through the second data interface of the '400 Accused Products.

8 27. Moreover, the '400 Accused Products include one or more processors, which may
 9 be located in-cabin or at a ground station, as illustrated below.⁹



19 28. A processor of the '400 Accused Products is configured to obtain a unique identifier
 20 from the portable data storage device, wherein the unique identifier is specific to the portable data
 21 storage device and is concealed by the portable data storage device. For example, Viasat's
 22 Sponsored Access Privacy Notice indicates that the '400 Accused Products obtain a unique identifier
 23 that "is a modified version of [a] device MAC address that is collected through the internet access
 24

25 ⁸ Viasat, *Viasat Sponsored Access Privacy Notice* (September 9, 2021),
 26 [https://www.viasat.com/content/dam/us-
 27 site/legal/documents/Sponsored_Access_Global_Privacy_Policy-
 28 site/aviation/documents/565522_In-flight_Connectivity_011_aag.pdf](https://www.viasat.com/content/dam/us-site/legal/documents/Sponsored_Access_Global_Privacy_Policy-Connectivity_and_SA_Final_Sept_2021_ver.pdf).

⁹ Viasat, *Viasat in-flight connectivity solutions*, [https://www.viasat.com/content/dam/us-
 site/aviation/documents/565522_In-flight_Connectivity_011_aag.pdf](https://www.viasat.com/content/dam/us-site/aviation/documents/565522_In-flight_Connectivity_011_aag.pdf).

1 service provided by [an] airline or other service . . . , or by [Viasat].”¹⁰ The Privacy Notice also
2 indicates that “Viasat does not link or otherwise associate this identifier to [the end-user’s] MAC
3 address or device as part of our provision of Sponsored Access.”¹¹ The user device and/or seat back
4 device, in communication with the ’400 Accused Products, conceal the MAC address associated
5 therewith, for example, by randomizing the MAC address.¹²

6 29. The processor of the ’400 Accused Products is configured to authenticate the portable
7 data storage device, using at least the unique identifier, by communicating with the remote trusted
8 server over the second data interface. For example, the Viasat’s Sponsored Access Privacy Notice
9 notes that “to deliver the Sponsored Access services to you, we collect a unique identifier associated
10 with the device that you use to access the Services.”¹³ The processor of the ’400 Accused Products
11 is configured to, in response to the authentication, provide to the portable data storage device an
12 encrypted first media content and a corresponding access key.¹⁴ In one example, content provided
13 by the ’400 Accused Products to a user device and/or seat back device is encrypted using a digital
14 rights management (“DRM”) encryption scheme, such as FairPlay.¹⁵ Moreover, as illustrated

15 ¹⁰ Viasat, *Viasat Sponsored Access Privacy Notice* (September 9, 2021),
16 [https://www.viasat.com/content/dam/us-
17 site/legal/documents/Sponsored_Access_Global_Privacy_Policy-
Connectivity_and_SA_Final_Sept_2021_ver.pdf](https://www.viasat.com/content/dam/us-site/legal/documents/Sponsored_Access_Global_Privacy_Policy-Connectivity_and_SA_Final_Sept_2021_ver.pdf).

18 ¹¹ *Id.*

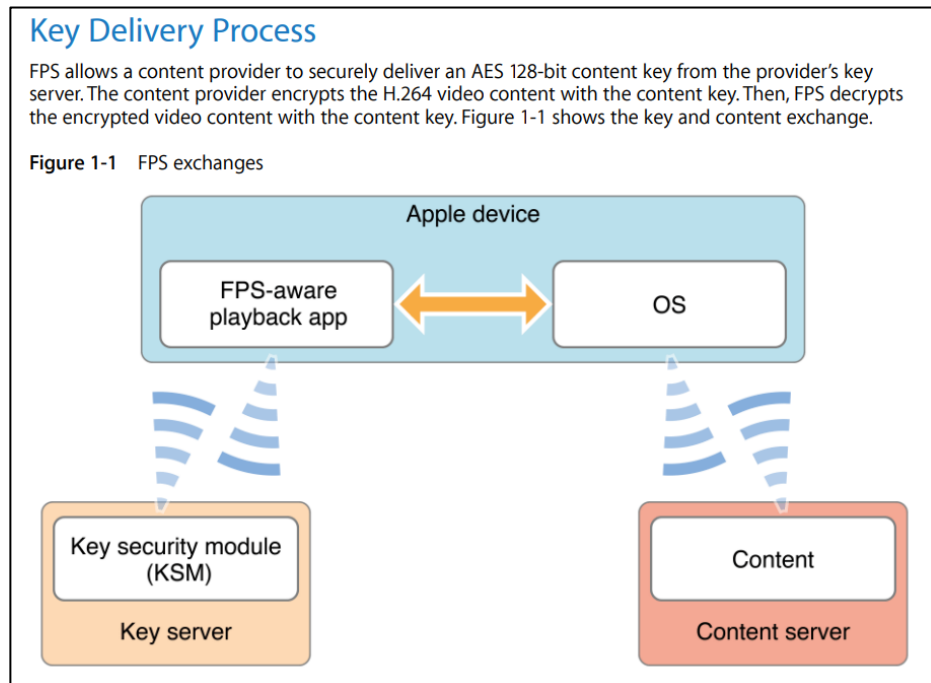
19 ¹² See, e.g., Apple, *Use private Wi-Fi addresses on iPhone, iPad, iPod touch, and Apple Watch*,
20 available at: <https://support.apple.com/en-us/HT211227> (“Starting with iOS 14, iPadOS 14, and
21 watchOS 7, your device improves privacy by using a different MAC address for each Wi-Fi
22 network. This unique MAC address is your device’s private Wi-Fi address, which it uses for that
network only.”); Android Open Source Project, *Implementing MAC Randomization*, available at:
<https://source.android.com/devices/tech/connect/wifi-mac-randomization> (“Android devices use
randomized MAC addresses when probing for new networks while not currently associated with a
network.”).

23 ¹³ Viasat, *Viasat Sponsored Access Privacy Notice* (September 9, 2021),
24 [https://www.viasat.com/content/dam/us-
site/legal/documents/Sponsored_Access_Global_Privacy_Policy-
Connectivity_and_SA_Final_Sept_2021_ver.pdf](https://www.viasat.com/content/dam/us-site/legal/documents/Sponsored_Access_Global_Privacy_Policy-Connectivity_and_SA_Final_Sept_2021_ver.pdf).

25 ¹⁴ American Airlines, *Apple Music on American*, <https://entertainment.aa.com/en/apple-music/>;
26 American Airlines, *Inflight Entertainment*, [https://www.aa.com/i18n/travel-
info/experience/entertainment/inflight-entertainment.jsp](https://www.aa.com/i18n/travel-info/experience/entertainment/inflight-entertainment.jsp).

27 ¹⁵ TuneFab, *FairPlay DRM Removal: How to Remove Apple Music DRM?* (April 20, 2022),
28 <https://www.tunefab.com/tutorials/apple-music-drm--removal.html>; Apple, FairPlay Streaming,
<https://developer.apple.com/streaming/fps/>.

1 below, the '400 Accused Products also provide a corresponding access key to the user device and/or
2 seat back device.¹⁶



14 30. Viasat has had knowledge of the '400 patent from a date no later than the date of
15 service of this Complaint. Viasat has known how the '400 Accused Products operate and/or are
16 used and has known, or has been willfully blind to the fact, that making, using, offering to sell, and
17 selling the '400 Accused Products within the United States, or importing the '400 Accused Products
18 into the United States, would constitute infringement since at least the service of this Complaint.

19 31. As of the service of the Complaint, Viasat has induced, and continues to induce,
20 infringement of one or more claims of the '400 patent, in violation of 35 U.S.C. § 271(b), by actively
21 encouraging others (including airlines and air travelers) to use, offer to sell, sell, and import the '400
22 Accused Products. For example, Viasat has promoted use of the '400 Accused Products and
23 participated in encouraging airline customers to use functionality of the '400 Accused Products that
24 is covered by the '400 patent. For example, Viasat promotes the advantages of the '400 Accused
25 Products, and the functionality found in the '400 Accused Products that is covered by claims 1 and

26
27 ¹⁶ Apple, *FairPlay Streaming Overview* (September 14, 2016),
28 <https://developer.apple.com/streaming/fps/FairPlayStreamingOverview.pdf>; see generally, Apple,
FairPlay Streaming, <https://developer.apple.com/streaming/fps/>.

1 9 of the '400 patent. For example, Viasat advertises that “[v]ertically integrated technology allows
2 Viasat to optimize the connectivity pipeline from end-to-end, delivering a game-changing in-flight
3 connectivity service that mirrors the experience consumers have on the ground.”¹⁷ Through these
4 and other statements, Viasat intends and induces customers such as airlines to adopt and deploy the
5 '400 Accused Products, and further intends and induces airlines to encourage passengers to use the
6 '400 Accused Products for entertainment and engagement during flights, including, specifically, the
7 functionality of the '400 Accused Products that is the subject matter of claims 1 and 9 of the '400
8 patent. As another example (and as explained in paragraph 23), Viasat has promoted the ability for
9 American Airlines passengers to stream Apple Music for free using Viasat satellite Wi-Fi and has
10 provided instructions for users to do so.¹⁸ Viasat has also published articles discussing passengers’
11 desire for, and the benefits of offering, free Wi-Fi,¹⁹ which acts encourage airlines to adopt the '400
12 Accused Products, and specifically the infringing functionality, including offering free Wi-Fi
13 through Viasat’s “Sponsored Access” model. Viasat also provides customer support to facilitate
14 passengers’ use of the '400 Accused Products for in-flight connectivity and entertainment.²⁰ All of
15 these efforts induce a greater amount of infringing use of the '400 Accused Products. On
16 information and belief, Viasat’s acts of inducement also include providing installation services,
17 information, and instructions, and providing the '400 Accused Products to others. In summary,
18 Viasat induces infringement of the '400 patent by specifically advertising, encouraging, and
19 promoting the specific infringing functionality to customers, passengers, airlines, and others.

21 ¹⁷ Viasat, *Commercial Aviation Inflight Connectivity*, [https://www.viasat.com/enterprise-and-](https://www.viasat.com/enterprise-and-mobility/aviation/commercial/inflight-connectivity/)
22 [mobility/aviation/commercial/inflight-connectivity/](https://www.viasat.com/enterprise-and-mobility/aviation/commercial/inflight-connectivity/); see also Viasat, *Viasat in-flight connectivity*
23 *solutions*, [https://www.viasat.com/content/dam/us-site/aviation/documents/565522_In-](https://www.viasat.com/content/dam/us-site/aviation/documents/565522_In-flight_Connectivity_011_aag.pdf)
[flight_Connectivity_011_aag.pdf](https://www.viasat.com/content/dam/us-site/aviation/documents/565522_In-flight_Connectivity_011_aag.pdf).

24 ¹⁸ Viasat, *Music to Your Ears: American Airlines Customers Can Access Apple Music for Free in*
Flight (January 30, 2019), [https://www.viasat.com/about/newsroom/blog/music-to-your-ears-](https://www.viasat.com/about/newsroom/blog/music-to-your-ears-american-airlines-customers-can-access-apple-music-for-free-in-flight/)
[american-airlines-customers-can-access-apple-music-for-free-in-flight/](https://www.viasat.com/about/newsroom/blog/music-to-your-ears-american-airlines-customers-can-access-apple-music-for-free-in-flight/).

25 ¹⁹ Viasat, *This year's International Aviation Day comes at an industry crossroads* (December 7,
26 2020), <https://www.viasat.com/about/newsroom/blog/international-aviation-day/>; Viasat, *How to*
27 *make free internet a reality on commercial flights* (August 14, 2019),
[https://www.viasat.com/about/newsroom/blog/how-to-make-free-internet-a-reality-on-](https://www.viasat.com/about/newsroom/blog/how-to-make-free-internet-a-reality-on-commercial-flights/)
[commercial-flights/](https://www.viasat.com/about/newsroom/blog/how-to-make-free-internet-a-reality-on-commercial-flights/).

28 ²⁰ Viasat, *Viasat Passenger Care*, <https://www.viasat.com/customer-service/aviation/>.

1 32. Viasat’s acts of direct and indirect infringement have caused damage to Plaintiffs,
2 and Plaintiffs are entitled to recover from Viasat the damages sustained by Plaintiffs as a result of
3 Viasat’s wrongful acts in an amount subject to proof at trial.

4 33. Viasat’s acts of direct and indirect infringement have caused and, unless restrained
5 and enjoined, will continue to cause, irreparable injury and damage to Plaintiffs for which there is
6 no adequate remedy at law.

7 **COUNT TWO: INFRINGEMENT OF THE ’667 PATENT**

8 34. Plaintiffs reallege the foregoing paragraphs as if fully set forth herein.

9 35. One or more Plaintiffs holds title to the ’667 patent, entitled “Secure stream buffer
10 on network attached storage,” which was issued by the USPTO on October 15, 2019. A true and
11 correct copy of the ’667 patent is attached hereto as **Exhibit 2**. One or more Plaintiffs together own
12 all substantial rights to the ’667 patent, including the rights to practice, license, and transfer the ’667
13 patent, and all economic interest in the ’667 patent. All claims of the ’667 patent are valid and
14 enforceable.

15 36. Viasat develops and/or sells media streaming software, systems, and services (the
16 “’667 Accused Products”), including, by way of illustrative example, IFEC systems for use in
17 commercial and private aviation.

18 37. Viasat has directly infringed and continues to directly infringe one or more claims of
19 the ’667 patent in connection with the ’667 Accused Products. Viasat makes, uses, sells, offers for
20 sale, and/or tests media streaming systems and software, including but not limited to the ’667
21 Accused Products, within the United States, and, as such, Viasat has directly infringed and continues
22 to directly infringe, either literally or under the doctrine of equivalents, at least one claim of the ’667
23 patent, including under 35 U.S.C. § 271(a).

24 38. Claim 11 of the ’667 patent recites:

25 11. A method of transmitting media content from a media streaming
26 system, the method comprising:

27 establishing a connection, via a wide area network (WAN), to
28 a network attached storage (NAS) device operating on a local
area network (LAN);

1 receiving an indication of the NAS device having a secure
2 region comprising a buffer for streaming media on a separate
display device on the local area network, wherein access to
the secure region is controlled by the media streaming system;

3 transmitting media content to the secure region within the
4 NAS device for playback by the display device from the
buffer; and

5 transmitting instructions to the NAS device to control
6 streaming access to the media content stored on the buffer.

7
8 39. The '667 Accused Products infringe at least claim 11 of the '667 patent. The '667
9 Accused Products implement a method of transmitting media content from a media streaming
10 system. For example, the '667 Accused Products implement the Open Caching standard, developed
11 by the Streaming Video Alliance; for example, to stream live TV from fuboTV.²¹ Open Caching is
12 an edge caching architecture that allows Content Delivery Networks ("CDN") to utilize caches
13 deployed by Internet Service Providers (like Viasat) at the edge of their network in video streaming
14 applications and other use cases.²²

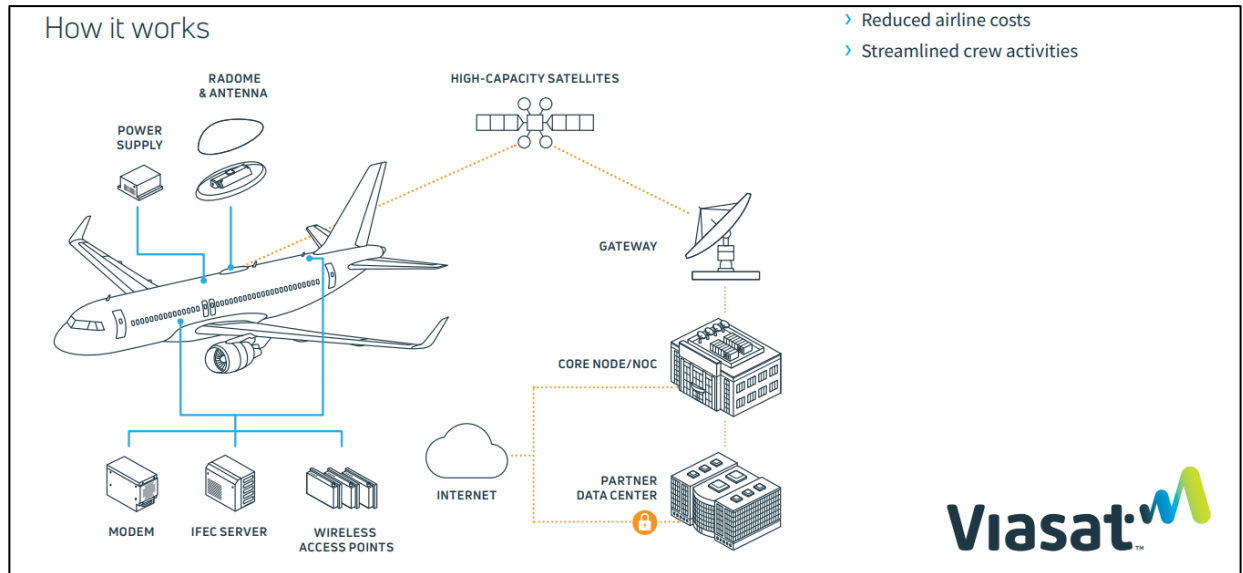
15 40. The '667 Accused Products establish a connection, via a wide area network
16 ("WAN"), to a network attached storage ("NAS") device operating on a local area network
17 ("LAN"). The '667 Accused Products include an "edge caching node," as required by the Open
18 Caching standard, and as admitted by Dan Newman, Head of Content Delivery Services at Viasat.²³
19 The edge caching node is connected to the Internet, via Viasat's satellite Internet system, and is also
20 connected to Viasat's IFEC server(s) within the aircraft, for example, using a LAN. The architecture
21 of the environment in which '667 Accused Products operate is illustrated below.²⁴

22
23 ²¹ Aviation Today, *Viasat Using Open Caching to Bring Free fuboTV to Connected Flights*
(February 25, 2020), available at <https://www.aviationtoday.com/2020/02/25/viasat-using-open-caching-bring-free-fubotv-connected-flights/>.

24 ²² Streaming Video Alliance, *Open Caching Request Routing Functional Specification* (Nov. 14,
25 2016), available at <https://www.streamingvideoalliance.org/product/open-cache-request-routing-functional-specification/>.

26 ²³ The Broadcast Knowledge, *Video: Layer 4 in the CDN* (October 19, 2020),
27 <https://thebroadcastknowledge.com/2020/10/19/video-layer-4-in-the-cdn/>.

28 ²⁴ Viasat, *Viasat in-flight connectivity solutions*, https://www.viasat.com/content/dam/us-site/aviation/documents/565522_In-flight_Connectivity_011_aag.pdf.



11 41. The '667 Accused Products receive an indication of the NAS device having a secure
12 region comprising a buffer for streaming media on a separate display device on the local area
13 network, wherein access to the secure region is controlled by the media streaming system. For
14 example, the Open Caching standard, which the '667 Accused Products implement, requires that
15 the edge caching node advertise its available capacity.²⁵ The '667 Accused Products also transmit
16 media content to the secure region within the NAS device for playback by the display device from
17 the buffer.²⁶ The '667 Accused Products also transmit instructions to the NAS device to control
18 streaming access to the media content stored on the buffer, as required by the Open Caching
19 standard, including for example, because the CDN may have certain security requirements for
20 serving content.²⁷

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22 ²⁵ See, e.g., Streaming Video Alliance, *Open Caching Request Routing Functional Specification* at 15; see also, *id.* at 19, 33.

23 ²⁶ See, e.g., *id.* at 19; see also, The Broadcast Knowledge, *Video: Layer 4 in the CDN* (October 19, 2020), <https://thebroadcastknowledge.com/2020/10/19/video-layer-4-in-the-cdn/>; Aviation Today, *Viasat Using Open Caching to Bring Free fuboTV to Connected Flights* (February 25, 2020), available at <https://www.aviationtoday.com/2020/02/25/viasat-using-open-caching-bring-free-fubotv-connected-flights/> (discussing transmission of media content from fuboTV to an edge caching node); See generally Streaming Video Alliance, *Optimizing Video Delivery with the Open Caching Network* (September 5, 2018).

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27 ²⁷ See, e.g., Streaming Video Alliance, *Open Caching Request Routing Functional Specification* at 14; see also, Stellar Jobs, *Software Engineering Manager, Platform APIs*, available at <https://stellarjobs.co/jobs/11449959-software-engineering-manager-platform-apis> (job description for a Software Engineering Manager explaining that Viasat's "Content Delivery team owns APIs

1 42. Viasat has had knowledge of the '667 patent from a date no later than the date of
2 service of this Complaint. Viasat has known how the '667 Accused Products operate and/or are
3 used and has known, or has been willfully blind to the fact, that making, using, offering to sell, and
4 selling the '667 Accused Products within the United States, or importing the '667 Accused Products
5 into the United States, would constitute infringement since the service of this Complaint.

6 43. As of the service of the Complaint, Viasat has induced, and continues to induce,
7 infringement of one or more claims of the '667 patent, in violation of 35 U.S.C. § 271(b), by actively
8 encouraging others (including airlines and air travelers) to use, offer to sell, sell, and import the '667
9 Accused Products. For example, Viasat promotes the advantages of the '667 Accused Products, and
10 the functionality found in the '667 Accused Products that is covered by claim 11 of the '667 patent.
11 For example, Viasat advertises that “[v]ertically integrated technology allows Viasat to optimize the
12 connectivity pipeline from end-to-end, delivering a game-changing in-flight connectivity service
13 that mirrors the experience consumers have on the ground.”²⁸ Through these and other statements,
14 Viasat intends and induces customers such as airlines to adopt and deploy the '667 Accused
15 Products, and specifically the functionality of the '667 patent that is the subject matter of claim 11
16 of the '667 patent, and further intends and induces airlines to encourage passengers to use the '667
17 Accused Products and, specifically, the accused functionality for entertainment and engagement
18 during flights. Viasat also provides customer support to facilitate passengers’ use of the '667
19 Accused Products for in-flight connectivity and entertainment.²⁹ As another example, Viasat has
20 monitored passengers’ media consumption and tried to differentiate its entertainment offerings to
21 be more attractive so as to induce airlines and customers to adopt them and has taken steps, such as
22 partnering with DIRECTV, to make it “less cumbersome” for airlines to make in-flight
23 entertainment available to passengers.³⁰ Among other in-flight programming, Viasat’s efforts have

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that allow content providers to manage delivery of their content to our end users.”).

25 ²⁸ Viasat, *Commercial Aviation Inflight Connectivity*, [https://www.viasat.com/enterprise-and-](https://www.viasat.com/enterprise-and-mobility/aviation/commercial/inflight-connectivity/)
26 [mobility/aviation/commercial/inflight-connectivity/](https://www.viasat.com/enterprise-and-mobility/aviation/commercial/inflight-connectivity/); see also Viasat, *Viasat in-flight connectivity*
27 [solutions, https://www.viasat.com/content/dam/us-site/aviation/documents/565522_In-](https://www.viasat.com/content/dam/us-site/aviation/documents/565522_In-flight-Connectivity_011_aag.pdf)
[flight Connectivity_011_aag.pdf](https://www.viasat.com/content/dam/us-site/aviation/documents/565522_In-flight-Connectivity_011_aag.pdf).

28 ²⁹ Viasat, *Viasat Passenger Care*, <https://www.viasat.com/customer-service/aviation/>.

³⁰ Viasat, *Airlines adjusting in-flight entertainment options as travelers return*,

1 focused on live events, which functionality Viasat enables through its use of technology that
2 infringes at least claim 11 of the '667 patent. For example, Viasat stated that “[o]ur statistics show
3 the live services provided through our offering is valued by the customers.”³¹ As another example,
4 Viasat announced that it was giving passengers the NBA League Pass in-flight, providing access to
5 live basketball games, at no additional cost on JetBlue and American Airlines—and further touted
6 that Viasat was “the only one offering the NBA League Pass in-flight.”³² Viasat’s statements and
7 efforts encourage airlines to adopt the '667 Accused Products, and specifically the infringing
8 functionality, including streaming of live TV, and induce a greater amount of infringing use of the
9 '667 Accused Products. On information and belief, Viasat’s acts of inducement also include
10 providing installation services, information, and instructions, and providing the '667 Accused
11 Products to others. In summary, Viasat induces infringement of the '667 patent by specifically
12 advertising, encouraging, and promoting the specific infringing functionality to customers,
13 passengers, airlines, and others.

14 44. Viasat’s acts of direct and indirect infringement have caused damage to Plaintiffs,
15 and Plaintiffs are entitled to recover from Viasat the damages sustained by Plaintiffs as a result of
16 Viasat’s wrongful acts in an amount subject to proof at trial.

17 45. Viasat’s acts of direct and indirect infringement have caused, and unless restrained
18 and enjoined, will continue to cause, irreparable injury and damage to Plaintiffs for which there is
19 no adequate remedy at law.

20 **COUNT THREE: INFRINGEMENT OF THE '834 PATENT**

21 46. Plaintiffs reallege the foregoing paragraphs as if fully set forth herein.

22 47. One or more Plaintiffs holds title to the '834 patent, entitled “Method and system for
23 activation of local content with legacy streaming systems,” which was issued by the USPTO on
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25 [https://www.viasat.com/about/newsroom/blog/airlines-adjusting-in-flight-entertainment-options-
as-travelers-/](https://www.viasat.com/about/newsroom/blog/airlines-adjusting-in-flight-entertainment-options-as-travelers-/).

26 ³¹ *Id.*

27 ³² Viasat, *Meet the Experts: Making inflight connectivity better and better* (August 13, 2021),
28 [https://www.viasat.com/about/newsroom/blog/meet-the-experts--making-inflight-connectivity-
better-and-better/](https://www.viasat.com/about/newsroom/blog/meet-the-experts--making-inflight-connectivity-better-and-better/).

1 August 6, 2013. A true and correct copy of the '834 patent is attached hereto as **Exhibit 3**. One or
2 more Plaintiffs together own all substantial rights to the '834 patent, including the rights to practice,
3 license, and transfer the '834 patent, and all economic interest in the '834 patent. All claims of the
4 '834 patent are valid and enforceable.

5 48. Viasat develops and/or sells media streaming software, systems, and services (the
6 "'834 Accused Products"), including, by way of illustrative example, IFEC systems for use in
7 commercial and private aviation.

8 49. Viasat has directly infringed and continues to directly infringe one or more claims of
9 the '834 patent in connection with the '834 Accused Products. Viasat makes, uses, sells, offers for
10 sale, and/or tests media streaming systems and software, including but not limited to the '834
11 Accused Products, within the United States, and as such, Viasat has directly infringed and continues
12 to directly infringe, either literally or under the doctrine of equivalents, at least one claim of the '834
13 patent, including under 35 U.S.C. § 271(a).

14 50. Claim 14 of the '834 patent recites:

15 14. A method for activation of local content, the method comprising:

16 performing the following in a host device in communication
17 with a storage device storing encrypted content:

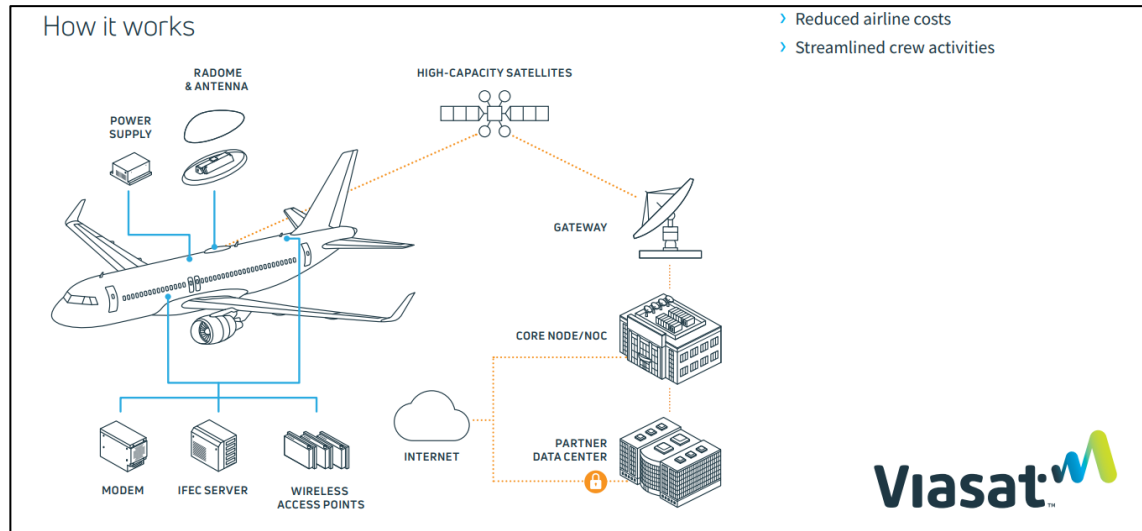
18 receiving a stream of data from a network;

19 deriving a key from the received stream of data; and

20 decrypting the encrypted content using the key derived
21 from the received stream of data.

22 51. The '834 Accused Products infringe at least claim 14 of the '834 patent. The '834
23 Accused Products implement a method for activation of local content. The '834 Accused Products
24 include an IFEC server that stores encrypted content for streaming to user devices running Viasat
25 software and/or seat-back devices, over Viasat's in-cabin wireless and/or wired network. The
26 architecture of the environment in which '834 Accused Products operate is illustrated below.³³

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28 ³³ Viasat, *Viasat in-flight connectivity solutions*, https://www.viasat.com/content/dam/us-site/aviation/documents/565522_In-flight_Connectivity_011_aag.pdf.



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52. The '834 Accused Products perform the claimed steps in a host device, such as a user device running Viasat software and/or seat-back device, in communication with a storage device, such as Viasat's IFEC server, storing encrypted content. Viasat's IFEC server "ingests" and encrypts media content in accordance with DRM requirements.³⁴

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53. The '834 Accused Products receive a stream of data from a network. For example, a Viasat IFEC server streams "on-demand content directly to passenger devices via a user interface that delivers the experience of popular streaming services."³⁵



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³⁴ *Id.*; Viasat, *Entertainment*, available at: <https://www.viasat.com/enterprise-and-mobility/aviation/commercial/inflight-entertainment/>.

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³⁵ Viasat, *Wireless Inflight Entertainment*, available at: https://www.viasat.com/content/dam/us-site/aviation/documents/1181038_Wireless_IFE_Datasheet_007_aag.pdf.

1 54. The '834 Accused Products derive a key to decrypt the streamed media content from
2 the received stream of data. The key is derived from media and/or information provided by the
3 Viasat IFEC server, for example, where the server “encrypts content in accordance with DRM
4 requirements.”³⁶ The '834 Accused Products then decrypt the encrypted content using the key
5 derived from the received stream of data to playback the media content.

6 55. Viasat has had knowledge of the '834 patent from a date no later than the date of
7 service of this Complaint. Viasat has known how the '834 Accused Products operate and/or are
8 used and has known, or has been willfully blind to the fact, that making, using, offering to sell, and
9 selling the '834 Accused Products within the United States, or importing the '834 Accused Products
10 into the United States, would constitute infringement at least since the service of this Complaint.

11 56. As of the service of the Complaint, Viasat has induced, and continues to induce,
12 infringement of one or more claims of the '834 patent, in violation of 35 U.S.C. § 271(b), by actively
13 encouraging others (including airlines and air travelers) to use, offer to sell, sell, and import the '834
14 Accused Products. For example, Viasat promotes the advantages of the '834 Accused Products, and
15 the functionality found in the '834 Accused Products that is covered by claim 14 of the '834 patent.
16 For example, Viasat promotes its infringing on-demand content feature as providing “an end-to-end
17 entertainment solution for airlines, supporting every part of the delivery process, from content
18 management and quality assurance to captivating your in-flight audience.”³⁷ Through these and
19 other statements, Viasat intends and induces customers such as airlines to adopt and deploy the '834
20 Accused Products, and specifically the functionality of the '834 patent that is the subject matter of
21 claim 14 of the '834 patent, and further intends and induces airlines to encourage passengers to use
22 the '834 Accused Products and, specifically, the accused functionality for entertainment and
23 engagement during flights. Viasat also provides customer support to facilitate passengers' use of
24 the '834 Accused Products for in-flight connectivity and entertainment.³⁸ On information and belief

25 ³⁶ *Id.*

26 ³⁷ Viasat, *Entertainment*, [https://www.viasat.com/enterprise-and-](https://www.viasat.com/enterprise-and-mobility/aviation/commercial/inflight-entertainment/)
27 [mobility/aviation/commercial/inflight-entertainment/](https://www.viasat.com/enterprise-and-mobility/aviation/commercial/inflight-entertainment/); see also Viasat, *Wireless Inflight*
Entertainment, [https://www.viasat.com/content/dam/us-](https://www.viasat.com/content/dam/us-site/aviation/documents/1181038_Wireless_IFE_Datasheet_007_aag.pdf)
28 [site/aviation/documents/1181038_Wireless_IFE_Datasheet_007_aag.pdf](https://www.viasat.com/content/dam/us-site/aviation/documents/1181038_Wireless_IFE_Datasheet_007_aag.pdf).

³⁸ Viasat, *Viasat Passenger Care*, <https://www.viasat.com/customer-service/aviation/>. For

1 Viasat's acts of inducement also include providing installation services, information, and
2 instructions, and providing the '834 Accused Products to others. In summary, Viasat induces
3 infringement of the '834 patent by specifically advertising, encouraging, and promoting the specific
4 infringing functionality to customers, passengers, airlines, and others.

5 57. Viasat's acts of direct and indirect infringement have caused damage to Plaintiffs,
6 and Plaintiffs are entitled to recover from Viasat the damages sustained by Plaintiffs as a result of
7 Viasat's wrongful acts in an amount subject to proof at trial.

8 58. Viasat's acts of direct and indirect infringement have caused, and unless restrained
9 and enjoined, will continue to cause, irreparable injury and damage to Plaintiffs for which there is
10 no adequate remedy at law.

11 **DEMAND FOR JURY TRIAL**

12 59. In accordance with Rule 38 of the Federal Rules of Civil Procedure and Civil Local
13 Rule 3-6, Plaintiffs hereby demand a jury trial on all issues triable before a jury.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiffs pray for the following relief:

16 A. For entry of judgment by this Court against Viasat and in favor of Plaintiffs in all
17 respects, including that Viasat has and continues to infringe one or more claims of the Patents-in-
18 Suit;

19 B. For entry of a judgement by this Court against Viasat and in favor of Plaintiffs in all
20 respects, including that Viasat has and continues to induce infringement of one or more claims of
21 the Patents-in-Suit;

22 C. For an order enjoining Viasat, and its officers, directors, shareholders, agents,
23 servants, employees, attorneys, all parent, subsidiary and affiliate corporations, their successors in
24 interest and assigns, and all other entities and individuals acting in concert with it or on its behalf,
25 including customers, from making, importing, using, offering for sale, and/or selling any product or
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28 example, Viasat assisted customers and monitored the situation when an issue with iOS 15
prevented playback of in-flight entertainment, *see* <https://www.flyertalk.com/forum/american-airlines-aadvantage/2054388-apple-ios-15-no-aa-ife-playback.html>.

1 service falling within the scope of any claim of the Patents-in-Suit, including the Accused Products,
2 or otherwise infringing (either directly or indirectly) any claim of the Patents-in-Suit;

3 D. Alternatively, in the event that an injunction does not issue, that this Court award a
4 compulsory ongoing future royalty;

5 E. For damages arising from Viasat's direct and induced infringement of the Patents-
6 in-Suit, including lost profits suffered by Plaintiffs as a result of Viasat's infringement and in an
7 amount not less than a reasonable royalty, together with pre-judgment and post-judgment interest;

8 F. That this Court declare this to be an exceptional case pursuant to 35 U.S.C. § 285
9 and award Plaintiffs their attorneys' fees;

10 G. That Plaintiffs be awarded costs of court; and

11 H. For such other and further relief as the Court may deem just and proper.

12 Dated: July 28, 2022

SHEARMAN & STERLING LLP

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By: /s/ L. Kieran Kieckhefer
L. Kieran Kieckhefer

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Counsel for Plaintiffs

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